City of Piedmont
COUNCIL AGENDA REPORT

DATE: June 25, 2018

TO: Mayor and Council

FROM: Paul Benoit, City Administrator

SUBJECT: Town Hall Meeting to Discuss Possible Amendments to the City Charter

---

RECOMMENDATION

Receive input from the community on proposed amendments to the Piedmont City Charter. If desired, provide direction to staff on additions, deletions, or modifications to the proposed amendments.

BACKGROUND

The City Council's discussion of possible Charter amendments began in June 2017 and Council has subsequently discussed the issue at Council meetings on February 5, 2018, March 5, 2018, April 30, 2018, and June 4, 2018. The April 30th meeting was a special Council meeting, solely devoted to discussion of possible charter amendments. At its June 4th meeting, Council confirmed that the draft amendments accurately reflected its directions and directed staff to schedule a town hall meeting to receive feedback from residents on the proposed amendments. The proposed amendments were circulated to the community prior to the June 4th Council meeting and prior to this meeting via postings on the City's web site, NextDoor, and the Piedmont Portal. The proposed amendments were also sent to the League of Women Voters as well as the press.

Section 9.07 of the Charter requires that all proposed amendments to the Charter must be presented to the qualified voters of the City at a general or special election. State law (Elections Code § 1415) further clarifies that if the proposed changes to a Charter "alter any procedural or substantive protection, right, benefit or employment status of any local government employee," then the amendment must be presented at a statewide general election. This means that the amendments proposed to Article III would require consideration at a statewide general election, which happens in November of even numbered years.

The amendments proposed by the Council were put into draft form by the City Clerk and reviewed and approved by the City Administrator and City Attorney. Should the Council choose to place the proposed amendments before the voters in November, it would need to approve a resolution detailing the proposed amendments no later than its regular meeting of July 16th. A

majority of voters (50% + 1) would need to vote yes for the amendments to be approved.

At Council direction, this staff report provides the stated rationale for the proposed amendments, grouped by article. Section numbers listed are as they currently exist in the Charter.

Article II – City Council

- **SECTION 2.03 TERM OF OFFICE**
  The proposed amendments to term limits for the City Council 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. The stated rationale for extending this time frame was to blunt the power of incumbency and to allow greater opportunity for residents to consider running for office.

- **SECTION 2.05 (C) FILLING OF VACANCIES**
  Currently, this subsection provides that the Council shall fill a vacancy by appointment within thirty days of a vacancy occurring. If the Council does not act within those thirty days the vacancy shall be filled by the Mayor. As the Council has experienced in each of the previous two years, the thirty day window is very tight and the possibility of a Mayor being forced to make a unilateral appointment without Council input is a strong possibility. In addition, as currently written, this subsection precludes the possibility of a special election to fill an empty Council seat which is an option the Council does not want to preclude.

  To address the above noted issues, it has been suggested that the timeframe for Council appointment be extended to sixty days and, should the Council not fill a vacancy within the allotted period, the vacancy shall be filled by special election.

- **SECTION 2.07(A) - MEETINGS**
  The suggested revision to this subsection would eliminate the requirement that the Council meet twice per month, and put in place a requirement that it meet regularly. Under the current requirement, it could be construed that the Council is violating the Charter if it does not hold two regular meetings in a given month. Removing this provision simply allows the Council, by resolution or ordinance, to set its schedule of regular meetings.

  The Council has met on the first and third Mondays of the month for over thirty years. There is no intent to change this schedule or reduce the number of regular meetings. The proposed amendment simply would remove the requirement of two meetings per month from the Charter.

- **SECTION 2.07(C) - VOTING**
  A provision of this subsection, as written, allows fewer than a quorum of Councilmembers to “compel the attendance of absent members in the manner prescribed

by the rules of the Council". This portion of the subsection is viewed as archaic, unnecessary, and difficult to implement. Accordingly, it is proposed to be deleted.

- **SECTION 2.12 - ORDINANCES IN GENERAL**
  A technical revision is proposed to subsection A to conform the enacting clause of ordinances to modern practice.

  A revision is proposed to subsection D to change the location of posting of ordinances from the official City bulletin board to the City's web site and in accordance with all other legal requirements. It also states that, "The City Clerk shall strive to post ordinances in a manner which ensures maximum availability to the public, especially in time of emergency." This proposed revision reflects modern practice and would provide for broader and more convenient access to the public.

- **SECTION 2.15(A) AUTHENTICATION AND RECORDING; CODIFICATION; PRINTING**
  This subsection requires that all ordinances and resolutions be recorded in an indexed book kept for this purpose. Modern technology has removed the need for this archaic requirement, as all ordinances and resolutions are digitally indexed in the City's records management system.

Article III – Administration

The proposed amendments to this article are intended to align the Charter with what has been the long standing practice in the City of Piedmont and to align with best practices in the City Manager/Administrator-Council form of government.

In broad terms, there are two principal forms of City government: the Mayor-Council form and the Council-Manager form. In the Mayor-Council form of government the Mayor is elected at-large and serves as the City's Chief Administrative Officer. In this form of government City employees report to the Mayor, with the City Council serving as the legislative, policy setting body and often a City Administrator is appointed to serve under the Mayor and assist with administrative duties.

