



2015 AD HOC CHARTER ADVISORY COMMITTEE PROPOSED AMENDMENTS

July 14, 2015

Goal 6: Set the Standard for Sound Governance and Fiscal Management



BACKGROUND

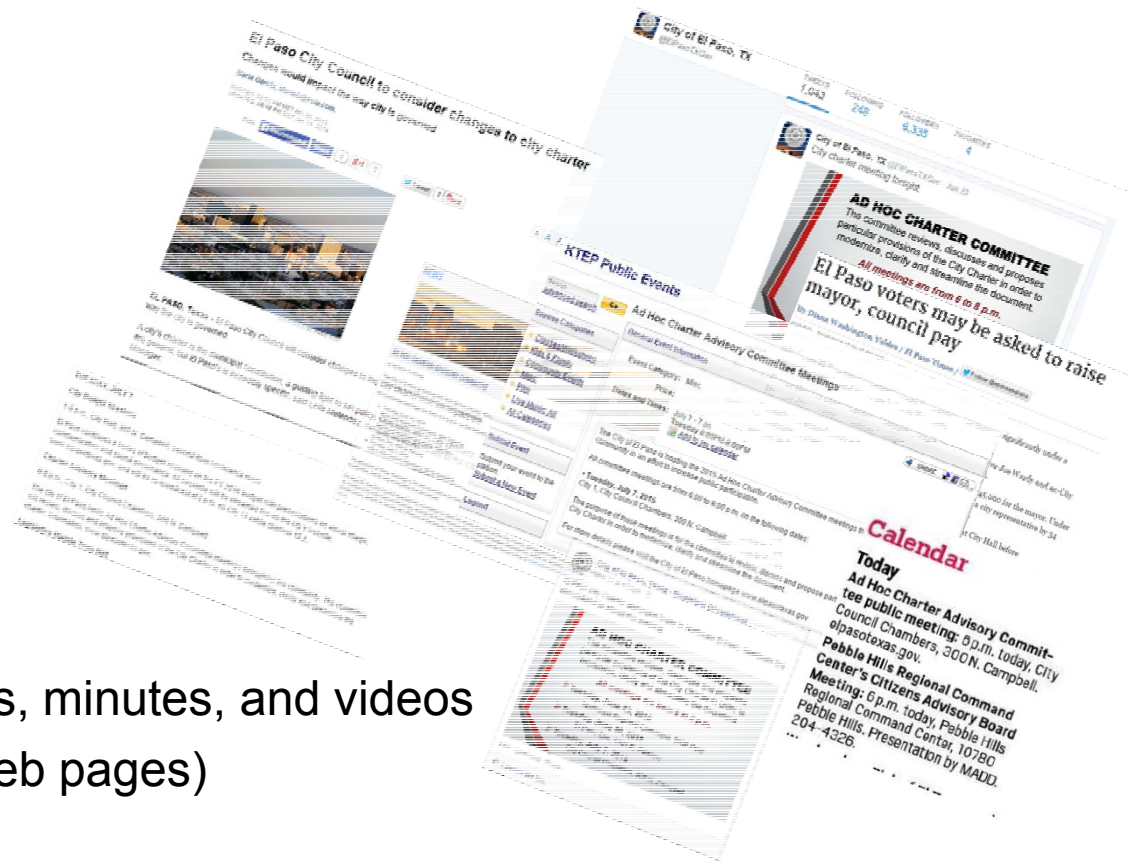
The Ad Hoc Charter Advisory Committee hosted a **total of six meetings**. All meetings were hosted from 6 to 8 p.m. at **various locations**.

- June 3, City Hall, Main Conf. Rm.
- June 9, Pebble Hills Regional Command
- June 16, Westside Regional Command
- June 23, Northeast Regional Command
- June 30, El Paso Zoo
- July 7, City Council Chambers

BACKGROUND

City staff provided public outreach via the following:

- Press Releases
- Media calendars
- Social Media
- City 15 PSAs
- City monitors
- District newsletters
- City websites
(general overview, agendas, minutes, and videos are listed on various city web pages)





BACKGROUND

On May 26, City Council directed the committee to review the following:

- Meetings
- Ordinances
- Fiscal Year and Budget Procedures
- Mayor's Powers



PROPOSED AMENDMENTS

Meetings (Article III, Section 3.5A)

CURRENTLY, the Charter requires Council to hold meetings a minimum of once a week; and allows Council to cancel no more than three meetings each year.

