**Charter Commission July 10, 2025 Meeting Follow-Up Questions**

***Are there expectations for former Council members to attend the first meeting of the year or is this a widespread practice in other cities?***

SUMMARIZED ATTORNEY/STAFF RESPONSE: From a staff and City Attorney perspective, requiring defeated or retiring council members to attend the first meeting following a post-election turnover for the swearing in of new members may create multiple problems. First, outgoing members have no legal requirement to attend the meeting and may simply wish not to. Second, the swearing in of newly elected members should be a procedural and ceremonial act and relying on the attendance of former members could create a far more complicated process than is needed and may cause unnecessary delays in completing City business.

Staff did reach out to the League of Minnesota Cities (LMC) and they also reaffirmed this position. In addition, they also brought attention to MN Statute 205.07, Subd. 1A below:

**205.07, SUBD. 1A.CITY COUNCIL MEMBERS; EXPIRATION OF TERMS.**

> *The terms of all city council members of charter cities expire on the first Monday in January of the year in which they expire. All officers of charter cities chosen and qualified shall hold office until their successors qualify.*

Per our City Attorney, he requested this statute be brought to the Charter Commission's attention given the review of Charter Section 4.1. However, he feels the current provision "seems consistent with this statute since the statute's second sentence states: "All officers of charter cities chosen and qualified shall hold office until their successors qualify." This statute is not artfully crafted, but seems to state that such term of office goes until a successor qualifies and that would be following being sworn in at the Council's first meeting in January."

***Are there any issues with the oath being administered between January 1st and the start of the first meeting of the year?***

ATTORNEY RESPONSE: "The above quoted Chater language is clear and mandatory from the standpoint that newly elected members including the newly elected mayor "shall" be administered the oath of office at the first meeting in January. There is no discretion on this action based on the present Charter language. The City Clerk or another authorized person is required to administer the oath of office at the first meeting. There are no grounds or legal authority to delay giving the oath of office and seating the newly elected members having thereafter qualified to serve.

The oath must be administered at the first meeting following an election pursuant to Charter, Section 4.1. State law does allow administration of the oath earlier than this, but the Northfield Charter specifically limits administration of the oath at the first meeting.

Nowhere in City Charter, City Code, or State law is there a requirement that defeated or retiring members be present for the administration of the oath of office to new members at the first meeting. In my opinion, the presence of defeated or retiring members may be welcome from a ceremonial standpoint, but their presence is not legally required. Based on the foregoing and the below law, it would appear that the simplest and arguably most logical process to facilitate the transition is that the first item of business at the first meeting following an election should be the administration of the oath of office prior to calling the Council meeting to order. I do not see a reason to make this ceremonial process more complicated than that. The City Clerk is authorized by law to administer the oath as discussed below. "

***Who is authorized to administer the oath of office to elected and appointed officials?***

SUMMARIZED ATTORNEY/STAFF RESPONSE: Per guidance from the League of Minnesota Cities (LMC), "any person with authority to take and certify acknowledgments may administer the oath, including the city clerk, a justice of the peace, a notary public, or a register of deeds." This refers to Minnesota State Statues 358.09, 358.10, and 358.52. subd. 6 (see below).

For the City of Northfield, the City Clerk is usually the person to administer the oath of office for the City Council and the Charter Commission, with the Deputy City Clerk serving as a backup, should the City Clerk be unavailable.

For appointed officials (board and commission members), any designated staff member who serves as a notary public can administer the oath. This could be the City Clerk, Deputy City Clerk, Administrative Assistants, Meeting Associates, or other qualified staff members.

*Relevant and Related State Statutes:*

**358.09 BY WHOLE AND HOW ADMINIISTERED.**

> Any officer authorized by this chapter to take and certify acknowledgments may administer an oath, and, if the same be in writing, may certify the same under the officer's signature, and an official notarial stamp, in the following form: "Subscribed and sworn to before me this ..... day of ....., ....." The mode of administering an oath commonly practiced in the place where it is taken shall be followed, including, in this state, the ceremony of uplifting the hand.

**358.10 OFFICIALS MAY ADMINISTER, WHEN.**

> (a) All persons holding office under any law of this state, or under the charter or ordinances of any municipal corporation thereof, including judges and clerks of election, and all committee members, commissioners, trustees, referees, appraisers, assessors, and all others authorized or required by law to act or report upon any matter of fact, have the power to administer oaths they deem necessary to the proper discharge of their respective duties.
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> (b) Any employee of the secretary of state designated by the secretary of state has the power to administer oaths to an individual who wishes to file with the secretary of state an affidavit of candidacy, nominating petition, declaration of intent to be a write-in candidate, or any other document relating to the conduct of elections.

## 358.11 OATHS, WHERE FILED.

Except as otherwise provided by law, the oath required to be taken and subscribed by any person shall be filed as follows:

(1) if that of an officer of the state, whether elective or appointive, with the secretary of state;

(2) if of a county officer, or an officer chosen within or for any county, with the county auditor;

(3) if of a city officer, with the clerk or recorder of the municipality;

(4) if of a town officer, with the town clerk;

(5) if of a school district officer, with the clerk of the district;

(6) if of a person appointed by, or made responsible to, a court in any action or proceeding therein, with the court administrator of such court;

(7) if that of a person appointed by any state, county, or other officer for a special service in connection with official duties, with such officer.

If the person taking such oath be also required to give bond, the oath shall be attached to or endorsed upon such bond and filed therewith, in lieu of other filing.

## 358.52 DEFINITIONS.

Subd. 6.**Notarial act.**

"Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.

Subd. 7.**Notarial officer.**

"Notarial officer" means a notary public or other individual authorized to perform a notarial act.

Subd. 8.**Notary public.**

"Notary public" means an individual commissioned to perform a notarial act. on oath or affirmation before a notarial officer, that a statement in a record is true.

**359.04 POWERS.**

Every notary public so appointed, commissioned, and qualified shall have power throughout this state to administer all oaths required or authorized to be administered in this state; to take and certify all depositions to be used in any of the courts of this state; to take and certify all acknowledgments of deeds, mortgages, liens, powers of attorney, and other instruments in writing or electronic records; to receive, make out, and record notarial protests; and to perform online remote notarial acts in compliance with the requirements of sections 358.645 and 358.646.