



# Charter Review Committee

*City of Arts & Innovation*

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**TO: CHARTER REVIEW COMMITTEE MEMBERS      DATE: SEPTEMBER 9, 2019**

**FROM: CITY MANAGER'S OFFICE      WARDS: ALL**

**SUBJECT: BI-ANNUAL BUDGET LANGUAGE ADJUSTEMENTS; CLARIFICATION FOR CITY MANAGER RESPONSIBILITES; CLARIFICATION FOR CAPITAL PROJECTS; STREET TREE ADVISORY COMMITTEE RESPONSIBILTIES; AND CLARIFICATION FOR THE INTENT OF THE ANNUAL INDEPENDENT AUDIT**

**ISSUES:**

Amend the Charter to accommodate the bi-annual budget cycle; amend the Charter to clarify the City Manager's responsibilities; amend the Charter provide more meaningful fiscal reporting; amend the Charter to remove street tree purview from the Parks and Recreation Commission; Amend the Charter to clarify capital projects; and determine clarifying language for the Independent Audit.

**RECOMMENDATIONS:**

That the Charter Review Committee

1. Recommend that the City Council place proposed amendments on the November 3, 2020, ballot to:
  - a. Amend Charter Section 601(a) and (b) to accommodate the bi-annual budget cycle without excluding the possibility of an annual budget;
  - b. Amend Charter Section 601(e) to clarify the responsibility of the City Manager to enforce City Ordinances and Resolution;
  - c. Amend Charter Section 603 to allow with City Manager to obtain City Council approval of one or more officers or department heads to serve as manager pro tempore to allow for the timely ability to adapt to scheduling and other logistical changes;
  - d. Amend Charter Section 704(c) to adjust the language respective to the current practice for providing meaningful quarterly financial updates;

- e. Amend Charter Section 809(a) through (d) to change Landscape Tree reporting from reporting to the Park and Recreation Commission to the City Council;
  - f. Amend Charter Section 1101 to accommodate a bi-annual budget cycle without excluding the possibility of an annual budget;
  - g. Amend Charter Section 1103 to accommodate bi-annual budget cycle without excluding the possibility of an annual budget as well as create efficiencies through the use of electronic information formats;
  - h. Amend Charter Section 1104 and 1111 to further clarify appropriations for capital projects; and
2. Discuss Charter Section 113 to clarify the language to meet the intent of Independent Audit section.

## **DISCUSSION:**

Article VI City Manager, Section 601 Powers & Duties reads in part:

Notwithstanding the foregoing or any other provision of this Charter except Section 407, the City Council may adopt by ordinance, an employee appeal process which could affirm, overrule or modify a final administrative decision concerning an employee grievance and could provide that such action shall be final. Without limiting the foregoing general grant of powers, responsibilities and duties, the City Manager shall have the power and be required to:

- (a) Prepare the **annual** budget ~~annually~~, submit such budget to the City Council and be responsible for its administration after its adoption.
- (b) Prepare and submit to the City Council ~~annually~~ a five-year Capital Improvement Plan **in conjunction with the budget process**.
- (e) See that the laws of the State pertaining to the City, the provisions of this Charter and the ordinances **and resolutions** of the City are enforced,

This section update proposal is to accommodate bi-annual budget cycle without excluding the possibility of an annual budget. Further, in addition to enforcing ordinances, the City Manager is responsible for enforcing items adopted by resolution such as design guidelines, specific plans, the General Plan, etc.

Article VI City Manager, Section 603 Manager pro tempore reads:

The City Manager shall appoint **prior to the beginning of each fiscal year**, subject to the approval of the City Council, one **or more** of the other officers or department heads of the City to serve as manager pro tempore during any temporary absence or disability of the City Manager.

This section update proposal is to recognize the need to obtain City Council approval of one or

more officers or department heads to serve as manager pro tempore since approving only one does not allow the timely ability to adapt to scheduling and other logistical changes. The current practice entails providing the City Council with a monthly calendar of any dates that the City Manager is out of the office and identifying an Assistant City Manager, Deputy City Manager, or Department Head who will serve as "Acting City Manager" (i.e., manager pro tempore) during any absence.

Article VII Officers and Employees Generally Section 704.- Chief Financial Officer reads in part:

There shall be a Chief Financial Officer/Treasurer appointed by the City Manager with the approval of the City Council who shall have power and shall be required to:

- (c) Submit to the City Council a ~~monthly~~ **quarterly** summary report of financial activity in sufficient detail to show the ~~exact~~ financial condition of the City's major funds; and, as of the end of each fiscal year, submit a complete, audited Comprehensive Annual Financial Report.

This section update proposal is to adjust the language respective to the current practice for providing meaningful quarterly financial updates.