COMMITTEE RECOMMENDATION:

Council may, by resolution, cancel one regular meeting per month, and shall establish and publish its anticipated annual schedule of meetings at the first meeting of each calendar year.



PROPOSED AMENDMENTS

Ordinances (Article III, Sections 3.9C and 3.18)

CURRENTLY, Sections 3.9C and 3.18 require an ordinance to authorize leases, franchises and conveyances of public property.

COMMITTEE RECOMMENDATION:

Allow the Council to authorize leases, franchises and conveyances of public property and temporary uses of streets and rights-of-way by resolution in lieu of an ordinance; and amend language to allow City to realize cost savings and improve efficiency.



PROPOSED AMENDMENTS

Fiscal Year and Budget Procedures (Article VII)

CURRENTLY, Article VII outlines that the City's fiscal/budget year occurs Sept. 1 through Aug. 31.

COMMITTEE RECOMMENDATION:

Allow Council to change the fiscal/budget year of the City to **October 1 through September 30**, by ordinance, and to authorize staff to actualize the change as appropriate to allow additional time to prepare a budget after tax rolls are certified.



PROPOSED AMENDMENTS

Mayor's Powers (Article IV)

CURRENTLY, the Mayor is a non-voting member of the City Council. However, the Mayor has the power to break tie votes and veto certain legislation. Council members proposed amending the voting powers of the Mayor or redefining “City Council.”

COMMITTEE RECOMMENDATION:

1. Leave the Mayor's voting and veto powers as they are.
2. Clearly define “City Council” in Sec. 1.2, and remove the mayor from the definition of Council for items and matters requiring a super-majority vote.



ADDITIONAL PROPOSED AMENDMENTS

Beyond the four Charter areas defined by the City Council for the Committee to evaluate, the following was also discussed and reviewed:

- Appointments (Sec. 3.7A)
- Salaries (Sec. 3.2)
- Elections (Sec. 2.1)
- Mayor Pro Tempore (Sec. 4.3A)
- Firemen & Policemen Pension (Sec. 6.13-11D)



PROPOSED AMENDMENTS

Appointments (Sec. 3.7A)

CURRENTLY, the position of the City Attorney and any Asst. City Attorney are appointed and removed by the Mayor with a majority vote of the entire Council.

COMMITTEE RECOMMENDATION:

That the position of the City Attorney be appointed by the City Council by a majority vote; and that the Asst. City Attorneys be appointed and work under the supervision of the City Attorney.



PROPOSED AMENDMENTS

Salaries (Sec. 3.2)

CURRENTLY, the annual base salary of District Representatives is \$29,000 and the Mayor's is \$45,000.

COMMITTEE RECOMMENDATION:

Increase the annual base salary of the District Representatives to \$39,000 and the Mayor's to \$55,000.



PROPOSED AMENDMENTS

Elections (Sec. 2.1)

CURRENTLY, the Charter states that beginning in 2018, City elections will be held in November.

COMMITTEE RECOMMENDATION:

Remove all references in Sec. 2.1 regarding November elections and return to the May election timelines.



DISCUSSED ITEMS

The Committee also considered the following items:

1. Mayor Pro Tempore (Sec. 4.3A)
2. Firemen & Policemen Pension (Sec. 6.13-11D)

Committee voted unanimously not to consider Items 1 & 2.

3. Postpone the Charter election to a later election date to allow for more public input.

The motion failed for lack of second.



ADDITIONAL REQUEST

The committee would like to make the following request of City Council:

- All proposed amendments should stand alone on the ballot and are not to be grouped together.

Background: In 2013, the ballot had nine proposals and nearly all of the proposals had multiple items (2 to 5 items) making the proposals difficult to understand.



QUESTIONS?

