

Brooklyn Park Charter Commission Meeting Agenda
Wednesday, September 11, 2024, 7:00 p.m.
City Hall Room A203

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1. Call to Order/Roll Call
2. Public Comment
3. Additions/Approval of the Agenda of September 11, 2024
4. Approval of Minutes
 - 4.1** JUNE 12, 2024, REGULAR MEETING MINUTES
5. Old Business
 - 5.1 Proposed Amendments to Sections 4.03 and 2.06
 - 5.1A** PROPOSED AMENDMENT TO SECTION 4.03
 - 5.1B** PROPOSED AMENDMENT TO SECTION 2.06
6. New Business
7. Reports of Officers, Boards, and Standing Committees
 - 7.1 Council Liaison Klonowski Update on Council Actions
8. Correspondence/Communications
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:	September 11, 2024
Prepared by:	Devin Montero	Presented By:	Dennis Secara, Chair

Attachments:

4.1 JUNE 12, 2024, REGULAR MEETING MINUTES

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

1. Call to Order/Roll Call

Present: Commissioners, Sunday Alabi, Barbara Bor, Sharmara Freeman, Peggy Larkin, Dennis Secara, LaDawn Severin, Scott Simmons, Gregory Szach.

Absent: Commissioners Amy Hanson, (excused), Adam Hunt, Susan Maberera, Council Liaison Nichole Klonowski (excused).

1.1 Chair Secara welcomed the new commissioners, Shamara Freeman and Peggy Larkin.

2. Public Comment

Former Commissioner David Williams addressed the Commissioners and new incoming commissioners. Commissioner Bor provided treats.

3. Additions/Approval of the Agenda of June 12, 2024

Motion Chair Secara, Seconded by Commissioner Simmons to approve the agenda as presented. Motion carried unanimously.

4. Approval of Minutes

4.1 APRIL 10, 2024, REGULAR MEETING MINUTES

Chair Secara stated there was not a quorum at the May meeting and would not have minutes to approve.

Motion Chair Secara, Seconded by Commissioner Alabi to approve the April 10, 2024, minutes as presented. Motion carried unanimously.

5. Old Business

5.1 May 6, 2024, Council Work Session

Chair Secara stated Attachment 5.1A was a summary of the Council Work Session attended by the Charter Commissioners on May 6. He stated the Commission was invited to provide education and discuss the Charter process for amending the Charter, and history of special elections. He stated they spent time on the addition of the primary and special elections after 2014 and that was what got the issue started.

He stated the proposed amendment to Section 4.03 was rejected in late February but did approve some content. The reason for the rejection was it did not include a provision to appoint a qualified person to fill a vacancy until a special election was held. He stated as the Commissioners discussed it in a previous meeting, it would require a separate amendment to Section 2.06. He stated they were presenting an amendment to Section 4.03 with the special primary election. He stated the Council wanted to modify it and appoint a person to fill the vacancy until a special primary and special election was concluded. He stated that would

require an amendment to another section of the Charter which the Commissioners were not presenting at the work session.

He stated the consensus of the Commission was to reintroduce the proposal for Section 4.03 and possibly introduce an amendment to Section 2.06. He stated the Commissioners would present the amendments at the same time and could approve one or the other or both at the same time.

Commissioner Bor stated they also had direction from the attorney to send it back to the Charter Commission and not have the Council reword the amendment.

Chair Secara stated the Council wanted to add language to the Commission's proposal, but the attorney said it had to go back to the Commission to be reworked if that was what the Council wanted and was why the proposed amendment was back with the Commission.

Commissioner Alabi asked for clarification on why it was sent back and directed to add language.

Chair Secara stated the Commission was proposing an amendment to Section 4.03 which modified the primary. If a candidate received 50% plus one of the votes cast, they would be elected at that time and would avoid the need for a special election. He stated that would reduce the length of the vacancy and it would not incur the cost of the special election. He stated they agreed with that, however, they wanted to add in a provision to appoint a qualified person to fill the vacancy until the special election whether the primary or general election.

