

2019 CHARTER REVIEW COMMITTEE MEETING MINUTES

The 2019 City Charter Review Task Force held a meeting on Tuesday, September 17, 2019, at 4:00 p.m. in the 4th Floor Conference Room at City Hall.

Members present: Chairman Jason Horn, Ken Beck, Donna Jean Boyer, Jeanne Daffron, Derek Evans, Michael Grimm, Rick Hope, Kevin Kelly, Joseph Marraud, Byron Myers Sr., John Reese and Frank Still.

Members absent: Vice Chairman John Spencer and Brett Carolus.

City officials present: Bryan Carter, City Attorney; and Paula Heyde, City Clerk.

Agenda Item #1 - Call to Order. Jason Horn, Chairman, called the meeting to order.

Agenda Item #2 – Approval of minutes from the August 20, 2019 meeting. Ken Beck made a motion to approve the minutes of the August 20, 2019 meeting. Second by Byron Myers Sr. Motion carried (12-0).

Agenda Item #3 – Review and discuss Committee’s recommendation to the City Council. A copy of a Memorandum from Bryan Carter, City Attorney, and Paula Heyde, City Clerk, entitled “Revised Charter Provisions” dated September 6, 2019, was provided to the Committee.

Agenda Item #3 –Final approval of recommendation to the City Council. Mr. Beck made a motion to approve the Memorandum as written. Second by Kevin Kelly. Motion carried (12-0).

Chairman Horn said he will present the Committee’s recommendation to the Council at a future Council work session.

The Committee will be notified when the Council work session is scheduled.

By general consent, the meeting was adjourned at 4:07 p.m.



Minutes transcribed by Paula Heyde, CMC, City Clerk.

2019 SEP 19 AM 11:29

CITY CLERK

MEMORANDUM

TO: 2019 Charter Review Committee

FROM: Bryan Carter, City Attorney
Paula Heyde, City Clerk

DATE: September 6, 2019

SUBJECT: Revised Charter Provisions

Following are proposed revisions to the City Charter based on motions made during the 2019 Charter Review Committee's meetings. The motions upon which the revisions are based are in headers above each proposed revision. Proposed additions are indicated by underlined bold text (**Example**) and proposed deletions are indicated by bold text with a strike (~~Example~~).

Review of the Charter is ongoing to identify other provisions that may need modified to accommodate the changes proposed by the Committee.

Sec. 3.2(a) "Composition" - Mr. Kelly made a motion that the Committee's recommendation is to reduce the number of districts in the City of St. Joseph from five and increasing the at-large members by the same number. Second by John Spencer. Motion carried. Vote: Ayes, Carolus, Daffron, Evans, Horn, Kelly, Spencer, Still--7; Nay, Beck, Boyer, Grimm, Hope, Myers, Reese-6.

Sec. 3.2(c) "Election and terms" - Mr. Hope made a motion that the Committee propose staggered terms. Second by John Reese. Motion carried. (Vote: Ayes, Beck, Daffron, Evans, Grimm, Hope, Horn, Kelly, Reese, Still--9; Nay, Boyer--1).

Sec. 3.2. Composition, eligibility, election and terms.

(a) *Composition.* **Beginning when the municipal general election is held in 2022,** there shall be a City Council which shall consist of nine (9) members, being a Mayor and ~~three (3)~~ [] Councilmembers, nominated and elected by the qualified voters of the City at large and one (1) Councilmember to be nominated and elected from each of the ~~five (5)~~ [] Council districts herein provided, by the qualified voters of each respective district. Unless otherwise clearly indicated by the context, the terms "Councilmembers" and "Councilmember" as used in this Charter shall be deemed to include the Mayor as well as other Councilmembers.

(b) *Eligibility.* All Councilmembers shall be a qualified voter of the City and shall have been a resident of the City for at least one year immediately prior to his/her election. It is further provided that a district Councilmember shall be a resident of his/her district at least six (6) months prior to his/her election. If a district Councilmember changes residence from his/her district during their term, then it shall be deemed that they have vacated their office and the Council shall by ordinance declare the office vacated and their unexpired term shall be filled pursuant to Section 3.6(c).