In the Council-Manager form of government, the Mayor presides at Council meetings and is generally recognized as the head of government for all ceremonial purposes, with the Mayor and Council responsible for setting policy. The City Manager/Administrator serves as the Chief Administrative Officer and is responsible for directing daily operations, handling all personnel functions, and is responsible for preparing and managing the budget. In this form of government, the City Council is prohibited from interfering with the Manager's duties, however, the Manager/Administrator may be removed at any time by a majority vote of the Council.

The current City of Piedmont Charter sets out a hybrid of these two forms of government. However, it contains verbiage that can lead to confusion and is arguably internally inconsistent.

For example, the Charter currently states that all officers of the City (which includes all Department Heads) shall be appointed and directed by the Council and shall hold office at the pleasure of the Council. (Section 3.01) The Charter also states, however, that the City Administrator is provided with the responsibility to "appoint, discipline and, when deemed necessary for the good of the City, suspend or remove employees except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter" (Section 3.03(1)). The Administrator's duties also require supervising the administration of all departments, offices and agencies of the City (Section 3.03(2)) and a requirement to ensure that, "…all laws, provisions of this Charter and acts of the Council, subject to enforcement by him/her or by officers subject to his/her supervision are faithfully executed" (Section 3.03(4)). These provisions arguably create a conflict because on the one hand the Council is given the power to direct all officers who hold office at the pleasure of the Council and on the other hand, the City Administrator is given the responsibility to appoint, supervise all departments and possibly remove employees from offices.

In actual practice officers of the City are hired by the City Council in consultation with the City Administrator. Once hired, such City employees are directed, supervised and, if necessary, disciplined by the City Administrator in his/her capacity as the Chief Administrative Officer. The primary power and authority of the City Council, when it comes to the administration of the City, rests in their authority to set policy and to remove the City Administrator and appoint a replacement.

The proposed amendments are intended to avoid any possible confusion and better reflect the actual practice being followed in the City. These amendments also better align with best practices in the Manager/Administrator-Council form of government.

To accomplish the changes described above, amendments are proposed to Sections 3.01, 3.03, 3.05, 3.06, 3.07, 3.08, 3.09, 3.10, 3.11, 3.12, and 3.13.

There are also three additional amendments to this Article, which are unrelated to the above.

- **SECTION 3.02 OFFICIAL BONDS**
  This section was identified as archaic and is proposed for deletion in its entirety, as error, omissions, and faithful performance coverage is provided by the City's insurance pool.

- **SECTION 3.10 DEPARTMENT OF PUBLIC WORKS**
  In addition to the reporting amendments detailed above, language is added to this section to give the department responsibility for maintenance of parks and public facilities, which conforms the Charter to long standing practice.

- **SECTION 3.13 DEPARTMENT OF PARKS AND RECREATION**
  In addition to the reporting amendments detailed above, this section is revised to remove the reference to Park in the Department name as well as to remove the responsibility for maintenance of the City's park lands and recreation facilities from the list of responsibilities. These were added to the Public Works Department section above. The

responsibility for carrying out Council policies related to the use of park lands and recreation facilities remains with the Recreation Department, as is long standing practice.

Article IV – Fiscal Matters

- **SECTION 4.03 THE BUDGET**
  Currently, the last two paragraphs of this section require that the City maintain a reserve of no more than 25% of the budget for the purpose of maintaining municipal services during periods of reduced revenues as well as meeting unforeseen contingencies and emergencies.

  As detailed in a June 19, 2017 Council Agenda Report, the City Charter, from its original adoption in 1923 through 1980, placed no requirement for, or limit on, reserves of the General Fund. In 1980, the Charter was amended to require that a reserve be established for the purpose of meeting unforeseen contingencies and emergencies and specified that the reserve not exceed 10%. In 1999, the Municipal Tax Review Committee stated that "….caps on the General Fund Reserve were originally designed to prevent a spendthrift Council from taxing residents for the sake of piling up unnecessary reserves. We believe that history – and quadrennial parcel tax votes – show this fear to be unfounded". Based on the Committee's report, the Council proposed and the voters approved an amendment in 2000 that increased the maximum General Fund reserve to 25% and expanded the purpose to include "maintenance of municipal services during periods of reduced revenues to the City."

  The provision for placing a percentage limitation on the size of the General Fund reserve seems to have been born out of a concern that the City would tax its residents beyond what is needed to support prudent operations and thus accumulate unnecessary reserves. In practice, this has never happened. Additionally, the City has no authority to <u>impose</u> taxes on residents. In the case of the parcel tax, continuation of the tax, and any increase which may be proposed, is subject to a vote of Piedmont residents every four years. This requirement for voter approval, in addition to annual public hearings on the budget, provides valuable opportunities for resident oversight of City budget practices, operations, and performance.

  If the Charter were to include any provisions relating to the reserves of the General Fund, best practice and prudence would dictate speaking to the need to build and maintain reserves as opposed to placing artificial limits on the size of the reserve. For these reasons it is proposed that the section be amended to state that the City shall maintain a General Fund Reserve and that the Council shall strive to maintain the reserve in an amount not less than 15% of the General Fund operating budget. Note that the addition of "operating budget", rather than simply referring to "the budget", provides needed clarity as to exactly how to apply referenced percentages.

