

Council Budget and Governance Committee Meeting

May 12, 2022

Agenda Item I

(Changing Form of Government)

- ❑ Follow-Up on 2020 *Citizen Advisory Committee on Governance (CACG)* recommendations to B&G Committee:
 - Four-Year Terms (8-3 vote)
 - Staggered Elections (10-1 vote)
 - Add 8th District Representative and Remove One At-Large (unanimous vote)
- ❑ CACG Action recommended:
 - Council action, or
 - Council action subject to approval of voters at referendum

Terms, Election Method & 8th District (CACG recommendations)

Current Status	Recommended
Two Year Terms	Four Year Terms by Way of Referendum
No Staggered Elections	Staggered Elections
12 Total Members* (Mayor and Council): <ul style="list-style-type: none"> • 1 Mayor • 11 Council Members <ul style="list-style-type: none"> • 4 At-Large • 7 District Representatives <small>*Total limited to 12 by law</small>	12 Total Members (Mayor and Council) <ul style="list-style-type: none"> • 1 Mayor • 11 Council Members <ul style="list-style-type: none"> • 3 At-Large • 8 District Representatives

Considerations

- Council may amend ordinance subject to approval by the voters at a referendum, OR
- Council may amend ordinance without voter referendum – however, 5,000 signatures on a petition filed within 30 days forces a referendum
- May be budgetary implications to hold special election for referendum

Timeline to Date

Date	Action
Nov 2, 2020	Council Strategy Session (CACG presented Report)
Dec 15, 2020	B&E Committee Meeting (Discussed CACG Report)
Jan 4, 2021	Council Business Meeting (Public Comment on CACG Report)
Jan 6, 2021	B&E Committee Meeting > Voted to remove Nonpartisan Elections & Term Limits from further consideration
Jan 11, 2021	Council Annual Strategy Session (B&E Committee Chair & City Attorney updated on CACG recommendations) <ul style="list-style-type: none"> - Four Year Terms (Consider) - Staggered Elections (Consider) - Two Term Limits (No further consideration) - Nonpartisan Elections (No further consideration)
Jan 26, 2021	B&E Committee Voted to Recommend 4-Year Terms and Staggered Elections to Council without further delay (Unanimous).
Feb 2, 2021	Council Strategy Session (Council discussed and determined that due to census delays and redistricting, referral remain in Committee and bring back to Council with proposed schedule)
Feb 3, 2022	Council Strategy Session (Consensus to refer back to B&G Committee for refresher of CACG recommendations)

History of Local Elections (City & Mecklenburg Co.)

Date	Action
1974	NC Legislature changed Charlotte Mayor/City Council elections from nonpartisan to partisan
1975	Mayor and seven at-large member Council elected under partisan primary/general elections
1977	Petition-initiated referendum to change seven at-large City Council to seven district/four at-large (APPROVED)
1981	Petition-initiated referendum to return to seven at-large member City Council (DEFEATED)
1982	Referendum to change Board of County Commissioners (BOCC) from five at-large member to four district/three at-large member with district members nominated in district primaries and elected in county-wide voting (DEFEATED)
1984	Plan to change BOCC from five at-large to four district/three at-large members with district members nominated and elected in districts (APPROVED)
1985	Plan to change BOCC terms of office from two years to four years (DEFEATED)

History of local Elections (City & Mecklenburg Co.)-cont.

Date	Action
1986	BOCC elected under new four district/three at-large plan
1992	Referendum to change BOCC from four district/three at-large to six district/three at-large members (APPROVED)
1993	Referendum to change CMBOE from nine at-large members to six district/three at-large members with staggered four-year terms and providing the same districts for election as the BOCC (APPROVED)
1994	BOCC elected under new six district/three at-large plan
1995	CMBOE elected under new six district/three at-large plan with staggered four-year terms (at-large members initially elected for four years, district members initially elected for two years)
2015	BOCC Referendum seeking four-year terms (DEFEATED) Ballot Count: No (63,393 - 65.98%) Yes (31,136 - 34.02%)
Feb 11, 2019	City Council voted to adopt resolution of intent to approve to increase the terms of office of Mayor and Council from two years to four years if approved by referendum vote of people > Motion failed (7-3)

Process for Change by City Council

- Council adopts resolution of intent and sets date for public hearing
- Public hearing must be held at least 10 days after published notice and within 45 days of resolution
- Council must vote on adoption within 60 days of public hearing but not before next regular meeting
- Notice of adoption of ordinance must be published within 10 days after Council's adoption of ordinance
- If ordinance adopted subject to referendum vote, Council may, by resolution, call for a special election to submit the ordinance to vote.
- BUT if ordinance adopted without being subject to voter approval, then 5,000 signatures on petition filed within 30 days of adoption forces referendum on ballot
- Special election must be held at next date permitted under G.S. 163-287(a) *that is more than 70 days after the adoption of the ordinance*. Only option: Nov 8, 2022

