



Charter Review Committee

City of Arts & Innovation

TO: CHARTER REVIEW COMMITTEE MEMBERS DATE: January 13, 2019
FROM: CITY ATTORNEY'S OFFICE WARDS: ALL
SUBJECT: MAYORAL VOTE; MAYOR'S INTERPRETATION OF POLICY AND
COMMENTS MADE BY COUNCILMEMBER CHUCK CONDER

ISSUE:

Consider comments made by Councilmember Chuck Conder and whether the Mayor shall have the primary but not exclusive responsibility for interpreting the policies of the City, as set forth in Section 405 of the City Charter.

RECOMMENDATION:

That the Charter Review Committee:

1. Consider the comments raised by Councilmember Chuck Conder and direct staff to present for Committee review any revisions to the previously approved ballot measure to address such comment; and
2. Consider whether the Mayor shall have the primary but not exclusive responsibility for interpreting the policies of the City, as set forth in Section 405 of the City Charter and direct staff to present for Committee review any revisions to the previously approved ballot measure.

BACKGROUND:

On December 9, 2019, the Charter Review Committee discussed and approved amending the Charter to give the Mayor a vote, change the definition of "City Council" to include seven councilmembers and the Mayor, eliminate the Mayor's veto and tie-vote, and increase the number of City Council votes required to adopt ordinances and resolutions, including emergency ordinances and resolutions, and to waive competitive bidding requirements for certain public works contracts. The Committee approved certain amendments to the Charter and a proposed ballot measure.

On December 9, 2019, Councilmember Chuck Conder submitted emailed comments to the Committee regarding the proposed ballot amendment. Attached to this report are Councilmember Conder's comments.

The following table includes the current Charter language in the left column, and the amended language approved by the Charter Review Committee on December 9, 2019. The section regarding the Mayor’s interpretation of policy has been put in bold language and underlined in the right column:

<p><u>Sec. 400. Enumerated; number, term and manner of election; wards.</u></p> <p>(a) The elective officers of the City shall consist of a City Council of seven members, elected from wards, and a Mayor elected from the City at large, at the times and in the manner provided in this Charter, who shall serve for a term of four years and until their respective successors qualify. The terms of all officials, so elected, shall be deemed to have commenced on the fifth Tuesday following the general municipal election.</p> <p>(b) The members of the City Council shall be elected by wards by the registered voters of the respective wards only. One member of the City Council shall be elected by each ward, and only the registered voters of each ward shall vote for the member of the City Council to be elected by that ward. In those wards where there are more than two candidates, only a candidate receiving a majority of the total votes cast for the office shall be declared elected.</p> <p>[. . .]</p>	<p><u>Sec. 400. Enumerated; number, term and manner of elections; wards.</u></p> <p>(a) The elective officers of the City shall consist of a <u>There shall be a</u> City Council <u>consisting of a Mayor elected from the City at large, and</u> seven members elected from wards, and a Mayor elected from the City at large, at the times and in the manner provided in this Charter, who shall serve for a term of four years and until their respective successors qualify. The terms of all officials, so elected, shall be deemed to have commenced on the fifth Tuesday following the general municipal election.</p> <p>(b) The members of the City Council, <u>except for the Mayor,</u> shall be elected by wards by the registered voters of the respective wards only. One member of the City Council, <u>except for the Mayor,</u> shall be elected by each ward, and only the registered voters of each ward shall vote for the member of the City Council to be elected by that ward. In those wards where there are more than two candidates, only a candidate receiving a majority of the total votes cast for the office shall be declared elected.</p> <p>[. . .]</p>
<p><u>Sec. 401. Eligibility to hold the office; member of the City Council; Mayor.</u></p> <p>(a) A person is not eligible to hold the office of a member of the City Council of the City of Riverside unless such person is a qualified elector within the territory comprising the ward by which such person is elected or for which such person is appointed at the time of such election or appointment and continues to be a qualified elector of said ward.</p> <p>If the residence of any member of the City Council is changed to a place outside the boundaries of the ward from which such member was elected or for which such member was</p>	<p><u>Sec. 401. Eligibility to hold the office; member of the City Council; Mayor.</u></p> <p>(a) A person is not eligible to hold the office of a member of the City Council of the City of Riverside, <u>except for the Mayor,</u> unless such person is a qualified elector within the territory comprising the ward by which such person is elected or for which such person is appointed at the time of such election or appointment and continues to be a qualified elector of said ward.</p> <p>If the residence of any member of the City Council, <u>except for the Mayor,</u> is changed to a place outside the boundaries of the ward from which such member was elected or for which</p>