- **SECTION 4.11 CONTRACT WORK**
  As written, this section requires the City to go through a formal bidding process for all public works contracts over $5,000, subject to certain exceptions. The process of preparing formal bid documents is costly and can add significant time to projects. 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. Currently, the City Code allows projects of $5,000 or under to be procured at markets rates, projects from $5,001 to $75,000 to go through informal bidding, and projects of over $75,001 to go through the formal bidding process.

  It is important to note that the proposed amendment does not eliminate the requirement that public works projects be awarded to the lowest responsible bidder, though the sentence slated for elimination removes that language. The requirement for awarding a contract to the lowest responsible bidder still exists in the City's purchasing ordinance and in the state's public contracts code.

Article V – Personnel

- **SECTION 5.01 PERSONNEL CLASSIFICATION**
  This section specifies the personnel classification of the elective officers, officers, employees, and volunteers of the City, identifying whether they fall into the unclassified or classified services of the City for the purposes of Civil Service regulations.

  Subsection (A)(2) is revised to remove listings of specific positions in the unclassified service, rather referring to the "Officers of the City" as defined in Section 3.01 of the Charter. This amendment is largely editorial in nature and is proposed to better correspond to terminology and provisions of other sections of the Charter.

- **SECTION 5.02 APPOINTMENTS AND PROMOTIONS**
  This section currently requires that appointments and promotions be made based upon the selection of the best qualified individual for a job. It also prohibits discrimination against employees based upon sex, race, creed, color, or national or ethnic origin. The proposed amendment to this section modernizes the prohibition against employment discrimination to include all classes protected under U.S. and state law.

  In previous discussion of this item, Council indicated its belief that a specific listing of protected classes, which conforms to state and federal law is an important statement of City policy.

Article VII – Public Schools

Though the Piedmont Unified School District is a separate entity from the City of Piedmont, its creation dates back to the passage of the original Piedmont City Charter in 1923. Since that time, though the PUSD operates separately from the City, provisions regarding the District's elected

governing board have, by necessity of its creation, resided in the City Charter. The provisions of the Charter related to the PUSD solely govern the election, membership requirements, compensation, and organization of the Board of Education. As the City Council and the Board of Education are the only elected bodies in Piedmont, these requirements closely mirror each other, though there are differences reflecting the body of law governing each organization.

Staff confirmed that the Piedmont Unified School District is agreeable to the two proposed amendments listed below.

- **SECTION 7.04 VACANCIES**
  Currently, the requirements for filling a vacancy on the Board of Education match those of the City Council in Section 2.05, above. The proposed amendment to this section mirrors the changes proposed for the City Council in Section 2.05.

- **SECTION 7.06 MEETINGS**
  Currently, this section contains the same archaic provision regarding compelling attendance at meetings as are contained in Section 2.07(C) for the City Council. The proposed amendment parallels the proposed amendment to Section 2.07(C) and deletes the provision allowing for a minority of members to compel attendance of absent members.

Attachment:

A: Charter of the City of Piedmont with Amendments as Proposed by the City Council on June 4, 2018.

By: John O. Tulloch, Assistant City Administrator / City Clerk

CHARTER

of the

City of Piedmont

(As Amended November 2014)

WITH PROPOSED REVISIONS
FROM JUNE 4, 2018
CITY COUNCIL MEETING

Text proposed to be stricken from the existing language is indicated in ~~strikethrough~~ format.
Text proposed to be added is indicated by *italics*.

Table of Contents

ARTICLE I.	**POWERS OF THE CITY**	Page
Section 1.01	Name	1
Section 1.02	Boundaries	1
Section 1.03	Powers of the City	1
Section 1.04	Intergovernmental Relations	1
ARTICLE II.	**CITY COUNCIL**	
Section 2.01	Composition, Eligibility and Election	1
Section 2.02	Compensation	2
Section 2.03	Term of Office	2
Section 2.04	General Powers and Duties	2
Section 2.05	Vacancies; Forfeiture of Offices; Filling of Vacancies	2
Section 2.06	Judge of Qualifications	3
Section 2.07	Council Meetings	3
Section 2.08	Mayor	4
Section 2.09	Investigations	4
Section 2.10	Administrative Relations	4
Section 2.11	Action Requiring an Ordinance	4
Section 2.12	Ordinances in General	5
Section 2.13	Emergency Ordinances	6
Section 2.14	Codes of Technical Regulations	6
Section 2.15	Authentication and Recording; Codification; Printing	7
ARTICLE III.	**ADMINISTRATION**	
Section 3.01	Officers and Employees	7
Section 3.02	Official Bonds	8
Section 3.03	City Administrator	8
Section 3.04	Acting City Administrator	9
Section 3.05	City Clerk	9
Section 3.06	City Attorney	10
Section 3.07	Department of Finance	10
Section 3.08	Police Department	11
Section 3.09	Fire Department	11
Section 3.10	Department of Public Works	11
Section 3.11	City Engineer	11
Section 3.12	Planning Director	11
Section 3.13	Department of Parks and Recreation	12

