

Brooklyn Park Charter Commission Meeting Agenda
Wednesday, June 12, 2024, 7:00 p.m.
City Hall Room A203

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1. Call to Order/Roll Call
 - 1.1 Welcome New Commissioners
2. Public Comment
3. Additions/Approval of the Agenda of June 12, 2024
4. Approval of Minutes
 - 4.1** APRIL 10, 2024, REGULAR MEETING MINUTES
5. Old Business
 - 5.1 May 6, 2024, Council Work Session
 - 5.1A** COUNCIL WORK SESSION SUMMARY REPORT
 - 5.1B** PROPOSED AMENDMENT TO SECTION 2.06
6. New Business
 - 6.1 Vote on meetings for July and August
7. Reports of Officers, Boards, and Standing Committees
 - 7.1 Council Liaison Klonowski Update on Council Actions
8. Correspondence/Communications
 - 8.1 Response from Attorney Siobhan Tolar on Whether Charter Cities Have the Authority to Change Candidate Filing Deadlines
 - 8.1A** RESPONSE FROM ATTORNEY SIOBHAN TOLAR-CANDIDATE FILING DEADLINES
9. Adjournment

Commission members are asked to let Devin Montero, Staff Liaison, know if you won't be able to attend this meeting. Devin can be reached by phone (763-493-8180) or by email (devin.montero@brooklynpark.org).

City of Brooklyn Park

CHARTER COMMISSION Attachments

Agenda Item No.:	4.1	Meeting Date:	June 12, 2024
Prepared by:	Devin Montero	Presented By:	Dennis Secara, Chair

Attachments:

4.1 APRIL 10, 2024, REGULAR MEETING MINUTES

Brooklyn Park Charter Commission Meeting Minutes
Wednesday, April 10, 2024, 7:00 p.m.
City Hall Room A203

1. Call to Order/Roll Call

Present: Commissioners, Sunday Alabi, Barbara Bor, Amy Hanson, Adam Hunt, Dennis Secara, LaDawn Severin, Scott Simmons, Gregory Szach, David Williams;

Absent: Commissioners Susan Mabera, Berniece Otieno, Council Liaison Nichole Klonowski (excused).

2. Public Comment – None.

3. Additions/Approval of the Agenda of April 10, 2024

Commissioner Bor stated she would like to add a discussion on the Orientation for New Commissioners and the Charter Commission attendance to a Council Work Session to update the council about the Charter Commission. She stated there were new council members.

Motion Chair Secara, Second Commissioner Alabi to approve the agenda as amended. Motion carried unanimously.

4. Approval of Minutes

4.1 MARCH 13, 2024, REGULAR MEETING MINUTES

Chair Secara added a sentence to Item 5.1 related to a clarification question by Council Member Klonowski, acting as the Council chair.

Motion Chair Secara, Second Commissioner Severin to approve the March 13, 2024, regular meeting minutes as amended. Motion carried. Commissioners Simmons and Hanson abstained.

5. Old Business

5.1 Charter Amendment to Section 4.03

Chair Secara started with Attachment 5.1E, Brooklyn Park Special Elections chart. He stated there had been 9 special elections in 23 years. The longest vacancies were for Mayor Lunde and Council Member Pha, both were 9 months. He stated Council Member Klonowski suggested the Charter Commission look into it and was an issue that needed to be addressed and the Council felt it was an issue. He stated the Council asked the Charter Commission to look into the possibility of shortening the vacancies and giving the Council the authority to appoint a qualified person to the fill the vacancy until a special election was held.

Commissioner Severin stated the first few special elections that happened many years ago were short and looked at the gaps, when the resignation was accepted, how quick the vacancy was declared, calling for a special election and all happened on the same day. She stated there were no primaries per a resolution and the two that took the 9 months were the only ones that had a Primary election. She stated there was 46 days of early voting because of state law, for a primary and regular election, and was 92 days of lost time. She stated it was a reality that the Primaries made everything slow. She stated the last three recent special elections, there were gaps, almost a month long between the resignation, declaring the vacancy, and calling for the special election and was not sure

what the delay was.

Commissioner Alabi stated on the two with the 9-month gaps, asked if the delay was because of the accepted resignation date and calling for the special elections in January.

Staff Liaison Montero stated the key factor in the delay was the early voting dates in conjunction with the specified dates to hold special elections.

Commissioner Simmons stated the Charter was amended to allow Council Member Lee, East District, to get elected in a special election. He stated the only two of the 23-year history of special elections that involved a special primary were in 2020 and 2022. He stated the two special elections were to replace the mayor and in the West District, Susan Pha was elected to the State Senate. He stated the other special elections did not have a primary. He stated what caused the delay was what the state legislature did and was not the fault of the Charter, otherwise there would have been a more expeditious and timely election process.

Commissioner Williams stated when there was not a primary the time limits were reduced and additional days for early voting came into the special elections. He stated the primary was a two-to-three-month process and if that could be eliminated it would be better off.

Commissioner Bor stated at the second reading of the ordinance there were questions and concerns and did not have the data presented tonight. She stated the Council reflected on Council Member Pha's delay. She stated some were not on the Council at the time and had experienced in terms of what they perceived an imbalanced of representation. She stated Council Klonowski felt the Charter Commission missed the boat on trying to shorten the process but was never discussed in terms of the chart presented tonight on what influenced the delay. She stated the Commissioners had an opportunity to educate themselves on the rationale for the delay.

Commissioner Alabi asked about the special elections without the primaries per resolution, if it was a jungle primary regardless of the number of candidates.