Commissioner Bor stated they should hold onto the special elections chart, because of the Council's perception and the Commissioner's perception of how long things were vacant. She stated the perception of the Council for vacancies was distorted and the special elections chart at the Council work session helped them begin to understand how much vacancy there was. The question was, could they live with 6 to 9 months of having the seat vacant and where all the discussion came from the Council Members and Mayor wanting the citizens to be representative of that district.

Commissioner Larkin thought what was critical was on Page 2 and Page 4 which said if it was under a year, someone "must" be appointed but the Charter said "may" and thought that was important because they didn't have to according to the Charter. She stated she wasn't at the Council work session but looked like it was divided. She stated from reading the Council meeting minutes Council Member Lee was okay with a 6-to-9-month vacancy until there was a special election and Council Member Eriksen said it would not be the end of the world. She stated it sounded like some wanted it and some didn't

Chair Secara stated that was where it stood. He moved on to Attachment 5.1B, which was his proposed amendment to Section 2.06.

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.

Staff Liaison Montero clarified Section 2.06, Council Vacancies, *“If less than 365 days remain in the term, the council may appoint and eligible person to fill the office for the balance of the unexpired term using the procedure. The candidate receiving a majority of the votes of all members of the council must be appointed to fill the vacancy. If the council votes three times on the appointment and fails to fill the vacancy, the mayor must, within 60 days after declaration appoint an eligible person to fill the vacancy.”*

Commissioner Larkin stated in the Council minutes, was referenced as they *must* appoint someone and would argue they *may* and then it would go to a vote. She stated the Council declared a vacancy and thought it meant the Council could just say to have a special election as opposed to appoint. She stated if the Council decided to do an appointment and there were three votes, then the mayor must appoint. She stated it could go to an election even if it was under a year if they chose to or leave it vacant.

Commissioner Bor clarified the work session was a discussion with the Council. The Council had not had an opportunity to discuss it because at the first reading of the amendment, the Council had a minimum quorum, but no questions were asked. She stated at the next Commission meeting, the Council Liaison was not there to help with the final framework of the amendment. She stated at the second reading, all the Council Members were present but had not discussed the amendment in a work session. She stated by going back and helping to educate them on what the Charter read on how decisions were made, it had everyone talking and asking questions. She stated there were new Council Members and the Mayor Pro Tem, had been on the Council for 18 months. She stated it was an opportunity the Commission to have an improved dialog and referencing specific points and taking questions.

Commissioner Larkin stated when they were drafting language to keep in mind the “may”.

Chair Secara stated his proposal had “must” and didn’t have to be there if the Commissioners didn’t agree. He stated it was the same paragraph in Section 2.06, Paragraph 5, with his modifications to it and was highlighted on the attachment.

“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.”

Commissioner Alabi asked about the proposed modifications. He stated when there was more than 365 days remaining in the unexpired term, a special municipal election must be ordered within 45 days. He asked how that would fit with the state requirements of when the city could have a special election.

Staff Liaison Montero stated it depended on the specified dates to hold a special election set by the state.

Commissioner Alabi asked how the 45 days would affect it and when the 365 days started.

Staff Liaison Montero stated the declaration must be made within 45 days and then call for the election on one of those specified dates to hold a special election.

Commissioner Alabi stated he was struggling with the proposal, and was looking at the starting point. He stated there were 365 days left and it started in January and if someone got elected in November asked if it was 45 days from January.

Staff Liaison Montero stated it was from the date they declared the vacancy.

Commissioner Severin noted the older special elections from the chart where the Council declared the vacancy and called for the special election at the same meeting, which was efficient. She felt the 45 days was the worst-case scenario and would be detrimental to lag for 45 days before calling for a special election. She stated at that point they needed to make sure of the 46 days early voting, and in Section 4 of the Charter regarding the timeline, that at least 15 days' notice shall be given by the clerk of the time and place of holding such election. She stated it also required putting something on the website and newspaper for 3 consecutive weekly issues.

