



City of Blaine

City Council Workshop

October 16, 2023 | 5:00 PM
Blaine City Hall
10801 Town Square Drive NE
Blaine, MN 55449

MINUTES

NOTICE OF WORKSHOP MEETING

In accordance with the provisions of Section 3.01 of the Blaine City Charter, a Council Workshop meeting is scheduled for the following purpose:

1. Call to Order

The meeting was called to order by Mayor Sanders at 5:07PM.

PRESENT: Mayor Tim Sanders, Councilmembers Terra Fleming, Leslie Larson, Chris Massoglia, Tom Newland, Jess Robertson, and Lori Saroya.

ABSENT: None.

Quorum Present.

ALSO PRESENT: City Manager Michelle Wolfe; Community Development Director Erik Thorvig; Safety Services Director/Police Chief Brian Podany; Finance Director Jason Zimmerman; Director of Engineering Dan Schluender; Assistant City Engineer Stefan Higgins; Public Works Director Nick Fleishhacker; City Attorneys Tom Loonan, Kevin Sandstrom, and Erik Larson; Communications Manager Ben Hayle; and City Clerk Catherine Sorensen.

2. New Business

- 2.1.** 2023-503 Closed Session Pursuant to MN Statute 13D.05 Subd. 3(b) - Attorney Client Privileged Discussion Regarding Lexington Water System Interconnections
Sponsors: Michelle Wolfe, City Manager

Upon motion and second the Council moved into a closed session pursuant to Minnesota Statute 13D.05 Subd. 3(b) for discussion regarding Lexington Water System Interconnections.

Motion adopted unanimously.

Upon motion and second the Council moved from closed session.

Motion adopted unanimously.

2.2. 2023-501 Proposed Charter Amendment - Council Recall
Sponsors: Cathy Sorensen, City Clerk

City Clerk Sorensen stated in 2022 the council directed the charter commission to consider charter amendments that would provide for a recall process for an elected mayor or councilmember. It should be noted that Minnesota's constitution and statute provide for recall of elected state officials but not city officials. The topic was discussed at the 2022 commission meetings where commissioners shared input cautioning that reasons for recall should not include those for good cause such as health. It should be noted that statute allows cities to declare a vacancy of office if unable/unwilling to serve for a period of 90 days and city charter already includes language regarding a member's inability or refusal to serve so any potential recall language would be for reasons such as dereliction of duty or criminally based, such as gross misdemeanor or higher. It should also be noted the Minnesota Constitution and state court decisions have restricted the recall of city officials to cases of serious malfeasance or nonfeasance during the term of office in the performance of the duties of the office.

Ms. Sorensen reported during their meetings the commission discussed the desire to have the recall committee be comprised of a larger group of voters than other cities' charters requirements of five. The commission also discussed the potential for lawsuits if petitions were unfounded and if the councilmember as subject of the recall could appeal the validity of the petition. Discussion was held that while city charter sets the parameters for recall, ultimately any recall result is up to the voters and suggested setting the threshold for recall high. The proposed draft currently includes that threshold to be 25% of the total number of registered voters at the last regular election, but the commission recognizes this threshold may be quite high and is seeking feedback from the council. Over the last few months, the commission has reviewed examples from several cities as well as draft language based on the City of Richfield. Staff and the commission are seeking input on the attached draft language for Chapter 5 of the City Charter and once finalized, a public hearing will be scheduled and the proposed amendment presented to council for formal consideration.

Councilmember Flemming asked staff to provide her with an example of what a nonfeasance was. City Attorney Loonan explained if a councilmember was not carrying out their duties, if they had reoccurring absences this may be deemed nonfeasance and would constitute a removal. He reported nonfeasance was viewed as a councilmember not carrying out their duties or the oath they have taken when sworn in.

Councilmember Fleming questioned who would head up the petition committee. Ms. Sorensen reported this committee would be made up of a group of registered voters that wanted to recall a member from the city council. She explained the charter commission was recommending this committee be made up of 25 members.

Councilmember Robertson believed the language surrounding "nonfeasance" was a bit

vague. She questioned how the city was to deem what does and does not fall into nonfeasance. Mr. Loonan reported as long as a councilmember was voting and doing their duty as a councilmember they were not engaged in nonfeasance. He explained that just because a councilmember votes a certain way, this can not be deemed as nonfeasance because they were engaged and doing their duty. He advised if councilmembers were not participating in votes, or not being a part of the process by neglecting their duties as a councilmember, this would be deemed as nonfeasance.

