

**MINUTES  
MINNETONKA CITY COUNCIL  
SPECIAL MEETING, MONDAY, NOVEMBER 2, 2011**

**1. CALL TO ORDER.**

Mayor Schneider called the meeting to order at 7:00 p.m.

**2. ROLL CALL**

Council members Bob Ellingson, Dick Allendorf, Brad Wiersum, James Hiller, and Terry Schneider were present. Amber Greves recused herself. Tony Wagner was excused.

**3. Vacancy in At-Large City Council Seat B**

Schneider said at the last council meeting he pushed for a fairly quick special meeting so the word would get out there would be a vacancy. There would be time to discuss the process, and to leave as much time for the application or special election process. He said there was no immediate urgency to decide what process to approve. He suggested that the council discuss and debate the options but since Wagner was not at the meeting, the final decision could be made at a future council meeting.

Allendorf said the matter was very important and in the past filling vacancies had always been handled with a full council. He said he was not comfortable having less than six people decide the issue.

Wiersum said if the evening's discussion indicated a clear unanimity then a decision at the meeting would be fine. He agreed with Allendorf that the decision was one of the most critical types of decisions the council had to make so having all the council members present was in the best interest of the residents.

Schneider noted that there was not a resignation before the council but rather there was the intent of Greves to resign.

Allendorf asked the potential timing for another meeting. City Manager John Gunyou said the next meeting could be as soon as the following Monday. Another option would be to discuss the item further at the next regular council meeting on November 14.

Gunyou presented possible timelines for appointment and two different special election dates.

Hiller noted Gunyou indicated that the normal city election cycle was 25 weeks. He asked how long school board election cycles run. City Clerk David Maeda said that the cycle is the same for school districts that conduct primaries. Hiller

indicated a Burnsville city council seat became vacant after a death of one of the council members and that seat was filled through a special election. He did not know how much of the term was remaining. City Attorney Desyl Peterson indicated the vacancy occurred shortly after the council member was elected. Gunyou said under the same circumstances Minnetonka also would have had to conduct a special election to fill the seat.

Wiersum indicated the timing of the resignation was up to Greves so the presented timelines began with a proposed time for the resignation. Gunyou confirmed that was correct. The date of the resignation would start the clock on either the appointment or special election process. He said Greves had graciously indicated she was willing to work within the timeframe to accommodate the council's decision.

Allendorf asked if the staff was making sure the meeting's discussion and the information that was presented was going to be made available to the press so residents knew the options. Gunyou said the meeting was being streamed online. Information would be published on the website as well. Schneider suggested doing a press release with a summary of the council discussion. Allendorf indicated he received valuable feedback from residents during the process for the previous council appointments.

Hiller noted there were three council vacancies in recent years where there was a choice whether to appoint or to call for a special election. All three vacancies were filled through appointment.

Wiersum said the council was unanimous in wanting an open process. All residents who felt like they wanted to be on the council should feel like the opportunity was there. He indicated all the letters that had been received so far argued for a special election. The perception was an election was a more open process than an appointment. He said the city had been well served by the appointment process in the past. All who were appointed later ran for election and were re-elected. Another advantage to the appointment process was the vacancy could be filled sooner than through the special election process. He said the difference between the upcoming vacancy and the previous vacancies was that there were two years left in Greves' term. He noted congressional seats have two year terms as do some other cities' council seats. He said if the council chose not to have a special election it left itself open to the valid criticism that three of the seven members would have first gotten their jobs by appointment.

Hiller said the two years left in the term was a long time and that it was expected that the council be made up of elected officials. He said the costs of a special election were really not an issue because it was the city's responsibility to conduct elections. The big question was the difference in time frames for appointing and holding a special election. The seat would be vacant for four to five weeks through an appointment process, or 12 to 14 weeks if a special

election was held. He said the length of time was a big part of the council discussion when the mayor vacancy occurred. In that case going a long time without a mayor would have been a problem. In this situation, the council could function with a council member vacancy for a longer period of time.

Allendorf said that although it was the city's job to conduct elections, this special election would be much different than a regular election. The process for a regular election was well known to anyone who followed the process. Voters know how to learn about the candidates, and because there is a primary if there are more than two candidates, it's easier to learn about the candidates. For a special election the number of candidates could be much greater and the time to learn about them would be much shorter. During a regular election there are a certain number of public forums for voters to learn about the candidates. He said the time of the year the special election would be held would be very problematic. Many voters who normally vote may not be in town and unless they had a reason to back a certain candidate, it would not be as likely they would vote by absentee ballot. He said a very low turnout could benefit a special interest. Those with an agenda would be more likely to vote and a reasoned person interested in the entire city and all the city issues may not be the person who gets elected. He said the appointment process has worked well in the past.

Ellingson said he leaned towards having a special election but agreed winter would be an awkward time for a special election and would likely mean a very low turnout. He noted that other cities have held special elections when there were two years left in a term, and there are two years left in Greves' term. He said the council was an elected body and an election gave people a greater opportunity to participate although the appointment process had worked well in the past.

Schneider said the special election process provides the most opportunity for the public to participate and to do so directly rather than indirectly through their representatives. Perceptively it feels and sounds fairer. He said with the appointment process the presumption was that the council would select their own kind and not a person that would provide diversity of opinion. He said one thing that hadn't been discussed was the need to provide as much opportunity as possible to attract the best quality individuals and not shut them out because of the timing and complexities of the decision making process. The goal was to try to encourage qualified interested people who had participated in the city and knew the issues to come forward and offer their talents and services. He agreed with Allendorf that the general public needed the opportunity to get to know the candidates. The timeframes for either option would be challenging. Potential candidates needed time to understand what it takes to run in an election, get employer's OK, their spouse's OK, and get their arms around what was involved. The candidates also had to figure out how to get their message out to the general public without the normal time for a campaign process. He said running an at large campaign citywide was much more difficult than running a ward election.

