

PIEDMONT CITY COUNCIL

Special Meeting Minutes for Monday, June 25, 2018

A Special Session of the Piedmont City Council was held June 25, 2018, in the City Hall Council Chambers at 120 Vista Avenue. In accordance with Government Code Section 54957(b), the agenda for this meeting was posted for public inspection on June 21, 2018.

CALL TO ORDER

Mayor McBain called the meeting to order at 6:33 p.m.

ROLL CALL

Present: Mayor Bob McBain, Vice Mayor Teddy Gray King, and Councilmembers Jennifer Cavenaugh, Tim Rood and Betsy Smegal Andersen

Staff: City Administrator Paul Benoit, City Attorney Michelle Marchetta Kenyon, and Assistant City Administrator/City Clerk John Tulloch.

SPECIAL SESSION

Town Hall Meeting to Discuss Possible Amendments to the City Charter

Mayor McBain explained that the process leading to this meeting began in June 2017, during budget discussions, the Council discussed the possible amendment of a Charter provision placing a maximum on the General Fund reserve. He stated that at that meeting, the Council agreed that each Councilmember would review the Charter in its entirety and suggest possible revisions. He indicated that each Councilmember completed this task, as did the City Attorney, City Administrator, and City Clerk. The results of these reviews were presented to the Council in a track changes version on February 5, 2018. At that meeting, Council directed staff to prepare the documents necessary to place three amendments to the Charter on the June ballot.

At the March 5, 2018 City Council meeting, Council, after receiving more clear legal advice from the City Attorney, did not take action to place a measure on the June ballot. Rather, it scheduled a special meeting on April 25th to go through each of the possible changes and make a decision as to which merited placement before the voters in November 2018. Mayor McBain indicated that, at that meeting, the Council reviewed each of the possible amendments. Staff compiled these changes into the document which is being considered by the Council at this meeting.

Mayor McBain emphasized that the review started as an effort led by Council, with staff input, with the hope to improve the Charter and retain the quality that had served the City well. He indicated the Council was open minded and wanted to hear from the community.

City Clerk John Tulloch explained that the Council would take public and Council comment at tonight's meeting. City Administrator Paul Benoit suggested that should the Council wish to make additional edits to the proposed amendments, it should give direction to staff at this meeting. Staff would then prepare the formal documents needed to place the proposed amendments before the voters at its meeting of July 16th.

The Council discussed the following proposed Charter Amendments:

2.03 – Term of Office

Mayor McBain explained proposed amendments to Section 2.03 – Term of Office, which would extend the length of time a Councilmember is ineligible to

run again for office from four years (one term) to eight years (two terms) after leaving office.

Public Testimony was received from:

Ann Chandler, who stated she initially did not think it was necessary and urged the Council to retain the four year sit out period.

Chris Krenn requested justification for changing the period of ineligibility.

Jamie Totsubo requested the rationale and determination from each Councilmember. She asked why not limit service to two terms.

The Council discussed this proposed amendment. Mayor McBain explained his rationale regarding the advantage of incumbency and his desire to allow more people to serve. He stated he was trying to think prospectively about potential problems. Councilmember Rood explained that any restrictions adopted in November would apply prospectively. Councilmember Andersen stated she was in favor of term limits and the eight-year ineligibility period was a compromise. Councilmember King indicated that the proposal was an effort to maintain institutional knowledge and move in a forward-thinking direction. Councilmember Cavanaugh indicated her belief that the current provisions are working and didn't need to be changed.

In response to a question from Council, staff clarified that this proposed change was presented to the Board of Education, which indicated that it did not want it to apply to Board members.

2.05 (C) – Filling of Vacancies

Mayor McBain summarized the existing provisions and proposed amendment, which would bring the Charter in line with currently existing elections code provisions for general law cities. The proposed amendment would give the Council or the Board of Education sixty days to fill vacancies and then allow a special election to be called if the vacancy wasn't filled in that timeframe.