Article VIII Officers and Employees Generally Section 809.- Park and Recreation Commission reads in part:

There shall be a Park and Recreation Commission which shall have the power and duty to:

- (a) Act in an advisory capacity to the City Council in all matters pertaining to parks, recreation, parkways and ~~street~~ **park** trees.
- (b) Consider the annual budget for parks, recreation, parkways and ~~street~~ **park** tree purposes during the process of its preparation and make recommendations with respect thereto to the City Council and the City Manager.
- (c) Assist in the planning of parks and recreation programs for the inhabitants of the City, promote and stimulate public interest therein, and to that end solicit to the fullest extent possible the cooperation of school authorities and other public and private agencies interested therein.
- (d) Establish policies for the acquisition, development and improvement of parks and playgrounds and for the planting, care and removal of **park** trees and shrubs in all parks, **and** playgrounds ~~and streets~~, subject to the rights and powers of the City Council.

This section update proposal is to change Landscape Tree reporting from reporting to the Park and Recreation Commission to the City Council.

Article XI Fiscal Administration Section 1101. – Budget—Submission to Council; notice of public hearing reads in part:

At least thirty-five calendar days prior to the beginning of ~~each~~ **the first** fiscal year **of an adopted budget cycle**, the City Manager shall provide to the City Council in writing a proposed budget containing estimates of revenues and expenditures for each City department, office, agency, or fund, as appropriate. After reviewing the same, or at an earlier

time if so desired, the City Council shall determine the time for the holding of a public hearing thereon and shall cause to be published a notice thereof not less than twenty days prior to said hearing, by at least one insertion in a newspaper of general circulation within the City.

This section update proposal is to accommodate a bi-annual budget cycle without excluding the possibility of an annual budget.

Article XI Fiscal Administration Section 1103. - Same—Further consideration, revision and adoption; availability to departments, etc. reads in part:

After the conclusion of the public hearing, the City Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable and on or before the day preceding the start of the **first** fiscal year **of the adoptive budget cycle**, it shall adopt the budget.

A copy of the adopted budget shall be placed, and shall remain on file, in the office of the City Clerk and ~~copies shall be placed in all the public libraries in the City where they shall be available for public inspection, and a copy shall be placed on the City's accessible website where it is available for public inspection and for the use of departments, offices, and agencies of the City. The budget shall be reproduced and copies made available for the use of departments, offices and agencies of the City.~~

This section update proposal is to accommodate bi-annual budget cycle without excluding the possibility of an annual budget as well as create efficiencies through the use of electronic information formats to reduce production costs.

Article XI Fiscal Administration Section 1104. - Same—Appropriations; transfer of funds. reads in part:

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments, offices, agencies, and funds for the respective objects and purposes therein named. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered, except for appropriations for **City Council approved** capital projects which shall continue to the completion of the capital projects unless a different rule has been established by action of the City Council.

This section update proposal is requested to further clarify appropriations for capital projects.

Article XI Fiscal Administration Section 1111. - Capital projects funds. reads in part:

- (b) ~~A~~City Council-approved capital project **and funding** shall remain for the established purpose and the appropriations therein shall carry over to the completion of each project, as set forth in Section 1104. When a capital project has been completed, the City Council may transfer any unexpended or unencumbered budget to any account similarly restricted.

This section update proposal is requested to further clarify capital project funds.

Article XI Fiscal Administration Section 1113. - Independent audit. reads in part:

The City Council shall employ, at the beginning of each fiscal year, a qualified public accountant who shall, at such time or times as may be specified by the City Council, and at such times as such accountant shall determine, examine the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds and of such other officers, employees or departments as the City Council may direct. As soon as practicable after the end of the fiscal year, a final audit and report shall be submitted by such accountant to the City Council, with copies to be placed on file in the Office of the City Clerk and on the City's accessible website where they shall be available for inspection by the general public. At least every five years, the City Council shall employ a qualified public accountant different from the qualified public accountant who submitted the immediately preceding year's audit report.

This proposal is seeking clarifying language to the intent of this section. This section may imply that it is referring to a person or a partner on the audit or the CPA firm. The intent may be that the partner should be rotated off every 5 years similar to SEC public entities. The City would still go out for RFP every 5 years for a firm but could still chose the same firm knowing that the partner would have to be different after 5 years on the City's audit.

California Assembly Bill 1345 Section 12410.6 (b) (AB 1345) states, "Commencing with the 2013-14 fiscal year, a local agency shall not employ a public accounting firm to provide audit services to a local agency if the lead audit partner or coordinating audit partner having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for that local agency for six consecutive fiscal years."

**FISCAL IMPACT:**

The fiscal impacts associated with the proposed language changes and clarification are unknown.

Prepared by: Al Zelinka, City Manager  
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