COMMITTEE'S APPROVED LANGUAGE FOR ARTICLE III, SEC. 3.9 & SEC. 3.18:

Section 3.9 ORDINANCES IN GENERAL.

C. **Actions Requiring Ordinances.** In addition to other acts required by law or by specific provision of this charter to be done by ordinance, the ~~The~~ Council may exercise the following powers by ordinance only:

- ~~1. Authorize the conveyance of any City real property;~~
- ~~2. Adopt or amend any administrative code and establish, abolish, alter or combine any City departments, so long as such action is not in conflict with this Charter;~~
31. Amend, extend, or repeal any ordinance previously adopted;
42. Prescribe a fine or penalty or establish any rule or regulation for the violation of which a fine or other penalty is imposed;
53. Adopt Civil Service Rules.

Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

Section 3.18 LEASE; FRANCHISE; AND CONVEYANCE.

The right of control, ownership and use of streets, alleys, parks and public places of the City is declared to be inalienable except as ~~provided by ordinance~~ passed by the Council by resolution or by ordinance, or as otherwise required by law or specific provision of this charter; and except for uses of less than thirty days which may have a separate approval process as established by resolution or by ordinance.

Any ordinance or resolution providing for the conveyance, lease, or grant of a franchise regarding the property of the City shall provide for payment to the City of a reasonable fee as consideration for that conveyance, lease, or franchise. In addition, any ordinance or resolution providing for the lease or franchise shall provide that:

1. At the termination of the lease or franchise, the property involved, together with any improvements thereto, made or erected during the term of the lease or franchise, shall (either without further compensation or upon payment of a fair valuation therefore as determined by the terms of the ordinance), become the property of the City; and
2. Every lease or franchise may be revoked by the City if necessary to secure efficiency of public service at a reasonable rate, or to assure that the property is maintained in good order throughout the life of the grant.

COMMITTEE'S APPROVED LANGUAGE FOR ARTICLE VII:

Section 7.1 FISCAL YEAR.

The fiscal year and the budget year of the City shall begin on September 1st and end on the succeeding August 31st, ~~or as otherwise provided by state law or city ordinance adopted pursuant thereto unless and until such time as the Council adopts, by ordinance, to change the dates and directs that appropriate action be taken to accomplish the change, or unless and until a uniform fiscal year is established by state law.~~

Section 7.2 BUDGET.

The budget must present a complete financial plan for the fiscal year. The elements listed below must be included:

- A. **Message.** The City Manager's budget message shall encompass a statement of fiscal policy, and a projection of income and expenditures for the current year.
- B. **Summary.** A general budget summary, with supporting schedules, shall reflect all material income and expense figures for a balanced budget.
- C. **Estimates.** The City Manager shall estimate anticipated income and expenditures and shall explain significant deviations from the preceding year's budget.
- D. **Debt.** The City Manager shall state the extent of the bonded debt and the amounts in debt service funds.
- E. **Resolutions.** The City Manager shall attach the proposed budget resolution; and any other resolutions or ordinances required to effectuate the budget.

Section 7.3 BUDGET PROCEDURES.

The procedures here stated shall govern adoption of the annual budget and the appropriations of monies pursuant thereto.

A. **Department Estimates.** Annually, but not later than ~~June 1~~ three months before the first day of the City's fiscal and budget year, administrative units of the City shall transmit estimates of their budgetary requirements and descriptions of their work programs to the Office of Management and Budget and to the City Manager. The work programs shall include all requested appropriations for the departments' operation and maintenance, including capital equipment, construction, and acquisition.

B. **Public Hearing.** After its presentation to the Council, at least one public hearing on the budget shall be held prior to its adoption; and notice of that public hearing shall be published in accordance with state law. The proposed budget shall be made available for examination at the office of the City Clerk at least fifteen days prior to the public hearing.

C. **Changes.** After the required public hearing, the Representatives may make such changes in the proposed budget as they deem prudent, provided that no change shall be made that will cause proposed expenditures in any fund to exceed the estimated revenue for that fund.

D. **Adoption.** The budget shall be adopted by resolution, subject to the Mayor's veto, not later than ~~August 31 of each year~~ the day before the first day of the City's fiscal and budget year; but, in the event the budget is not adopted, the appropriation for personnel and essential operating supplies made in the previous year shall be extended until the new budget is adopted.

