

CITY COUNCIL MINUTES

City of Hillsdale
Council Chambers
August 1, 2018
7:00 P.M.

Special Meeting

Call to Order and Pledge of Allegiance

Mayor Adam Stockford opened the meeting with the Pledge of Allegiance.

Roll Call

Mayor Adam Stockford called the meeting to order.

Council Members present:	Adam Stockford, Mayor R. Gregory Stuchell, Ward 1 Timothy Dixon, Ward 2 William Morrissey, Ward 2 William Zeiser, Ward 3 Matthew Bell, Ward 4 Raymond Briner, Ward 4
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Council Members absent:	Bruce Sharp, Ward 3
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Also present were: City Clerk Stephen M. French, City Attorney Thomas Thompson, Scott Hephner (HCPD & HCFD), Russ Picek (HCFD), Kay Freese (HR), Mary Hill (Library), Sam Fry (Hillsdale Daily News), Corey Murray (Hillsdale Daily News), Charles Sharp, Dennis Wainscott, Penny Swan, Pete Jennings, Roberta Jennings, Heather Tritchka, Giabielle Essex, Ted Jansen, Louise Worms, Joseph Hendee, Martha Smith, Jon Smith, Josh Colletta, and Shirley VanArnsdale.

Approval of Agenda

Mayor Stockford noted the reason for the Special Meeting was to determine the eligibility of Mr. Pete Jennings as a candidate for the vacant Ward 1 City Council seat.

Council Member Morrissey, seconded by Council Member Bell, moved to approve the August 1, 2018 agenda as submitted. By a voice vote, the motion passed unanimously.

Public Comment

Mr. Joseph Hendee, 181 Rea Street, stated the City Council should default to the existing City Charter to determine if Mr. Jennings should be included on the ballot. Mr. Hendee stated the city should defer its determination on this matter to the court system where the legal determination could be made properly. Mr. Hendee argued against a one-year residency requirement, as a reduced residency requirement would allow students from Hillsdale College to run for a City Council seat.

Mr. Dennis Wainscott, 34 Garden Street, encouraged the City Council to rule that Mr. Jennings was ineligible to serve as a Council Member. Mr. Wainscott stated there had been a blatant disregard for the City Charter by the City Clerk. Mr. Wainscott then explained his Writ of Mandamus against the City of Hillsdale, which was an effort to uphold the law regarding this issues.

Ms. Penny Swan, 191 North West Street, questioned why Mr. Jennings was placed on the ballot when he was not a three-year resident of the city. Ms. Swan stated she had been told by other city employees in previous years that she was unable to run for City Council as she had not been a three-year resident of the city. Ms. Swan encouraged the City Council to follow the Charter as printed. Ms. Swan also argued Council Member Stuchell should abstain from voting on this issue, due to his involvement with Mr. Jennings' campaign.

Mr. Jack McLain, 1445 South Bunn Road, encouraged more residents who lived in poverty to run for political office to represent those throughout the city who lived on a limited income or were reliant on government assistance. Mr. McLain also encouraged Council Members to follow the charter language on residency requirements.

Mr. Ted Jansen, 104 Hillsdale Street, encouraged Council Members to find Mr. Jennings ineligible to serve as a Council Member, due to the three-year residency requirement in the City Charter. Mr. Jansen referenced various court decisions and MCL citations to support his argument. Mr. Jansen noted the City of Hillsdale's Charter provision regarding residency requirements had never been declared unconstitutional.

Mr. Pete Jennings, 2 Charger Lane, apologized for creating the controversy and thanked Mayor Stockford for scheduling this Special Meeting. Mr. Jennings noted he had moved to the City of Hillsdale in August of 2016 and registered to vote shortly after that. Mr. Jennings reported that he would support and abide by the decision of the Council concerning this action and would step aside from the election, should Council determine him ineligible to serve as a Council Member.

Consideration of the eligibility of Mr. Pete Jennings

Mayor Stockford referenced City Charter **Section 5.1. – Eligibility for office in city**, which stated that:

“No person shall be elected or appointed to any office who is in default to the city, or to any other governmental unit of the state, now or heretofore existing. The election or appointment of any such defaulter shall be void. Unless otherwise provided for by the charter no person shall be eligible to any elective office of the city unless he shall be a qualified elector in the city, and shall have been a resident of the city for at least three years immediately prior to the date of the election at which he is a candidate for office. Councilmen nominated by wards shall also be qualified electors of the ward which they represent for at least six months prior to the date of the election at which they are candidates for office or prior to the date at which they are appointed to office. If ward boundaries have been changed less than six months before an election, a candidate shall be deemed to have been a qualified elector of a ward for at least six months prior to the election, if he has been for at least six months a qualified elector in any area which is included in said ward as of the election date.”

Mayor Stockford also referenced City Charter **Section 4.3. - Qualification of councilmen**, which stated:

“Members of the City Council shall be duly qualified electors of the City who meet the eligibility requirements contained in Section 5.1 of this charter. The council shall be sole judge of the election and qualification of its own members subject only to review by court.”

Mayor Stockford responded to Mr. McLain's comments by stating he had worked at a low-paying job five years ago and lived in a modest home in the city. Mayor Stockford noted many Council Members throughout the years were not wealthy of part of the “elite” as described by Mr. McLain.

