

CITY OF WARREN
Office of the Council Secretary

Item 14a

INTER-OFFICE COMMUNICATION

DATE: July 14, 2020

TO: Sonja Buffa, City Clerk

SUBJECT: Council President Patrick Green along with co-sponsors Councilmember Watts and Councilmember Kabacinski proposed resolution approving ballot proposal regarding term limits. CONSIDERATION AND ADOPTION OF A RESOLUTION addressing term limits. (5 votes needed).

At a video conference meeting of the City Council held Tuesday, July 14, 2020, Council by formal motion overrode the Mayor's veto of this item, filed on 7.2.2020 with a unanimous vote of 7-0. The original motion to approved the above listed item, placing a ballot proposal on the November 3, 2020 ballot, to address term limits in returning the Mayoral term limit to 12 years or 3 terms to be in line with all City of Warren elected officials, stands.

Trusting this information to be of value.



Mindy Moore
Council Secretary

cc: Attorney
Clerk
Mayor

RESOLUTION

At a Special meeting of the City Council of the City of Warren, County of Macomb, Michigan, held on June 30, 2020, at 7:00 p.m. Daylight Savings Time, via Zoom Video Conference, under Executive Order 2020-75 of the Governor.

PRESENT: Councilmembers Green, Kabacinski, Lafferty, Moore, Papandrea, Rogensues, Watts _____

ABSENT: Councilmembers None _____

The following preamble and resolution were offered by

Councilmember Moore _____ and supported by

Councilmember Watts _____

In November 1998, the electors in the City of Warren voted to establish terms limits on the office of mayor, city council, city clerk and city treasurer to three terms or 12 years.

Subsequently, in 2010, the voters approved a ballot proposal to change the size and composition of City Council from nine at-large members to two at-large members and five district members.

A City Attorney opinion on December 26, 2014 concluded that the Warren City Council is a bicameral legislature and that the term limits provisions of the charter apply separately to the councilpersons elected at-large and those elected in districts.

The City Attorney further concluded that councilpersons could serve up to 12 years as an at-large member and 12 years in a district for a total of 24 years on council.

In the 2015 municipal elections for the City of Warren, the City Clerk permitted candidates on the ballot for City Council that exceeded 12 years in that particular office in conformance with the City Attorney's December 26, 2014 opinion; the City Clerk's decision was upheld by the Macomb County Circuit Court after a challenge.

In the 2019 municipal elections for the City of Warren, a newly appointed City Clerk again permitted candidates on the ballot for City Council that exceeded 12 years in that particular office in conformance with the City Attorney's December 26, 2014 opinion; however the City Clerk's decision was overturned by the Michigan Supreme Court in the case of *Connor Berdy v. Sonja Buffa*, Supreme Court Case No. 159725.

The Michigan Supreme Court held that "the Warren Charter provides for a single class of city council members, subject to the term limits of the greater of three complete terms or 12 years in that office. See Warren Charter, §§ 4.3(d) and 4.4(d)."

On April 12, 2016, the prior City Council adopted a Resolution on the ballot to amend the City Charter to extend term limits for the Office of Mayor from three terms to five terms of office.

The April 12, 2016 Resolution of City Council stated that "council and mayor should have more equal terms of eligibility for office, to continue to attract strong leaders, and to preserve a governmental system with an equally balanced distribution of power and effective system of checks and balances."

On April 12, 2016, it was believed that councilmembers could serve up to three full terms in a district and three full terms at-large for a total of 24 years and this was the basis to extend Mayoral term limits.

The prior City Council believed that "council and mayor should have more equal terms of eligibility for office," but that is no longer the case since the decision by the Michigan Supreme Court in *Berdy v. Buffa*.

Therefore, the public interest would be served by allowing the electorate to determine whether to amend the city charter to decrease the number of terms a person may serve in the elected office of mayor from five terms or 20 years; back to the original term limit of three terms or 12 years, whichever is greater.

A governmental system with an equally balanced distribution of power and effective system of checks and balances would be best served by having equal term limits for all elected city offices and allowing the voters to revisit this issue after a major change in the interpretation of the charter by the Supreme Court.

The City Council proposes to submit the proposed ballot question to amend the city charter to the city voters for consideration and final approval or disapproval at the November 3, 2020 general election.

THEREFORE, IT IS RESOLVED, that it is hereby proposed, pursuant to the provision of Act No. 279 of the Public Acts of Michigan, 1909, as amended that Sections 4.3(d) and 4.4 (d) of the Charter of the City of Warren which currently read:

Sec. 4.3 - Certain persons ineligible for city office.

(d) A person shall not be eligible to hold the office of mayor for more than the greater of five (5) complete terms or twenty (20) years. A person shall not be eligible to hold the position of city council, city clerk or city treasurer for more than the greater of three (3) complete terms or twelve (12) years in that office.