Chair Secara stated in the primary of 2022/2023 in the West District and Council Member Garvey, the Primary was May 9, 2023. If their proposal would have been in affect of the 50% plus one, there would not have been an August 8 election because Council Member McGarvey won decisively and could have been seated three months earlier and the nine months would have been six months. He stated there was also a Mayor Pro Tem during the nine months of the Lunde vacancy and with the Council Member Pha vacancy there was no one.

Commissioner Severin asked about the 5 dates to choose for the special elections. She stated on one special election, the call for the special election was on January 9 and asked why the primary was not in April because early voting would of started on February 23 because of the early voting/special election dates, the filing periods might of made a difference.

Chair Secara stated the Council was focused on the Council Member Pha's election and building its argument solely around that. He asked the Commissioners if the vacancy issue needed to be addressed.

Commissioner Hanson stated they were at a point that until the Commissioners educated the Council on the Charter and gave them the special election information, there was no point in figuring out a way forward because the Commissioners didn't know what the Council wanted because the Council didn't know what they wanted.

Commissioner Severin stated it would also be good to have some frame of an opinion from the

Commissioners once the chart was given to the Council because the Commissioners had time to review it and noticed some observations that would be helpful.

Commissioner Bor stated it was clear whatever the Commissioners moved forward with, the Council was looking at what they repeatedly said, a shorter time period to fill the vacancy. She stated with the time sequence they looked at in the special elections chart, should be brought to the Council's attention at what the Commission was looking at when they read the amendment.

Commissioner Williams stated they continued to go back to not knowing what the Council wanted and stated the Charter Commission was a discreet Commission, should go forward, make their own educated opinion, and not wait for guidance from the Council. He agreed with educating the Council about the Charter Commission.

Commissioner Hanson clarified the Council couldn't decide on what the Commissioners put in front of them until they understood the Commission's role, City Charter role, how elections worked and the timing. She stated it didn't do the Commissioners any good to give the Council what the Commission thought was their recommendation because they wouldn't understand it.

Commissioner Bor stated Council Liaison Klonowski missed two meetings where the Commission evolved on a consensus and one Commissioner opposed the amendment. She stated it was critical when they were operating under the request of the Council to have Council representation at the Commission meetings. She stated whether Council Member Klonowski asked someone else to attend, the Commission would have saved more time if that was the issue. She stated how important it was for the Council Liaison to attend and it might not be perceived as they were needed, but in that case it would have been helpful.

Commissioner Simmons stated that given the thorough research and their understanding of it, asked if the Commission would change their position on it or if they were to do it again, go forward with the same recommendation. He stated he was inclined to reject the initial recommendation and say nothing needed to be done at all, it was not a crisis and nothing that needed fixing.

He stated one thing that struck him in the minutes that was odd was the tabling of the resolution that killed it, it was not a reject, it was tabled. His understanding of Roberts Rules was a motion to take it off the table would be in order and was not dead unless the Council operated in a different way than what he was used to. He stated they could take it back, they didn't reject it, could pick up where they left off and reconsider it. He didn't know if the city attorney's view would have them start over with a first and second reading or take it off the table and start up again as they already had the recommendation. He stated if they were to do it again, he didn't think he would give it to the Council. He stated he would start over and say there was nothing that needed fixing. He stated if the Commissioners were to do it again and knowing what they knew asked if they would change their minds.

Commissioner Bor stated the city attorney recommended that it go back to the Commission because Council Member Lee wanted to amend the ordinance and approved that night.

Chair Secara stated Council Member Lee wanted to tweak the language according to what the Council wanted and pass it and the attorney said they couldn't do it.

Commissioner Simmons stated the Council didn't send anything to the Commission they tabled the motion, and nothing had been communicated to the Commission.

Commissioner Severin stated the Council was told they had no power to do that, and it was the Charter Commission's job to tweak it and give it to the Council.

Commissioner Simmons asked how they knew other than the minutes, that it was tabled.

Commissioner Bor stated that was the phrased that was used.

Staff Liaison Montero stated that was the phrase used and how it was relayed to the Council.

Commissioner Simmons stated that as a semi-autonomous body would help the Commission formally know what the Council did with it, rather than the informal method of reading the minutes. He stated nothing had been transmitted back to the Commission and might help in this situation. He stated he was seeing a resolution that was tabled and it meant the ordinance was not dead.

Commissioner Bor stated it was through the attorney and he corrected the Council member who wanted to do a process that was not allowable. She stated the ordinance needed to go back to the Charter Commission if they did not approve it at the second reading.

Chair Secara stated he thought what Commissioner Simmons was talking about was the Council should have sent it back to the Commission with red ink what they wanted changed, what they did not like, the reason for the rejection or short of that it was tabled. He stated that because the Commissioners didn't get written comments from them, then it stood as a tabled motion.

Commissioner Bor stated if they read the Council minutes, the Council would not approve the way the amendment was written other than the first aspect of it on the 50 plus one and that was all uniform. She stated it was the second aspect of the ordinance and the timeline they perceived it would take over a year. She stated there was no knowledge of the special election chart and what the reality was. She stated if they read the minutes, it would tell the Commissioners what was not acceptable to them.

Commissioner Simmons stated the amendment was not formally tabled and no motion made by the Council.

Commissioner Bor stated no motion was made and it evolved to how the Council wanted it to be redone by them and approved that night and that was when the attorney intervened.