Councilmember Robertson recommended this language be further refined in order to be clear.

Mayor Sanders questioned how long the petition committee had to order the recall. Ms. Sorensen reported the committee would have 30 days to collect signatures and staff would have 10 days to verify the signatures once the petition was submitted to the city.

Councilmember Newland stated he believed the 10 days offered to staff to verify the signatures was too short. He recommended this time period be increased in order to not over burden staff. In addition, he recommended that the 25% be reduced to 10% to 15%.

Commissioner Zikmund explained the council would have to come to a consensus on what the number of days should be.

Councilmember Saroya discussed the process that has to be followed by the public in order to bring a petition forward to staff. She asked how many signatures would have to come forward. Ms. Sorensen explained based on the last voting cycle approximately 3,500 signatures would have been required.

Further discussion ensued regarding the process that would be followed for a recall election.

Councilmember Larson asked if 25% of the voters had to be within a specific ward or throughout the entire city. Ms. Sorensen explained if a councilmember was being recalled, 25% of voters would have to be within the councilmember's ward. She noted if the mayor was being recalled, the petition committee would have to collect signatures from 25% of the registered voters in the city as the mayor position served at large.

Councilmember Newland supported the city clerk having 30 days to review a submitted petition. Ms. Sorensen indicated she could review state statute to see if this would be allowed.

Councilmember Robertson explained she supported the nonfeasance language being further refined. She stated she did not have a problem with the petition committee having to gather 25% of registered voter's signatures. She did not want the process to be too simple because this may cause numerous petitions to be submitted when councilmembers aren't voting the way the public wants. Ms. Sorensen commented on how any petitions submitted would be reviewed by herself and the city attorney to ensure they were sufficient.

Mr. Loonan explained there were court opinions regarding nonfeasance and malfeasance, along with state statute which would assist staff in determining if nonfeasance or

malfeasance were to occur.

Councilmember Massoglia stated he agreed with many of the comments made by Councilmember Robertson. He recommended the malfeasance language remain in the charter and that the nonfeasance language be removed. He did not want this process to be followed for menial political matters.

Councilmember Larson agreed with the recommendations from Councilmember Massoglia, noting someone had already tried to remove her from city council.

Councilmember Saroya recommended an internal process be considered instead, such as a public reprimand or censorship. Mr. Loonan indicated the council can police itself, but they cannot remove each other. He stated the council could establish its own rules and code of conduct.

Councilmember Saroya noted she was not supportive of removing a councilmember and stated elections were held every four years and the people get to decide.

Councilmember Massoglia explained another election would be held after the petition which allows the people to decide.

Mayor Sanders stated the current language within the charter would allow a councilmember to do almost anything illegal and as long as it did not result in a year in prison and they could remain on the council. He indicated this language was causing some concern for him and therefore supported the recall language.

Council consensus was to support the removal of the nonfeasance language.

Mayor Sanders supported the 25% being reduced slightly.

Councilmember Newland suggested the 25% be reduced to 20%. The council supported this recommendation.

Council shared input and feedback on the proposed language and requested amendments removing "nonfeasance" from the proposed language as it was already addressed in charter under council vacancies, and reduce the threshold of signatures required to initiate a recall petition to 20% instead of 25%. In addition, if allowed by state statute, the council suggested extending the time period to review a submitted petition to more than 10 days, if possible up to 30 days.

- 2.3.** 2023-500 Proposed Charter Commission Amendment - Redetermination of Ward Boundaries
 Sponsors: Cathy Sorensen, City Clerk

This item was postponed to a future workshop.

- 2.4.** 2023-498 Proposed Charter Commission Amendment - Council Salaries

This item was postponed to a future workshop.

3. Other Business

City Attorney Erik Larson introduced himself to the council and provided an update on Item 11.2 from the regular city council meeting and described the agreements that had been reached.

Community Development Director Thorvig commented on the amount of work that had been done on these agreements and thanked the council for their questions throughout this process.

4. Adjournment



Signed by

Tim Sanders, Mayor

Signed by

Catherine M. Sorensen, CMC, City Clerk

The Workshop was adjourned at 6:58PM.