Sec. 4.4 - Terms of office.

(d) A person shall not be eligible to hold the office of mayor for more than the greater of five (5) complete terms or twenty (20) years. A person shall not be eligible to hold the position of city council, city clerk or city treasurer for more than the greater of three (3) complete terms or twelve (12) years in that particular office.

Shall, if approved by voters, be amended to read as follows:

Sec. 4.3 - Certain persons ineligible for city office.

(d) A person shall not be eligible to hold the office of mayor, city council, city clerk or city treasurer for more than the greater of three (3) complete terms or twelve (12) years in that office.

Sec. 4.4 - Terms of office.

(d) A person shall not be eligible to hold the office of mayor, city council, city clerk or city treasurer for more than the greater of three (3) complete terms or twelve (12) years in that particular office.

And the purposes of such proposed Charter Amendments shall be designated on the ballot to be submitted to the electorate as follows:

CITY CHARTER AMENDMENT

A PROPOSAL TO REQUIRE THE OFFICE OF MAYOR TO HAVE THE SAME TERM LIMITS AS THE OTHER CITY ELECTED OFFICES

The proposed amendment would require all city elected offices to have the same term limits of three (3) terms or twelve (12) years. Currently the office of mayor has a limit of five (5) terms or twenty (20) years and the offices of city council, clerk, and treasurer have a limit of (3) three terms or twelve (12) years. Any terms or years served prior to this amendment are included.

PROPOSAL: Should the office of mayor have the same term limits as the other city elected offices, which is the greater of three (3) complete terms or twelve (12) years?

YES _____

NO _____

IT IS FURTHER RESOLVED, that the proposed charter amendment shall be, and the same is hereby ordered to be, submitted to the qualified electors of the city at the General Election to be held in the City of Warren on November 3, 2020, and the City Clerk is hereby directed to give notice of the election and notice of registration therefore in the manner prescribed by law and to take all action necessary to submit such charter amendment to the vote of the electors as required by law.

AYES: Councilmembers Moore, Watts, Lafferty, Kabacinski, Rogensues,
Papandrea, Green

NAYS: Councilmembers None

RESOLUTION DECLARED ADOPTED this 30th Day of June, 2020 by a three-fifths vote of its membership pursuant to the authority granted by Act 279 of the Public Acts of 1909, as amended.

Mindy Moore

MINDY MOORE
Secretary of the Council

* CERTIFICATION

STATE OF MICHIGAN)
) ss.
COUNTY OF MACOMB)

I, SONJA BUFFA, duly elected City Clerk for the City of Warren, Macomb County, Michigan, certify that the foregoing is true and correct copy of the resolution adopted by the Council of the City of Warren at its meeting on June 30, 2020.

Sonja Buffa

* SONJA BUFFA
Clerk

*This action was subject to Mayoral VETO. Council voted to override the VETO on July 14, 2020.

City Charter Amendment

A proposal to require the office of mayor to have the same term limits as the other city elected offices

The proposed amendment would require all city elected offices to have the same term limits of three (3) terms or twelve (12) years. Currently the office of mayor has a limit of five (5) terms or twenty (20) years and the offices of city council, clerk, and treasurer have a limit of (3) three terms or twelve (12) years. Any terms or years served prior to this amendment are included.

PROPOSAL: Should the office of mayor have the same term limits as the other city elected offices, which is the greater of three (3) complete terms or twelve (12) years?



Sonja Buffa
Warren City Clerk



Election Results

Warren Charter Amendment

A proposal to require the office of mayor to have the same term limits as the other city elected offices

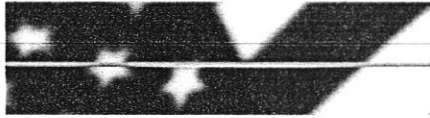
[PDF Full Proposal Text](#)

Official results, updated November 17, 10:59 PM

[Race List](#) | [Race Summary](#) | [Race Details](#) | [Race Details \(Printer Friendly\)](#)

| | | | |
|--|--------|-------|-------------|
| 49 of 49 (100.0%) precincts reporting* | | | |
| Yes | 41,319 | 67.8% | <div></div> |
| No | 19,626 | 32.2% | <div></div> |

*Please Note: A precinct will not display in the percent of precincts reporting until both election day and AV (absentee) results are recorded for that precinct.



