

City Council Action Item Cover Sheet

DATE: January 16, 2019

Agenda Item:

Charter Revisions

Question Before Council:

Present updates to the charter from Council members

Person/Group Initiating Request:

Council

Item Summary/Background:

Updates to the Charter

VAALER EDITS 1/15/19

Preamble

Chapter I Names and Boundaries (Sections 1-3)

Chapter II Powers (Sections 4 - 6)

SECTION 4 "POWERS" should be "Section 4 Powers."

Chapter III Council (Currently Sections 7 - 14)

Section 8 lines 4 and 5 Insert "of all" between "and" and "committees" and "by" between "ordinance" and "by." The sentence then reads

With the consent of council, the mayor appoints members of commissions and of all committees established by ordinance or by resolution.

Insert current section 27 Qualifications as Section 9 and delete it from its current location. This will require renumbering of all subsequent sections, but the section numbers below are the current numbers.

Change (c) of the Qualifications section to read "An elective officer shall not be an employee of the city. However, with council approval, an elective officer may serve in a contract or volunteer."

Section 13 This section would be better entitled "Vote requirement for a decision."

At our 1/9 work session, Council agreed to add

In the event of a major emergency such as a natural disaster that limits the ability of council members to meet, the council may act by a majority of those who are able to participate in a meeting in person or by electronic or other means. Any such emergency action shall be reviewed at the first opportunity to have a quorum consider the action.

At our 1/9 work session, Council discussed adding i) concerning coercion of the manager to this section. However, the charter has not yet mentioned a City Manager, so this is inadvisable.

Chapter IV Legislative Authority (Currently Sections 15 - 17)

Section 16

(c) line 2 - Insert "attending the meeting" between "public" and "before"

(d) Revise to read "After a vote on any ordinance, the vote of each member must be entered into the council minutes."

There should be a line space between items (d) and (e)

Section 17 Edit the second sentence to read

An ordinance may take effect as soon as adopted or at another date less than 30 days after adoption if the ordinance contains an emergency clause.

Chapter V Administrative Authority (Currently Sections 18 - 20)

Section 19

(b) line 2 Insert "attending the meeting" between "public" and "before"

(c) Revise to read "After a vote on any resolution, the vote of each member must be entered into the council minutes."

Chapter VI Quasi-Judicial Authority (Currently Sections 21 - 23)

Section 22

(b) lines 1 and 2 Insert "attending the meeting" between "public" and "before"

(c) Revise to read "After a vote on any order, the vote of each member must be entered into the council minutes."

Chapter VII Elections (Currently Sections 24 - 32) This chapter should perhaps be renamed or split into multiple sections. It includes the qualifications section.

Section 24 line 3 delete blue suggested edit ~~four~~two. This was agreed to at 1/9 work session.

Section 26 Revise the first sentence to read

City elections shall be conducted in accordance with state law, but the city may adopt election ordinances or charter provisions as allowed by state law.

Section 30 Revise to match our oath if it does not already do so. Perhaps this requires us to add "and the charter and ordinances of the city."

Bandon's charter includes

Section 23. Oath of Office: Before entering upon the duties of the office, each officer shall take an oath affirming (1) support of the Constitution and laws of the United States and the State of Oregon, and the Charter and Municipal Code of the City of Bandon and, (2) that he or she will faithfully perform the duties of the office

Add the following section just after section 26

Section __. Tie votes. If another method is not dictated by law, in the event of a tie vote for candidates for an elective office, the successful candidate shall be determined by a public drawing of lots in a manner prescribed by the Council.

Cannon Beach includes precisely this wording but not "If another method is not dictated by law,"

Section 32 Filling of Vacancies.

The following suggested revision is the result of studying the charters of Ashland, Canon Beach, Corvallis, especially National Civic League. The various number of days should be considered carefully.

If a councilor member is unable to attend council meetings or a member is absent from the city, a majority of the council may appoint a councilor pro tem.

A mayor or councilor vacancy shall be filled by appointment by a majority vote of the remaining members of the council. If simultaneous vacancies exist, the council may fill them concurrently or sequentially. (Notwithstanding the requirement in section 13, if at any time the membership of the council is reduced to less than 3, the remaining members may still by majority action appoint additional councilors to raise the council membership to 5. However, in this case the appointments should be made sequentially.)

Prior to any vote to fill a vacancy, the council must announce the vacancy and allow at least one week for volunteers to submit their names. All volunteers who meet the requirements for councilor and who submit a written application to fill the vacancy must be interviewed at a council meeting prior to a vote being taken to fill the vacancy. Should the vote result in a tie, a second vote will be taken with ranked voting of the candidates. As required by law, all votes will be public. If a tie still remains after preferential voting, the successful candidate shall be determined by a public drawing of lots in a manner prescribed by the council.

Each appointee's term of office begins immediately on appointment and shall continue until the earlier of the end of the term of the counselor being replaced or until the beginning of the year following the next general biennial election occurring more than 100 days after the appointment. In the latter case, at the upcoming general election, a successor shall be elected to fill the unexpired term of the predecessor in office of the appointee.

If the council fails to fill a vacancy within 60 days following the occurrence of one or more vacancy, a special election to fill the vacancy(ies) will be held as soon as is practicable.