Commissioner Hanson stated she was thinking about the underrepresentation and not having someone there. She stated the Council operated with Council members missing all the time. She stated Council Liaison Klonowski was not in attendance and the Commission had no one representing the Council. She stated she would rather have a seat sit open and was only one vote than to have an appointment process. She stated it could be a politically appointment or done for other reasons. She stated she would rather see the process take time because the Council held meetings all the time with Council members not attending. She didn't feel the length of the seat being open, because the Council wanted to fill the seat, was important enough to make all those changes.

Commissioner Alabi stated the chart appeared to be an outlier and asked what the protocol was to hand things back to the Commission. He stated the Commissioners couldn't assume that it was coming back to the Commission to look at it again. He asked what the formal handoff was to send it back to the Commission.

Staff Liaison Montero stated the Chair presented the item to the Council, was responsible for returning to the Commission and report on the presentation.

Commissioner Severin stated it might seem like an outlier but was a recent trend and thought that

was why they were getting concerned because there was the efficiency prior and all the sudden everything was taking so long. She stated they would feel empowered once they saw the chart, and pointed out, Lisa Jacobson, August 10, accepted resignation and took 28 days to declare the vacancy and shouldn't of happened. She stated many of the previous special elections, they declared a vacancy and called for a special election at the same meeting. She stated when they see the chart and the gaps for the Jacobson election, that was two months that didn't need to go by and the four-month gap went to a six month gap. She stated if they were concerned about the nine-month gap, the best way was to go back to the old way and not to have a special primary election.

Commissioner Bor stated the Council was new and didn't have the special elections chart the Commissioners were looking at tonight. She stated Commissioner Szach raised in earlier discussions the importance of the vacancy being an elected position in whatever the process was and she made it clear to the Council and they understood. She stated what they wanted to see in the interim was to appoint someone and didn't say it had to be from the same district until the time the election process occurred. She stated what the Commissioners recommended was not off but needed to be looked at to enhance the process and she asked if the Commissioners would allow the appointment to happen until the election occurred.

Commissioner Williams stated they needed to address it. The Council was concerned about it, the attorney said to send it back to the Commission and was an opportunity to improve the Charter. He stated the special elections chart pointed out areas of concern, could correct them and should go forward with it.

Commissioner Hanson asked what the process was if the Commission said no to the Council. She stated they could tell the Council they didn't see a problem with the vacancy and couldn't force the Commission to do the amendment.

Commissioner Williams thought the amendment could go back to the Council and if they had a unanimous agreement make changes to the City Charter.

Chair Secara stated they could do a ballot initiative too. He questioned the previous special elections without a special primary and asked if back then it was specified no primary in the Charter or because there were only two candidates.

Staff Liaison Montero stated the resolutions referenced 2.06(B) and would have to do more research on it regarding not having the special primary elections.

Commissioner Williams asked if they were bound by state law to have a 46 day early voting period for special elections.

Staff Liaison Montero stated the city followed state law and the city Charter also said to follow state election law related to elections. He stated the early voting period was changed from 30 days to 46 days in 2010.

Commissioner Alabi stated the special election dates were mandated by the state.

Commissioner Hanson suggested a motion on the next steps given the information received from the staff liaison to table the Commission's discussion of tonight's topic until the Commission had a chance to have a work session with the Council. She didn't think it was necessary for all the Commissioners to attend but the Chair and city attorney needed to be there to explain the election process, the dates, why the timings were what they were and go through the special elections chart so they had a better understanding. She stated the Commissioners could use the notes from that work session at the next meeting when they discussed it so the Commissioners could at least know

what the Council understood.

Commissioner Williams thought the Commissioners should look at the amendment and give their recommendations to the Council and asked the reason for waiting on the amendment.

Commissioner Hanson stated waiting was important because if the Council was educated and understood what the Commission's recommendation was in the first place, they might say to move forward, not table it and vote on it.

Commissioner Bor stated it was not the education to the amendment the Commission sent, it was education on the flow around the Charter to the city in what they represented. She stated Brooklyn Park was a Charter city and asked how the Council members were oriented when they became a Council member. She stated they should give them the global education, the autonomy of the commission, how the Commissioners were appointed and independence that was discussed earlier.

Motion Commissioner Hanson, that we table our discussion around the Charter amendment Section 4.03 until a work session has taken place with the city Council with members of the Charter Commission and topics to be covered: the Charter, how we are a city Charter, and all of its functions, how we are appointed, education around the laws we we are governed, holding elections, and the timing of the elections.

Commissioner Severin suggested using Attachment 5.1E because it would be the most important piece to the Council along with the Charter definition.

Chair Secara stated he didn't know they could be educated on the special elections chart until they were educated on the city Charter and election laws.

He stated the motion on the table was to table discussion on Section 4.03 and suggested it as a separate motion. He asked for a second on the motion.

Commissioner Alabi seconded the motion to table discussion on Section 4.03.

Commissioner Williams stated the Commissioners were usually out for the summer and likely won't get decided until next fall.

The vote on the motion passed. Commissioner Williams voted no.

Chair Secara asked about the second motion.

Motion Commissioner Bor, seconded by Commissioner Hanson, if accepted to the Council work session that Charter representation occur for the basis of the Charter in the flow that occurs with an amendment.

She stated if they were given 10 minutes they could reference the most recent amendment process they did not like, how that flowed and what the city attorney recommended.

Commissioner Bor stated at the second reading of the ordinance, the interpretation was that a Council member adjust the amendment as it read, and they could also vote on it that night and more than one Council member concurred to that.

Chair Secara stated they could send a copy of the city Charter to the Council and tell their roles, power, duties and responsibilities were defined in the city Charter.