ARTICLE IV.	**FISCAL MANAGEMENT**	Page
Section 4.01	Fiscal Year	12
Section 4.02	Submission of Budget	12
Section 4.03	The Budget	12
Section 4.04	Action on Budget	13
Section 4.05	Amendments After Adoption	14
Section 4.06	Lapse of Appropriations	14
Section 4.07	Tax System	14
Section 4.08	Tax Rate Limitation	14
Section 4.09	Independent Audit	14
Section 4.10	Franchises	15
Section 4.11	Contract Work	16
Section 4.12	Purchasing	16
Section 4.13	Temporary Loans	16
Section 4.14	Bonded Debt Limit	16
ARTICLE V.	**PERSONNEL**	
Section 5.01	Personnel Classification	17
Section 5.02	Appointments and Promotions	17
Section 5.03	Personnel Rules and Regulations	17
Section 5.04	Suspension, Demotion and Dismissal	18
Section 5.05	Retirement System	18
Section 5.06	Authority to Join Other Systems	18
ARTICLE VI.	**BOARDS AND COMMISSIONS**	
Section 6.01	Creation of Boards and Commissions	19
Section 6.02	Membership, Term of Office	19
Section 6.03	Compensation	19
Section 6.04	Organization	19
Section 6.05	Public Record	20
ARTICLE VII.	**PUBLIC SCHOOLS**	
Section 7.01	Governing Board	20
Section 7.02	Membership, Term of Office	20
Section 7.03	Compensation	20
Section 7.04	Vacancies	20
Section 7.05	Organization	21
Section 7.06	Meetings	21

ARTICLE VIII.	**ELECTIONS**	Page
Section 8.01	General Municipal Elections	21
Section 8.02	Special Municipal Elections	21
Section 8.03	Procedure for Holding Elections	21
Section 8.04	Initiative, Referendum, and Recall	22

ARTICLE IX.	**GENERAL PROVISIONS**	
Section 9.01	General Plan	22
Section 9.02	Zoning System	22
Section 9.03	Conflict of Interest	23
Section 9.04	General Laws Applicable	23
Section 9.05	Separability	23
Section 9.06	Charter Enforcement	23
Section 9.07	Charter Amendment	23
Section 9.08	Effective Date	23

ARTICLE I.
Powers of the City

SECTION 1.01 NAME

The municipal corporation now existing and known as the City of Piedmont shall remain and continue to be an entity as at present.

SECTION 1.02 BOUNDARIES

The boundaries of the City shall be the same as now established, with power and authority to change the same as provided by law.

SECTION 1.03 POWERS OF THE CITY

The City shall have all powers possible for a city to have under the Constitution and laws of the State of California as fully and completely as though they were specifically enumerated in this Charter.

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this Article.

SECTION 1.04 INTERGOVERNMENTAL RELATIONS

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any other public or private agency.

ARTICLE II
City Council

SECTION 2.01 COMPOSITION, ELIGIBILITY AND ELECTION

(A) COMPOSITION. There shall be a City Council of five (5) members elected at large by the qualified voters of the City.

(B) ELIGIBILITY. Only qualified voters of the City shall be eligible to hold the office of Councilmember.

(C) HOLDING OTHER OFFICES. Except where authorized by law, no Councilmember shall hold any other office or employment with the City.

(D) ELECTION. The regular election of Councilmembers shall be held at the General Municipal Election as provided for in Section 8.01 of this Charter. The terms of elected Councilmembers shall begin upon certification of the election results by the City Council. They shall hold office for four (4) years. Elections shall be alternately for two (2) and three (3) Councilmembers, excluding elections to fill an unexpired term of office. (Charter Amendment 11/4/2014)

SECTION 2.02 COMPENSATION

The members of the City Council shall not receive any compensation for their service to the City. Councilmembers may receive actual and necessary expenses incurred in the performance of their duties of office as determined by the Council.

SECTION 2.03 TERM OF OFFICE

No person who has served two (2) full consecutive terms as a Councilmember shall thereafter be eligible to hold such office until ~~one~~ *two* full intervening terms*, totaling eight (8)* ~~of four (4)~~ years *have* ~~has~~ elapsed. For the purposes hereof, any person who serves as a Councilmember for more than eighteen (18) months of an unexpired term shall be considered to have served a full term.

SECTION 2.04 GENERAL POWERS AND DUTIES

All powers of the City shall be vested in the City Council as the legislative body, except as otherwise provided by law or this Charter. The Council shall provide for the exercise of these powers and for the performance of all duties and obligations imposed on the City by law.

SECTION 2.05 VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES

(A) VACANCIES. The office of a Councilmember shall become vacant upon his/her death, resignation, removal from office in any manner authorized by law, or forfeiture of office.

(B) FORFEITURE OF OFFICE. A Councilmember shall forfeit office if the member:

(1) lacks at any time during the term of office any qualification for the office

prescribed by this Charter or by State law;

(2) violates any prohibition of this Charter; or

(3) is convicted of a crime involving moral turpitude.

(C) FILLING OF VACANCIES. A vacancy on the City Council shall be filled by appointment by the Council, with said appointee to hold office until the next general municipal election, when a successor shall be chosen by the electors for the unexpired term. If the Council does not fill such vacancy within *sixty* ~~thirty~~ (*60* ~~*30*~~) days after the same occurs, then such vacancy shall be filled by *special election* ~~the Mayor~~.