She stated those were the things that tied the city up and had only 5 dates they could choose from each year. She felt that was when they lost a lot of time, on the 45 days, and using all that time. She stated that was why they were getting all those gaps. She recommended to strike out the sentence, that said, *"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"* and let the special election run its course, encourage the Council fill the vacancy if they cared about the long gaps and do those things as quickly as possible.

Commissioner Bor stated Commissioner Severin's comments could be formed into bullet points when they went back for the first reading.

Commissioner Larkin stated it read that if more than 365 days remained in the unexpired term, a special municipal election must within 45 days of the declaration date be ordered. She asked if it was best to declare it at the same time and have it on the same date or if there was an advantage to having the 45 days but suggested eliminating the 45 days.

Chair Secara agreed they could strike it from the Charter, to read *"a special election must be ordered to fill the vacancy for the balance of the unexpired term."* unless there was statutory reason it needed to be there.

Commissioner Larkin agreed with Commissioner Severin about striking the line about the appointment but if they kept it, to be consistent with Section 2.06, suggested changing the *"must"* to *"may"*. She stated there was a lot of talk in the minutes about giving someone an advantage if they were appointed in an election. She stated it was mentioned the Council had a different view of how long it took, and some of the Council Members were indifferent. If they put in *"may"* it would put it on someone that if the Council appointed someone that were in their party, shared their views, then the people would note they couldn't say they had to because it said *"may"*. She stated she preferred not to appoint.

Commissioner Simmons agreed of not having a dual track, not having an appointment, and just let the special election run its course. He didn't agree striking the 45 days because if the Commissioner's didn't put a time limit. There was nothing to hold the Council accountable to make them do it. He stated they were making the presumption they wanted to fill the vacancy,

but politics could turn strange things to be true. He stated if they didn't put a time limit on it, what compelled the Council to do it. The current Council was wringing their hands about the length of the vacancy, and they might want to do it but, in the future, what was to say they didn't and wanted to sit on the vacancy. He thought there should be a time to call it and figure out the stage of the election. He stated people wanted to know, expected it and not having an election opened a can of worms on the issue.

He stated in the first sentence after the highlighted paragraph, "*the council shall set times for candidates to for, such office*", there was a word missing and could be "*file*"; ("*the council shall set times for candidates to file for, such office.*") He stated the issue then was, it was based on municipal law, which was seven days and later on the agenda there was a memo from the attorney that the city would follow state election law not municipal election law because of an Attorney General's opinion. He stated according to the attorney, the city had to follow state law which said it was a two-week filing period. He stated the Charter was incorrect and would have to change the Charter to follow state law, follow the Attorney General's opinion and should do an amendment at the same time.

Public Comment.

The following individual addressed the Commissioners.

1. David Williams (former Commissioner). He asked what would happen if they put dates on it, two days before it ran up against the two dates per year they could have special elections. He stated the proposed amendment should start with the dates and have wording in it so that the 45 days or 20 days, were tied to the dates of the special elections. He stated it might be 45 or 30 and would assure they would have an election.

Commissioner Bor stated the Council agreed to an element of the original amendment they were talking about tonight, on the 50% plus. She stated at the work session, the Council and mayor felt, there should not be a vacancy and be an appointment. She stated they understood the Commission still wanted to proceed to have the special election but wanted that interim period to be covered so they would have a balance when they went to vote on something for the districts. She stated that was their desire and Council Member Klonowski said the same thing. She stated the Commissioner's reworded it tonight, on the argument about "*may*" and "*must*" was fine, but the timeline and how it read got difficult. She was having difficulty on where they were, with the state law and the City Charter. She stated whatever they framed tonight, needed to be sure it was clear, but asked if they were meeting the objective of why it was originally felt it was not what they wanted. She asked how they were going to engage the appointment, and the qualifier was stated in the Charter, and thought they drifted where they wanted to be with the wordsmithing. She asked what the concept was they were trying to get at, to share and go back, needing a separate amendment and that was a question at the beginning of the meeting.

Chair Secara stated they were to decide if the Council had the power to appoint someone, a qualified person to fill a vacancy until a special election had concluded. He stated there was a division of opinions on it on the Commission and the Council. He stated that was the basic issue, once they got passed that issue, everything else would fall into place.

