

CALL TO ORDER The Special Meeting of the City Council was called to order at 6:08 p.m. by Mayor Jones.

ABSENT: 0 ALDERMEN: None

Discussion of
An Ordinance
Amending
Mayoral
Eligibility

Kerilynn Kraftner stated “In 2016 the city voters passes a referendum imposing Mayoral term limits and after that the city council never took any steps to implement the Ordinance and that was that no one could be Mayor if they were elected Mayor or Alderman for four or more consecutive years. so that was passed by electors; the city didn’t implement it. The next thing that happened is that April of 2017 the city voted on Aldermatic term limit referendum and again after that the city did nothing to implement the terms of that. It doesn’t really matter though that the city did nothing to implement the terms because in July of 2019 the General Assembly passed a

law that said certain things; first of all, all term limits have to be perspective so you can't count anyone's prior service against them, second of all term limits can only apply to the same office so you can't say you can't run for Mayor if you've been Alderman for so long and third that the term limits preemptive home rule authority with respect to certain things, so that new statute would apply to term limits imposed by a referendum after November 8, 2016. What happened next in 2020 presumably in response to (In Audible). The city put a different Mayoral term limit on the ballot and that was on the ballot at the April 6th election. And that was the term limit question saying that no one could be Mayor for three or more 4-year terms. After that the city council did amend the city code related to the qualifications and put something on the books. The next thing though that happened was that in November of 2021 the State Council passed an Ordinance. I'm sorry there was one more referendum that was passed in 2020 and that's you couldn't run for Mayor if you held a statewide office and 2021 State Council passed a Ordinance and that the one that is the subject of the Ordinance today and it said that effective after the February 23, 2021 primary no person can be eligible or seek nomination to hold the office of Mayor if at the time of filing nomination papers that the person holds an elected paid office created by the State of Illinois. The General Assembly however, passed a new law after that in 2021 saying that any Ordinance, Referendum, or Resolution of local government requiring a General Assembly member to resign their State Office to be eligible for a Local State Office is void and unenforceable and it preempts any municipal Ordinance, Resolution, and Referendum adopted on or after November 08, 2016, which would include the City's Ordinance. So we have a provision of a city code that is obsolete and unenforceable now based on the new law that was passed in May of 2021 amending the Public Officer Tenure Act. So all this Ordinance does is deletes the part if the Referendum that is now unenforceable under the new law. So we didn't want to have a section of the city code that was invalid cause going into an election season, people are going to say oh if they look at the code they are going to think it's a valid law. So we just wanted to make sure just like we've cleaned up the other referendums in the past after there was legislation invalidating it that we do the same thing with this, so that's all that this Ordinance does. Any questions about that?

Alderman Navarrete "Do we have a copy of the state language?"

City Attorney "Lets see here, I'll tell you what it is, it's "50ILCS110/5"
Kerilynn Kraftner

Alderman Navarrete "It was a large document when I tried to search it, do we have the specific State Language."

City Attorney
Kerilynn Kraftner

“Any Ordinance, Referendum, or Resolution from local government requiring a General Assembly member to resign their State office to be eligible for a Local Elected Office is void and unenforceable. So basically, the States Law not the States Law. The City’s law is stricter than the States Law. And the State says that we can’t do that even as our own municipality.”

Alderman Tillman

“I have a question so as I’m reading our Ordinance it says any public office created by the Constitution, whereas the General Assembly law just says the General Assembly so wouldn’t this still apply to let’s say the Governor if he wanted to run for Mayor of Calumet City?”

City Attorney
Kerilynn Kraftner

“Yes, I think, I said that the right way.”

Alderman Patton

“So to Alderman Tillman’s point technically the Ordinance that we have on the books now is not invalidated because there are other offices that this would apply to outside of the General Assembly Offices that’s state statute.”

City Attorney
Kerilynn Kraftner

“Well the alternative would be to keep the language in whether it would be accepted or not (inaudible) we could write it that way to.”

Alderman Patton

“Have there been any other communities that had similar eligibility requirements that have litigated this yet?”

City Attorney
Kerilynn Kraftner

“There is no other city that we can find has that eligibility requirement law. You guys were breaking new ground with this.”

