



COUNCIL REFERRAL – ITEM H-1

Date: July 31, 2009

TO: Mayor and City Council

FROM: John Szerlag, City Manager
Lori Grigg Bluhm, City Attorney
Tonni L. Bartholomew, City Clerk

SUBJECT: Charter Amendments Filling Vacancies in Office

Background:

Mayor Pro Tem Howrylak and Council Member Eisenbacher requested City Administration to draft proposed revised Charter language to cover mid-term resignations through the use of an Irrevocable Letter of Resignation.

In connection with this process City Administration also prepared additional proposed Charter revisions that effectuate the process. Consideration was given to time constraints associated with State Law and the conduct of even-year Primary and General Elections.

There are at least ten or more additional ballot questions stemming from the original issue of filling vacancies in office. So too, there may be additional revisions by council. Given this, any resulting ballot questions will be submitted as a Regular Business item at the August 17, 2009 City Council meeting. .

Section 6.2 - Vacancies in Elective Office:

Any elective city office shall be declared vacant by the Council upon the occurrence of any of the following events before the expiration of the term of such office:

- (a) For any reason specified by statute or by this charter as creating a vacancy in office;
- (b) If no person is elected to, or qualifies for, the office at the election at which such office is to be filled;
- (c) If the officer shall be found guilty by a competent court of the State of Michigan of any act constituting misconduct in office under the provisions of this charter.
- (d) If the officer shall absent himself continuously from the city for more than thirty consecutive days in any one year without the permission of the Council.
- (e) In the case of any members of the Council, if such officer shall miss five consecutive regular meetings of the Council or twenty-five percent of such meetings in any fiscal year of the city, unless such absences shall be excused by the Council and the reason therefore entered in the proceedings of the Council at the time of each absence;
- (f) If the officer is removed from office by the Council in accordance with the provisions of Section 6.4.
- (g) Any City Council member desiring to become a candidate for any City elective office, except to succeed oneself, shall resign from the Council prior to the filing deadline of the next municipal election. **(Proposed as new item 6.2.1 (a))**

Section 6.7 - Filling Vacancies in Elective Office:

Any vacancy which occurs in the Council or office of Mayor shall be filled within thirty days by a majority vote of the remaining members of the Council. The appointee will hold office until the Monday following the election at which such vacancy shall be filled as provided in Section 7.9 for the balance of the unexpired original term.

If any vacancy in the office of Councilman or Mayor which the Council is authorized to fill is not so filled within thirty days after such vacancy occurs, or if three or more vacancies exist simultaneously, such vacancies shall be filled for the respective unexpired terms at a special election. This election shall be called by the City Clerk unless such vacancy or vacancies shall occur and be unfilled less than ninety days prior to a regular election. In connection with any special election to fill a vacancy or vacancies in any elective office no primary election shall be held; candidates shall be nominated by petitions in a manner identical to that provided in Section 7.9; the names of all qualified candidates who file sufficient valid nomination petitions thirty days before such special election shall be certified to the Election Commission and placed on the ballot; and all other provisions of this charter, not inconsistent with this section shall govern. **(Proposed as new items 6.7, 6.7.1 and 6.7.2)**

Section 7.9- Nominations:

The method of nomination of all candidates at city elections shall be by petition. Each petition may comprise one or more pages. The petition for each candidate must be signed by not less than sixty registered electors of the City.

Nomination petitions for candidates for regular city elections are to be filed with the Clerk on or before 4 o'clock p.m. of the one hundredth (100th) day preceding the City election for each election year.

The Clerk shall, prior to every election, publish notice of the last day permitted for filing nomination petitions and of the number of persons to be elected to each office, at least one week and not more than three weeks before such day. **(Proposed as red-lined below)**

Section 6.2.1 - Vacancies Created by Irrevocable Letter of Resignation:

Before the expiration of the term of any city office, City Council shall declare vacant an elective office as of the effective set forth in the letter of resignation under the following circumstances:

- (a) Any member of City Council who wants to run for a City office different from the office currently held shall file an irrevocable letter of resignation effective no later than the date and time the successor takes office. The letter of irrevocable resignation shall be filed with the City Clerk prior to July 1st to allow for the future vacancy created to be placed on the next Regular Election ballot.

Section 6.2.1 - Vacancies Created by Irrevocable Letter of Resignation:

Before the expiration of the term of any city office, City Council shall declare vacant an elective office as of the effective set forth in the letter of resignation under the following circumstances:

- (b) Any City Council member may file an irrevocable letter of resignation which specifies an effective date. The irrevocable letter of resignation may be effective after an election where the successor is elected. The letter shall be filed with the City Clerk prior to July 1st annually to allow for the future vacancy to be placed on the next Regular Election ballot.

Section 6.2.1 - Vacancies Created by Irrevocable Letter of Resignation:

Before the expiration of the term of any city office, City Council shall declare vacant an elective office as of the effective set forth in the letter of resignation under the following circumstances:

- (c) Any City Council member may file an irrevocable letter of resignation which specifies an effective date. The irrevocable letter of resignation may be effective after an election where the successor is elected. The letter shall be filed with the City Clerk prior to April 1st in even-years to allow for the future vacancy to be placed on the next Primary Election ballot.

Section 6.7 - Filling Vacancies in Elective Office:

In vacancies under the provision of Section 6.2, the remaining members of the City Council shall fill any vacancy of an elective officer within 30-days by a majority vote. The appointee shall hold office until such time as the appointee's successor takes office.

City Council shall fill vacancies of an elective office that are declared vacant pursuant to Section 6.2 within thirty days by a majority vote of the remaining members of the Council, said appointee to hold office until the successor takes office, the election of which shall be on the next available election date.

If City Council is unable to fill such vacancy or if three or more vacancies exist simultaneously, the City Clerk shall place any such vacancy on the next Regular or Primary Election ballot, as long as the vacancy is created not less than 120 or more than 150 days prior to a Regular or Primary Election; all other vacancies will be placed the next available Election date.

Section 6.7.1- Filling Vacancies in Elective Office Created by an Irrevocable Letter of Resignation by Regular Election:

Any vacancy of an elective officer that occurs as a result of the receipt of an Irrevocable Letter of Resignation filed prior to July 1st and after April 1st on even-years and prior to July 1st on odd-years shall be filled at the next Regular Election; such vacancy shall be filled for any balance of the unexpired original term.

Section 6.7.2- Filling Vacancies in Elective Office Created by an Irrevocable Letter of Resignation by Primary Election:

Any vacancy of an elective officer that occurs as a result of the receipt of an Irrevocable Letter of Resignation filed in advance of April 1st on even-years shall be filled at the next Primary Election; such vacancy shall be filled for any balance of the unexpired original term.

Section 7.9- Nominations:

The method of nomination of all candidates at ~~city~~-elections shall be by petition. Each petition may comprise one or more pages. The petition for each candidate must be signed by not less than sixty registered electors of the City.

Nomination petitions for candidates for ~~regular~~-city elections are to be filed with the Clerk on or before 4 o'clock p.m. of the one hundredth (100th) day preceding the next City-election, ~~for each election year.~~

The Clerk shall, prior to every election, publish notice of the last day permitted for filing nomination petitions and of the number of persons to be elected to each office, at least one week and not more than three weeks before such day.