(c) *Election and terms.* ~~Members of the Council shall be elected at each regular election to serve concurrent four (4) year terms. All Members of the Council shall be elected during the general election held in 2022. The Mayor, [] at large Councilmembers, and [] district Councilmembers shall be elected for a term of four years and [] at large Councilmembers and [] district Councilmember[s] shall be elected for a term of two years. Following the terms established during the general election held in 2022, subsequently-elected Councilmembers shall be elected to serve concurrent staggered four (4) year terms in such a manner that the Mayor, [] at large Councilmembers, and [] district Councilmembers shall be elected to four (4) year terms every fourth year and [] at large Councilmembers and [] district Councilmembers shall be elected to four (4) year terms two years thereafter.~~ Members of the Council shall serve until his/her successor shall be elected and qualified.

The [] at large Councilmember[s] receiving the most votes during the 2022 general election shall be elected for four (4) year terms and the remaining at large Councilmember[s] elected during the 2022 general election shall be elected for /a/ two (2) year term[s].

Prior to June 30, 2021, a lottery shall be conducted in a manner established by resolution or ordinance to determine which [] districts' Councilmembers shall be elected for two (2) year terms during the general election held in 2022.

(d) *Council districts.* **Beginning when the general election is held in 2022,** for the purpose of electing district Councilmembers, the City shall be divided in ~~five (5)~~ [] districts. Each district shall be entitled to elect one (1) member of the Council. ~~The boundaries of such districts shall be initially fixed by the Council according to the following plan:~~

~~District I First Ward Precinct A Precinct B Second Ward Precinct A Precinct B Third Ward Precinct A Fourth Ward Precinct C Eleventh Ward Precinct B District II Fourth Ward Precinct B Fifth Ward Precinct B Sixth Ward Precinct A Precinct B (portion)* Seventh Ward Precinct C District III Seventh Ward Precinct E Eighth Ward Precinct C Ninth Ward Precinct B Precinct C Tenth Ward Precinct A Precinct B District IV Twelfth Ward Precinct B Fifteenth Ward Precinct C Precinct D District V Sixth Ward Precinct B (portion)* Eighth Ward Precinct D Twelfth Ward Precinct A Thirteenth Ward Precinct A Precinct B~~

Upon the adoption of any Charter amendment extending the City limits, the Council shall adopt a new and revised plan of redistricting, formulated in the manner hereinbefore provided, at such time as shall permit residents of the annexed areas to have the opportunity to vote at the next succeeding **primary and [the preceding edit should only be made if primary elections are eliminated]** City election following the effective date of such extension and, in order that the population of the several Council districts thus defined shall remain substantially equal, the Council shall adopt a new and revised plan of

redistricting, based upon the last official federal census, and formulated in the manner hereinbefore provided, not later than the first day of January of the year following the federal census and not later than the first day of January each fifth year thereafter; provided, however, that except in years following the publication of said census, the Council may utilize reasonably accurate and current population estimates in addition to the population figures contained in such census, in determining the population of the city and of the several Council districts. **Redistricting based upon the official federal census conducted in 2020 shall be effective for the general election held in 2022.**

Sec. 3.6(b) "Forfeiture of office" - Chairman Horn made a motion that no more than six meetings can be missed in a calendar year with a super majority of the Council required to remain in office on the seventh absence (regardless of the reason for the absences). Second by Mr. Hope. Motion carried. (Vote: Ayes, Beck, Daffron, Evans, Grimm, Hope, Horn, Kelly, Reese, Still—9; Nay, Boyer--1).

Sec. 3.6. Vacancies; forfeiture of office; filling of vacancies.

(a) Vacancies. The office of a member of the Council shall become vacant upon his/her death, resignation, removal from office in any manner authorized by law, or forfeiture of his/her office. In the case of a district Councilmember, change of residence from his/her district shall cause a vacancy in that position.

(b) Forfeiture of office. The Mayor or member of the Council shall forfeit his/her office if he/she:

- (1) Lacks at any time during his/her term of office any qualifications for the office prescribed by this Charter or by law,
- (2) Violates any express prohibition of this Charter,
- (3) Is convicted of a felony,
- (4) Is absent from ~~the six regular~~ Council meetings **during any calendar year unless, during the seventh and subsequent absence at least six Councilmembers vote to approve the absent Councilmember's continuation in office, for 150 consecutive calendar days.**

(c) The Council shall be the judge of the qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records. The decision of the Council in any such case shall be by ordinance and require a majority vote of the remaining members of the Council. Such decision of the Council shall be subject to judicial review.