Commissioner Severin stated if what was proposed was done, it would be very weird because they would redo the policies and procedures of when the mayor and the Council were going to be voting and interviewing people for the special appointments and meanwhile, were going to have people filing to run for the special election. She stated if the Council picked someone

who was running, that was who they appointed and thought that was ridiculous.

Commissioner Alabi didn't believe there was consensus in the Council, as there were two that said it was not going to be the end of the world. He stated Council Member Morson said in the beginning there was a misconception that most of the vacancies lasted forever, was different from reality. He asked if they were solving a problem that didn't exist or trying to solve a problem and give the Council an out. He asked about the person being appointed, what would stop them from running and then they would have an advantage. He stated it would come back to the Commission to address it. He liked the proposed language and agreed to strike what was discussed and if the Council didn't like it, it would come back to the Commission. He stated the Commission was not supposed to be rubber stamping what the Council wanted.

Chair Secara stated the Commissioners were not in favor of the place keeper appointment, and with that decision made, they would still have to have a special election and liked former Commissioner Williams' idea of listing those dates in the Charter however, if those dates changed, would need a new amendment.

Staff Liaison Montero stated they didn't have to list the actual dates but could add the language from the statute, such as the second Tuesday in February, second Tuesday in April, second Tuesday in May or second Tuesday in August, etc.

Chair Secara suggested it to read, *"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."*

Commissioner Bor asked if they were okay with that sentence and stop there.

Chair Secara asked the Commissioners if they were okay with that sentence only.

Commissioner Severin asked when the Council declared a vacancy, if that required a Council meeting and if it would be legal to do both at the same meeting, declare the vacancy and call for the special election.

Staff Liaison Montero stated according to the Charter they could do it at the same meeting.

Commissioner Simmons asked to see Section 2.06 of the City Charter.

Chair Secara stated the Charter said the *"Declaration date of vacancy shall be the date of the Council meeting at which the resolution is adopted."*

Commissioner Simmons stated there was already a process for appointments for vacancies over a year.

Commissioner Bor stated they pointed that out in the work session because the Council was not aware of that.

Commissioner Simmons stated what was now incorrect according to the attorney was the *"filings may close no sooner than seven days after the election is ordered"* and that was not true based on what the Commissioner's had been told. He stated the conversations they were having about referencing the five permitted dates for holding elections, was reluctant to go there. He stated from his history of being on the Commission they pushed back on trying to tie

in state law into the Charter. He stated whether it was referenced by statutory numbers or anything else, because of the likelihood for change and they tried to keep it neutral. He stated the seven days needed amending and they had a process for an appointment and had policies and procedures.

Chair Secara suggested the proposal be reworded to, *"The council shall set times for candidates to file for such office, in accordance with statutes"*

Commissioner Simmons stated they didn't have to say anything. State election law would preempt anything that was contrary to the Charter.

Commissioner Bor suggested starting with the first sentence of the proposed language.

Chair Secara read the proposed language:

"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."

Chair Secara stated they struck the following sentence:

~~*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 file for such office, however, filings may close no sooner than (7)/(15) days after the election is ordered."

He stated they were struggling with the sentence that said.

"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."

Chair Secara stated it may or may not conflict with the specified dates.

"If a special primary election is not required, the special election must be held no more than 75 days after the election is ordered"

Chair Secara asked the Commissioners if they were okay with that sentence or any objections to the language.

Commissioner Alabi stated he was looking at the specified dates, and when it was declared, could be a potential conflict and the filing ended.

Chair Secara thought the solution to that was, the Council would order it on the dates it fit within the 75 days and wouldn't be more than 120 days.

He continued reading the proposed language:

"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."

He stated that covered the timing of the elections.

Staff Liaison Montero provided the language regarding the specified special election dates.

- *Second Tuesday in February*
- *Second Tuesday in April*
- *Second Tuesday in May*
- *Second Tuesday in August*
- *First Tuesday after the first Monday in November*

Commissioner Severin stated the longest gap was the November to February, over Christmas and New Year's and that couldn't be over 95 days and didn't know she would change the 75 days to 95 days. She stated it would be unlikely someone would declare their vacancy on November 6, and it would take 95 days before they could do that in February.