Notwithstanding the requirement of this Charter that a quorum of the Council consists of three members, if at any time the membership of the Council is reduced to two, the remaining members shall appoint one additional member to raise the membership to three (3), and then call a special municipal election to fill all vacancies, including the vacancy to which an appointment has just been made. If at any time there are four (4) or more vacancies, the City Clerk shall call a special election at once to fill the vacancies for the unexpired terms, with said election being conducted in accordance with the rules for a general municipal election.

SECTION 2.06 JUDGE OF QUALIFICATIONS

The City Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of office, and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.

SECTION 2.07 COUNCIL MEETINGS

(A) MEETINGS. The City Council shall meet regularly ~~at least twice in every month~~ at such times and places as the Council may prescribe by ordinance or resolution. Special meetings may be held on the call of the Mayor or of three (3) or more members and, whenever practicable, upon no less than twenty-four (24) hours notice to each member. All meetings shall be public except as otherwise provided by law.

(B) RULES AND MINUTES. The Council shall determine its own rules and order of business and shall provide for keeping minutes of its proceedings. These minutes shall be a permanent public record.

(C) VOTING. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the minutes. Three (3) members of the Council shall constitute a quorum.~~, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner prescribed by the rules of the Council.~~ No action of the Council, except as otherwise provided for in this Charter, shall be valid or binding unless adopted by the affirmative vote of three (3) or more members of the Council.

SECTION 2.08 MAYOR

Following each general municipal election, the City Council shall elect from among its member officers of the City who shall have the titles of Mayor and Vice-Mayor, each of whom shall serve at the pleasure of the Council. The Mayor shall preside at meetings of the Council, shall be recognized as head of the City government for all ceremonial purposes and by the Governor for the purposes of military law, but shall have no administrative duties. The Vice-Mayor shall act as mayor during the absence or disability of the Mayor. In case of the temporary absence or disability of both the Mayor and Vice-Mayor, the Council shall select one of its members to serve as Mayor Pro Tempore.

SECTION 2.09 INVESTIGATIONS

The City Council may make investigations into the affairs of the City and the conduct of any City department, office or agency, and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence.

SECTION 2.10 ADMINISTRATIVE RELATIONS

Except for the purpose of inquiries and investigations, Councilmembers shall deal with the City officers and employees who are subject to the direction and supervision of the City Administrator through the City Administrator.

SECTION 2.11 ACTION REQUIRING AN ORDINANCE

In addition to other acts required by law or by specific provisions of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(1) Adopt or amend an administrative code, or combine or abolish any City department, office, record or commission;

(2) Provide for a fine or other penalty, or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(3) Levy taxes, except as otherwise provided in this Charter with respect to the property tax levied by adoption of the budget;

(4) Grant, renew or extend a franchise;

(5) Authorize the borrowing of money;

(6) Convey or lease or authorize the conveyance or lease of any lands of the City;

(7) Adopt, with or without amendment, ordinances proposed under the initiative power; and

(8) Amend or repeal any ordinance previously adopted, except as otherwise provided in this Charter, with respect to repeal of ordinances reconsidered under the referendum power.

Acts other than those referred to in this section may be done either by ordinance or by resolution of the City Council. Notwithstanding any other provisions of this section, if an ordinance authorizes the council to establish rules and regulations on matters set forth in such ordinance, those rules and regulations adopted by resolution shall be valid and shall be subject to fine or penalty if the establishing ordinance so provides.

SECTION 2.12 ORDINANCES IN GENERAL

(A) FORM. Every proposed ordinance shall be introduced in writing, and the subject of the ordinance shall be clearly expressed in its title. The enacting clause shall be, "The City *Council* of *the City of* Piedmont hereby ordains..." Any proposed ordinance which repeals or amends an existing ordinance or part of the City Code shall distinctly set out the City Code sections or subsections to be repealed or amended, and those existing provisions shall be posted with said ordinance.

(B) PROCEDURE. An ordinance may be introduced by any Councilmember at any regular or special meeting of the City Council. Upon the first reading of any ordinance, the City Clerk shall distribute a copy to each Councilmember and to the City Administrator, shall make available a reasonable number of copies in the office of the City Clerk, and shall post the ordinance together with a notice setting out the time and place for a final reading by the Council. The adoption shall follow the first reading by at least five (5) days. A proposed ordinance may be amended or modified between the time of its first reading and the time of its final adoption, providing its general scope and original purpose are retained. As soon as practicable after adoption of any ordinance, the City Clerk shall post the final ordinance before its effective date. All ordinances shall be attested by the City Clerk or his/her designee.

(C) EFFECTIVE DATE. Except as otherwise provided in this Charter or by State

law, every adopted ordinance shall become effective at the expiration of thirty (30) days after adoption or at any later date specified therein.