E. **Filing.** A copy of the budget, as finally approved, shall be filed with the El Paso City and County Clerks' offices.

F. **Tax Levy.** As soon as possible after the completion of the tax roll, the Council shall pass the tax levy ordinance in accordance with the laws of Texas.

G. **Balanced Budget.** If at any time during the fiscal year, the City Manager ascertains that available income for the year, including fund balances, will be less than total appropriations, the Council shall reduce those appropriations so that expenditures will not exceed income. Expenditures in excess of gross revenues during the fiscal year are prohibited.

H. **Availability.** The final budget shall be available for use by City departments and for examination in the City Clerk's office by any interested persons.

COMMITTEE'S APPROVED LANGUAGE FOR ARTICLE III, SEC. 3.7:

Section 3.7 APPOINTMENTS.

A. Appointment and Removal of the City Attorney. ~~Whenever a vacancy in the position of City Attorney or any Assistant City Attorney occurs, the Mayor shall appoint a successor with a majority vote of the entire Council. Candidates for this position may be nominated by any member of the Council. The City Attorney or any Assistant City Attorney may be removed by the Mayor with a majority vote of the entire Council.;~~

The City Council by a majority vote of its total membership shall appoint a City Attorney and fix the City Attorney's compensation. The City Attorney shall be appointed solely on the basis of legal experience and qualifications. The City Attorney may be removed by a resolution approved by a majority vote of the total membership of the City Council, with or without cause. Assistant City Attorneys shall be appointed by, and will report to and work at the direction and under the supervision of the City Attorney.

Section 3.5 CITY COUNCIL PROCEDURES AND RULES.

E. **Veto.** Ordinances and resolutions finally adopted by the Council shall be filed in the office of the City Clerk and signed by the Mayor before they take effect. If the Mayor vetoes the ordinance or resolution, reasons shall be set forth by the Mayor in writing, and the ordinance or resolution with those reasons shall be returned to the Council. However, the Mayor shall not have any veto power over any City Council action which removes the City Manager or the City Attorney. To override the Mayor's veto, three fourths of all of the Representatives must vote in favor of the returned ordinance or resolution, in which event the adopted ordinance or resolution shall become law. If the Mayor shall either fail to approve or object in writing to any adopted ordinance or resolution within five days after it has been filed with the City Clerk, exclusive of the day of filing, it shall become law.

Section 4.1 POWERS OF THE MAYOR.

B. The Mayor shall be a member of and preside over the City Council, having the power to propose legislation; represent the City in intra-governmental and intergovernmental relationships; appoint with the consent of the Council the members of citizen advisory boards and commissions; make appointments and perform duties pursuant to federal and state law; present an annual state of the City message, break tie votes, veto legislation except for any City Council action which removes the City Manager or the City Attorney, convene the Council in special session and perform other duties specified by the Council.

COMMITTEE'S APPROVED LANGUAGE FOR ARTICLE III, SEC. 3.2:

Section 3.2 SALARIES.

~~Provision effective through June 27, 2009:~~

~~Upon the adoption of this Charter, the salaries of the Mayor and the Representatives shall be those authorized prior to the adoption of this Charter.~~ Subsequent to the adoption of this Charter, the Council shall have the power to increase these salaries by not more than five percent, but such act must be taken at least three months prior to the next general city election and may not take effect until after the inauguration of the next Council. Any proposed salary increase in excess of five percent shall be subject to voter approval, by referendum, conducted at a general City election.

~~Provision effective and commencing on June 28, 2009:~~

~~Effective through the end of the 2016 fiscal year, Commencing on June 28, 2009,~~ the annual base salary of the District Representatives shall be twenty-nine thousand dollars, and the annual base salary of the Mayor shall be forty-five thousand dollars. Commencing on the first day of the 2017 fiscal year, the annual base salary of the District Representatives shall be thirty-nine thousand dollars, and the annual base salary of the Mayor shall be fifty-five thousand dollars. ~~On and after September 1, 2010, the base salaries will be increased by a percentage equal to the percent increase of the general salary adjustment, if any, given to the classified employees in the general services effective as of the date designated in the budget resolution.~~

COMMITTEE'S APPROVED LANGUAGE FOR ARTICLE III, SEC. 3.5A:

Section 3.5 CITY COUNCIL PROCEDURES AND RULES.