Chair Secara stated in that situation, the person would assume the office in January.

Commissioner Alabi stated the person would still be Council elect until January.

Staff Liaison Montero showed a chart with the special election dates and when the early voting periods would be for each date.

Chair Secara stated the Council had seen the chart and the Council would pick a date then back track it for early voting and the filing periods.

Commissioner Severin asked if the filing period of 7 to 15 days had to happen before the first day of early voting or the date of the special election.

Staff Liaison Montero stated there was the two-week filing period and then he would submit the names to Hennepin County and then the ballots would be available for the early voting period.

Chair Secara stated the Council was advised to anticipate situations like that, at least a 6-to-9-month vacancy period. He stated if they were looking at a vacancy under 365 days, they would be looking at a similar situation and gave an example. (Someone departing the office now, the process in Section 2.06 went into play and might appoint someone.)

Commissioner Bor stated there could be a 3-to-6-month gap of having a Council Member in place and the argument was, the Council would like to appoint someone during that process and pointed out the 3 to 6 months put it into perspective, and it could be viewed differently now and there was no discussion around it.

She stated whatever the Commission sent to the Council could be as simple as a special meeting without appointment and they were back to basically what the Commission sent the Council before but with understanding it was not years, or how it worked.

Commissioner Simmons stated there was a consensus of the Council to shorten the period from declaring the vacancy to someone being sworn in and the Commission decided to skip the primary and winner take all. He asked if that was where they landed.

Chair Secara stated they landed where the primary would remain but would be a provision in the Charter whoever received 50% plus one of the votes would be elected at that time. He pointed out, had the policy been in effect last year, when there was a special election to replace Susan Pha in the West District, Council Member McGarvey would have been seated in May

instead of August. He stated Susan Pha was elected to the State Senate in 2022, declared the vacancy in 2023, didn't have the Primary until May and was under the specified dates for Special Elections.

He stated what the Commission's proposal would do was shorten the time frame by three months and the vacancy extended by 3 months by virtue of the fact there was no 50% plus one threshold for the primary and the fact they had to have a primary and special election. He guessed the assumption was that the person who lost the primary would simply drop out and the special election would be a runoff between the top two candidates.

Chair Secara stated the Council turned the proposal down not because they did not like it but because it didn't go the extra step of the appointment and got that confused. He stated that was why they had the work session and made it clear they needed to amend the Charter in order to do the appointment. He stated if there would have been an appointment and the person had been presumably appointed at the time the vacancy been declared in March, or April then the person would have served from then until August or May. He stated if their proposal had been in effect in Section 4.03, they would have served at the most 2 or 3 months but then they would have to go through the voting process. He stated if the Council couldn't appoint someone and couldn't reach a consensus then the mayor made the appointment for 2 or 3 months. He stated the seat would be vacant for 2 to 3 months and theoretically underrepresented.

He presented the ordinance that was sent to the Council and rejected.

Commissioner Simmons stated they put in the minimum threshold of 50% plus, whoever won and said of those eight candidates they had for mayor several years ago that would not have worked. He stated there would have been a runoff of the top two. He stated it was not that the Council rejected it, they didn't approve it because they didn't have the conversation, they had at the work session and would have made a difference.

Commissioner Bor stated it would have made a difference had the Commission had the Council Liaison at the Commission meetings as they worked on the proposal to help facilitate those conversations when they had the work session.

Staff Liaison Montero pointed out that prior to 2014 there were no primaries in the Charter and there was an ordinance amendment to add the primary back in 2014.

Chair Secara stated it went back to the special mayoral election following the death of Mayor Lampi where there were several candidates, Jeffry Lunde prevailed, did not get a majority and barely got a plurality. He stated that was one of the reasons the Council asked the Commission to look into it, and the reason they came up with the proposal and put that forward again.

Commissioner Simmons proposed the Commission resubmit the proposal the Commission had submitted originally to the Council.

