

From: David DeLong <daviddelong157@gmail.com>
Sent: Monday, January 13, 2025 12:52 PM
To: Erica Zweifel <Erica.Zweifel@NorthfieldMN.gov>; Peter Dahlen <Peter.Dahlen@NorthfieldMN.gov>
Cc: Ben Martig <Ben.Martig@northfieldmn.gov>
Subject: No Quorum Present Jan. 7th

CAUTION: This email originated from outside of the organization.

Good afternoon, I have concerns regarding the legality of the January 7th 2025 City Council meeting. There was not a qualified quorum present. I believe this brings into question official actions that occurred at this "meeting".

I did send an email regarding the fact that as per our City Charter the Oath of Office needed to be the first thing on the agenda. I did see that was changed on the published agenda, however it wasn't till this weekend that I was able to review the video replay of the Council meeting and was surprised to see that the meeting was called to order not by not Mayor Pownell, or in her absence the president pro tem, but by Erica Zweifel who had been elected but was not yet fully qualified. (Sec. 3.3) *If elected, candidates must further qualify for office by taking and filing an oath of office.* She had not taken the Oath of Office yet. Further the Charter also states (Sec.15.2) - Oath of Office. *Every elected or appointed officer of the city, before entering upon the duties of the office, shall take and subscribe an oath of office as required by the laws of the State of Minnesota.*

The only qualified members in attendance were Councilpersons Holmes, Jessica Peterson White and Ness. (Sec.3.3) *Each council member and the mayor shall serve for a term of four (4) years and until a successor is elected and qualified.* With Councilmember Sokup absent only 3 qualified members of the Council were present, not enough for a quorum. No quorum, no business, no actions.

I would like to see the Mayor elect start her term off right and I don't feel this is her fault in any way, but there is a correct way to do things as outlined in our City Charter. I think this situation needs to be fixed.

I've included Councilperson Dahlen since he has been part of the Charter Commission.

From: David DeLong <daviddelong157@gmail.com>
Sent: Friday, January 17, 2025 10:05 AM
To: Ben Martig
Cc: Lance Heisler; Erica Zweifel; Peter Dahlen; Chris Hood
Subject: Re: No Quorum Present Jan. 7th

I apologize if this is a bit long but it has been said that I can go a little long and I've been trying to be more concise in speaking and emails.

But apparently I need to expand on my comments.

First let me clear up the misconception that the City would never be able to call a meeting to order. My comments mention qualified members not "active" members. As to the inaccurate assertion that the City could never call a meeting to order, I point you to Charter Section 3.3 - *Each council member and the mayor shall serve for a term of four (4) years and until a successor is elected and qualified.*

Northfield is not without a Mayor or Council Members during the days between the end of a calendar year and the first meeting of the new year. Members who were up for election all still serve until a successor is qualified by taking and subscribing to an oath of office. Charter Section 15.2.

Section 15.2. - Oath of Office. *Every elected or appointed officer of the city, before entering upon the duties of the office, shall take and subscribe an oath of office as required by the laws of the State of Minnesota.*

Rhonda Pownell is/was still the Mayor at the start of the meeting until Erica Zweifel takes an oath of office. A Mayor elect is no more authorized to perform official duties than an ordinary citizen.

Current Charter language is clear and unambiguous and has been followed up until now, when apparently based on a discussion with legal counsel Chris Hood the process has been changed. I don't know what version of the Charter Attorney Hood was referencing when he suggested this opinion on the process or where in the Charter the official duties of a Mayor elect are outlined.

The current Charter language I used.

Section 3.3. - Council Composition and Election (Ord. No. 739, § 3.3, 11-6-2000; Ord. No. 781, 3-17-2003)

Section 4.1. - Council Meetings (Ord. No. 739, § 4.1, 11-6-2000; Ord. No. 781, 3-17-2003)

Section 15.2. - Oath of Office.

I don't know the reason why Mayor Pownell didn't attend the meeting. It really doesn't make a difference. When the Mayor is not present, The President Pro Tem presides. (Section 3.9. - President Pro Tem)

President Pro Tem Kathleen Holmes was present and in the Mayor's absence should have presided. This did not happen.

At the scheduled first meeting on January 6th 2025 the serving members were -

- 1.) President Pro Tem Kathleen Holmes who is in the middle of her term was present.
- 2.) Council Member Brad Ness whose term was up but as per Charter he was still serving until his replacement was sworn in, which was himself.

3.) Council Member Jessica Peterson White who is/was in the middle of her term was present.

Members absent

4.) Council Member Davin Sokup, who is in the middle of his term.

5.) Council Member Jami Reister, was still a Member under Charter Language.

6.) Council Member George Zuccolotto, was still a Member under Charter Language.

7.) Mayor Rhonda Pownell, still Mayor under Charter Language.

With only 3 out of 7 qualified members present, there was not a quorum. If there is no quorum, then there are no official actions.