(D) POSTING DEFINED. As used in this section, the term "posting" means to post the ordinance on the official city ~~bulletin board~~ *web site and in accordance with all legal requirements. The City Clerk shall strive to post ordinances in a manner which ensures maximum availability to the public, especially in time of emergency.*

SECTION 2.13 EMERGENCY ORDINANCES

To meet a public emergency affecting life, health, property or the public peace, the City Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes; grant, renew or extend a franchise; or authorize the borrowing of money in excess of twenty five percent (25%) of the tax receipts from the previous fiscal year. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting which it is introduced, but the affirmative vote of at least four (4) Councilmembers shall be required for adoption. After its adoption, the ordinance shall be posted as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance, except an emergency appropriation, shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

SECTION 2.14 CODES OF TECHNICAL REGULATIONS

The City Council may adopt any standard code of technical regulations by reference thereto in an adoption ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that:

(1) One copy of each adopted code of technical regulations as well as of the adopting ordinances shall be authenticated and recorded by the City Clerk pursuant to this Charter.

(2) Copies of any adopted code of technical regulations shall be made available at the office of the City Clerk for free public reference, and made available for purchase by the public at a reasonable price fixed by the Council.

SECTION 2.15 AUTHENTICATION AND RECORDING; CODIFICATION; PRINTING

(A) AUTHENTICATION AND RECORDING. The City Clerk shall, when necessary, authenticate by signature all ordinances and resolutions adopted by the City Council. ~~and shall record them in full in an indexed book kept for this purpose.~~

(B) CODIFICATION. Within a time to be determined by the Council, a general codification of all City ordinances and resolutions having the force and effect of law shall be prepared and periodically revised. The general codification shall be printed, together with this Charter and any amendments thereto, and such codes or technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as the Piedmont City Code. Copies of the code shall be furnished to City officers, placed in the City Clerk's office for free public reference, and made available for purchase by the public at a reasonable price fixed by the Council.

(C) PRINTING OF ORDINANCES AND RESOLUTIONS. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed following its adoption, and the printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. All ordinances, resolutions and charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein.

ARTICLE III.
Administration

SECTION 3.01 OFFICERS AND EMPLOYEES

The ~~administrative~~ 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 ~~Parks and~~ Recreation and such other subordinate officers, assistants, deputies and employees as the City Council may deem necessary to provide by ordinance or resolution. *The City Administrator and City Attorney* ~~All officers~~ shall be appointed and directed by the Council, and shall hold office at the pleasure of the Council. *All other officers shall be appointed by the City Council and be directed by and serve at the pleasure of the City Administrator.* ~~shall be appointed and directed by the Council, and shall hold office at the pleasure of the Council.~~

The Council may by resolution reorganize, or by ordinance combine or consolidate or abolish any two or more offices or functions and require the duties of the same to be performed by one

officer or department. The Council shall have the right of providing for such officers, departments and their functions in whole or in part through contract agreements.

The Council may transfer or consolidate functions of the City government to or with appropriate functions of the State or County government, or any other public or private agency, or make use of such functions of said entities. In such case, the provisions of this Charter providing for the function of the City government so transferred or consolidated shall be deemed suspended during the continuance of such transfer or consolidation, to the extent that such suspension is made necessary or convenient and is set forth in the ordinance establishing such transfer or consolidation. Any such transfer or consolidation may be repealed in like manner.

~~SECTION 3.02 OFFICIAL BONDS~~

~~The City Council shall determine which officers shall give bonds for the faithful performance of their official duties and fix the amount of said bonds. Such officers, before entering upon their official duties, shall execute a bond to the City in the sum legally required, which bond shall include any other offices they hold. The bonds shall be approved by the Council, paid for by the City and filed with the City Clerk; except that the bonds of the City Administrator and the City Clerk shall be filed with the City Attorney.~~

SECTION 3.*02*~~03~~ 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, 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.

(2) Shall supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law and except further that the internal administration of each department shall remain with each department head.

(3) Shall attend Council meetings and shall have the right to take part in discussion, but may not vote.

(4) Shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him/her or by officers subject to his/her supervision, are

faithfully executed.

(5) Shall prepare and submit the annual budget to the Council and shall supervise its administration after its adoption.

(6) Shall submit to the Council and make available to the public a report on the finances of the City each fiscal year.

(7) Shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies.

(8) Shall keep the Council fully advised as to the financial condition and future needs of the City and make recommendations to the Council concerning the affairs of the City.

(9) Shall administer the personnel system of the City and, in particular, those matters involving the City's personnel classification system and employee benefit and retirement plans.

(10) Shall maintain a system of City records.

(11) Shall perform such ~~other~~ duties as are specified in this charter or may be required by the Council.

SECTION 3.*03*~~04~~ ACTING CITY ADMINISTRATOR

By letter filed with the City Clerk, the administrator shall designate a qualified City administrative officer to exercise the powers and perform the duties of administrator during temporary absence or disability. The City Council may by majority vote revoke such designation at any time and appoint another officer of the City to serve until the administrator shall return or the disability shall cease.

SECTION 3.*04*~~05~~ CITY CLERK

The City Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, keep the minutes of its proceedings and perform such other duties as are assigned by this Charter, *State Law,* ~~or by~~ the *City* Council, *or the City Administrator*.