A. **Meetings.** Regular meetings of the Council shall be held in Council chambers a minimum of one time per week at such times as may be prescribed by resolution. Provided, however, that the Council may, by resolution, ~~may~~ cancel one ~~or more~~ regular meetings per month, and ~~must~~ shall establish and publish its anticipated annual schedule of meetings at the first meeting of each calendar year. not to exceed three meetings during each calendar year, provided that such canceled meetings are not consecutive. Special meetings and informal work sessions of the Council shall be called by the Mayor or a majority of the entire Council by giving written notice to the City Clerk. All meetings of the Council and of any committees thereof shall be held as permitted by the Texas Open Meetings Act.

PROPOSED CLARIFICATION OF DEFINITION OF COUNCIL:

Section 1.2 DEFINITIONS.

As used in this Charter, the term “laws of Texas” shall include the Constitution and statutes of the State of Texas, the common law as it exists in the State of Texas, and appropriate case law. As used herein, “State” shall mean the State of Texas; “City” shall mean the City of El Paso; “City Council” or “Council” shall mean the Mayor and Representatives of the City of El Paso, with the Mayor being a non-voting member of Council; provided, however, the Mayor shall not be considered a member of Council for items and matters requiring a super-majority vote of all members of the governing body; and “department” shall mean any City agency, office, bureau or other organizational unit.

COMMITTEE'S APPROVED LANGUAGE FOR ARTICLE II, Sec. 2.1:

Section 2.1 CITY ELECTIONS.

A. **Regular Elections.** The regular City elections ~~to be held in 2015 and 2017~~ shall be held on the uniform date established in the Texas Election Code during the month of May with a run-off election to be held on the earliest date practicable in accordance with the law. These terms of elected office commence on the last Tuesday in June, or if necessary to comply with state or federal law, the Tuesday following the canvass of a run-off election, whichever is later. ~~Beginning in 2018, the regular City elections shall be held on the uniform date established in the Texas Election Code during the month of November with a run-off election to be held on the earliest date practicable in accordance with the law. All terms of elected office beginning with the November 2018 election commence on the first Tuesday in January following the election, or if necessary to comply with state or federal law, the Tuesday following the canvass of a run-off election, whichever is later.~~

MEETING REQUIREMENTS FOR OTHER TEXAS CITIES



- Dallas provides no minimum amount of required meetings – Council sets meeting schedule by ordinance or resolution
- Houston, San Antonio, Austin, and Arlington all require weekly meetings, but have no limitation on cancellations or “postponements”
- Ft. Worth requires a minimum of 44 combined regular and special council meetings
- Corpus Christi requires weekly meetings, subject to cancellation, subject to 2 meetings/month minimum

Voting/Veto Powers of Mayors in Texas Cities:

CITY	VOTING MEMBER OF COUNCIL	VETO POWER
AUSTIN	YES	NO
SAN ANTONIO	YES	NO
DALLAS	YES	NO
FT. WORTH	YES	NO
CORPUS CHRISTI	NOT CLEAR	YES
LUBBOCK	YES	NO
AMARILLO	YES	NO

COMPARABLE RESEARCH ON CITY ATTORNEY REPORTING RELATIONSHIP

City of Dallas	City Council
San Antonio	City Manager
Fort Worth	City Council
Arlington	City Council
Corpus Christi	City Manager
Irving	City Council

In no instance in any of the cities surveyed in addition to the above is the City Attorney appointed by the Mayor. The function is either under the City Manager or appointed by the entire City Council.

KERE INC.

GENERAL CONTRACTORS

CONSTRUCTION MANAGERS

July 7, 2015

2015 Ad Hoc Charter Advisory Committee

Joe Wardy, Chairman
300 N. Campbell
El Paso, TX 79901

Re: City Council Meeting Schedule

Dear Mr. Wardy and Committee members:

Our firm is a Developer, General Contractor, Construction Manager and a founding member of the Associated General Contractors – El Paso. In our business we work with the staff in various departments on a routine basis.

