

AGENDA ITEM #: _____

DATE: September 14, 2020

CAR #: 2020-7018ws



CITY COUNCIL ACTION REPORT

SUBJECT: City Charter Committee Recommendations and Update

STAFF PRESENTER(S): Tammy Shreeve, Facilitator

OTHER PRESENTER(S): Rene Guillen, Chair, Charter Review Committee

Summary: City Council will receive and review the recommendations from the Charter Review Committee and provide direction to staff.

Recommendation:

The City Charter Review Ad Hoc Committee will present their findings and recommendations regarding their review of the City of Goodyear Charter.

Fiscal Impact: There is no direct fiscal impact to review the recommendations of the Charter Review Committee.

Background and Previous Actions

The Arizona Constitution grants specific authority for cities with population of more than 3,500 to adopt a city charter. This State provision recognizes the authority of locally elected decision makers to make local decisions, and the ability of the level of government closest to the citizens to respond to specific needs in their communities. A City Charter serves as the foundational document for governance in the City. In essence, the City Charter serves as the “constitution” of the city.

The original City Charter was adopted in 1987. It has been amended multiple times, including most recently in 2019 to allow for consolidated elections. However, the last comprehensive review of the City Charter was in 2004. On January 27, 2020 City Council created the Ad-Hoc City Charter Review Committee (Committee) and directed the Committee to review the current City Charter. The Committee was charged with completing a comprehensive review to ensure consistency with language, best practices and policies.

The Committee comprised of six Goodyear residents: Rene Guillen (Chair), Jarrett Hickman (Vice Chair), Kent Hegedus, Kelly Kessler, Shawanda Randolph, and Dave Shaffer. A seventh member, Paul Smiley, resigned due to work commitments. The Committee met eight times over the last 7 months, taking a break during the onset of the COVID-19 pandemic. During these meetings, each City Charter Article was reviewed.

After extensive discussion, the Committee is recommending several amendments to the City Charter as listed in Exhibit #1 – Tables and Exhibit #2 - Articles. These recommended changes fall into two categories: major change or minor/administrative change. A major change is considered an important or significant policy change to the Charter. A minor/administrative change refers to various clean-up of outdated language, language that should reference Arizona State Statute (laws) or serves as administrative in nature. Along with each recommended change, the Committee provided a rationale for the suggested change to the Charter.

One notable recommendation is to have the City Council consider the formation of a Charter Review Committee at least every ten years, so a comprehensive review of the City Charter may take place.

Below are the highlights of the Charter changes that can be deemed a “major change”. Both the major and minor changes are listed in the Exhibit #1 - Tables.

Article 2, Section 7. Electoral Districts; Establishment	<p><u>Topic:</u> The City Charter requires an automatic transition to a Council district system when the population reaches 150,000.</p> <p><u>Committee recommendation:</u> Allow voters to determine if Council districts should be implemented when the City’s population reaches 150,000.</p>
Article 2, Section 10. Vice-Mayor	<p><u>Topic:</u> Establish a Vice Mayor.</p> <p><u>Committee recommendation:</u> Identify the first meeting in January as the date to designate a Vice Mayor.</p>
Article 2, Section 11. Salaries of Mayor and Councilmembers	<p><u>Topic:</u> The current Charter does not require the compensation of the Mayor and Councilmembers to be reviewed by a compensation committee. Also, the current Charter requirements creates compensation inequity among the Councilmembers.</p> <p><u>Committee Recommendation:</u> Establish a Council Compensation Committee to review and recommend compensation for the City Council every two years. If the recommended compensation is an increase or decrease of more that 5.1 percent, it must be approved by the voters. Any change becomes effective for all Councilmembers on July 1. Create equity among Councilmembers as it resets all Councilmember compensation to match the current ordinance.</p>

