

Lessard-Sams Outdoor Heritage Council

Agenda Item Memo

DATE March 18, 2011

SUBJECT: Elections

Background

Elections of the Council officers are held the odd numbered years at the first Council meeting following the appointment of new members appointing authorities.

Also attached is the chapter from Mason's regarding elections and majority votes required.

The following is an excerpt from the Council Operating Procedures.

2. Periodic Organization: Officers, Make up of Executive committee, Election of officers (how often), Nominations for officers and executive committee.

Membership Structure:

An executive committee structure will be made up of the following officers with members serving 2-year terms. Chair (1), Vice Chair (1), Secretary (1), Treasurer (1), Legislative Member (1)

Election of Officers:

a. Nominations for executive committee position - by written sign-up by member or nomination by another member. Executive committee positions shall be nominated and elected in the following order: chair (1); vice chair (1); secretary (1); treasurer (1); legislative member (1).

b. Officer's terms are through the first Monday in January of the odd numbered year or until the date of the next election. Elections are to be held in January of the odd numbered year. The chair, vice chair, secretary, and treasurer serve until a successor has been elected.

c. Distribution of officers among appointing authorities:

1. The chair will be elected from among the appointees of all appointing authorities (Governor, House and Senate).

2. The vice chair will be elected from among the remaining appointees not appointed by the appointing authority of the chair.

3. The secretary will be elected from among the remaining appointees not appointed by the appointing authorities of the chair and the vice chair.

4. The treasurer will be elected from among all appointees

5. The legislative member will be from either House or the Senate. If prior elections of officers yield an odd number of legislators as officers, then the legislative member's legislative affiliation will balance representation of the legislative bodies.

- d. Nomination and election of officers will be by the entire COUNCIL membership.
- e. A majority vote of the members present for each position is required.
- f. Elections will be by written ballot.
- g. Proxy: Members may vote by proxy for election of Executive Committee members only. If a member wishes to vote by proxy he/she shall provide his/her proxy to the COUNCIL staff and indicate the member he/she wishes to have the signed proxy given to.
- h. Vacancies in council offices will be filled by election within 45 days of receipt by the Council of written notification of vacancy.

Suggested Procedure

Council members entertain nominations of self or others for the position of Chair then proceed to the election processes as outlined above.

Governor Appointments	House Appointments	Senate Appointments
Ryan Bronson	David Hartwell	Lester Bensch
Wayne Enger	Rep. Leon Lillie	Jim Cox
Jane Kingston	Rep. Denny McNamara	Sen. Bill Ingebrigtsen
Scott Rall	Ron Schara	Sen. Tom Saxhaug

Position	Ballot Color	Governor	House	Senate
Chair	Blue			
Vice Chair	Yellow			
Secretary	Salmon			
Treasurer	Green			
Legislative Member	Buff			

CHAPTER 49 ELECTIONS

See also Ch. 31, Secs. 306-308, Voting, Nominations and Elections.

Sec. 552. Manner of Voting in Elections

1. After nominations have been made, or in case the election is to be by roll call or ballot when nominations are not necessary, the election may be conducted in any manner provided by the rules, or if the rules do not specify the manner of election, election may be by any recognized means.
2. Where no method of election is provided, a motion specifying the manner is in order. This motion ranks as an incidental motion and, when the next order of business is an election, it yields only to privileged motions and to incidental motions of a higher rank.
3. The constitutions of a large number of the states provide the manner of elections and usually require that election be by roll call and that the vote be printed in the journal.
4. When the vote is viva voce or by division, the candidates are to be treated in the same manner as alternative propositions and their names are to be submitted to vote in the order in which they were nominated.

Sec. 552: Hughes, Secs. 87-101.

5. When a legislative body expresses its will by ballot, its act is not complete before the result of the ballot is ascertained and made known. When this is done and it appears clearly from the announcement of the state of the vote that the number of ballots requisite to an appointment has been lawfully given to one person, and no further action is taken, the will of the body is finally expressed and the appointment is complete. It is not lawful afterwards and without any reason to revoke such an appointment and appoint another person.

6. A presiding officer cannot declare an officer elected when that person fails to receive the vote required.

Sec. 553. Majority Vote Required for Election

1. In the absence of a special rule, a majority vote is necessary to elect officers and a plurality is not sufficient. A vote for the election of officers, when no candidate receives a majority vote, is of no effect, and the situation remains exactly as though no vote had been taken.
2. Absent a specific controlling provision, when in an election a quorum is present and a candidate receives a majority of the votes cast, although a majority of the entire body fails to vote, the election is valid.

Sec. 552, Par. 5: State of Connecticut v. Starr (1906), 78 Conn. 636, 63 A. 512.

Sec. 552, Par. 6: Dingwell v. Detroit (1890), 82 Mich. 568, 46 N.W. 938.

Sec. 553, Par. 1: Hughes, Sec. 99; Cushing's Legislative Assemblies, Secs. 118-128, 298; Sturgis, p. 149.