I am writing this letter in support of reduction in the number of City Council Meetings. Staff and department managers spend a large portion of their time preparing for and attending pre-council meeting agenda review meetings as well as preparing for and attending actual City Council Meetings. Often there is a portion of time in the City Council meetings that is for ceremonial presentations and not efficient for department managers to spend their time while these presentations occur.

I would like to propose reducing the number of business related City Council Meetings to 2 per month and reserving an additional Council Meeting per month for ceremonial awards, presentations, etc. Some of the activities related to development activities have been reduced to every other existing meeting now and I believe the development community would have adequate access to meetings as staff could be more organized and better prepared for those issues with fewer meetings.

Thank you for your consideration.

Sincerely,
KERE INC.



Robert G. Efaw



Greater El Paso Chamber of Commerce

July 6, 2015

Resolution of the Governing Board supporting the Government Relations Division's recommendations regarding proposed amendments to the El Paso City Charter.

The City's 2015 Ad Hoc Charter Advisory Committee has held five public meetings between June 3rd and July 7th. The purpose of this City Council-appointed committee is to review, discuss, and propose particular changes to the City Charter. The Committee is required to report their recommendations to City Council on or before July 14th and no later than July 21st to allow for the Council to take appropriate action on placing proposed Charter amendments on the ballot for elections on November 3rd.

In addition to attending and closely monitoring each of these meetings, the Chamber's Government Relations Division has established its own Ad Hoc City Charter Committee to review the proposed amendments as recommended by the City's Committee. After careful review and consideration, the Chamber's Ad Hoc Committee has established positions (attached) on each of the seven proposed amendments as discussed by the City's Committee. These position statements have been unanimously approved by the Chamber's Executive Committee, noting one abstention due to conflict of interest.

In addition to the attached position statements, the Chamber further recommends to the Ad Hoc Charter Advisory Committee and to City Council that in the event of a Charter election, all proposed Charter amendments be listed separately on the ballot. Separate propositions for each Charter amendment will allow for maximum clarity for the voters of El Paso and will give a clear indication of where the issues stand for future Charter elections.

As the primary advocate for business interests in El Paso, the Chamber believes that city government should make every effort to be as efficient and effective as possible and respectfully submits its recommendations on the proposed 2015 Charter amendments.

This resolution was presented to and passed by the Executive Committee of the Greater El Paso Chamber of Commerce on Monday, July 6, 2015.

Gary M. Borsch, Chair of the Board

Richard E. Dayoub, President and CEO

Issue One

Actions Requiring Ordinances

Under the current City Charter, in Section 3.9, Council can authorize the conveyance of real property, change the administrative code, or make alterations to any departments only by ordinance. Additionally, in Section 3.18, City Council can only convey, lease or franchise use of streets, alleys, parks and public places by ordinance.

The proposed amendments clarify the level of action required for City Council to pursue certain initiatives and allow all of the above-mentioned actions to be taken by resolution.

Position: The Chamber supports these amendments, in the name of increased efficiency and clarity.

Issue Two

Change in the City's Fiscal Year/Budget Year Start Date

Currently, the City Charter sets the budget year and fiscal year of the City of El Paso with a start date of September 1 and an end date of the succeeding August 31, unless changes are mandated by state law or by ordinance. City Council has expressed an interest in changing the start of the fiscal year and budget year to October 1, which would allow more time for accurate property valuation to be provided, resulting in more solid numbers for budget planning.

The recommended amendments would give Council the flexibility to change the dates by ordinance and to take appropriate action to implement the change.

Position: The Chamber supports allowing City Council the discretion to establish the proper start and end dates for the budget year and fiscal year. In order to promote clarity in City Council's power to do so, the Chamber supports the recommended changes.

Issue Three

Salaries for City Council and Mayor

The current annual salaries of the Mayor and City Council are \$45,000 and \$29,000, respectively. In previous Charter elections, voters rejected a salary increase that would have been indexed to the HUD median income for a family of four.