Commissioner Bor suggested giving them an index so they could reference something in the Charter if they needed to, would be an advantage.

Commissioner Alabi suggested something on the communication flow from the Charter Commission to the Council and back to the Charter Commission.

Chair Secara stated there was a motion for the Charter Commission to be included in a Council work session to discuss basic Charter education and asked if there was a second to the motion.

Commissioner Hanson seconded the motion.

Commissioner Severin stated the Special Elections chart should be included as it was eye opening to the Commissioners to see how the special elections were held. She stated it would give context about not ignoring the Council on the amendment because that was what they were concerned about. She stated it would make sense to them, and what spurred it on was what they wanted the Commissioners to do with the length of the gaps with the vacancies.

The vote on the motion carried unanimously.

5.2 Commission Orientation

Commissioner Bor reported on the new Commissioners orientation. She stated the Mayor delivered an informative and empowering talk as he came from the state legislature and talked about acquiring funding for Brooklyn Park projects and was a disadvantage to Commissioners not to have that knowledge. She stated many of the Commission tables were full with Commissioners and not all were new Commissioners. She stated the Charter Commission table would have been empty had she not shown up and thought it was a disservice when they were trying to educate others on who they were and represented. She stated it was valuable and the city manager and staff liaison also presented. She recommended in the future the Charter Commission have representation at the orientation and didn't have to be a new Commissioner to attend.

Commissioner Williams asked if that orientation was used to bring in potential applicants for Commissions.

Staff Liaison Montero stated applicants were also encouraged to attend Commission meetings to learn more about the Commissions.

Chair Secara stated that as a Commission they were not as visible to the community as the Planning Commission, Budget Advisory Commission, and other Commissions. He stated the Commission operated independently on its own and did not have a lot of visibility.

Commissioner Bor stated it was informative as three city officials had been at the legislature that day and were very current on what was being discussed on the funding for desired projects.

6. New Business

6.1 Charter Commission at Council Work Session

Chair Secara stated they would include Attachment 5.1E and a copy of the entire city Charter.

7. Reports of Officers, Boards, and Standing Committee

Commissioner Hanson wanted to discuss what they could do on communication to the Council if

the Council Liaison couldn't attend the Charter Commission to send someone else.

Staff Liaison Montero stated they could send that communication to the Council and go through the city manager.

Commissioner Alabi asked how many meetings the Council liaison had missed. He stated it seemed like it was a public flogging.

Commissioner Hanson stated it was not just for the Charter Commission but would apply to all Commissions. If a Council member couldn't attend their meeting, they would try their best to find someone to attend in their place. She stated the business the Commission did was important. She stated if items continued to go to the Council and a Council liaison wasn't present when it was discussed, then the Commission didn't have support for educating the rest of the Council as to what those Commission discussions were. She stated a Council member couldn't get the tone and context from reading the minutes. She stated the Council members could verbally give a brief summary at their Council meetings.

Commissioner Alabi suggested approaching it that way and felt it was like public flogging if communication was sent to the Council regarding attendance. He stated they could tell the Council Liaison if they couldn't attend because the Commission might be discussing things they might need to present to the Council to make an effort to send someone else.

Commissioner Hanson asked Chair Secara if he would be willing to reach out to Council Liaison Klonowski.

Staff Liaison Montero suggested working through the city manager related to communicating to the Council liaison.

Commissioner Williams stated he had been on other Commissions and didn't see that issue where the Council Liaisons were absent that much. He asked if that was a trend and if the Charter Commission Council liaison was the only one being absent or happening at all of the Commissions.

Commissioner Simmons stated the mayor got a report of Council Liaison attendance to Commissions. He stated the mayor would know which Council members did or did not attend Commission meetings. He stated it was one of their responsibilities and couldn't make a Council member do anything.

Commissioner Hanson stated a better approach would be to state the Commission was there to help the city government run efficiently and helping the Council. She thought a discussion amongst the Council or city manager would help and the Commissions value the Council's input or attendance so they could learn, hear, and deliver those messages from the Commission. She stated when they all worked together things worked better.

Chair Secara stated he would go to Attachment 5.1E, if Council Liaison Klonowski was in attendance a lot of the things would have been cleared up and not tabled and she requested the information on the vacancy gaps.

He stated he would reach out to the city manager and ask in the event Council Member Klonowski was not able to attend a regular scheduled Commission meeting, that another Council member attend in her place and report back to the Council accordingly.

Staff Liaison Montero stated at the beginning of each year the mayor appointed Council liaisons

and suggested a primary and alternate Council Liaison be appointed.

8. Correspondence/Communications

Commissioner Williams stated his term ended on May 31 and would attend the May 8 meeting. He stated he was honored to serve on the Commission. He stated the Commission had addressed some important issues and the city Charter was the constitution of the city. He stated the Commission made the Charter better, making sure the Charter was followed, current and readable. He stated it was time for him to move on and was involved in other things on a state and national level and wanted to devote more time to it. He stated it was time for other people to step in and lend their voices for the city. He stated he had seen a lot of changes in the city and a wonderful place to live. He stated he had seen the change from a farm agriculturally controlled to a diverse city and was a example for the country on how future communities should thrive.

Commissioners Simmons stated he appreciated the appointment to the BP 2025 Steering Committee. He stated the Commission would get an update from those meetings.

9. Adjournment

Motion Chair Secara, second by Commissioner Hanson to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 8:12 p.m.