Alderman Patton

“ And it took a whole act of the State Legislator huh.”

Mayor Jones

“ Is that a question you’re directing at the Attorney Alderman?”

Alderman Patton

“It was but”

City Attorney
Kerilynn Kraftner

“Yes”

Mayor Jones

“So the other Ordinances is still; I noticed that there was an Ordinance before that said you had to serve more than three or four terms as Alderman you can’t run for Mayor as well is that something that was addressed is that something we have to amend as well?”

City Attorney
Kerilynn Kraftner

"I believe, let's see here we looked at that issue in January of 2023 for the City Council and the problem with it was the referendum wasn't clear as to whether or not it was only prospective. A application counting the numbers moving forward or not. But we believe that it appears to be inconsistent, it can only be calculated prospectively in accordance with with the law; but those terms did not look like they could be severable under the way the wording of the term limits referendum was."

Alderman Patton

"Yeah I think there was a prospective one passed after all of that stuff happened but I think that it said that it set it as four terms in office not combined offices; so its four terms as Mayor, 3 terms as Alderman for that and I believe there was a referendum to overturn that in 22 that failed. So I think that four terms is still on the books but it starts in this next election if I'm not mistaken."

City Attorney
Kerilynn Kraftner

"But it's a little bit confusing, because we have the 2016 Referendum that that passed and we have the 2020 Referendum that passed related to the Mayoral term limits and the term limits imposed in each of them are conflicting with one another. So if the 2016 referendum stands proactively and only related to the office as Mayor opposed to 4 four year terms then that's different than the one that was approved in 2020 which is a term limit of 3 four-year terms. The 2020 referendum did not state that it would be attempting to repeal the 2016 one. So that's alternatively, the best path would be to put the referendum on the ballot to express the repealing of both the referendums for one that's applying one that is coherent otherwise we just live to fight that battle of which one prevails a different day."

Alderman Tillman

"I'm sorry can you say that again, just the last what you just said?"

City Attorney
Kerilynn Kraftner

"Well to clean it up what we can do is figure out what do electors want it be because we have one that says 3-year terms one that says 4 year terms which one really applies so that we can count them both because now there's the argument that we have two conflicting ones we don't know which one applies so just run another referendum cleaning it up and saying this referendum if it passes is going to repeal 2016 and 2020. That way we know for sure. Otherwise, there's the chance people may come forward."

Alderman Tillman

"Didn't you say that council didn't take action to create an Ordinance regarding the referendum is that correct?"

City Attorney
Kerilynn Kraftner

"With respect to the 2016 Mayoral term limits referendum and the 2017 Aldermanic term limits referendum the city council didn't take action. The city did take action with respect to the 2020 referendum but that's the one that's inconsistent with the preemptive state law. Very

confusing that's why I thought I'd better just go over the history of this. because you've had so many different referendums. It's confusing."

Alderman Tillman

"Will we have to do another referendum couldn't the council just make a new or just vote on something that replaces it."

City Attorney
Kerilynn Kraftner

"Well the issue of term limits is its one of the things governed by the Illinois Constitution and if you want to change the matter of selection of our office of re-eligibility, it requires a referendum. So we would we've got all these referendums so far on term limits, with different degrees of success but we technically didn't clean everything up. So we can't just take action with the city council on this unfortunately."

Alderman Patton

"Setting the term limits aside, if we're talking about just the section here in the Ordinance that we are discussing; the eligibility portion of it. I think what you said attorney is the state passed a statute targeting just this community. Ten thousand voters came out and voted to approve this so, I think we owe it to the residents to let the chips fall where they may. If the state passed a statute that overturns this ordinance, then if it becomes a issue in the future for the electoral board or circuit court let them decide on it. I think the ten thousand plus voters that came out and voted on this referendum when it took place. We owe it to them to leave it on the books and let the courts decide if it comes to that at some point."

City Attorney
Kerilynn Kraftner

"Well I think that we would recommend that the city council doesn't litigate there's nothing unclear about this, if we remove it from the books there wouldn't even be a need to get unnecessary court hearings on it, if that makes sense."

