



City of Arts & Innovation

Charter Review Committee Memorandum

TO: CHARTER REVIEW COMMITTEE

DATE: NOVEMBER 18, 2019

FROM: CITY ATTORNEY'S OFFICE

WARDS: ALL

SUBJECT: MAYORAL VOTE

ISSUE:

Provide staff with direction as to a ballot measure regarding the Mayoral vote.

RECOMMENDATION:

Provide staff with direction as to a ballot measure regarding the Mayoral vote.

BACKGROUND:

At the October 21, 2019, meeting of the Charter Review Committee, the committee voted to consider recommending a ballot measure that would give the Mayor a vote and remove the veto power from the Mayor's powers.

The next step for staff is to prepare a draft red-line of the appropriate sections of City Charter, with the necessary language to give the Mayor a vote, remove the mayoral veto, and remove all conflicting provisions, for review by the Committee. Staff has reviewed the City Charter, in its entirety, for all references to the Mayor and mayoral powers, and has divided the references into the following five categories:

1. Sections where the Mayor has powers or duties that are different from the City Council's.
2. Sections related to the Mayoral veto.
3. Sections where no changes are required, if the definition of "City Council" is changed to include the Mayor, similar to the City of Pasadena's definition of City Council ("There shall be a City Council consisting of a Mayor and seven Councilmembers").
4. Sections which require a specific number of votes to take an action, which is either four or five affirmative votes of Councilmembers.
5. New sections to give the Mayor additional powers

As described herein, staff is asking for specific direction from the Committee as to what will be included in the ballot measure. For reference, staff has again included information from Pasadena regarding the Pasadena Charter amendment giving their mayor a vote.

Sections where the Mayor has powers or duties different from the City Council's.

1.	Charter section 405 provides: "The Mayor shall be the presiding officer at all meetings of the City Council."	<u>Question:</u> Should the Mayor continue to be the presiding officer at all meetings of the City Council?
2.	Charter section 405 provides: "The Mayor shall be the official head of the City for all ceremonial purposes."	<u>Question:</u> Should the Mayor continue to be the official head of the City for all ceremonial purposes?
3.	Charter section 405 provides that the Mayor shall "have the primary but not the 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>Question:</u> Should the Mayor continue to have this responsibility?
4.	Charter section 405 provides: "during the months 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."	<u>Question:</u> Should the Mayor continue to deliver the State of the City message?
5.	Charter section 405 provides: "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.	<u>Question:</u> Should the City Council continue to designate one of its members to act as Mayor Pro Tempore?
6.	Charter section 409 provides that if City Council meetings cannot be held in a designated area for safety reasons, "the meetings may be held for the duration of the emergency at such place as is designated by the Mayor, or, if the Mayor should fail to act, by four members of the	<u>Question:</u> Should the Mayor continue to have the ability to designate the location for emergency locations?

	City Council.”	
7.	Charter section 419 provides: “The City shall not be bound by any contract except as hereinafter provided unless the same shall be made in writing, approved by the City Council and signed on behalf of the City by the Mayor and City Clerk or by such other officer or officers as shall be designated by the City Council. Any of said officers shall sign a contract on behalf of the City when directed to do so by the City Council.”	<p><u>Question:</u> Should all City contracts continue to be signed by the Mayor?</p> <p>[Current practice has been that the City Council authorizes the City manager to execute all agreements.]</p>
8.	Charter section 805 provides: “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><u>Question:</u> Should the Mayor continue to be able to fill positions on appointed boards and commissions, where the position has remained vacant for 60 days?</p>

Sections related to the Mayoral Veto

Section 413, “Adoption of ordinances and resolutions”, provides, in part, the following:

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.

Question: Should this section be deleted, in its entirety?

Sections where no changes are required, if the definition of "City Council" is changed to include the Mayor or specific references to the Mayor are deleted

The following sections either require no changes, if "City Council" is defined to include the Mayor and all City Councilmembers or specific references to the mayor should be deleted, as appropriate:

1. Section 401, Eligibility to hold the office; member of the City Council; Mayor
2. Section 403, "Compensation"
3. Section 404, "Vacancies"
4. Section 407, "Interference in administrative service."
5. Section 408, "Meetings"
6. Section 412, "Powers of Council and Mayor; additional"
7. Section 418, "Contracts—Restriction on duration."
8. Section 600, Creation of office; appointment; tenure; eligibility of elective officers"
9. Section 601, "Powers and duties (of City Manager)"
10. Section 603, "Manager pro tempore"
11. Section 700, "Appointment of City Attorney and City Clerk by Council; tenure"
12. Section 701, "Organization of City operations and activities"
13. Section 702, "Eligibility, powers and duties of City Attorney"
14. Section 703, "Powers and duties of City Clerk."
15. Section 704, "Chief Financial Officer/Treasurer."
16. Section 707, "Appointive powers of department heads."
17. Section 709, "Nepotism."
18. Sections 800 to 810 (but not Section 805), "Appointive Boards and Commissions"
19. Section 900, "Personnel Merit System"
20. Section 1000, "Retirement"
21. Sections 1100 – 1114, "Fiscal Administration", except for Sections 1104, "Same—Appropriations; transfer of funds" and 1109, "Public Works Contracts"
22. Section 1300-1303, "Franchises"

Votes of at least Five Council members

Here are the specific provisions of the City Charter:

1. Section 413, "Adoption of ordinances and resolutions", provides that four affirmative votes are needed to adopt an ordinance or resolution and that five affirmative votes are needed to to adopt an emergency ordinance.
2. Section 1104, "Appropriations; transfer of funds", that five affirmative votes are needed to amend or supplement the annual budget, which would require the transfer of unused funds between departments or to appropriate available funds not yet included in the budget.

3. Section 1109, "Public Works Contracts", provides that five affirmative votes are needed for certain exceptions to competitive bidding requirements for public works construction projects.

City staff is reviewing state law to confirm that these voting requirements are set by specific provisions of state law, and the City cannot vary such voting requirements in the Charter.

Additional Mayor Powers

The Committee also discussed and directed staff to prepare a report on potential new powers including Mayor's ability to make appointments to regional bodies, City Council Standing Committees, boards and commissions; and submittal of the City budget through the Mayor to the City Council.

Appointments to Regional Boards/Standing Committees

The Charter is silent as to how appointments are made to regional boards and City Council Standing Committees. The City Council has addressed this through their procedural rules. Under the current rules, following an election, the Mayor's Nominating and Screening Committee considers reorganization and City Councilmembers forward their preferences to the Mayor's Nominating and Screening Committee. That committee then makes non-binding recommendations to the City Council. The City Council honors the preferences of senior elected officials but can appoint non-senior member by five affirmative votes. Preferences are forwarded to the Mayor's Nominating and Screening Committee. (City Council Resolution No. 23437, Article XIII, Section A.)

Appointments to Boards and Commissions

Section 802 of the Charter provides that members of boards and commissions are nominated and appointed by the Mayor and the City Council. The City Council has addressed the process for such nominations and appointments in their meeting rules, setting requirements for who makes nominations, what votes are required, ad hoc committees, etc. (City Council Resolution No. 23437, Article XIV.)

Submission of Budget

Section 1101 of the City Charter provides that the City Manager submits a proposed budget to the City Council at least 35 calendar days prior to the beginning of the fiscal year. A Charter change would be required to change such requirement to the Mayor and then to the City Council.

FISCAL IMPACT:

None.

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

Attachments: 1987 Pasadena Charter Study Committee Report and Recommendations
September 25, 2019 letter from Pasadena Mayor Terry Tonrek

Resolution No. 23437, City Council Rules of Procedure