Chair Secara asked if that was a motion.

Commissioner Simmons stated he would make it a motion.

Motion Commissioner Simmons, Seconded by Commissioner Alabi that the Commission resubmit its proposal the Commission submitted originally to the Council and put that forward again.

Chair Secara stated there was a motion to resubmit the proposal for amending Section 4.03 presented to the Council in February.

Section 1. Chapter 4, Section 4.03 of the City Charter is amended to read as follows:

SECTION 4.03 PRIMARY MUNICIPAL ELECTIONS

The Council shall, whenever there are more than two candidates filing for any city-wide office or for resident Council member of any district, provide through ordinance or resolution for a primary election to be held city wide or in any particular district, and such primary election shall be held on a date not less than 25 days prior to the special or general election. At least 15 days' notice shall be given by the Clerk of the time and places of holding such election, and of the officers to be elected, by posting a notice thereof in at least one public place in each district where the election is held, and by publishing a notice thereof on the city website and at least once in the official newspaper of the city. Uncontrollable circumstances causing failure to give such notice shall not invalidate such election. This section does not apply to any special election held in 2022 to fill the vacancy in the office of council member for the East District.

If a primary election is required in connection with a special municipal election needed to fill a vacancy in the office of Council member or Mayor pursuant to Section 2.06, a candidate who receives more than 50% of the votes cast at the primary election shall be declared the winner. If no candidate receives more than 50% of the votes cast at the primary election, the two candidates receiving the most votes shall advance to a special municipal election pursuant to Section 2.06 and the applicable provisions of Minnesota election law.

Commissioner Simmons stated the alternative he was thinking of was to get rid of the 50% plus, just have the primary and whoever got the most votes won. He stated having the conversation with the Council thought it was worth forwarding again rather than lessening the threshold and staying with the 50% plus one unless that got rejected.

Commissioner Bor stated the Council liked the 50% plus one and wanted to keep it. It was filling of the position and the process that was perceived as being long, wanted to be able to appoint and wanted to shorten the process of filling the vacancy. She stated everyone on the Council agreed with the underlined paragraph, it was the other paragraph they had difficulties with. She stated if the Commissioners were going to send the same proposal back, it had to have different bullet points and wanted to make sure the paragraph was what they wanted it to be.

Commissioner Simmons stated he didn't support appointments, and the proposal moved it in the right direction. He stated it would shorten it further if they got rid of the 50% plus, but the Council liked it and still wanted to have the appointments but couldn't have it both ways.

Commissioner Alabi stated the driver for the proposal was the city had special elections in 2023 and the Commission was looking for ways to reduce the cost of having special elections. He stated on the 50% plus one, unless there was a state statute, he was in support of appointments. He stated if they did the 50% plus one, they would be back to where they started. They were trying to reduce the number of elections and could just put their name in the hat and whoever had the most votes, that was plurality and what democracy was all about.

Commissioner Severin asked to look at the special elections chart at the Susan Pha special election. The Council called for a special election on December 12, and the primary election date, settled for May 9. She asked if they declared the special election on December 12, could they have done the primary election in February.

Staff Liaison Montero stated it was possible to have it done in February.

Commissioner Severin stated they could have 46 days voting and three weeks of putting it in the newspaper. She felt that needed to be communicated to the Council and why they should do

another work session which could help the Council. She stated instead of having the primary on May 9, have it in February and the vacancy would have changed dramatically.

Staff Liaison Montero presented the early voting dates chart and stated it would be a very tight window.

Commissioner Larkin pointed out on the special elections chart, for the shorter vacancy periods, some were on the same date, declaring vacancy and calling for the election. She asked if there was a way to add language in the Charter that forced the Council to say it on the same date at the same meeting.

Chair Secara thought adding that language could be done and would be an amendment to Section 2.06.

He stated that the motion on Section 4.03 should be voted on and the amendment would be resubmitted to the Council and restated the motion.

The motion was made by Commissioner Simmons and seconded by Commissioner Alabi, to resubmit the proposal for amending Section 4.03 as stated and presented to the Council on February 26, 2024.