Respectfully submitted,

Devin Montero,
Staff Liaison

City of Brooklyn Park

CHARTER COMMISSION Attachments

Agenda Item No.:	5.1A	Meeting Date:	June 12, 2024
Prepared by:	Devin Montero	Presented By:	Dennis Secara, Chair

Attachments:

5.1A COUNCIL WORK SESSION SUMMARY REPORT

City of Brooklyn Park Council Work Session

Meeting Date:	May 6, 2024	Originating Department:	Administration
Agenda Item:	C.1	Prepared By:	Devin Montero, City Clerk
Agenda Section:	Discussion Items/ General Action Items	Presented By:	Dennis Secara, Charter Commission Chair
Item:	Charter Commission Presentation		

Summary:

The Charter Commission Chair will update the council on the Charter Commission, history of special elections and issues for discussion.

Attachments:

C.1A BROOKLYN PARK SPECIAL ELECTIONS

BROOKLYN PARK SPECIAL ELECTIONS

Accept Resignation Date	Declare Vacancy Date	Call for Special Election Date	Special Primary Date	Special Election Date	Canvass Election Date	Recount Date	Certify Recount Date	Candidate Sworn in Date	Vacant Seat
West – K. Draeger February 5, 2001	February 5, 2001	February 5, 2001	No Primary Per Resolution	May 15, 2001	May 21, 2001	N/A	N/A	S. Draeger May 29, 2001	4 Months
Central- M. Trepanier June 11, 2001	June 11, 2001	June 11, 2001	No Primary per Resolution	September 20, 2001	September 24, 201	N/A	N/A	R. Haglund October 8, 2001	5 Months
East-T. Pistilli March 17, 2003	March 17, 2003	March 17, 2003	No Primary per Resolution	June 17, 2003	June 23, 2003	N/A	N/A	P. Schnellman July 14, 2003	5 Months
Mayor-S. Lampi (Died Feb. 26, 2011)	March 7, 2011	March 7, 2011	No Primary per Resolution	April 30, 2011	May 9, 2011	N/A	N/A	J. Lunde May 16, 2011	3 Months
West-J. Meyer (Died May 20, 2012)	May 21, 2012	May 29, 2012	No Primary per Resolution	August 14, 2012	August 17, 2012	August 21, 2012	August 27, 2012	B. Mata September 4, 2012	5 Months
West-J. Jordan Elected November 2012; Sworn in January 7, 2013; Resigned August 31, 2016	September 12, 2016	(Initiated the Appointment Process)	N/A	N/A	N/A	N/A	N/A	S. Pha -Elected November 8, 2016 -Appointed by Mayor on November 10, 2016	4 Months
Mayor-J. Lunde December 14, 2020	December 14, 2020	January 4, 2021	April 13, 2021	August 10, 2021	April 15, 2021 August 13, 2021	August 19, 2021	August 23, 2021	L. Jacobson August 30, 2021	9 Months
East-L. Jacobson Elected as Mayor, August 10, 2021	September 7, 2021	October 11, 2021	No Primary per Resolution; (Redistricting) Amended Charter	February 8, 2022	February 14, 2022	N/A	N/A	Xp Lee February 22, 2022	6 Months
West-S. Pha December 12, 2022	December 12, 2022	January 9, 2023	May 9, 2023	August 8, 2023	May 15, 2023 August 18, 2023	N/A	N/A	T. McGarvey August 28, 2023	9 Months

NOTE:

1. The absentee voting period was changed from 30 days to 46 days by the state legislature in 2010.
2. Ordinance #2014-1167, added the special election primary provision.
3. The requirement to hold special elections on uniform dates was passed by the state legislature in 2017.

MAY 6, 2024 CITY COUNCIL WORK SESSION
ITEM 3B.1 CHARTER COMMISSION PRESENTATION

Chair Dennis Secara, Vice Chair Barbara Bor and Commissioner Adam Hunt were present.

Chair Secara briefed on: Charter Commission, Distinction between Home Rule Charter and Statutory Cities, Key Issues Addressed by the Commission, Other Issues Addressed, Charter Amendment Process, Recent Charter Amendment Proposal, History of Special Elections and Length of Vacancy, City Charter on Special Primaries-Section 2.06, Uniform Dates for Special Elections, and Factors involved in Special Elections.

Chair Secara stated that until 2014, there were no primaries for special elections per Section 2.06(b). In July 2023 the Council asked the Charter Commission to examine the possibility of shortening Council vacancies in cases where the unexpired term was greater than 365 days. He stated in February 2024, the Charter Commission presented its recommendation amending Section 4.03 of the city Charter in response to a request by the Council and was not accepted. He stated one of the issues that came up was the desire for an appointment if there was going to be an extended vacancy. He stated the Council had asked the Commission to consider allowing an appointment. He stated appointing a qualified person to fill a vacancy until a special election had concluded required an amendment to Section 2.06 and would not disqualify the proposed amendment to Section 4.03.

He stated where the Commission was at now, there were few options for shortening the length of Council vacancies. One option would be to rescind the primary and go back to a plurality election held on a date specified or use a ranked choice vote on ranked choice special election held on a date specified, or third, maintain the special election primary but incorporate the changes proposed by the Charter Commission, the 50% plus one threshold being effective.

Commissioner Bor stated at the second reading of the ordinance where the majority of the Council was there acknowledged the proposed amendment Council did like the ranked choice type approach to 50% plus one, that they accepted. It was what was perceived as a delay and wanting to fill the vacancy with an appointment. She stated they also acknowledged, the citizens and who they represented, wanted people to be able to vote, ultimately had that position.