Public Testimony was received from:

Winifred Walters suggested pointing out the cost of a special election.

Ann Chandler indicated support for the proposed amendment and consideration of what happens when someone died in office.

Chris Krenn suggested alternatives to a special election.

Councilmember Cavanaugh discussed the difficulty in filing a vacancy in 30 days.

2.07(A) – Meetings

Mayor McBain explained the current Charter provision requiring the Council to meet twice each month and the proposed amendment which would require regular meetings.

City Attorney Michelle Marchetta Kenyon discussed the difficulty in mandating two meetings every month.

Mr. Tulloch indicated that the Council has a resolution which designates that the Council meet on the first and third Mondays of the month at 7:30 p.m. and there was no indication that the Council wished to change this practice.

Public Testimony was received from:

Kathleen Quenneville asked if a study had been done of peers and suggested consideration of meeting once per month.

The Council suggested verbiage affirming the Council's intent to meet at least twice each month.

2.07 (C) – Voting

Mayor McBain explained the existing language which allows fewer than a quorum of Councilmembers to “compel the attendance of absent members in the manner prescribed by the rules of the Council”. City Attorney Kenyon indicated that this language is viewed as archaic, unnecessary, and difficult to implement.

2.12 – Ordinances in General

Mayor McBain indicated there were two proposed changes to this section, one to modernize the enacting clause of ordinances and another to modernize the definition of posting.

Public Testimony was received from:

Kathleen Quenneville suggested that posting not be defined.

The Council agreed that ordinances should be posted in accordance with all legal requirements.

2.15 (A) – Authentication and Printing

The Council supported the proposed amendment to this section, which utilized modern technology for the indexing of ordinances and resolutions.

Article III – Administration

Mayor McBain explained that the changes proposed to Article III were largely to bring the reporting structure of management employees into conformance with modern management practices. He indicated that the current language in the Charter was internally inconsistent on this topic. He indicated that the language before the Council this evening was the result of Council direction provided at the April 30th special meeting. He indicated that the proposed language retained the Council's ability to appoint management personnel, but left their day to day management as the responsibility of City Administrator.

City Attorney Kenyon clarified that, under the proposed language, the Council would retain the power to appoint, supervise, and remove both the City Administrator and City Attorney. She explained the existing conflict in the Charter.

Public Testimony was received from:

Jamie Totsubo expressed confusion with Section 3 - City Administrator Powers and Duties.

Kathleen Quenneville stated she did not have a strong opinion on whether the Council should give up its control.

The Council discussed the relationship between the City Council and City Administrator. It stated its intention that the relationship be a collaborative partnership. The Council discussed the language in Section 3.01 and 3.02 and provided modified language.

Section 3.02 – Official Bonds

Mr. Tulloch explained that the requirement set for in this section was redundant, as the City's insurance provided the same protection as the bonds do.

Sections 3.10 – Department of Public Works, and 3.13- Department of Parks and Recreation

Cal pol

Mr. Tulloch explained that the practice for many years in the City has been that the maintenance of parks and recreational facilities has been the responsibility of the Department of Public Works, while the responsibility for programming these facilities has been in the Recreation Department. The proposed amendments to these sections would update the charter to reflect this practice.

Section 4.03 – The Budget

Mayor McBain discussed the existing language in the charter, which limits the General Fund Reserve to 25% of the budget. He explained the proposed language, which would remove the limit, and set a non-binding floor of 15% for the General Fund Reserve.

Public Testimony was received from:

Chris Krenn asked what the Council could or would do if the reserve grew to 50 or 100%. He also asked when and how reserves were reported.

Kathleen Quenneville stated her belief that inclusion of this proposed amendment on the ballot would cause the measure to fail.

The Council discussed the reasons for this proposed amendment. It discussed how checks and balances are built into the budgetary process to ensure that the City was not simply stockpiling money for no reason. After a thorough discussion of this topic, the Council decided not to place this amendment before the voters in November.