SECTION 3.*05~~06~~* **CITY ATTORNEY**

The City Council shall appoint a City Attorney. That person shall be an attorney-at-law licensed as such under the laws of the State of California, and continue to be so licensed during the time of holding office, and shall have been engaged in the practice of law for at least five (5) years prior to appointment. The City Attorney shall, directly or through deputies, have power and be required to:

(1) Represent and advise the Council and all ~~City~~ officers *of the City* in all matters of law pertaining to their offices;

(2) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, including the prosecution of violations of this Charter and ordinances enacted by the Council, and represent and appear for any City officer or employee, or former City officer or employee, in any or all actions and proceedings in which any such officer or employee is concerned or is a party for any act arising out of his/her employment or by reason of official capacity, provided the interest of the City in such action or proceeding is not adversely affected;

(3) Attend all regular meetings of the Council and give advice or opinion in writing whenever requested to do so by the Council, by the City Administrator or by any of the boards or commissions of the City, subject to the approval of the Council or the City Administrator;

(4) Approve the form of all contracts made by and all bonds given to the City, endorsing approval thereon in writing;

(5) Prepare ordinances or resolutions for the City and amendments thereto;

(6) Transfer forthwith to the appointed successor all books, papers, files and documents pertaining to the City, which he/she has in their control.

The Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein.

SECTION 3.*06~~07~~* **DEPARTMENT OF FINANCE**

There shall be a Department of Finance headed by a Director of Finance who will have charge of the administration of the financial affairs of the City, and may be empowered to act as assessor, tax collector and/or treasurer for the City, and perform such other duties as may be assigned.~~ by the City Council.~~ The department shall be responsible for the collection of all taxes, assessments, license fees and other revenues of the City for whose collection the City is responsible and shall receive all taxes or other money receivable by the City from the County, State or Federal governments or from any office or department of the City.

SECTION 3.*07*~~08~~ POLICE DEPARTMENT

There shall be a Police Department headed by a *Chief of Police*. ~~chief of police.~~ This department shall have charge of the law enforcement function of the City, and such other public safety activities as *may be* assigned ~~by the City Council~~, with the duty of preserving the public peace and upholding the laws of the City and of the State of California. For the enforcement of said laws, the chief shall have all the powers that are now or may hereafter be conferred upon sheriffs and other peace officers by the laws of the State. Every citizen shall lend aid to the police when requested for the arrest of offenders, the maintenance of public order, or the protection of life and property.

SECTION 3.*08*~~09~~ FIRE DEPARTMENT

There shall be a Fire Department headed by a Fire Chief. This department shall have charge of the prevention and extinguishing of fires, *the provision of emergency medical services,* and such other public safety activities as *may be* assigned ~~by the City Council~~. The chief shall also direct the department in protecting life and property in other natural and/or man-made disasters. Every citizen shall lend aid to the fire department when requested for the protection of life and property.

SECTION 3.*09*~~10~~ DEPARTMENT OF PUBLIC WORKS

There shall be a Department of Public Works headed by a Director of Public Works. This department shall have charge of the maintenance and repair of all City streets, sewers and storm sewers, *parks, public facilities,* and any other related activities as *may be* assigned ~~by the City Council~~.

SECTION 3.*10*~~11~~ CITY ENGINEER

There shall be a City Engineer who shall have supervision over all matters of an engineering character as required by State law, or as *may be* assigned ~~by the City Council~~. At the time of appointment, this officer shall have been a practicing civil engineer for a period of at least five (5) years, and licensed in the State of California.

SECTION 3.*11*~~12~~ PLANNING DIRECTOR

There shall be a Planning Director who shall be responsible for administering the City's continuing planning activities as *may be* assigned ~~by the City Council~~, including, but not limited to, maintenance of the general plan, overseeing the zoning system and building regulations and codes.

SECTION 3.*12*~~13~~ DEPARTMENT OF ~~PARKS AND~~ RECREATION

There shall be a Department of ~~Parks and~~ Recreation headed by a Director of ~~Parks and~~ Parks and Recreation. This department shall have charge of ~~the maintenance of the City's park lands and recreation facilities, as well as~~ the organization and administration of the City's public recreation programs and such other related activities as *may be* assigned ~~by the City Council~~. The director shall administer the operations and programs of the department and shall carry out policies established by the Council for the use of the City's park lands and recreation facilities.

ARTICLE IV.
Fiscal Management

SECTION 4.01 FISCAL YEAR

The fiscal year of the City shall begin on the first day of July and end on the thirtieth day of June of the following year.

SECTION 4.02 SUBMISSION OF BUDGET

On or before the fifteenth day of May of each year, the City Administrator shall submit to the City Council a budget for the ensuing fiscal year.

SECTION 4.03 THE BUDGET

The City Administrator shall submit the budget both in fiscal terms and in terms of the City's programs. The administrator shall outline the proposed financial policies of the City for the fiscal year; describe the important features of the budget; indicate any major changes from the current year in financial policies, expenditures and revenues, together with reasons for such changes; summarize the City's debt position; and include such other material as the administrator deems desirable or as the City Council designates.

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year. In organizing the budget, the City Administrator shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the fiscal year; and shall be so arranged as to show comparative figures for income and expenditures of the current fiscal year and the preceding fiscal year. It shall indicate in separate sections:

(1) The proposed expenditures for current operations during the ensuing fiscal year, detailed by department in terms of their respective programs, and the method of financing such expenditures; and

(2) The proposed capital expenditures during the ensuing fiscal year, detailed by department, and the proposed method of financing each such capital expenditure.