Sec. 553, Par. 2: Willcock on Municipal Corporations, Sec. 546; Grant on Corporations, Sec. 71; Angel and Ames on Corpora-

3. When provision for election is made without specifying the proportion of the vote, a majority of a quorum duly convened is sufficient.

Sec. 554. Effective Date of Election

1. An election takes effect immediately:
- (a) If the candidate is present and does not decline the election.
 - (b) If the candidate is absent but has consented to candidacy.

2. When the person elected is absent and has not consented to candidacy, the election takes effect immediately on notification to the candidate of that person's election, provided the candidate does not immediately decline.

3. If a member does not immediately decline upon learning of election to an office, by silence the member is deemed to accept the office and is under obligation to perform the duty until there has been a reasonable opportunity for the member's resignation to be accepted.

4. When an officer or member has been notified of election and has not declined, the election has taken

tions, Secs. 126 and 127; *Booker v. Young* (1855), 53 Va. 303; *U.S. v. Ballin* (1892), 144 U.S. 1, 12 S. Ct. 507, 36 L. Ed. 321.

Sec. 553, Par. 3; *Cadmus v. Farr* (1885), 47 N.J.L. 208.

Sec. 554, Par. 1; *Sturgis*, pp. 150, 151.

Sec. 554, Par. 2; *Sturgis*, pp. 150, 151.

Sec. 554, Par. 3; *Sturgis*, pp. 150, 151.

effect and it is too late to reconsider the vote on election.

5. An officer takes possession of office immediately upon that person's election and acceptance, unless the law or rules specify a different time and no formal initiation is necessary.

6. The election of an officer by a legislative body by ballot is not complete until the result of the ballot is ascertained and announced, and, where fraud or error occurs in the election, as where there are more ballots than members present and entitled to vote, the vote must be retaken.

See also Sec. 516, Illegal Votes.

7. Statutes usually require that public officers must take an oath of office and often that they file a bond to qualify for office.

Sec. 555. Declining to Accept Elective Position

1. When a candidate for office is present at the election and declines the position, the vacancy is filled as if no election had taken place. When a person declines an office or appointment, no resignation and acceptance of the resignation are necessary unless the law or rules make the performance of the duties of the office obligatory.

Sec. 554, Par. 4; *State of Wisconsin v. Tyrrell* (1914), 158 Wis. 425, 149 N.W. 280; *State of Ohio v. Miller* (1900), 62 Ohio St. 436, 57 N.E. 227; *Regina v. Donoghue* (1858), 15 Upp. Canada Q.B. 454.

Sec. 554, Par. 5; *Sturgis*, pp. 150, 151.

Sec. 554, Par. 6; *State of Connecticut v. Starr* (1906), 78 Conn. 636; 63 A. 512; *Gouldley v. City Council of Atlantic City* (1899), 63 N.J.L. 537, 42 A. 852.

2. An office is vacated by the refusal of the person elected to accept it, communicated to the proper authorities.
3. When a person is not present at the election and that person's refusal to take office is announced by the presiding officer, the election to fill the vacancy may take place at once, unless some other provision to fill vacancies is provided by the rules.

Sec. 556. Vacancies in Office

1. Ordinarily, having accepted an office of responsibility, one cannot immediately relieve oneself of responsibility by resigning, and one's responsibility continues until one's resignation is accepted, or at least until there has been a reasonable time for its acceptance.
2. If a member is elected to office or appointed to a committee or has any other duty imposed upon the member which that person is unable or unwilling to accept, that person should immediately decline the office or appointment if present or, if absent, should notify the presiding officer or clerk immediately that the member cannot accept the position or responsibility.
3. In case of a resignation presented to a legislative body, the presiding officer may immediately state the question on accepting it, or a motion may be made to

Sec. 555, Par. 2: Cushing's Legislative Assemblies, Secs. 471-478; State of West Virginia ex rel. Hatfield v. Farrar W.Va. 232, 109 S.E. 240.

Sec. 556, Par. 2: In re Opinion to the Governor (1918), 41 R.I. 79, 102 A. 802.

that effect. A motion to accept is debatable and may have any subsidiary motion applied to it. Such a motion yields to privileged and other incidental motions.

4. The assumption that a member of a legislative body is no longer eligible to office by having moved from the district does not, in itself, create a vacancy, and the majority of those in office at the time, including such member, is required to constitute a quorum. There is no vacancy until the fact of a disqualification of a member has been ascertained and determined and the vacancy declared.
5. When offices are held without fixed terms, the electing authority can replace the officeholders by a majority vote.

Sec. 556, Par. 4: State of West Virginia ex rel. Hatfield v. Farrar (1921), 89 W.Va. 232, 109 S.E. 240.

Sec. 556, Par. 5: State of Missouri v. Reichmann (1911), 239 Mo. 81, 142 S.W. 304.