I would be interested in Attorney Hood's justification for thinking it was the proper way to proceed and "clearly it was legal and the appropriate way to do it under the current language of the Charter."

I think the Charter is clear in setting out the end of term responsibilities and that a Mayor elect is no more authorized to perform official duties than is an ordinary citizen. The authority to act as an official only comes after being qualified by being properly sworn in to office. (Charter Section 15.2)

Since it was not a legal meeting, I might suggest that out of abundance of caution a properly constituted council called to order by Mayor Pownell or Mayor Pro Tem Holmes and 3 other qualified and still serving members, repeat the swearing in process properly, due to some technical problems and then entertain some kind of resolution that says the council confirms or re ratifies the actions taken at the Jan. 6th Meeting.

David DeLong

The following are excerpts of minutes, showing that past Mayors, Administrators and City Attorneys had followed Charter guidelines concerning who should preside at the first meeting in January until their elected replacement had been sworn in.

From January 8, 2013

Call to Order

At 7: 00 p.m. outgoing Mayor Rossing called the meeting to order.

A roll call was taken of members present and a quorum was declared.

Swear In Members

City Clerk Little administered the Oath of Office to Mayor Dana Graham, Council Member Second Ward David DeLong, Council Member Third Ward Erica Zweifel and Council Member At -Large David Ludescher.

The new members were seated.

From January 5, 2009

Presentation

Mayor Lansing made a statement thanking board and commission members and highlighting achievements of the previous year.

Call to Order

At 7:07 p.m. Mayor Lansing called the meeting to order. A roll call was taken of members present and a quorum was declared.

Swearing In of New Members

City Clerk Little conducted the swearing in of newly elected members. Mary Rossing, Rhonda Pownell, Erica Zweifel, Betsey Buckheit and Kris Vohs read the oath of office and took their seats at the dais.

From January 3, 2005

Call To Order

At 7:00 p.m. Mayor Covey called the meeting to order. A roll call was taken of members present and a quorum was declared.

Finance Director /City Clerk Karl Huber administered the Oath of Office to the following newly elected officials:

Lee Lansing Mayor

Kris Vohs (Re- elect) Councilmember -At Large

Scott Davis Councilmember- Second Ward

Arnie Nelson Councilmember -Third Ward

Dana Graham, CC Linstroth and Keith Covey stepped down from the table.

January 2, 2001

1) At 7:02 p.m. Mayor Rossman called the meeting to order.

2) A roll call was taken of members present and a quorum was declared.

5) Finance Director /City Clerk Huber administered the Oath of Office to the following newly elected officials:

Keith Covey Mayor

Dana Graham Councilmember- Second Ward

Kris Vohs Councilmember -At Large

CC Linstroth (Re- elect) Councilmember -Third Ward

These elected officials then took their respective seats in order to conduct business at the meeting to follow. The outgoing members stepped down.

JANUARY 2, 1998

MEMBERS PRESENT: Newly elected Mayor William Rossman, outgoing Mayor Paul Hager, Councilmembers Peg Prowe, David Garwood - DeLong, outgoing Councilmember Greg Colby

NOT PRESENT: Councilmembers Ken Brackee and Nancy Gruchow

Mayor Hager called the meeting to order. His first order of business was to read a letter from William Rossman submitting his resignation as Councilmember First Ward effective upon being sworn in as Mayor.

Mayor Hager next asked Finance Director /City Clerk Huber to administer the Oath of Office to the following newly elected officials:

William Rossman Mayor

Phillip S. Hansen Councilmember -At Large

Robert P. Stangler Councilmember -Third Ward

These elected officials then took their respective seats in order to conduct business at the meeting to follow. The outgoing members stepped down.

The list could go on but I hope my point about members serving until a successor is elected and qualified has been clarified.

On Mon, Jan 13, 2025 at 3:53 PM Ben Martig <Ben.Martig@northfieldmn.gov> wrote:

Thank you Mr. DeLong for sharing your concerns and your perspective.

I did discuss this issue in advance of the meeting with legal counsel Chris Hood and followed the process consistent with his advice on the calling to order. Following your logic on only calling the meeting to order with "active" City Council members, if we had four new City Council members with a Mayor and 3 City Councilors (which didn't happen this year but could) then we'd never be able to call a meeting to order. So, it was followed the best we could to implement according to the language. But, we believe clearly it was legal and the appropriate way to do it under the current language of the Charter.

However, this is something the Charter Commission could review for language to see if it can be enhanced. I am aware that the appointment process is different than statutes so I think it would be good to see if the Charter Commission wants to add to their review list not only on the issue of calling the meeting to order but also reviewing when the term starts and how to see it that can be improved. I have included the Chair Lance Heisler in the email for his interest/advisement on behalf of the Charter Commission since that is their sole focus is Charter Amendments.

Thanks.

Ben Martig

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City Administrator

City of Northfield

801 Washington Street

Northfield, MN 55057-2598

www.northfieldmn.gov