The Council, by a majority vote of its remaining members, shall in a timely manner fill a vacancy in its own membership, excluding the office of Mayor, by appointing a person to serve until the office is filled by election.

A member chosen to fill a vacancy, except in the office of Mayor and at-large Councilmembers, must reside in the district in which the vacancy occurs.

Sec. 4.2 “Removal” – Chairman Horn made a motion that the reference to “majority” in paragraphs 4.2 (a) and (c) be changed to two-thirds (2/3rds) majority. Second by Jeanne Daffron. Motion carried (13-0).

Sec. 4.2. Removal.

The Council may remove the Manager from office in accordance with the following procedures:

(a) The Council shall adopt by affirmative vote of a **majority two-thirds** of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty with or without pay for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the Manager.

(b) Within five (5) days after a copy of the resolution is delivered to the Manager, he/she may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Council a written response to such resolution not later than five (5) days before the hearing.

(c) The Council may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a **majority two-thirds** of its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he/she has not requested a public hearing or at any time after the public hearing, if he/she has requested one.

The action of the Council in suspending or removing the Manager shall not be subject to review by any court or agency.

Sec. 6.1 “Fiscal year” – Chairman Horn made a motion to change the fiscal year to match the calendar year. Second by Byron Myers Sr. Motion carried (13-0).

Sec. 6.1. Fiscal year.

The fiscal year of the City shall begin on the first day of **July January** and end on the last day of **December**, or such other dates as may be established by ordinance.

[Note: As the Charter is currently adopted, the City Council has authority change the fiscal year by ordinance; therefore, Section 6.1 does not need to be amended to change the fiscal year.]

[Note: The change below was prepared based upon general discussion indicating an understanding that the issue created by the current language would be resolved by modifying the fiscal year.]

Sec. 6.5. Capital program.

(a) Submission to Council. The Manager shall prepare and submit to the Council a five (5) year capital program at least **Sixty (60) days before the beginning of the fiscal year** ~~six (6) months prior to the final date for submission of the budget.~~

(b) Contents. The capital program shall include:

- (1) A clear general summary of its contents;
- (2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
- (3) Cost estimates, methods of financing, and recommended time schedules for each such improvement; and
- (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired. The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

[Note: The change below relates to the proposed changes to Section 6.5 (“Capital program”).]

Sec. 6.6. Council action on capital program.

(a) *Notice and hearing.* The Council shall publish in one (1) or more newspapers of general circulation in the City a general summary of the capital program and a notice stating: (1) The times and places where copies of the capital programs are available for inspection by the public, and (2) The time and place, not less than ten (10) days after such publication, for a public hearing on the capital program.

(b) *Adoption.* The Council, by resolution, shall adopt the capital program with or without amendment after the public hearing and on or before ~~the last day of the month six (6) months prior to the beginning of the fiscal year~~ **the third (3rd) Monday of the month immediately prior to the beginning of the fiscal year.**

Sec. 9.2 “Judge, staff and court facilities” – Vice-chairman Spencer made a motion that the mandatory retirement age of the Municipal Judge be reduced from 75 to 70 years of age (identical to what the state requires for an Associate Circuit Judge to retire) to be effective after the current judge leaves office. Second by Rick Hope. Motion carried (12-0).

Sec. 9.2. Judge, staff, and court facilities.

The Court shall be presided over by a Judge who shall be at least twenty five (25) years of age, licensed to practice law in the State of Missouri and shall have been a resident of St. Joseph for at least one year immediately prior to the date of his/her election. **Beginning with the municipal general election held in 2026, no person shall serve as the Judge after that person has reached the maximum age at which he or she would be allowed to serve as an associate circuit court judge.** The Judge shall be nominated and elected as provided in this Charter and inducted in the manner provided for the members of the Council. He/she shall hold office for a term of four (4) years, during which he/she shall not practice law. The Judge shall receive such compensation as may be established by ordinance, but in no event less than seventy-five per-cent (75%) of the salary of an Associate Circuit Judge of Buchanan County, Missouri, and which shall not be decreased during the term of office.

In case of a vacancy, the City Council shall appoint a Municipal Judge to serve until the next regular City election.