Trying to reach an entire city in a few weeks instead of a few months would be difficult. He didn't know if the two years left in the term was too long for an appointment but he said if there were one year left in the term he wouldn't have any question in his mind about appointing someone. Having someone represent voters for 21 months that they didn't vote for might cause some people to take offense. He said some of the candidates who applied for appointment in the past have indicated to him they would not have had the ability to formulate a full campaign because it wasn't part of their makeup at that point. He indicated there might be other options if council agreement could not be reached.

Wiersum said it was hard for someone appointed nine years ago to say it worked for him but was not good going forward. He said Allendorf made some very good points about the special election process being different than a regular election. He noted one good thing about the timing was that the special election would occur right after the municipal election. Not everybody was going to win the election and one of the losing candidates might be interested in running in the special election. That person would have name recognition and have tremendous advantages over other candidates having just done all the things a campaign entails. He said the winner would likely be elected without a majority of the vote. If the council chose to appoint, it likely would be satisfied with the appointment because the council has done a good job with appointing in the past. He was concerned that the public would be less satisfied and that was who the council worked for.

Allendorf questioned if it was a positive or a negative that the losing candidate in the November election might have an advantage in the special election. He said the process for a special election was so different than the system voters were used to that it struck him as an anomaly and could be why other cities chose to appoint in similar situations. He asked what would happen if the council could not come to an agreement. City Attorney Desyl Peterson said the charter states the council has the option to appoint or call for a special election within 30 days. If there was a tie vote, there would be an additional seven days where the mayor could make the appointment. If the mayor does not make an appointment during the seven days, the city clerk would schedule a special election.

Chuck Schons, 2001 Crosby Road, said he had served as an election judge for the city. He said there was no choice but to have an election. Congressional approval nationally was at nine percent; 5000 year old countries are having disapproval of their government. He said the city needed the input of the citizens and if there was not a special election there would always be a mistrust of the government. He said cost for a special election should not matter.

Anne Malm-Hossfeld, 14616 Glendale Street, said she supported a special election although there would be good answers either way. The process would be messy no matter what. In either process a bunch of people would have to get together that would have a short time to make a decision. There would be a

difference between the types of people who might apply for appointment versus the types of people who would be comfortable campaigning. She said the best process was the special election because it was the most open and the process that would give citizens the best input. She noted three current council members were initially appointed. While voters have the chance to vote for somebody else at the next election, there was no choice if the election was not a contested election. She said people see a huge barrier to overcome to run against an incumbent. It was important not to over think who might apply for an appointment and who might run in a special election.

Hiller noted the Brooklyn Park special mayoral election had five candidates. Burnsville had 13 candidates for their special election in the summer. Shorter election cycles brought out people who might not have run in the normal process. He said the timing and the issue of special interests should not be part of the discussion. He said special elections are not that special and are done for legislative and other vacancies.

Schneider said looking at the 30 days for an appointment or 90 days for a special election during the holiday season made him think of trying to come up with another option. He asked staff to look into a combination of appointment and special election. The concept would be to determine the most opportune time for a special election to get as many people out as possible. The council could appoint a statesperson who would fill the seat until a special election was scheduled. Knowing the date of the special election would allow potential candidates to do the due diligence in determining whether to run or not. He said this compromise would allow the actual permanent seat to be filled by an election but would alleviate his concern about giving qualified candidates and the electorate the proper time to make informed decisions. Peterson indicated that process would fit within the framework of the charter but there would be no legal way to force the interim person to resign. Schneider said there might be two solutions to that concern. The first would be appointing someone the council could trust. The other would be getting a letter of resignation submitted right after the appointment.

Wiersum said he believed that people who would sign up to be appointed would be different from the group of people that would run in a special election. Both groups were different than the group of people who would chose to run in a regular election. He said none of the three groups were any better or worse than the others. Appointment was a low hurdle and wasn't too painful. For a special election a candidate did not have to worry too much about raising money, which was one of the most painful part of being an elected candidate. There were people out there who could be tremendous leaders but who could never ask others for money. He said the Schneider's proposal had merit and should be discussed but even though the processes were different, all three could bring out valid and qualified candidates.

Hiller asked staff to look into how the city would make it clear who had been appointed and why there was going to be a special election later on. He said he was concerned there would be confusion.

Allendorf said Schneider's idea would allay his fears about the time period for allowing constituents to get to know the candidates.

Schneider said the idea of a statesperson filling the seat for short period of time was based on that person committing to not running in the special election. This would prevent that person from having an advantage in the election.

Gunyou said staff would work on providing information to the council about Schneider's idea and could have that information available as early as the following Monday. Allendorf suggested continuing the discussion at the regular council meeting in two weeks, since that would allow staff more time to flesh out the process. This would work because there was no rush to make the decision. Hiller said he was concerned that the discussion might be lengthy and mixing it with a regular council meeting might be awkward. Wiersum said one of the things about waiting to continue the discussion until the next regular council meeting would be that it would allow the word to get out and may lead to a better turnout of residents. Ellingson said he would prefer to wait until the next regular council meeting because having the special meeting the next Monday would mean it would occur the night before the city's municipal election. Schneider said it was the city's long standing history of not having meetings the night before an election. There was agreement to continue the discussion at the November 14 regular council meeting.

#### 4. ADJOURNMENT

Wiersum moved, Ellingson seconded a motion to adjourn the meeting at 8:27 p.m. All voted "yes." Motion carried.

Respectfully submitted,

David E. Maeda  
City Clerk