Chair Secara stated the 50% plus one was the ranked choice principle, but they would be using the current voting method. There would be no ranking, they would be casting the vote for one person out of presumably three candidates and whoever got 50% plus one would be duly elected at that primary. If any of them failed to get to that threshold, would have a runoff election. If they didn't need a runoff election, that reduced the total costs of elections, if one was needed, then it would not.

Council Member Morson clarified, if it was not 50% plus one, there would be a runoff and asked if the runoff was the same thing as going to the General election or was the runoff before the General.

Chair Secara stated what was now the General election, would serve as a runoff election.

Council Member stated if they went back to the pre-2014 ordinance, if the highest vote getter got 34% of the vote, there would be no fall election. If they did the 50% plus one then there could end

up being realistically a 6-to-8-month delay in filling the position, hence their suggestion of having an appointment process for that 8-month period, so the district was not unrepresented. He asked if the Charter Commissioners were appointed by district and if there were a certain number of Charter Commissioners by district.

Chair Secara stated the Commissioners were not appointed by district.

Council Member Eriksen stated they at large appointments. He stated the point of that question was related to if they went to an appointment process. He was thinking about balancing the appointing versus the appearance of politicking who they were appointing as a Council. He asked if there was some kind of statute identifying who would fill the position because Charter Commissioners were appointed by a judge and thought the senior most Charter Commissioner from that district could fill that role and that would remove any accusations of influence from the Council in the process. He stated that if the Commissioners were not appointed by district, then that squashed that question.

Mayor Winston stated the concern he would have about that was, anyone who was appointed and decided to run for office would have an advantage. He stated from a democracy perspective made more sense if, but people could say they were politicking, but everyone on the Council was elected. If the Council decided by 4 to 3 or whatever, someone could show 4 to 2 and decided by that or appointed someone, it was still a decision made by people who were elected by residents of Brooklyn Park. He stated his instinct would be if they were going to appoint someone to move in that direction.

He thought they needed to have some sort of an appointment process and tended to lean toward the 50% plus one and the potential runoff. The reason he leaned toward that was a plurality could be great but didn't necessarily represent a consensus amongst the residents. He stated 50% plus one was not exactly a consensus but was more than the 30 or 40% and people could say, the majority had spoken and moved in that direction with that individual. He stated that was what he would suggest. He thought that held in Brooklyn Park to defend the democratic values and that would be his strong suggestion to move in that direction.

Chair Secara stated he didn't know the exact reason why the Council or Charter Commission made that change after 2014, if there were concerns about the plurality vote. He thought there was a special election to replace Mayor Lampi and there were large number of candidates and Jeffrey Lunde did prevail. He stated if that was a concern, that would certainly echo what they had been saying. He stated they also discussed the issues of appointments and the Charter Commission; the preference was to have someone from the district in which the vacancy was occurring.

Council Member Eriksen agreed with not going with plurality because in Council Member McGarvey's election, seven percent of eligible voters decided his election. If there had been five candidates, it could be 22% of the 5% of the electorate decided who was a Council Member.

Chair Secara stated, if the 50% plus one threshold had been in effect, with Council Member McGarvey's election, he would have been duly elected in May 2023, because he did win that primary decisively and there would not have been a general election and all of the associated delays and costs.

Council Member McGarvey stated one of the things he knew and hadn't been tracking it closely was the ranked choice (RCV) bill being considered for local option. He stated he knew Minnetonka had RCV already. He asked about the bill and would that change their options.

Chair Secara stated Minnetonka had their municipal and mayor elections in the odd years where Brooklyn Park had most of its elections in even years and that was the key difference. He stated the same was true for St. Louis Park, Bloomington, Minneapolis, and St. Paul, all the cities that had RCV currently for their municipal elections could do that because they had their municipal elections in odd years. He stated that as to the bill making its way, he was not aware of all of its details. His understanding there would be a requirement or an option to have all residents vote on a ballot question for RCV and he knew a few Commissioners and one in particular of the Charter Commission had been strongly supportive of that and pushed for it. He stated the Commissioner would be satisfied if there was an up or down vote like that, if it loses, it loses and if it wins, it wins.

He stated the Council had the option for RCV for special elections as long as they were not having a special election on the same date as the regular election in the same year.

Vice Chair Bor stated how ranked choice voting was tabulated, how it was voted, it was very different than the existing federal and state sanctioned counting. She stated that was something very big and had to get worked through. She stated a spreadsheet was used right now and could be manually changed and worrisome. She stated it was not just as clear as they would want to elect to do that process on an alternate year.

Council Member McGarvey stated he did know that part of the bill covered funding for software for the Secretary of State's office to handle situations like that.

Council Member Lee stated he supported the 50% plus one change to the ordinance. He didn't remember having any questions in terms of the appointees. He knew there was a gap, but there was that politicalness that could happen and then they were not elected by anyone even if for 9 months. He stated he leaned toward not doing appointees.

Council Member Morson stated he supported that too, and not leaning toward appointees. He stated that could just polarize anything else. He thought the people earned the right to vote and they voted to who they wanted to choose, and that person should represent the people's perspective.

Mayor Winston stated when the West District was down, they didn't have Council Member McGarvey and there was no one to help Council Member Tran in terms of having two per district. He stated the West District didn't have a half of their voice or half of their representation. He didn't object to an appointment for that limited amount of time and to have that 50% plus one vote and thought every district deserved their two representatives. He stated they also deserved a full Council and a mayor to take that opportunity. He stated it would be seen very much as whatever city Council Member was Mayor Pro Tem for a prolonged period of time that would give them a certain advantage. He stated to appoint so they could have a full representation.