<p>appointed, the office of such member shall become vacant. The existence of the vacancy shall be declared and filled as provided by Section 404 of this Charter.</p> <p>[. . .]</p>	<p>such member was appointed, the office of such member shall become vacant. The existence of the vacancy shall be declared and filled as provided by Section 404 of this Charter.</p> <p>[. . .]</p>
<p><u>Sec. 403. Compensation.</u></p> <p>The Mayor and members of the City Council shall receive compensation for their services as such, and in addition, when on official duty, shall receive reimbursement for their necessary expenses on order of the City Council. In January of every odd-numbered year, the City Council shall review the compensation including salary and benefits, of the Mayor and members of the City Council, and shall establish any increase in compensation of the Mayor and/or the members of the City Council. No increase in salary shall exceed 5 percent of their then-existing salary. Compensation shall be fixed by ordinance, adopted by not fewer than five affirmative votes of the City Council, after a noticed, public hearing, notice of which has been given by publication at least fourteen days prior to such hearing.</p> <p>Once a level of compensation for City Council members and the Mayor is established, such level will not be permitted to change automatically by linking such compensation to internal or external factors.</p>	<p><u>Sec. 403. Compensation.</u></p> <p>The Mayor and members of the City Council shall receive compensation for their services as such, and in addition, when on official duty, shall receive reimbursement for their necessary expenses on order of the City Council. In January of every odd-numbered year, the City Council shall review the compensation including salary and benefits, of the Mayor and members of the City Council, and shall establish any increase in compensation of the Mayor and/or the members of the City Council. No increase in salary shall exceed 5 percent of their then-existing salary. Compensation shall be fixed by ordinance, adopted by not fewer than five <u>six</u> affirmative votes of the City Council, after a noticed, public hearing, notice of which has been given by publication at least fourteen days prior to such hearing.</p> <p>Once a level of compensation for City Council members and the Mayor is established, such level will not be permitted to change automatically by linking such compensation to internal or external factors.</p>
<p><u>Sec. 405. Duties of Mayor; Mayor Pro Tempore; Council tie—Mayor’s vote</u></p> <p>The Mayor shall be the presiding officer at all meetings of the City Council and shall have a voice in all its proceedings but shall not vote except to break a City Council tie-vote which exists for any cause. The Mayor shall be the official head of the City for all ceremonial purposes. <u>The Mayor shall have the primary but not exclusive responsibility for interpreting the policies, programs and needs of the City government to the people, and of informing the people of any major change in policy or program.</u> The Mayor shall advise the City Council on all matters of policy and public relations and perform such other duties as may be prescribed by this Charter. During the months</p>	<p><u>Sec. 405. Duties of Mayor; Mayor Pro Tempore; Council tie—Mayor’s vote</u></p> <p>The Mayor shall be <u>a voting member of the City Council and</u> the presiding officer at all meetings of the City Council and shall have a voice in all its proceedings but shall not vote except to break a City Council tie-vote which exists for any cause. The Mayor shall be the official head of the City for all ceremonial purposes. <u>The Mayor shall have the primary but not exclusive responsibility for interpreting the policies, programs and needs of the City government to the people, and of informing the people of any major change in policy or program.</u> The Mayor shall advise the City Council on all matters of policy and public relations and perform such other duties as may</p>

of January or February, the Mayor shall deliver a State of the City message at any location within the City that the Mayor deems appropriate at which the Mayor will present the Mayor's programs, objectives and priorities.

The City Council shall designate one of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. In the absence of the Mayor, the Mayor Pro Tempore shall assume the duties of the Mayor. The Mayor Pro Tempore shall conduct the Council meetings and shall vote only as a member of the Council, not as Mayor Pro Tempore. In the event of a tie vote, the Mayor Pro Tempore shall not have a tie-breaking vote and Council vote shall be recorded as a negative or "nay" vote. With regards to the veto power, the Mayor Pro Tempore shall not have the power to veto acts of the City Council.

Notwithstanding any other provisions of this Charter, when a tie-vote exists for any cause, in order to break that tie, the Mayor shall have the same voting right as a member of the City Council for or against the item before City Council. The Mayor's vote shall be deemed a City Council member's vote for all purposes, including the introduction or adoption of both ordinances and resolutions.