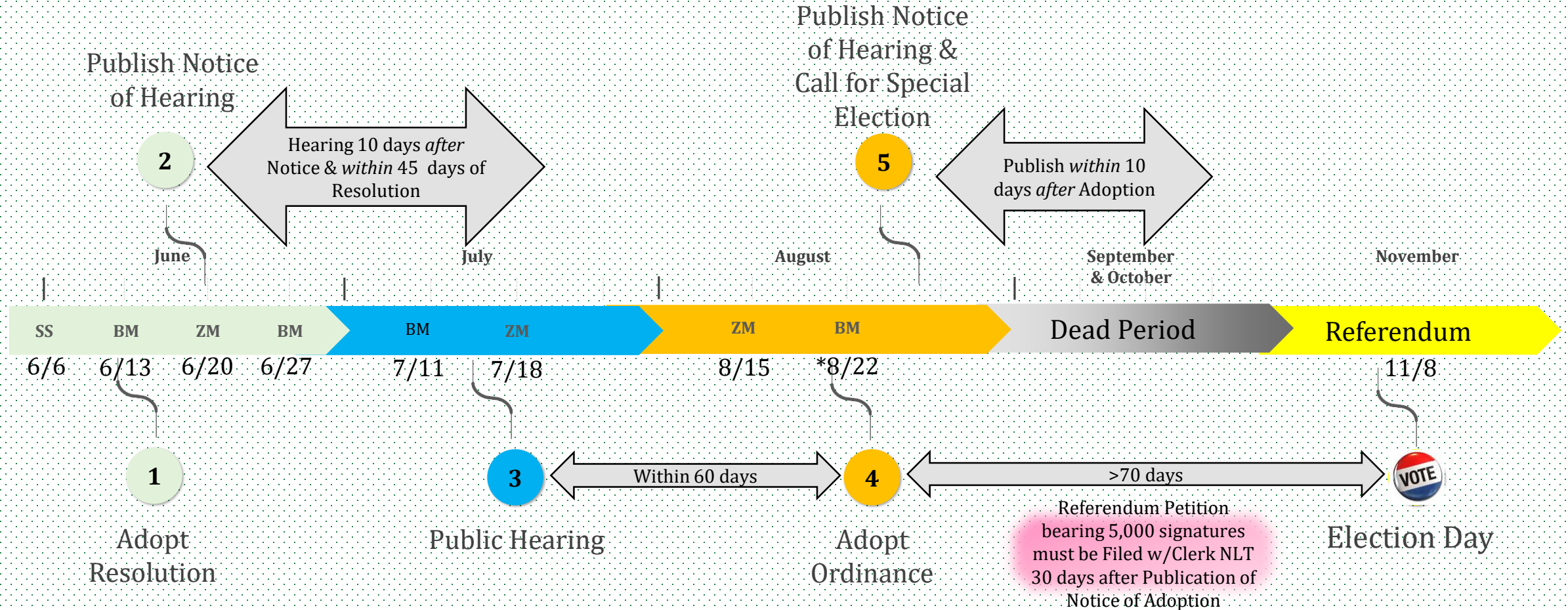
Timetable to Change Form of Government

Referendum at the November 8, 2022 General Election

- Adopt Resolution of Intent
 - June 6, 2022 (Strategy Session), or
 - June 13, 2022 (Business Mtg), or
 - June 20, 2022 (Zoning Mtg), or
 - June 27, 2022 (Business Mtg)
- 10 days before hearing > Publish Notice of Public Hearing
 - By June 17, 2022 or
 - By July 1, 2022, or
 - By July 8, 2022
- Public Hearing
 - June 27, 2022 (Business Mtg), or
 - July 11, 2022 (Business Mtg), or
 - July 18, 2022 (Zoning Mtg)
- Adopt Ordinance
 - August 15, 2022 (Zoning Mtg), or
 - August 22, 2022 (Business Mtg)
- Within 10 days of Adoption of Ordinance > Publish Notice of Adoption of Ordinance & Resolution Calling for Special Election
 - August 25, 2022, or
 - September 1, 2022
- Referendum on ballot
 - November 8, 2022

Sample Timeline (2022)

Dates based on scheduled City Council Meetings



*Last Possible Date to Meet Statutory Referendum Deadline

Referendum Ballot Language Requirement (NCGS 160A-105)

- State Statute Requires that the ballot must take substantially the following form:
- “Shall the ordinance (describe effect of the ordinance) be approved?
- ☐ YES
- ☐ NO”

Next Steps?