The City shall provide the Court with such employees as are necessary to handle the work of the Court, and these employees shall be classified employees of the City. The Chief of Police and his subordinates shall serve as Marshals of the Court and enforce its orders, judgments and decrees. The City shall provide a suitable place for holding court, and such offices and chambers as are necessary. (Election, 2-3-04)

[Note: Missouri law prohibits applying a law to one person; therefore, the language was drafted to make the change effective during the election after the upcoming election. This method of drafting is expected to achieve the result anticipated by the portion of the motion excluding application of the restriction to the current judge.]

Sec. 10.1(b) "Primary Elections" – Chairman Horn made a motion to eliminate the primary election. Second by Mr. Hope. Motion carried. Vote: Ayes, Carolus, Daffron, Hope, Horn, Kelly, Reese, Spencer--7; Nay, Beck, Boyer, Grimm, Myers, Still--5.

Sec. 10.4. Certification of candidates.

(a) ***Primary-General Election.*** The name of each person eligible for each office to be filled shall be printed on the **primary general election** ballot when petitions signed on behalf of the candidates have been filed and accepted in accordance with Section 10.2 above. ~~In the event there is a number of candidates equal to or less than the number required to be certified by the City Clerk for any of the positions to be filled, then the City shall not be required to conduct a primary election for such positions and the City Clerk shall thereafter certify the names of candidates filed as eligible for the general election. In the event a candidate in a primary election receives a majority of the votes cast in that primary election, he or she shall be declared elected.~~

~~(b) General Election.~~

(1) *Mayor and Municipal Judge.* For the positions of mayor and municipal judge, the ~~City Clerk shall certify as eligible for the general election~~ the ~~two~~ candidates **for each office** who ~~have~~ **has** received the greatest number of votes ~~in the primary election~~ **shall be elected.**

(2) *At-Large Council Members.* For the positions of ~~the three~~ at-large council members, the ~~City Clerk shall certify six candidates as eligible for the general election from those~~ candidates who have received the greatest number of votes ~~in the primary election~~ **shall be elected to fill each of the available at large positions for office.**

(3) *District Council Members.* For the position of district council member, the ~~City Clerk shall certify two~~ candidates from each council district ~~as eligible for the general election from those candidates in each district~~ who have received the greatest number of votes from each district ~~in the primary election~~ **shall be elected.**

(4) *Ties.* ~~In the event two or more candidates receive the same number of votes so that the appropriate number of candidates cannot be certified, the City Clerk shall certify all such tied candidates.~~

[Note: Following is an associated change that would be necessary as a result of changing Section 10.4 to eliminate primary elections.]

Sec. 10.1. Municipal elections.

(a) *General Elections.* The general election shall be held on the first Tuesday after the first Monday in April in the year 2014 and each fourth year thereafter; or such other day as may be mandated by state or federal law, as may be amended from time to time.

~~(b) *Primary Elections.* The primary election shall be held on the first Tuesday after the first Monday in February preceding each general election, as set forth in Section 10.1(a) above, or such other day as may be mandated by state or federal law, as may be amended from time to time.~~

~~(e)~~(b) *Special Elections.* The council may, by ordinance, order special elections, fix the time for such elections, and provide for holding such elections. If a special election is necessary, the council may, by ordinance, set forth the process that must be followed by individuals who wish to be considered as a candidate; provided such process is not inconsistent with this Charter or state law.

~~(d)~~(c) *Regulation of Municipal Elections.* All municipal elections shall be non-partisan and governed by the provisions of this Charter and applicable state law. The Council may provide, by ordinance, additional regulations that it considers necessary for the conduct of municipal elections and the prevention of fraud in such elections; provided that such regulations are not inconsistent with this Charter or applicable state law. The City Clerk shall conduct municipal elections in conjunction with the Buchanan County Clerk. However, the county clerk, or such other election authority as may be designated pursuant to state law, may solely order and conduct elections when necessary pursuant to Section 10.1(e) below.

~~(e)~~(d) *When County Clerk May Solely Order and Conduct Election.* If at any time, by reason of non-acceptance, resignation, refusal to qualify, or for any other cause, there shall be no officers of the City to order and conduct an election, the County Clerk of Buchanan County or state election authority having jurisdiction in the City of St. Joseph, shall be empowered to order and conduct an election for city officers, declare the results thereof and install the newly elected officials.