The vote on the motioned carried unanimously.

Chair Secara asked how soon that could be on the Council agenda.

Staff Liaison Montero stated there would be a legal notice required for a public hearing.

Commissioner Bor asked about the amendment to Section 2.06 as suggested by Commissioner Larkin.

Chair Secara stated the Commissioners were sending the amendment to Section 4.03 as is to the Council and would need to send a separate amendment to Section 2.06, adding language ordering the election on the same date the vacancy was declared. He stated the goal was to present the amendment to Section 2.06 at the same time.

He stated the amendment to Section 2.06 would be put on the Work Plan and the Commissioners would decide where to insert the language.

Commissioner Severin stated that instead of the 45 days they could tell them to do it at the same meeting.

Commissioner Larkin stated that under #10 in Section 2.06, the first sentence read:

“If any of the foregoing is determined to have happened, the Council shall, by resolution at the next regular or special Council meeting declare a vacancy on the Council to exist. Declaration date of vacancy shall be the date of the Council meeting at which the resolution is adopted.”

She suggested adding, “and call for a special election” at the end of the first sentence.

“If any of the foregoing is determined to have happened, the Council shall, by resolution at the next regular or special Council meeting declare a vacancy on the Council to exist and call for a

special election. Declaration date of vacancy shall be the date of the Council meeting at which the resolution is adopted.”

Commissioners agreed to add the proposed language by Commissioner Larkin.

Chair Secara asked the Commissioners if they were ready to vote on the proposed language to Section 2.06.

Motion Chair Secara, Seconded by Commissioner Bor to amend Section 2.06, of the City Charter as suggested.

Commissioner Simmons stated that Council Member Pha did not have to resign until the beginning of the Senate session, the first Monday in January. She resigned on December 12 because that was the last Council meeting. He was trying figure a reason why the amendment would not work because it had to be in sync with the resignation and the ability to know when the elections occurred. He stated the calendar was an administrative process that required oversight and coordination. He stated he was trying to think of a scenario where, and the key was the language determined to have happened what constituted whether the Council had determined where something happened. He stated it was putting it on the agenda which was not mandatory and had to be on the agenda to make that happen. He thought they should run it by counsel. He liked the idea of moving it along and saying there was a potential to save time and administrative coordination. He stated he would vote for it but still should have an opinion from the attorney and if there was anything the Commission was not considering tonight.

Commissioner Severin asked about the Susan Pha special election if it wasn't on the December 12 agenda. She stated when the Council called for the special election the Council didn't have to say what date, they were just calling for the special election.

Staff Liaison Montero stated at the time the Council called for a special election, with coordination of the attorney, presented a calendar with proposed dates of the special election, legal notices, filing period, and the early voting period.

Commissioner Larkin stated it appeared from the first four on the special elections chart all were called on the same date, usually not an issue, but could be in a resignation. She stated it was not an issue giving the election dates if that was done before.

Staff Liaison Montero stated he provided to the council things to expect when calling for the special election, such as the calendar of dates, filing period, early voting period, etc.

Commissioner Larkin asked if it was an issue or not with Susan Pha's situation.

Staff Liaison Montero stated the Charter provision used for Susan Pha situation regarding less than 365 days and was appointed as Council Member. She was elected in November and was seated in January to the council.

Chair Secara suggested they should table the discussion until they could get the attorney's opinion.

Motion Chair Secara, Seconded by Commissioner Severin to table the discussion and voting on Section 2.06 changes until they could get the attorney's opinion. The motion carried unanimously.

Commissioner Bor asked if they were still striving to the July 8 meeting and just doing Section 4.03.

Commissioner Secara stated the original plan was doing Sections 2.06 and 4.03 together and tabled Section 2.06 and didn't have to put it on the July 8 Council agenda.

Commissioner Bor asked if it was the consensus to do the sections separately. It was now June and the Commissioners tabled Section 2.06 and would have another discussion. She stated it seemed they were together.

Commissioner Larkin stated it made the most sense to be presented together especially when the Council struggled with it when it was first presented.