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Sec. 413. Adoption of ordinances and resolutions.

With the sole exception of ordinances which take effect upon adoption, referred to in this Article, no ordinance shall be adopted by the City Council on the day of its introduction, nor within five days thereafter nor at any time other than at a regular or adjourned regular meeting. At the time of its introduction an ordinance shall become a part of the proceedings of such meeting in the custody of the City Clerk. At the time of adoption of an ordinance or resolution it shall be read in full, unless after the reading of the title thereof, the further reading thereof is waived by unanimous consent of the Council members present. In the event that any ordinance is altered after its introduction, the same shall not be finally adopted except at a regular or adjourned regular meeting held not

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less than five days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

Unless a higher vote is required by other provisions of this Charter, the affirmative votes of at least four members of the City Council shall be required for the adoption of any ordinance or resolution.

Any ordinance declared by the City Council to be necessary as an emergency measure for preserving the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least five affirmative votes.

At any time before the adjournment of a meeting, the Mayor may, by public declaration spread upon the minutes of the meeting, veto any formal action taken by vote of the City Council including any ordinance or resolution, except an emergency ordinance, the annual budget or an ordinance proposed by initiative petition. Thereupon, pending the vote to override the veto as herein provided, such ordinance, resolution or action shall be deemed neither approved nor adopted. The Mayor shall, no more than twenty days following the veto, provide to Council members, in writing, reasons for the Mayor's veto. If the Mayor fails to provide a written veto message within the time allotted, the original action of the Council shall stand. At any regular or adjourned meeting held not less than thirty days, nor more than sixty days after veto the City Council shall reconsider such ordinance, resolution or action and vote on the question of overriding the veto. Five affirmative votes shall be required for its adoption or approval. The Mayor shall have no right to veto the veto override of any ordinance, resolution or action.

All ordinances and resolutions shall be signed by the Mayor and attested by the City Clerk.

Sec. 802. Appointments; terms.

The members of each such board or commission

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Unless a higher vote is required by other provisions of this Charter, the affirmative votes of at least ~~four~~ five members of the City Council shall be required for the adoption of any ordinance or resolution.

Any ordinance declared by the City Council to be necessary as an emergency measure for preserving the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least ~~five~~ six affirmative votes.

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All ordinances and resolutions shall be signed by the Mayor and attested by the City Clerk.

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The members of each such board or commission

<p>shall serve at the pleasure of the Mayor and City Council and shall be nominated and appointed by the Mayor and City Council from the qualified electors of the City, none of whom shall hold any paid office or employment in the City government. Each such board or commission shall have at least one member from each Council ward. They shall be subject to removal by the Mayor and City Council by a motion adopted by five affirmative votes with the Mayor entitled to vote. The members thereof shall serve for a term of four years and until their respective successors are appointed and qualified, and may serve for not more than two consecutive full terms.</p>	<p>shall serve at the pleasure of the Mayor and City Council and shall be nominated and appointed by the Mayor and City Council from the qualified electors of the City, none of whom shall hold any paid office or employment in the City government. Each such board or commission shall have at least one member from each Council ward. They shall be subject to removal by the Mayor and City Council by a motion adopted by five <u>six</u> affirmative votes with the Mayor entitled to vote. The members thereof shall serve for a term of four years and until their respective successors are appointed and qualified, and may serve for not more than two consecutive full terms.</p>
<p><u>Sec. 805. - Compensation; vacancies.</u></p> <p>The members of boards and commissions shall serve without compensation for their services as such, but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the City Council.</p> <p>Any vacancies in any board or commission, from whatever cause arising, shall be filled by the Mayor and City Council with the Mayor entitled to vote on any such appointment. Upon vacancy occurring leaving an unexpired portion of a term, any appointment to fill such a vacancy shall be for the unexpired portion of such term. If a member of a board or commission absents himself/herself from three consecutive regular meetings of such board or commission, unless by permission of such board or commission expressed in its official minutes, or is convicted of a crime of moral turpitude, or ceases to be a qualified elector of the City, the office shall become vacant and shall be so declared by the City Council. If a position on an enumerated board or commission has remained vacant for sixty days, the Mayor shall appoint a person to fill the vacancy in accordance with Section 803.</p>	<p><u>Sec. 805. - Compensation; vacancies.</u></p> <p>The members of boards and commissions shall serve without compensation for their services as such, but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the City Council.</p> <p>Any vacancies in any board or commission, from whatever cause arising, shall be filled by the Mayor and City Council with the Mayor entitled to vote on any such appointment. Upon vacancy occurring leaving an unexpired portion of a term, any appointment to fill such a vacancy shall be for the unexpired portion of such term. If a member of a board or commission absents himself/herself from three consecutive regular meetings of such board or commission, unless by permission of such board or commission expressed in its official minutes, or is convicted of a crime of moral turpitude, or ceases to be a qualified elector of the City, the office shall become vacant and shall be so declared by the City Council. If a position on an enumerated board or commission has remained vacant for sixty days, the Mayor shall appoint a person to fill the vacancy in accordance with Section 803.</p>
<p><u>Sec. 1109. Public works contracts.</u></p> <p>Every project for the construction and/or improvement of public buildings, works, streets, drains, sewers, utilities, parks or playgrounds,</p>	<p><u>Sec. 1109. Public works contracts.</u></p> <p>Every project for the construction and/or improvement of public buildings, works, streets, drains, sewers, utilities, parks or playgrounds,</p>