- Budget and Governance Committee Vote to Take to Full Council
- Consider Whether to Recommend Ordinance by:
 - Council action and subject to voter referendum, OR
 - Council action without being subject to voter approval (but 5,000 votes on petition within 30 days of adoption forces vote)
- What's on Ordinance?
 - Increase from Two-year to Four Year Terms
 - Staggered Election Terms
 - Added Eighth District (in lieu of one At-Large)

Questions on Changing Form of Government?

Agenda Item II (Council Rules of Procedure)

- ❖ Review considerations for potential updates to Council Rules of Procedure
- ❖ Revise provisions for virtual meetings

Provisions for Virtual Meetings

- ❖ Current Law
- ❖ Potential Legal Issues
- ❖ Rule 28 – Potential Revisions
- ❖ Public Access (Virtual vs. In-Person)



Current Law

- ▶ **Electronic meetings authorized before COVID-19** (G.S. 143-318.13)
 - Must provide *notice, location and access for public to listen* to official meetings of public bodies

- ▶ **In 2020, General Assembly adopted new “remote meetings” law** (G.S. 166A-19.24)
 - Only applicable during statewide declarations of emergency (not local declarations);
 - Made no changes to Open Meetings law;
 - Specifically revised **voting, quorum** and **closed session** statutes to allow for remote meetings.

- ▶ **Council’s Rules of Procedure - Rule 28** (G.S. 160A-71(c))
 - **Telephonic and electronic attendance at meetings** limited to:
 - Committee Meetings (due to illness or injury and may vote)
 - Council Meetings:
 - Emergency meetings, or
 - Regular or Special meetings where:
 - Quorum necessary;
 - Due to weather, civil unrest, emergency, etc.; and
 - Meeting needs to continue to avoid re-notice or to take action for matters that cannot be delayed.

Potential Legal Issues

➤ **If Council revise its Rules to allow for electronic/virtual/remote meetings without limitation, possible concerns include:**

- **Quorum challenges*** – best practice is to be “physically present” although current Rules allow electronic attendance when quorum necessary (but along with other factors); and,
- **Voting challenges*** – best practice to be “physically present”; consider revising Rules to also allow “deciding vote” to be cast during remote attendance, although this remains an area subject to legal challenge.

➤ **Also, consider revising Council’s Rules on:**

- Duty to Vote (Rule 16)
- Closed Sessions (Rule 18), and
- Quorum (Rules 19 and 20)
- Consider Establishing (Minimum) Remote Attendance Policy

*Quorum and Voting statutes (G.S. 160A-74 and -75, respectively), were amended under remote meetings law – so long as participant maintains simultaneous communication. When not in a state of emergency, existing laws for both may pose potential concerns.

Rule 28 – minimal revisions

5. Addressing Council

- ▶ (g) When Council is meeting in person, any member of the public who plans to address Council during the meeting shall also be present in person at the Council meeting.

28. Telephonic and electronic attendance at meetings

- ▶ **(a) Committee meetings.** Council members may attend committee meetings by telephone or other electronic means ~~when they are unable, by reason of illness or injury, to attend~~ provided that at least three of the committee shall be present in person. Members who plan to attend by electronic means shall notify City staff at least ~~48~~ 2 hours in advance to allow for arrangements to be made. Members attending electronically are entitled to vote and fully participate in the business of the committee meeting.
- ▶ **(b) Council meetings.** Council members may attend Council meetings by telephone or other electronic means for emergency meetings. In addition, Council members may attend regular and special meetings by telephone or other electronic means where:
 - (i) necessary to achieve a quorum;
 - (ii) attendance is precluded due to weather, civil unrest, emergency, etc.; and
 - (iii) the meeting needs to be continued (e.g., need to open and continue a public hearing to avoid the need to readvertise) or to take action on matters that cannot be delayed ~~or~~ or
 - (iv) a Council member is unable to attend due to a Council member's medical condition, illness or family emergency.Council members attending electronically are entitled to vote and fully participate in the business of the Council meeting.

*Special conditions may apply for electronic attendance during closed sessions.

Rule 28 – Proposed revisions (combined Council & Committee meetings)

► Telephonic or electronic attendance at meetings

► (a) For Committee meetings and Council Meetings. Council members may attend committee meetings and regular or special Council meetings by telephone or other electronic means if they are unable to attend in person and where:

- (i) necessary to achieve a quorum;
- (ii) attendance is precluded due to weather, civil unrest, emergency, illness, injury, or in-person unavailability (limited to no more x meetings per calendar year);
- (iii) the meeting needs to proceed (e.g., need to open and continue a public hearing to avoid the need to readvertise) or to take action on matters that cannot be delayed;
- (iv) City staff receive at least 48 hours advanced notice from Council member to allow for arrangements to be made; and
- (v) necessary to vote and fully participate in the business of the meeting.

► (b) Emergency Council Meetings. Council members may attend Council meetings by telephone or other electronic means for emergency meetings.

- *Special conditions may apply for electronic attendance during closed sessions.

Questions?