~~(f)~~(e) *Definition of Qualified Voter.* Wherever used in this Charter, the term “qualified voter” means a properly registered voter of the City who is eligible to vote in the City at-large or in a Council District; whichever is applicable.

[Note: Following is an associated change that would be necessary as a result of changing Section 10.4 to eliminate primary elections.]

Sec. 10-2. Nominating petitions and accompanying documents.

[Note: Subsections other than Subsection (e) will remain unchanged and have not been included below]

(e) *Withdrawal of Candidate.* A candidate shall be allowed to withdraw as a candidate up to ten (10) weeks prior to the **primary general** election. ~~A successful primary candidate may not withdraw prior to the general election.~~

Sec. 10.4(a) "Primary Election" - Chairman Horn made a motion to change the last sentence in the paragraph to read "In the event a candidate in a primary election received votes from a majority of the voters that voted in that primary election, he or she shall be declared elected" and to add language to Sec 10.4(b)(2) to clarify that there will be two candidates for each remaining open position Second by Mr. Kelly. Motion carried (12-0).

[Note: Following is an alternative amendment to Section 10.4 for consideration if the City Council chooses to maintain a primary election]

Sec. 10.4. Certification of candidates.

(a) *Primary Election.* The name of each person eligible for each office to be filled shall be printed on the primary ballot when petitions signed on behalf of the candidates have been filed and accepted in accordance with Section 10.2 above. In the event there is a number of candidates equal to or less than the number required to be certified by the City Clerk for any of the positions to be filled, then the City shall not be required to conduct a primary election for such positions and the City Clerk shall thereafter certify the names of candidates filed as eligible for the general election. In the event a candidate in a primary election receives a **vote from a** majority of the **voters casting** votes ~~east~~ in that primary election, he or she shall be declared elected.

(b) *General Election.*

(1) *Mayor and Municipal Judge.* For the positions of mayor and municipal judge, the City Clerk shall certify as eligible for the general election the two candidates who have received the greatest number of votes in the primary election.

(2) *At-Large Council Members.* For the positions of the three at-large council members, the City Clerk shall certify ~~six~~ **twice as many** candidates **as there are remaining available positions for an office** as eligible for the general election from those candidates who have received the greatest number of votes in the primary election.

(3) *District Council Members.* For the position of district council member, the City Clerk shall certify two candidates from each council district as eligible for the general election from those

candidates in each district who have received the greatest number of votes from each district in the primary election.

(4) *Ties*. In the event two or more candidates receive the same number of votes so that the appropriate number of candidates cannot be certified, the City Clerk shall certify all such tied candidates.

[Note: Following is an associated change that would be necessary as a result of changing Section 3.2 to reduce districts and increase the number of at-large Councilmembers.]

Sec. 10.5. Determination of election results.

(a) *Number of Votes*. Every voter shall be entitled to vote for one candidate for mayor, one candidate for municipal judge, one district council member and **three one** at-large council members **for each available position for office**.

(b) *Return; Canvass*. The Council shall canvass the election returns and declare the results of any municipal election (general or special) at a meeting to be held not later than ten (10) days following such election. The candidate receiving the highest number of votes for office shall be declared elected and inducted into office as set forth herein, and shall serve until his or her successor is elected and qualified.

[Note: Increasing the period of time for declaration to fourteen days would eliminate the need to call a special meeting to declare results.]

(c) *Tie Vote*. If, at any municipal election, ~~other than a primary election~~, there shall be no choice between candidates by reason of two or more having received an equal number of votes, the council shall issue a proclamation so stating, and, if not contrary to state law, determine the election by lot between such tied candidates at a meeting open to the public and to which all candidates have been invited.

Sec. 13.6 “[Exclusive or limiting franchise prohibited]” – Vice-chairman Spencer made a motion to eliminate Sec. 13.6. Second by Mr. Kelly. Motion carried (12-0).
--

~~Sec. 13.6. [Exclusive or limiting franchise prohibited.]~~

~~The city shall be prohibited from granting any exclusive or limiting franchise or license to any trash hauler, garbage hauler, or waste removal business, preserving instead the right of trash and garbage haulers to freely compete and contract with individuals and businesses within the city for provision of such services.~~

cc: Bruce Woody, City Manager
Mayor McMurray and Members of the City Council