Council Member Eriksen stated if the mayor, resigned tomorrow, Council Member Lee became the Acting Mayor, then there was a vacant East seat. He asked if they would want to make an amendment to fill that.

Mayor Winston stated Council Member Lee would act as Mayor Pro Tem and would not be the mayor until there was an appointment or special election.

City Attorney Thomson stated the vacancy would be in the office of mayor not in the office of Council Member Lee's district. Council Member Lee would be the acting Mayor Pro Tem but the vacancy was in the office of Mayor.

Council Member Eriksen stated they were still down a person in that circumstance.

City Attorney went to the slide of history of special elections (2020-2022). The stated it was a history of vacancies after state law changed, they could only have elections on certain dates. He stated there had been three elections, one there was no primary because of the redistricting year. Going forward in a situation where there was both a primary and general election the Council should anticipate there was going to be a 9-month vacancy. If there was no primary and only had the general on the 50 plus one, whatever the Council decided, could anticipate a vacancy of 6 months. He stated whichever way the Council went, could anticipate a vacancy. He stated before changes in the law, there were no vacancies that were 9 months. He stated it was a combination of change in the law about when they could hold elections and filing periods that slowed the process down. His point was there would be a vacancy if they had a vacancy on the Council could expect a vacancy for at least 6 months or 9 months.

He thought the issue was, did the Council want to appoint someone during that time period and to also keep in mind, in the Charter, on a vacancy, if the remaining balance in term was less than a year, the Council must appoint someone. He stated the appointment process was not negated at all, it was there already in the Charter. He stated it could be for 364 days and the Council had the ability to do that if that was the time period of the term. He stated here they were talking about appointing someone between 6 and 9 months. He stated the key point was how long did the Council want to have a vacancy. The Charter Commission tried to speed up the process in at least one way to say if 50% plus one, didn't need the general. He stated they could also do it by RCV and could also do it by the plurality which he knew the Council didn't want to do. He thought the focus was, were those vacancies so long that the Council didn't want to have someone not sitting in that seat and worth making that appointment. He stated that was the Council's decision, but the Charter already said that they had to do that if it was less than 365 days.

Council Member Eriksen stated it sounded like there was general agreement toward the 50% plus one idea. He suggested for the next Council meeting where it would appear on the agenda for public debate, to have staff prepare two motions, one, was 50% plus one, no appointments, one with 50% plus one and amending the appointment language to include a midterm vacancy and then they could debate that in an open forum where the public was present and what the Council said was on record and then they could decide between those two.

City Attorney Thomson stated if they were doing it by an ordinance it had to come from the Charter Commission. He stated the Council did not have the ability to amend an ordinance by the Charter. He stated the Charter Commission did that.

Council Member Eriksen stated that the Council needed to ask the Charter Commission to bring an ordinance.

City Attorney Thomson stated the Charter Commission did bring something that the Council asked them to study it and came forward with a proposal that in a certain situation didn't need a primary but that didn't address the appointment process. He stated if the Council didn't need a primary, they would have a vacancy for 6 months, but doing it by ordinance, the Charter Commission and Council by unanimous vote had to confirm that.

Vice Chair Bor stated the Charter Commission met Wednesday night and they could report it to the Commissioners.

Council Member Eriksen asked if there was an objection to amending the appointment process in the Charter Commission.

Chair Secara stated there were a lot of concerns about appointments and it got back to the politicking and not much comfort with the appointments. He stated if he was to ask the Commission to consider that, if a 6-month vacancy was expected, then do an appointment but if a 9 month vacancy was expected, then an appointment. He stated it got back to who got appointed. Was the Council going to appoint someone and they knew the qualified person would have to be from that district, and that was the definition of qualified and the Commissioners discussed that and would it be a rubber stamp or something to that effect. He stated it got back to the politicking and was not sure there would be enough, there might be enough consensus to suggest an amendment to 2.06 which would cover appointments.

City Attorney Thomson stated when the Charter Commission discussed that asked if they factored in that the Charter already required an appointment.

Chair Secara clarified they were talking about vacancies where the unexpired term was in excess of 365 days. That was the Susan Pha situation and that was what they had been looking into. He stated they were already aware there must be an appointment if it was 365 days or less. What they had been focusing solely on was in excess of 365 days. He stated if a Council Member was elected this year, heaven forbid, they died in office, early next year there would be a vacancy in excess of 365 days and that would set in motion everything they discussed tonight.

City Attorney Thomson stated there seemed to be some confusion because when the term was more than 365 days the appointment was not for the rest of the term it was only for the 6 month or 9 months which was actually less than the appointment if it was less than a year.

Vice Chair Bor stated if the Council could live with a 6- or 9-month vacancy. She stated it was presented that it took much longer and again the mandate that existed now was when they could have elections. When that occurred that was when it got into the longer time period. She stated the question was on the appointment, and how did that look.

Council Member Lee asked what the appointment process was they had now.

Chair Secara stated it was in the Charter. There would be a declaration of vacancy, candidates required to apply, the Council would interview candidates and take a vote. If the Council failed to reach a consensus, he believed three times, then the mayor could make the appointment. He stated if they interviewed the candidates and found one they liked, voted, then the appointment was made; for the remainder of the 365 days.

Council Member Lee stated in terms of the politicking was there anything in there for not running for office or could there be something added.

Vice Chair Bor clarified if they were appointed then they were not allowed to be a candidate for the office, didn't believe there was anything.