Alderman Patton

"It wouldn't be the city's litigation at that point though would it, because it would be an electoral case, it would be a political thing, it would be a court case, it would be fought between"

City Attorney
Kerilynn Kraftner

"So it sounds like you're suggesting that someone might file a bad faith objection trying to argue that the city code triumphs over legislation that specifically says the city can't do this."

Alderman Patton

"If somebody did?"

City Attorney
Mike Kasper

"Alderman, I often advise my clients if there's an Ordinance on the books that says that it limits eligibility its to be held non enforceable by the active terms as the constitutional authority, to preempt any municipalities it should exercise. It seems to me if somebody is thinking about running for office in your town, they'll go to the code to see what the rules are, they're not going to get an accurate reading of what the rules are and this is simply to perpetuate that accuracy for your citizens. Cause if they go

look at the code now their gonna think there's a rule that isn't a rule. anymore. So I always advise people you should. When I use to work in the General Assembly ever year we would have a bill that would erase all obsolete bills, just so people wouldn't be confused. I just think you owe to your constituents. When they're looking for what the rules are they ought to be able to read the current rule."

Mayor Jones "So what happens tonight if the city council takes no action; even though General Assembly took action?"

City Attorney
Kerilynn Kraftner "Then we have a law that's unenforceable that remains on the books that is just confusing to future candidates."

Alderman Navarrete "May I?"

Mayor Jones "Alderman."

Alderman Navarrete "Do we have any, I mean was the rule specific to Calumet City or brought specifically, to address Calumet City referendum?"

City Attorney
Kerilynn Kraftner "Well it was not. General Assembly's not allowed to pass specialized legislation. It was part of an election Omnis that would address issues including mayoral eligibility in Markham and other things but this law would apply to any other municipality that took this term. So, you can say well Calumet City was the only one that did it, but it also provides for other communities that are looking to do something like that. Attorney Kasper did you have anything to add to that?"

City Attorney
Mike Kasper "Only that my research determined that Calumet City was not only the only Illinois municipality that imposed this rule, but to the best of my ability and research Calumet City was the only municipality in the history of our nation to implement that resign a State Office in order to run. I could find no other or any municipality. If your questions about targeting.

Alderman Navarrete "I mean we've had this conversation over the years with the residents. I mean there was overwhelming support for it, just because it wasn't precedence I guess prior doesn't mean it was not a good idea right, or not a good faith approach to wanting to make sure that the office of Mayor is focused on our local government; that there's no conflict of interest as it pertains to it that there is a clear separation from the state authority and the state office."

City Attorney
Mike Kasper "That's not what the rule says."

Alderman Navarrete "I mean it doesn't specifically say it needs to be a resignation."

City Attorney
Mike Kasper "In order to run not to serve."

Alderman Navarrete "The word resignation doesn't show up."

City Attorney
Mike Kasper "You cannot run for office. It's one thing to say if you run and you win right, you can't hold the office or take the seat of the office. So that would be like saying Barack Obama would have to resign from the US Senate to run for the office of President. Just to run not to win."

Alderman Navarrete "And that makes sense." So now you're going to put yourself out there to run but basically lose both offices."

City Attorney
Mike Kasper "Correct, Correct."

Alderman Navarrete "That shouldn't be fair to say. So would it be fair to say you can't be sworn in to both offices but you can run can it be amended to say it that way."

City Attorney
Mike Kasper "I don't think under this law with the General Assembly."

Alderman Navarrete "I need a definite answer on this one."

City Attorney
Kerilynn Kraftner "Well with respect to that if you're asking if we can amend the city code and fix this we could amend it in a way that would establish that part because we would be rewriting the words to the referendum. that would have to still be implemented by Ordinance or Resolution and then (Inaudible) with the General Assembly."

Alderman Navarrete "I was always under the impression that the eligibility to run anybody can run its just prior to be sworn in you would have to make that decision, sounds like I was wrong in the description."

City Attorney
Kerilynn Kraftner "Well"

City Attorney
Mike Kasper "The language says quote no person may run as a candidate for or serve as city Mayor, if when filing nomination papers for city mayor that person has already been elected to a state office."

