

Brief

- The existing appointment process for filling vacancies in the council is excessively and unnecessarily long.
- Some city business is delayed for over 3 months while the council seat remains unfilled.
- The existing charter does not specify how a deadlocked Council should break a tie.

Record

- Following the 2016 election, a vacancy resulted in a deadlocked Council, drawing out the process even longer than expected.
- Columbia Heights received negative attention thanks to heated deliberation, and a verbal assault from one of the applicants.
- Under pressure, the Mayor reluctantly changed their vote to appoint the threatening applicant.
- The lengthy appointment process was originally discussed at a Charter Commission meeting on January 19, 2017. Both President Smith and City Attorney Hoeft noted that the process is prolonged.
- The lengthy appointment process was discussed again at a Charter Commission meeting on April 20, 2017. Councilmember Buesgens and Commissioner Laine suggested shortening the process to make an appointment by the end of February. Commissioner Penniston drew attention to the lack of direction in the Charter addressing consistent tie votes in the appointment process. Commissioner Anderson suggested that the Mayor has the power to break a tie. Commissioner Laine asked the commission to consider ranked choice voting as well. President Smith directed commissioners to submit amendment proposals to the city clerk prior to the next meeting for review.
- An amendment was originally proposed at a Charter Commission meeting in July 2017. President Smith suggested that the issue be tabled and postponed until the October 2017 Charter Commission meeting.
- At a Charter Commission meeting on October 26, 2017, this issue was postponed again until the January 2018 Charter Commission meeting.
- At a Charter Commission meeting on January 19, 2018, this issue was postponed again until the April 2018 Charter Commission meeting.
- At a Charter Commission meeting on April 19, 2018, this issue did not appear on the agenda. Commissioner Simula asked that it be added to the July 2018 agenda.
- At a Charter Commission meeting on July 19, 2018, Commissioner Laine noted that the city of Richfield holds special elections to fill vacancies. Councilmember Buesgens reiterated that the process following the 2016 election was drawn out. President Smith suggested a study of how the special election operates in the city of Richfield, how it has been utilized in the past, and what sections of our Charter would be affected by a similar change. President Smith suggested that commissioners prepare these facts for a discussion at the October 2018 meeting.
 - Cities of Richfield and Bloomington are considering amendments modeled after [City of Minnetonka Home Rule Charter Section 2.06 - Vacancies in the Council](#)
- At a Charter Commission meeting on October 18, 2018, President Smith tabled this issue indefinitely.

Proposal (Option 1 - Appointment)

(underlined)

CHAPTER 2

FORM OF GOVERNMENT

Section 9, VACANCIES IN THE COUNCIL

A vacancy in the council shall be deemed to exist in case of the failure of any person elected thereto to qualify for the new council term on or before the date of the first regular meeting of the unexpired council following the election, or by reason of the death, resignation, removal from office, cessation as a resident of the city, continuous absence from the city for more than three months, conviction of a felony of any such person whether before or after qualification, the failure of any council member without good cause to perform any of the duties of membership in the council for a period of three months or for any other cause as may be provided for in Minnesota Statutes, as amended. In each such case, at the next regular meeting following receipt of notice by the council of one of the foregoing conditions, the council shall by resolution declare such vacancy to exist unless further investigation is required. Notice of said vacancy shall be posted at city hall for a period of two (2) weeks from the date of the adoption of the resolution declaring said vacancy. Notice shall also be published in a designated city publication for a period of two (2) weeks as soon as possible after the date of the adoption of said resolution, with the publication being completed no later than thirty (30) days from said date. Applications shall be sought and accepted from individuals interested in filling the vacancy, which applications shall be submitted to city hall, to the attention of the City Clerk, within six (6) weeks from the date of said resolution. The new council shall interview each of the applicants within three (3) weeks from the close of the application period, and shall conduct said interviews in an agreed upon uniform manner as a council. After said three (3) weeks day period, the council shall make its appointment from the pool of applicants within two (2) weeks, whether done so at a regular council meeting or a special meeting. Such appointment shall be determined by ranked vote, with each seated council member casting no more than 3 votes each. Should the ranked vote result in a tie, the mayor shall make an appointment from the final two applicants. The individuals so appointed shall fill said vacancy until the next regular municipal election...

Schedule for filling City Council vacancies

	Current	Proposed
Council resolution read, city hall & newspaper postings begin	January 9, 2017	November 28, 2016
City hall posting ends	January 23, 2017	December 12, 2016
Newspaper posting ends (latest possible date)	February 8, 2017	December 28, 2016
Last application received, interviews begin	February 23, 2017	January 9, 2017
Interview period ends, council deliberations begin	March 25, 2017	January 30, 2017
Final appointment	April 9, 2017	February 13, 2017

Proposal (Option 2 - Special Election)

(underlined, modeled after [City of Minnetonka Home Rule Charter Section 2.06 - Vacancies in the Council](#))

CHAPTER 2

FORM OF GOVERNMENT

Section 9, VACANCIES IN THE COUNCIL

A vacancy in the council shall be deemed to exist in case of the failure of any person elected thereto to qualify on or before the date of the second regular meeting of the new council, or by reason of the death, resignation, removal from office, cessation as a resident of the city, continuous absence from the city for more than three months, conviction of a felony of any such person whether before or after qualification, the failure of any council member without good cause to perform any of the duties of membership in the council for a period of three months or for any other cause as may be provided for in Minnesota Statutes, as amended. In each such case, at the next regular meeting following receipt of notice by the council of one of the foregoing conditions, the council shall by resolution declare such vacancy to exist unless further investigation is required.

A special election is required to fill a vacancy when:

- (a) The vacancy has been declared, or has automatically occurred, before the first day to file affidavits of candidacy for the next regular municipal election; and
- (b) more than two years remain in the unexpired term.

When (a) applies, the city council must adopt a resolution to set the date for the special election at the first regular or special meeting of the city council occurring after the vacancy automatically occurs or at the same meeting at which the vacancy is declared. The special election must be held in accordance with subdivision 1 of section. The person elected will serve the unexpired term for that office. The city council, at its option and at the same or a subsequent meeting, may make an interim appointment of a person to fill the vacancy until a successor is elected at the special election and qualifies for the office.

If a special election is not required (b), the council may either appoint an eligible person to serve until expiration of the position's term or fill the vacancy by special election. Upon notice of an impending resignation, the council may begin the process of determining how to fill the vacancy. No later than 60 days after a vacancy automatically occurs or is declared to exist, the council must appoint an eligible person to fill the vacancy or schedule a special election to be held in accordance with subdivision 1 of this section.

If the council does neither, the mayor, or acting mayor if the vacancy is in the mayor's position, has seven days to appoint an eligible person to fill the vacancy.

If after 67 days no appointment is made nor an election scheduled, the clerk must schedule a special election to be held in accordance with subdivision 5 of this section.

Subdivision 1. Special Election Requirements

- (a) Except as provided in subdivision 1.b. below, special elections must be held at the earliest date possible under state law. Candidates must file for office no later than four weeks before the election.

(b) If a special election occurs in the same year as a regular municipal election, the council may at its option schedule the special election to occur in conjunction with the regular municipal election rather than at the earliest possible date under state law.

The term of a council member elected at a special election begins as soon as the person has qualified for office and the city clerk has issued a certificate of election to the successful candidate in accordance with state law. The council member serves until the expiration of the position's term.