City Attorney Thomson stated there was nothing in the Charter. He thought there would be legal problems with that. He stated cities couldn't establish qualifications to run for office and other than being whatever the minimum age was and everything else was in the constitution. He stated cities couldn't establish additional qualifications that would be interpreted as imposing an additional qualification to run for office. He stated that probably wouldn't be allowed and would have to look into but thought that would be the answer to that. He stated it was difficult to hold anyone to that unless they did so voluntarily.

Council Member Morson asked about the appointment by Council if it had to be unanimous for that appointee.

City Attorney Thomson stated the appointment was a majority vote and for the Charter amendment they needed a unanimous vote.

Council Member Eriksen stated there was one Commissioner who was excited about RCV and asked if there were any objections to the RCV option because that would preclude ever going past 6 months.

Vice Chair Bor stated there were no objections for that element and they brought that to the Council the night of the second reading. She stated it was not an issue but the clarification to what did an appointment mean and how that interfaced, that was where the issue was. She stated the Commissioners met Wednesday night and could discuss it again and look at how the amendment would read, redoing the amendment and looking for the Council's final thoughts tonight.

Chair Secara stated the question for Council was, could they live with a 6-to-9-month vacancy or was an appointment necessary until a special election was held and concluded which meant canvassing, recounts, litigation, and so forth. He stated they were looking for Council for guidance on it and the ball was in their court so they could draft legislation. He stated the Commissioners didn't want to necessarily submit something that would fail.

Council Member Eriksen stated it sounded like in order to change the ordinance they need the Charter Commission to post the language and the Charter Commission sounded like they would not expand the appointment authority and sounded like that was not even on the table.

Vice Chair Bor stated she didn't think that had been said tonight nor had it been said in their meetings. She stated what was the most democratic process was where they hung their hat and was a strong belief of the whole group.

Commissioner Hunt stated their sentiments were there was an established process for appointments, the Council were the elected Council Members, and the Commissioners were appointed by the judge. He suggested using things they already had and sounded like they had an agreement on a big portion of it. He stated the Commissioners would be fine to have those additional conversations, but it would take additional time and conversations with Commissioners

who were appointed by the judge and not voted on by Members of the community like the Council. He stated they were asking for some guidance, but it was not off the table.

Chair Secara stated he thought there was consensus on Section 4.03 but maybe not consensus on 2.06.

Council Member Lee stated he was okay with 6- or 9-months vacancy until the special election was held. He stated he would rather avoid the appointment process beyond the 365 days.

Council Member Eriksen stated it was not the end of the world for him. He just thought there was an advantage both from the number of voices at the table and representation piece of each district having full representation but didn't have a great moral obstacle to it.

Mayor Winston stated he tended to be in the same situation. He thought again the number of voices at the table, full representation for the districts, just mitigated the ability, the likelihood of them not having a quorum because there were some days where a couple of Council Members couldn't make it. He stated if they had a full Council that was less likely to happen and almost ran into that a few times when Council Member McGarvey was not on board and that made voting that much more difficult. He stated he would tend toward the appointment for that, and the appointment should be from the Council because they were elected. He stated with that said a judge came to mind, could become political in this day and age and would mean representing a lot less voices and diversity within the city.

City of Brooklyn Park
CHARTER COMMISSION Attachments

Agenda Item No.:	5.1B	Meeting Date:	June 12, 2024
Prepared by:	Devin Montero	Presented By:	Dennis Secara, Chair

Attachments:

5.1B PROPOSED AMENDMENT TO SECTION 2.06

Amendment to Section 2.06, paragraph 5. Amending language highlighted

If more than 365 days remain in the unexpired term, a special municipal election must within 45 days of the declaration date be ordered to fill the vacancy for the balance of the unexpired term. Upon declaring the vacancy, the council must appoint a qualified person to fill the vacancy until a special election for the vacancy has been concluded. The council shall set times for candidates to for such office, however, filings may close no sooner than 7 days after the election is ordered. If a special primary election is required by Section 4.03 of this charter, the special election must be held no more than 120 days after the election is ordered. If a special primary election is not required, the special election must be held no more than 73 days after the election is ordered. Except as provided in this section of the City Charter, all of the provisions of the Minnesota election law are applicable to the election as far as practicable.

City of Brooklyn Park

CHARTER COMMISSION Attachments

Agenda Item No.:	8.1A	Meeting Date:	June 12, 2024
Prepared by:	Devin Montero	Presented By:	Dennis Secara, Chair

Attachments:

8.1A RESPONSE FROM ATTORNEY SIOBHAN TOLAR-CANDIDATE FILING DEADLINES

RE: City Council Vacancies Sections 2.06 and 4.03 From: Tolar, Siobhan L. (stolar@kennedy-graven.com)

To: dasecara@aol.com Cc: jthomson@kennedy-graven.com; devin.montero@brooklynpark.org Date: Thursday, April 25, 2024 at 11:10 AM CDT

Good morning, Chair Secara, Jim asked me to look into your question. See below. Question: Do municipalities have authority to shorten the candidate filing period for special elections only? Answer: No To answer this question, I looked to state law and to the Attorney General's Office for guidance. Minnesota Statutes Chapter 205 is the election law statute. (Section 205.13 is the candidate filing section.) Minn. Stat. 410.21 governs municipal elections. After reading those statutes together and reviewing the opinion from the Attorney General on a similar issue, the state election law will govern, not Section 410.21. Please let us know if you have further questions.

Thanks,

Siobhan Siobhan Tolar | Attorney