Mayor Stockford stated that although multiple people had submitted different, professional opinions on this issue, everyone's intentions were genuine and should be respected. Mayor Stockford noted the City Clerk did not take bias in election administration, as City Clerk French had treated both candidates fairly during the mayoral election in 2017.

Mayor Stockford stated his personal feeling was that the three-year residency requirement in the City Charter was too long and recommended Council establish a Charter Commission to review the current Charter language and make recommendations accordingly. Mayor Stockford stated he had read all of the correspondence provided to Council on this issue, and felt Mr. Jennings should be ruled ineligible to serve as a Council Member due to the existing Charter language.

Responding to a question from Council Member Morrissey, Attorney Thompson noted the City Council would be ruling as a quasi-judicial body. Attorney Thompson also stated Council would need to determine if Mr. Jennings met the three-year residency requirement and then rule if the Charter provision should be enforced, or determine the provision is unconstitutional and thereby, unenforceable.

Mayor Stockford questioned if the Council could invalidate the entire election, based on the negativity that may have impacted any of the three candidates. Mayor Stockford noted some absentee ballots had already been returned, some of which may have contained votes for Mr. Jennings. Mayor Stockford stated that declaring Mr. Jennings ineligible would harm those who had already voted for Mr. Jennings using absentee ballots.

Responding to a question from Mayor Stockford, Attorney Thompson stated that if Mr. Jennings was declared ineligible, the two remaining candidates would be placed on the November General Election ballot, regardless of the number of votes received by Mr. Jennings in the August primary.

Council Member Bell stated he was a resident of the city since August of 2012, which met the residency requirements of the City Charter. Council Member Bell stated an article had been published in the Hillsdale Daily News that stated otherwise; Council Member Bell stated the article had since been updated and thanked staff writer Sam Fry for making this correction.

Responding to a question from Council Member Dixon, City Attorney Thompson reviewed the interplay of local, state, and federal laws and how authority interacts with each distinct level of government.

City Clerk French explained training provided by the State Bureau of Elections had alerted him to the determination that three-year residency requirements had been ruled unconstitutional in other Michigan cities and townships. City Clerk French stated that when the question of Mr. Jennings eligibility was raised, a legal opinion from Attorney Lovinger and direction from the Bureau of Elections was immediately requested. City Clerk French stated he was aware of the various City Charter requirements and the issue should not be deemed as neglect.

Council Member Morrissey, seconded by Council Member Bell, moved to determine Mr. Pete Jennings had not lived within the City of Hillsdale for three years and does not meet the residency requirements of City Charter Section 5.1.

Roll call:	Council Member Bell	Aye
	Council Member Briner	Aye
	Council Member Dixon	Aye
	Council Member Morrissey	Aye
	Council Member Stuchell	Aye
	Council Member Zeiser	Aye
	Mayor Stockford	Aye

Motion passed 7-0.

Council Member Zeiser discussed the integrity of the election and the potential harm to the voters if a change of candidates was made by the City Council.

Council Member Stuchell stated that by removing Mr. Jennings from the ballot, Council would restrict who the people could elect. Council Member Stuchell recommended Council allow the people of Ward 1 to decide which candidate they preferred.

Council Member Bell argued the residency provision in the Charter had not been specifically overturned and Council was entrusted to uphold the City Charter. Council Member Bell stated the City Council should have been alerted by staff to this situation many months prior so that a determination could have been made in a more timely manner. Council Member Bell stated Council should enforce the residency requirements as outlined in the City Charter.

City Clerk French reported the ballots and programming for the Primary Election would include Mr. Jennings' name on the ballot. Clerk French stressed no changes to the ballot or the voting machines could be changed by the election on August 7th.

Attorney Thompson stated that if Council Members determined Mr. Jennings was ineligible to serve, the remaining two candidates would be placed on the November General Election ballot, regardless of the August Primary Election results.

Council Member Dixon noted the city's Oath of Office required each Council Member to uphold the United States Constitution and the hierarchy of laws stipulated Council Members uphold the Constitution when aspects in the City Charter had been deemed unconstitutional.

Council Member Stuchell, seconded by Council Member Dixon, moved to determine Mr. Pete Jennings was eligible to be included as Ward 1 Council Member for the City of Hillsdale in the August 7, 2018 Primary Election.

Roll call:	Council Member Bell	No
	Council Member Briner	No
	Council Member Dixon	Aye
	Council Member Morrissey	No
	Council Member Stuchell	Aye
	Council Member Zeiser	No
	Mayor Stockford	No

Motion failed by a vote of 2-5.

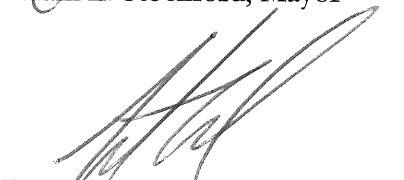
Adjournment

Council Member Bell, seconded by Council Member Zeiser, moved to adjourn the meeting. By a voice vote, the motion passed unanimously.

The meeting adjourned at 8:47 p.m.



 Adam L. Stockford, Mayor



 Stephen M. French, City Clerk