The proposed amendments would increase the mayor's salary to \$55,000 and the salary of City Council Representatives to \$39,000 per year.

Salaries in other large Texas cities for mayors range from \$29,000 in Fort Worth to \$209,000 in Houston. San Antonio's mayor is paid \$61,725 per year, while Dallas' mayor makes \$80,000 annually and Austin pays its mayor \$81,344 per year. Likewise, salaries for city council representatives range from \$25,000

in Fort Worth to \$69,885 in Austin. Representatives in San Antonio are paid \$45,722 per year, \$56,000 in Houston, and \$60,000 in Dallas.

Position: The Chamber recommends a salary increase greater than the proposed amendment. The Mayor and City Council should be compensated a professional wage that is commensurate with the level of responsibility they are assuming. Further, the commitment of time and effort required to be a knowledgeable City Council Representative is larger than many citizens realize, and a competitive wage is required in order to increase the field of qualified candidates who can dedicate themselves to these positions full-time.

Issue Four

Frequency of City Council Meetings

Currently, the City Charter stipulates that Council must meet once a week, and may cancel up to three meetings per year.

The proposed amendment would give City Council the discretion to cancel up to one meeting per month, while requiring the schedule to be set at the beginning of each calendar year.

Position: The Chamber believes that City Council should meet twice per month (bi-weekly). Reducing the frequency of meetings would allow District Representatives to better serve constituents, would reduce demand on community stakeholders who regularly appear before City Council for permits and other matters, and likely would increase the quality of meetings.

Further, the Chamber supports the scheduling requirement, as this would create the predictability and stability necessary for the business community conducting business with the City, while also providing flexibility for how District Representatives apply their resources in addressing their numerous duties that do not consist of attending meetings.

Issue Five

Powers of the Mayor

When it comes to powers of the mayor, the current City Charter states that the mayor does not vote unless the City Council is deadlocked at 4-4; the mayor also holds veto power, which can be overcome by a supermajority. The supermajority required to overturn the mayor's veto currently consists of "three fourths of all of the Representatives."

The proposed amendment would clarify the definition of City Council to indicate that the Mayor is a non-voting member, while maintaining veto power in the event of tie.

Position: The Chamber strongly believes that the Mayor should remain a non-voting member of City Council and should maintain the authority to veto. Veto abuse has not been a problem historically, and the presence of veto power is an important check against City Council's power. To turn the mayor into a

voting member and to strip the mayor of the authority to veto would essentially create an at-large City Council seat.

Thus, the Chamber supports the recommended amendment to Section 1.2 as it relates to the definition of City Council.

Issue Six

Classification of the City Attorney

Currently, the city attorney reports directly to the mayor. City Council can remove the city attorney, but the mayor has power to veto that removal. By comparison, the mayor cannot veto City Council's removal of the city manager.

The proposed amendment would change the reporting structure by having the city attorney report to City Council, as does the city manager. Further changes would remove the Mayor's ability to veto Council's action to remove the city attorney. This reclassification and removal of veto power over the city attorney would diminish mayoral powers and could create situations where the city attorney's independent legal judgment is compromised because of pressure from City Council. Moreover, this change would serve to further politicize a position that is meant to remain neutral and unbiased.

Position: The Chamber opposes any reclassification of the city attorney's status and accountability structures as the changes discussed would significantly increase City Council's power and would significantly decrease mayoral power, reducing the established system of checks and balances.

Issue Seven

Timing of Municipal Elections

In the 2013 charter elections, Proposition 1 included language that would move the city's general elections from May in odd numbered years to November in even numbers years beginning in 2018. This proposition passed by a narrow margin, and included action on two different charter amendments.

The proposed recommendation is to place the timing of municipal elections on the ballot once again to give voters the chance affirm that the city's general elections should be moved.

Position: The Chamber does not support efforts to bring this issue to voters once again and stands by the original intent for the move to November for municipal elections, which is to increase voter turnout. Historically, less than 9% of registered voters participate in May elections in El Paso County. By moving the elections to November in even numbered years, municipal elections will join a larger ballot to include state, national, and some local school board elections, which will have a tremendous impact on voter turnout.