Section 4.11 – Contract Work

City Administrator Benoit explained that, as written, the Charter requires formal bidding for all Public Works projects over \$5,000, which can add a large and unnecessary expense to small projects. He indicated that the proposed amendment eliminates the Charter's reference to state law in setting the dollar

threshold for formal bidding, rather leaving that in the hands of the Council. He also indicated that the Council has adopted a purchasing ordinance which allows purchases and projects valued between \$5,000 and \$75,000 to be undertaken with an informal bidding process.

Public Testimony was received from:

Kathleen Quenneville stated her belief that the proposed amendment was a good one, but she indicated that a better explanation of the reasoning was necessary.

Chris Krenn expressed concern regarding oversight and asked about the audit process.

The Council discussed the proposed amendment and agreed to modify it to include the requirement, "All expenditures for public projects shall be contracted for a let to the lowest responsive bidder."

Section 5.01

Mr. Tulloch indicated the proposed amendments to this section were to ensure consistency with Article III of the Charter. City Attorney Kenyon confirmed that they were not substantive clean up.

Section 5.02 – Appointments

City Attorney Michelle Marchetta Kenyon stated the changes were proposed to conform the Charter to state law regarding protected classes.

Public Testimony was received from:

Kathleen Quenneville suggested "in keeping with State law" instead of listing the specific categories.

Article VII – Public Schools

Mr. Tulloch indicated that the two proposed amendments proposed in this article would conform the process of filling vacancies on the Board of Education to the procedure laid out previously discussed for the Council. The proposed amendments would also remove the ability of fewer than a quorum of Board members to compel the attendance of absent members, as discussed for the Council. He indicated that both proposed amendments had been discussed with the administration of the School District which had no issues with either.

The Council then discussed the placement of these items on the ballot in November. It decided to place two measure on the ballot for resident consideration. The first would be a measure containing the proposed amendments not related to the proposed change in reporting structure. The second would be the changes to the proposed reporting structure.

For the first measure, the Council directed that the proposed amendments for the following sections to be modified as follows:

Section 2.07 (A) Meetings, "The City Council shall meet regularly with a goal of meeting a least twice in every month in such times and places as the council may prescribe by ordinance or resolution."

Section 2.12 (D) – Ordinances In General, “As used in this section the term posting means to post the ordinance in accordance with all legal requirements.”

Section 4.11 – Contract Work, first sentence, “All expenditures for public projects shall be contracted for and let to the lowest responsible bidder after notice.”

Section 5.02 – Appointments & Promotions, “The City shall not discriminate against any employee or applicant for employment because of sex, race, creed, color, ancestry, or national origin, religion, disability, age, genetic information, marital status, sexual orientation, gender identity, gender expression, AIDS/HIV status, medical condition, political activities or affiliations, military or veteran status, or status as a victim of domestic violence. or ethnic origin, or any other basis protected by law.”

For the second measure, the Council directed that the proposed amendments for the following sections to be modified as follows:

Section 3.01 – Officers and Employees, “The officers of the City of Piedmont shall consist of a City Administrator, a City Clerk, a City Attorney, a Director of Finance, a Chief of Police, a Fire Chief, a Director of Public Works, a City Engineer, a Planning Director, a Director of Recreation and such other officers as the City Council may deem necessary.”

Section 3.02 – City Administrator, “The City Council shall appoint a City Administrator for an indefinite term and fix his/her compensation. The administrator shall be appointed on the basis of executive and administrative qualifications.

The City Administrator shall be the chief administrative officer of the city and shall be responsible to the City Council for the administration of all City affairs placed in his/her charge by or under this charter.

The administrator shall have the following powers and duties:

- 1) Shall appoint all city employees
- 2) Shall discipline, and, when deemed necessary for the good of the City, suspend or remove City officers and employees except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter.”

ADJOURNMENT

There being no further business, Mayor McBain adjourned the meeting at 9:35 p.m.