Chair Secara moved on to Item 6.1

2. New Business

6.1 Vote on meetings for July and August

Commissioner Alabi stated they could do the amendments in September.

Commissioner Simmons suggested holding the first amendment until Section 2.06 was resolved. He didn't know if there was urgency on getting the first amendment forward and then they could do them together versus pushing one forward.

Motion Chair Secara, Seconded by Commissioner Alabi, to not meet in July and August. The motion carried unanimously.

Commissioner Bor asked if there would be communication to Council Liaison Klonowski on what the Commissioner was working on and their plan.

3. Reports of Officers, Boards, and Standing Committees

7.1 Council Liaison Klonowski Update on Council Actions – None.

Commissioner Simmons asked if they were going forward with the first amendment because they didn't reconsider the vote when they voted on sending it on to July 8.

Commissioner Shamara stated they voted to move it on July 8.

Motion Chair Secara, Seconded by Commissioner Alabi to amend the previous motion on Section 4.03, and table it until September. The motion carried unanimously.

4. Correspondence/Communications

a. Response from Attorney Siobhan Tolar on Whether Charter Cities Have the Authority to Change Candidate Filing Deadlines

Chair Secara stated that attorney Tolar responded to the question, *“Do municipalities have authority to shorten the candidate filing period for special elections only.”* Chair Secara stated the answer was no and she looked at state law, Attorney General's Office and Minnesota Statutes Chapter 205, election law statute. She stated after reading the statutes together and

reviewing the Attorney General's opinion on a similar issue, state election law would govern and not Section 4.10.21.

5. Adjournment

Motion Chair Secara, Second by Commissioner Larkin to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 8:23 p.m.

Respectfully submitted,

Devin Montero
Staff Liaison

City of Brooklyn Park

CHARTER COMMISSION Attachments

Agenda Item No.:	5.1A	Meeting Date:	September 11, 2024
Prepared by:	Devin Montero	Presented By:	Dennis Secara, Chair

Attachments:

5.1A PROPOSED AMENDMENT TO SECTION 4.03

SECTION 4.03 PRIMARY MUNICIPAL ELECTIONS

The Council shall, whenever there are more than two candidates filing for any city-wide office or for resident Council member of any district, provide through ordinance or resolution for a primary election to be held city wide or in any particular district, and such primary election shall be held on a date not less than 25 days prior to the special or general election. At least 15 days notice shall be given by the Clerk of the time and places of holding such election, and of the officers to be elected, by posting a notice thereof in at least one public place in each district where the election is held, and by publishing a notice thereof on the city website and at least once in the official newspaper of the city. Uncontrollable circumstances causing failure to give such notice shall not invalidate such election. This section does not apply to any special election held in 2022 to fill the vacancy in the office of council member for the East District.

If a primary election is required in connection with a special municipal election needed to fill a vacancy in the office of Council member or Mayor pursuant to Section 2.06, a candidate who receives more than 50% of the votes cast at the primary election shall be declared the winner. If no candidate receives more than 50% of the votes cast at the primary election, the two candidates receiving the most votes shall advance to a special municipal election pursuant to Section 2.06 and the applicable provisions of Minnesota election law.

City of Brooklyn Park

CHARTER COMMISSION Attachments

Agenda Item No.:	5.1B	Meeting Date:	September 11, 2024
Prepared by:	Devin Montero	Presented By:	Dennis Secara, Chair

Attachments:

5.1B PROPOSED AMENDMENT TO SECTION 2.06

SECTION 2.06 COUNCIL VACANCIES

If any of the foregoing is determined to have happened, the Council shall, by resolution at the next regular or special Council meeting declare a vacancy on the Council to exist and call for a special election if one is required. Declaration date of vacancy shall be the date of the Council meeting at which the resolution is adopted. Vacancies must be publicly declared by resolution, posted at City Hall, and with notification to be given by any other practical means.

If 365 days or more remain in the term, the Council must upon declaring a vacancy, ~~within 45 days of the declaration date~~ order a special municipal election to fill the vacancy for the balance of the unexpired term. The Council shall set times for candidates to file 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 75 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.