Alderman Navarrete "I think it should be amended to being sworn in cause certainly they should be able to run. I think that's a fair compromise, So I guess what

steps would have to be taken and what would that look like to be able to make sure that's the language; that's what it says.

City Attorney
Kerilynn Kraftner

"The City Council would have to put another binding referendum on the ballot if you want to do that, we can do it to clean up the other two. Well again, it's too late now to have a question put on the ballot for November.

City Attorney
Mike Kasper

"In the state law preemptive home rule quote any ordinance, referendum, or resolution of a local government requiring a General Assembly member to resign their state office to be eligible for a local office is void and unenforceable. So, I think saying they have to resign to serve would also be preemptive. It would be preemptive I'll give you definite.

Alderman Patton

"To Alderman Navarrete's point our referendum doesn't mention specifically General Assembly, it mentions all offices listed in the constitution of the State of Illinois. But you know to go back to something you just said earlier Attorney Kasper; resign to run laws are on the books across the country Florida, California there's a number of offices that you can't run for unless you resign the one that you currently hold."

Attorney Kasper

"There are none that require you to resign a state office to run for a local office. None that I could find, and I looked pretty hard."

Alderman Patton

"But the concept of resign to run didn't get created here in Calumet City in 2020.

Attorney Kasper

"In terms of resign."

Alderman Patton

"Concept; concept of having to resign one office to run for another was not created here, whether."

Attorney Kasper

"To resign a state office for a local office; yes it did."

Alderman Patton

"Ok but the concept in general was not created here."

Attorney Kasper

"No the concept specifically to target one candidate, yeah."

Alderman Patton

"But it's not targeting one candidate it doesn't say State Representative it doesn't say State Senator it says any office created by the constitution of the State of Illinois."

Attorney Kasper

"Unless I'm unfamiliar."

Alderman Patton

"This was not specific to one election if the city of Calumet City elected the

State Treasurer in 2026 that person would not be eligible to run for Mayor.”

Attorney Kasper “Potentially, you’re correct, and there are six people. I mean if you’d like to say the Governor can’t run for the Mayor of Calumet City.”

Alderman Patton “Correct.”

Alderman Tillman “Can I ask a question, just to try to clear up some contradictory information you’ve given. Earlier you said we can amend this language to include the General Assembly or exclude the General Assembly we could just amend it and vote as a council. But then when Alderman Navarrete made a suggestion to amend it you said we would have to do a whole new referendum to do that; what’s the difference?”

Attorney Kraftner “So those are two different questions, So this one its yes if you want to change this and then keep the language of the referendum and you incorporate the part that with the exception of the office of the Illinois General Assembly member.” If you put that in there then as Mike just said then you still have the State Treasurer the Governor they are still not eligible and that would fix it. He was asking was there a way we could amend the city code to fix the problem with the referendum but there’s not because of the way the laws work

Alderman Tillman “Because the way the referendum laws work.”

Attorney Kraftner “Yes”

Alderman Tillman “Can you read that

Attorney Kasper “I think the point is when the referendums passed that’s the framework of the council to use and the council can’t change the framework without bringing it back to the voters the power to change the power of selection rests with the voters. So, any change requires a referendum. And since what we are talking

Mayor Jones Mayor Jones inquired if the council wanted to make a motion approving the Ordinance with the amended changes.

Alderman Tillman Alderman Tillman stated he would be comfortable making a motion Approving the Ordinance as amended.

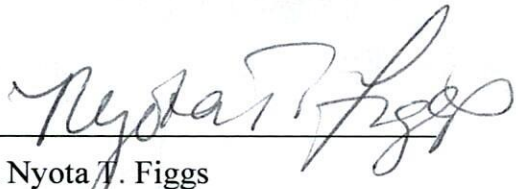
Alderman Navarrete Alderman Navarrete stated he would prefer the attorneys amend the Ordinance and bring it back before the council for a vote.

Adjournment

Alderman Tillman moved to adjourn, seconded by Alderman Smith at 7:06 p.m.

MOTION CARRIED

X


Dr. Nyota T. Figgs
City Clerk