Election Results

Warren Charter Amendment

A proposal to require the office of mayor to have the same term limits as the other city elected offices

Official results, updated November 17, 10:59 PM

[Race List](#) | [Race Summary](#) | [Race Details](#) | [Race Details \(Printer Friendly\)](#)

| | POLL BOOK TOTALS | No | | | Yes | | |
|--------|---------------------|--------|----------|--------|--------|----------|--------|
| | | AV | Elec Day | TOTAL | AV | Elec Day | TOTAL |
| WARREN | | | | | | | |
| 01 | 1,885 | 252 | 225 | 477 | 654 | 603 | 1,257 |
| 03 | 1,570 | 228 | 166 | 394 | 585 | 435 | 1,020 |
| 04 | 1,198 | 179 | 143 | 322 | 391 | 358 | 749 |
| 05 | 1,130 | 150 | 89 | 239 | 432 | 317 | 749 |
| 06 | 1,458 | 232 | 133 | 365 | 530 | 391 | 921 |
| 07 | 969 | 122 | 110 | 232 | 305 | 326 | 631 |
| 08 | 1,164 | 140 | 132 | 272 | 364 | 407 | 771 |
| 09 | 1,226 | 161 | 131 | 292 | 375 | 422 | 797 |
| 10 | 1,017 | 121 | 104 | 225 | 288 | 364 | 652 |
| 11 | 17 | 0 | 0 | 0 | 6 | 8 | 14 |
| 12 | 766 | 91 | 108 | 199 | 236 | 241 | 477 |
| 13 | 387 | 55 | 57 | 112 | 95 | 145 | 240 |
| 14 | 1,632 | 263 | 213 | 476 | 545 | 443 | 988 |
| 15 | 1,957 | 237 | 222 | 459 | 644 | 611 | 1,255 |
| 17 | 1,335 | 213 | 150 | 363 | 473 | 322 | 795 |
| 18 | 463 | 46 | 49 | 95 | 161 | 154 | 315 |
| 19 | 1,309 | 192 | 177 | 369 | 393 | 359 | 752 |
| 20 | 1,672 | 314 | 136 | 450 | 611 | 361 | 972 |
| 22 | 1,681 | 286 | 256 | 542 | 555 | 403 | 958 |
| 23 | 1,399 | 231 | 150 | 381 | 480 | 391 | 871 |
| 24 | 628 | 86 | 81 | 167 | 214 | 184 | 398 |
| 25 | 969 | 165 | 102 | 267 | 306 | 278 | 584 |
| 26 | 753 | 93 | 76 | 169 | 239 | 233 | 472 |
| 27 | 2,488 | 467 | 324 | 791 | 899 | 603 | 1,502 |
| 28 | 2,037 | 389 | 229 | 618 | 720 | 490 | 1,210 |
| 31 | 1,856 | 397 | 136 | 533 | 727 | 407 | 1,134 |
| 32 | 1,639 | 327 | 167 | 494 | 560 | 417 | 977 |
| 33 | 1,696 | 301 | 216 | 517 | 566 | 446 | 1,012 |
| 34 | 947 | 142 | 130 | 272 | 304 | 246 | 550 |
| 35 | 1,699 | 347 | 176 | 523 | 645 | 329 | 974 |
| 36 | 2,508 | 473 | 261 | 734 | 950 | 563 | 1,513 |
| 38 | 2,179 | 385 | 251 | 636 | 770 | 505 | 1,275 |
| 41 | 1,961 | 385 | 227 | 612 | 602 | 521 | 1,123 |
| 43 | 1,394 | 296 | 160 | 456 | 485 | 321 | 806 |
| 44 | 1,315 | 236 | 136 | 372 | 497 | 295 | 792 |
| 45 | 1,418 | 269 | 147 | 416 | 532 | 303 | 835 |
| 46 | 1,268 | 213 | 131 | 344 | 488 | 256 | 744 |
| 47 | 1,871 | 367 | 219 | 586 | 647 | 376 | 1,023 |
| 48 | 958 | 153 | 97 | 250 | 447 | 166 | 613 |
| 49 | 2,001 | 412 | 228 | 640 | 667 | 474 | 1,141 |
| 50 | 1,655 | 302 | 222 | 524 | 540 | 395 | 935 |
| 51 | 1,843 | 396 | 162 | 558 | 705 | 374 | 1,079 |
| 52 | 1,182 | 228 | 115 | 343 | 383 | 283 | 666 |
| 53 | 1,071 | 205 | 149 | 354 | 331 | 287 | 618 |
| 54 | 1,395 | 291 | 158 | 449 | 493 | 272 | 765 |
| 55 | 1,586 | 240 | 173 | 413 | 502 | 423 | 925 |
| 56 | 874 | 151 | 85 | 236 | 288 | 204 | 492 |
| 57 | 1,432 | 213 | 213 | 426 | 449 | 397 | 846 |
| 58 | 2,000 | 427 | 235 | 662 | 615 | 516 | 1,131 |
| 58,858 | | 11,869 | 7,757 | 19,626 | 23,694 | 17,625 | 41,319 |
| TOTALS | | | | | | | |
| 58,858 | | 11,869 | 7,757 | 19,626 | 23,694 | 17,625 | 41,319 |