and every purchase of supplies or materials for any such project, when the total expenditures required for the same exceed \$50,000 shall be let by the City Council or by the Board of Public Utilities pursuant to Section 1202(b), by contract to the lowest responsible bidder after notice by publication in a newspaper of general circulation within the City by one or more insertions, the first of which shall be at least ten days before the time for opening bids. Projects for the maintenance or repair of streets, drains or sewers are excepted from the requirements of this section if the City Council determines that such work can be performed more economically by a City department than by contracting for the doing of such work.

All bids shall be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the City, or such other form of bidder's security as the City Council establishes by ordinance. Such security shall be in an amount not less than that specified in the notice inviting bids or in an amount not less than ten percent of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract, within the time specified in the notice inviting bids or in the specifications referred to therein, the amount of the bidder's security shall be declared forfeited to the City and shall be collected and paid into its general fund, and all bonds so forfeited shall be prosecuted and the amount thereof collected and paid into such fund.

The City Council or Board of Public Utilities pursuant to Section 1202(b) may reject any and all bids presented and may readvertise in its discretion.

The City Council, without advertising for bids, or after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the City Manager, the work in question may be performed better or more economically by the City with its own employees or the supplies or materials may be purchased more economically on the open market, and after the adoption of a resolution to that effect by at least five affirmative

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<p>votes of the City Council may proceed to have said work done or said supplies or materials purchased in the manner stated, without further observance of the provisions of this section. Such contracts likewise may be let without advertising for bids if such work or supplies or materials shall be deemed by the City Council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by resolution passed by at least five affirmative votes of the City Council and containing a declaration of the facts constituting such urgency.</p> <p>Projects for the construction and/or improvement of any public utility operated by the City or for the purchase of supplies or equipment for any such utility may be excepted from the requirements of this section, provided the City Council so determines by at least five affirmative votes.</p>	<p>affirmative votes of the City Council may proceed to have said work done or said supplies or materials purchased in the manner stated, without further observance of the provisions of this section. Such contracts likewise may be let without advertising for bids if such work or supplies or materials shall be deemed by the City Council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by resolution passed by at least five <u>six</u> affirmative votes of the City Council and containing a declaration of the facts constituting such urgency.</p> <p>Projects for the construction and/or improvement of any public utility operated by the City or for the purchase of supplies or equipment for any such utility may be excepted from the requirements of this section, provided the City Council so determines by at least five <u>six</u> affirmative votes.</p>
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Here is the proposed ballot measure that was approved by the Committee on December 9, 2019:

MEASURE ____

Shall the Charter of the City of Riverside be amended to give the Mayor a vote, change the definition of "City Council" to include seven councilmembers and the Mayor, eliminate the Mayor's veto and tie-breaking vote, increase the number of City Council votes required to fix City Council compensation by ordinance from five votes to six votes, increase the number of City Council votes required to adopt an ordinance or resolution from four votes to five votes, increase the number of City Council votes required to adopt an emergency ordinance or resolution from five votes to six votes, and increase the number of City Council votes required to adopt a resolution waiving competitive bidding requirements for certain public works contracts from five votes to six votes?

FISCAL IMPACT:

None.

Prepared by: Susan Wilson, Assistant City Attorney
 Elliot Min, Deputy City Attorney

Approved as to form: Gary G. Geuss, City Attorney

Attachment: December 9, 2019 email from Councilmember Chuck Conder