<p>Article II. Section 12. Council to be Judge of Qualifications of its Members</p>	<p><u>Topic:</u> The Council is the judge of the election and qualifications of its members. The Committee was concerned that the charter did not provide a process for this to occur.</p> <p><u>Committee Recommendation:</u> Provide specific process requirements to judge qualification of Councilmembers and for the removal of Councilmembers. It would require three Councilmembers to submit charges of unlawful conduct against the Mayor or Councilmember. To remove from office, an affirmative vote of five Councilmembers, with due process and clear and convincing evidence, would be required. Removal can occur due to unlawful conduct involving moral turpitude, fraud, malfeasance, misfeasance, nonfeasance or corruption.</p>
<p>Article II. Section 15, Vacancies of the Office of the Mayor and Council</p>	<p><u>Topic:</u> This section identifies procedures for filling a vacated office of the Mayor or Council. There were concerns regarding the timing of elections and costs of holding special elections.</p> <p>The current process to fill the Mayor position requires a special election. The Committee was concerned that depending upon when the office was vacated timing may be an issue for holding a special election. Also, the cost of holding an election may not be warranted if the remaining amount of the term is minimal.</p> <p>A vacancy in a Council position during the first year and one hundred and eighty days of a Councilmember's term of office, requires an appointment until the next general election. The remainder of the term shall be filled by the regular election process of the City. Based upon the timing of elections, this may be difficult to achieve.</p> <p><u>Committee Recommendation:</u> The Committee recommends having this section be split into two different sections within the Article. One section that focuses on the Mayor's Office (Section 15) and another section focuses on the Council Position (Section 16).</p> <p>The Committee recommends that voters elect a new Mayor or Councilmember if the office becomes vacant more than sixty days before the candidate filing deadline for the next regular scheduled candidate election.</p> <p>In regard to the Mayor's Office, if the office becomes vacant with less than sixty days before the candidate filing deadline, the Council will select a Mayor from among the</p>

	<p>Councilmembers. If a Council position becomes vacant with less than sixty days before the candidate filing deadline, the Council will fill the position by appointment.</p>
<p>Section 16. Meetings of Council, Boards, Commissions and Committees</p>	<p><u>Topic:</u> The Charter requires the Council to meet twice a month, even if it is not needed.</p> <p><u>Committee Recommendations:</u> The language regarding the frequency of Council meeting is not needed in the City Charter; it would be more appropriate in City Code. The City Council is required to determine meeting times and places by ordinance.</p>
<p>Article III, Section 1. Appointment of City Manager</p>	<p><u>Topic:</u> Currently, the Charter states a contract with the City Manager is optional and the term of the contract can only be for 24 months.</p> <p><u>Committee Recommendation:</u> A written contract will be required with the City Manager. A written agreement is legally advantageous for both the City Council and City Manager. The contract terms can be negotiated between the City Manager and Council.</p>
<p>Article IV, Section 1B. (Administrative Departments, Offices and Employees) Administrative departments and offices</p>	<p><u>Topic:</u> The City Charter allows the City Council to assign additional functions or duties to offices, department or agencies.</p> <p>It also allows the Council to combine in one person the powers and duties of two or more offices created or authorized by the Charter. This language appears outdated, as each officer has specific responsibilities and qualifications.</p> <p><u>Committee Recommendation:</u> The function of making assignments to offices, departments or agencies is the responsibility and role of the City Manager as the chief administrative officer and head of administrative functions. This proposed change is consistent with best practices for Council/manager cities.</p> <p>Remove the language regarding combining in one person the offices created by the charter. This language is outdated.</p>
<p>Article IV: Section 3: City Attorney</p>	<p><u>Topic:</u> Since the City Manager and City Attorney are both officers of the City, the Committee thought their language should mirror as much as possible. The current language does not address the need for a contract agreement.</p> <p><u>Committee Recommendation:</u></p>

	Require a written contract with the City Attorney. A written agreement is legally advantageous for both the City Council and City Attorney. The contract terms can be negotiated between the City Attorney and Council.
Article IV: Section 4. Removal of the City Attorney	<p><u>Topic:</u> Since the City Manager and City Attorney are both officers of the City, the Committee thought their language should mirror as much as possible. The Committee thought there should be language regarding the removal of the City Attorney in the City Charter.</p> <p><u>Committee Recommendation:</u> Use the same removal process as mandated for the City Manager which would require a vote of five members of the Council to remove the City Attorney.</p>
Article IV: Section 4. Merit System to be Established	<p><u>Topic:</u> Currently, all staff positions, except City Officers (City Manager, City Attorney and Municipal Judge), are covered by the merit system. This does not provide the City Council with the opportunity to review and determine best employment practices for the City.</p> <p><u>Committee Recommendation:</u> Allow the City Council to determine by ordinance the city positions that are and are not covered by the merit system.</p>
Article XIII: Section 8. City Charter Review	<p><u>Topic:</u> Currently there is not a provision to have the City Charter reviewed periodically by a Citizens Committee or Council.</p> <p><u>Committee Recommendation:</u> In this new section requires the Council consider the formation of a charter review committee at least every ten years, so a comprehensive review of the City Charter may take place.</p>

Staff Analysis

Any proposed changes to the City Charter require approval by a vote of Goodyear citizens. As a result, should the City Council move forward with the Committee recommendations or any other charter amendments, the City staff and Attorney would begin the process to place the proposed amendments on a future election ballot.

Attachments

Current City Charter

Exhibits - Recommended Changes to the City Charter

Exhibit #1 – Tables - detailing the changes and the rationale for the change

Exhibit #2 – Articles with changes