Chapter VIII Personnel (Currently Sections 33 - 35)

Begin with new sections concerning city manager, attorney, and judge. There have been some modifications made to sections (b), and (d) and (e) as compared to the LOC model charter. The modification to (b) was discussed at the 1/9 work session. The modifications in (d) and (e) give the Council additional flexibility.

Section __. City Manager.

The office of city manager is established as the administrative head of the city government. The city manager is responsible to the council for the proper administration of all city business. The city manager will assist the council in the development of city policies, and carry out policies established by ordinances and resolutions.

(b) A majority of the entire council must appoint and may remove the manager. The appointment must be made without regard to political considerations. It must be made solely on the basis of the council's judgement of ability to effectively perform the duties of the position.

(c) The manager need not live in the city.

(d) The manager may be appointed for a definite or an indefinite term, and may be removed at any time by a majority of the entire council. The council must fill the office by appointment as soon as practicable after a vacancy occurs unless the council declares by resolution their intention to do otherwise.

(e) The duties of the manager will be spelled out in the manager's contract. Duties will include the following items (1) - (11) unless the council passes a resolution modifying the duties.

- (1) Attend all council meetings unless excused by the mayor or council;
- (2) Make reports and recommendations to the council about the needs of the city;
- (3) Administer and enforce all city ordinances, resolutions, franchises, leases, contracts, permits, and other city decisions;
- (4) Appoint, supervise and remove city employees;
- (5) Organize city departments and administrative structure;
- (6) Prepare and administer the annual city budget;
- (7) Administer city property and utilities;
- (8) Encourage and support regional and intergovernmental cooperation as appropriate
- (9) Promote cooperation among the council, staff and citizens in developing city policies, and building a sense of community;
- (10) Perform other duties as directed by the council;
- (11) Delegate duties, but remain responsible for actions of all subordinates.

(f) The manager has no authority over the council or over the judicial functions of the municipal judge. The manager shall cooperate with the auditor appointed by the council and shall respect the independent status of the auditor.

(g) The manager and other employees designated by the council may sit at council meetings but have no vote. The manager, may take part in all council discussions.

(h) When the manager is temporarily unable to act as manager or when the office of manager becomes vacant, the council may appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove management employees only with council approval.

No council member may directly or indirectly as an individual attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any city employee, or in administrative decisions regarding city property or contracts. In council meetings, councilors may discuss or suggest anything with the manager relating to city business.

Section __. City Attorney. The office of city attorney is established as the chief legal officer of the city government. A majority of the entire council shall appoint and may remove the attorney. The attorney may appoint, supervise, and remove employees who work in and for the city attorney's office.

Section __. Municipal Court and Judge.

A majority of the entire council may appoint and may remove a municipal judge. A municipal judge will hold court at such place as the council directs. The court will be known as the Municipal Court.

All proceedings of this court will conform to state laws governing justices of the peace and justice courts.

(c) All areas within the city and areas outside the city as permitted by state law are within the jurisdiction of the court.

(d) The municipal court has jurisdiction over every offense created by city ordinance. The court may enforce forfeitures and other penalties created by city ordinances. The court also has jurisdiction under state law unless limited by the city ordinance.

(e) The municipal judge may:

Render judgments and impose sanctions on persons and property;
Order the arrests of anyone accused of an offense against the city;
Commit to jail or admit to bail anyone accused of a city offense

- (4) Issue and compel obedience to subpoenas;
- (5) Compel witnesses to appear and testify before the court;
- (6) Penalize contempt of court;
- (7) Issue processes necessary to enforce judgments and orders of the court;

- (8) Issue search warrants;
- (9) Perform other judicial and quasi-judicial functions assigned by ordinance.

(f) The council may appoint and may remove municipal judges pro tem .

(g) The council may transfer some or all of the functions of the municipal court to an appropriate state court.

These sections should then be followed by what are currently sections 33 - 35. In section 35, commas should be inserted so that the sentence begins "The council, by resolution, will determine ."

Chapter IX Public Improvements (Currently Sections 36 - 37)

The following suggested revision is the result of studying the charters of Ashland, Canon Beach, Corvallis, Garibaldi, and Newport.

Section __. Procedure. The procedure for making, altering, vacating, or abandoning a public improvement to be financed by a local improvement district shall be governed by general ordinance or, to the extent not so governed, by applicable state law. Proposed action on a public improvement that is not declared by two-thirds of the council present to be needed at once because of an emergency shall be suspended for six months upon remonstrance by owners of land to be specially assessed for the improvement. The number of owners necessary to suspend the action shall be prescribed by general ordinance. A second such remonstrance suspends the action only with the consent of the council. (In this section "owner" means the record holder of legal title or, as to land being purchased under a land sale contract that is recorded or verified in writing by the record holder of legal title, the purchaser.)

Section __. Special Assessments. The procedure for fixing, levying, and collecting special assessments against real property for public improvements or other public services shall be governed by general ordinance.

Section __ Condemnation Any necessity of taking property for the City by condemnation shall be determined by the Council and declared by resolution of the Council describing the property and stating the uses to which it shall be devoted. The procedure for the condemnation shall be as ordained by the Council or provided by State law.

Chapter X Miscellaneous Provisions (Currently Sections 38 - 42)

Section 39 Revise this to read

Any ordinance or other enactment that is consistent with this charter and in force when the charter takes effect remains in effect until amended or repealed.

Section 42 A new date is needed.