The Council shall *maintain a* ~~establish a fund known as the~~ General Fund Reserve *for the purpose of maintaining municipal services during periods of reduced revenues to the City, as well as meeting unforeseen contingencies and emergencies of the City. The City Council shall*

strive to maintain the reserve in an amount not less than fifteen (15%) of the General Fund operating budget. ~~in an amount not to exceed twenty-five (25%) of the budget for the purpose of maintaining municipal services during periods of reduced revenues to the City, as well as meeting unforeseen contingencies and emergencies of the City.~~

~~For each fiscal year, the proposed General Fund expenditures shall be no greater than the sum of estimated General Fund revenue plus the General Fund Reserve.~~

SECTION 4.04 ACTION ON BUDGET

(A) NOTICE AND HEARING. The City Council shall publish in one or more newspapers of general circulation in the City a notice stating:

(1) the times and places where copies of the budget are available for inspection by the public; and

(2) the time and place, not less than ten (10) days nor more than thirty (30) days after such publications, for a public hearing on the budget.

(B) AMENDMENT BEFORE ADOPTION. After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total estimated income.

(C) ADOPTION. The Council shall adopt the budget on or before the thirtieth day of June of the fiscal year currently ending. If the Council fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-by-month basis, with all items in it prorated accordingly, until such time as the Council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriation of the amounts specified therein for expenditure from the funds indicated.

(D) PUBLIC RECORD. The budget shall be printed and made available for public review.

SECTION 4.05 AMENDMENTS AFTER ADOPTION

The Council may during the course of the fiscal year amend the budget by reducing or increasing appropriations, transferring appropriations, and authorizing supplemental appropriations, and may authorize expenditures from the unappropriated reserve fund for the purpose of meeting unforeseen contingencies and emergencies of the City from funds so approved, transferred, or

added thereto by the Council.

SECTION 4.06 LAPSE OF APPROPRIATIONS

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.

SECTION 4.07 TAX SYSTEM

Unless otherwise provided by ordinance, the City shall use, for the purpose of municipal property taxation, the County system of assessment and tax collection, as such system is now in effect or may hereafter be amended and insofar as such provisions are not in conflict with this Charter.

SECTION 4.08 TAX RATE LIMITATION

The City shall not levy a rate of taxation beyond that sufficient to raise the amounts required for the annual budget; and as otherwise provided in this Charter or by State law, less the amounts estimated to be received from fines, licenses and other sources of revenues.

SECTION 4.09 INDEPENDENT AUDIT

The City Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants with no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm, annually or for a period not exceeding three (3) years. The designation for any particular fiscal year shall be made no later than thirty (30) days after the beginning of the fiscal year.

SECTION 4.10 FRANCHISES

No person or corporation shall exercise any franchise right or privilege in the City except insofar as they may be entitled to do so by direct authority of the State Constitution, unless they shall have obtained grant therefor in accordance with the provisions of this Charter and in accordance with the procedure prescribed by ordinance.

(A) TERMS, CONDITIONS AND PROCEDURES. The City Council shall, by

ordinance, prescribe the terms, conditions and procedures under which franchises will be granted, subject to the provisions of this Charter; provided, however, that such procedural ordinance or ordinances shall make provisions for the giving of public notice for franchise applications, for protects against the granting of such franchises and for public hearings on such applications.

The Council, in granting franchises, shall prescribe the terms and conditions of such franchises in accordance with the applicable provisions of this Charter and any ordinance adopted thereto, and may in such franchise impose such other and additional terms and conditions not in conflict with said Charter or ordinances, whether governmental or contractual in character, as in the judgment of said Council are in the public interest or as the people, by initiative, indicate they desire to have imposed.

(B) METHOD OR GRANTING FRANCHISE. The Council may grant a franchise without calling for bids or may, in its discretion, advertise for bids for the sale of a franchise upon a basis not in conflict with the provisions of this Charter.

(C) TERM OF FRANCHISE. Every franchise shall be either a fixed term or for an indeterminate period. If for a fixed term, the franchise shall state the term for which it is granted; if indeterminate, it shall set forth the terms and conditions under which it may be terminated.

(D) EMINENT DOMAIN. No franchise grant shall in any way, or to any extent, impair or affect the right of the City to acquire the property of the grantee thereof either by purchase or through the exercise of the right of eminent domain, and nothing therein contained shall be construed to contract away or to modify or to abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to any public utility.

(E) ADEQUATE COMPENSATION. No new franchise or renewal of an existing franchise shall be granted without reserving to the City just and adequate compensation.

SECTION 4.11 CONTRACT WORK

~~All expenditures for public projects above the limit from time to time set by State law shall be contracted for and let to the lowest responsible bidder after notice.~~ All contracts shall be drawn under the supervision of the City Attorney. All contracts must be in writing and executed in the name of the City by an officer or officers authorized to sign the same.

The City Council shall establish, by ordinance, the rules and regulations for the City's competitive bidding system. The Council may reject any and all bids, and may call for new bids. The Council, without advertising for bids, may provide for such work to be procured in the open market if it deems it more beneficial or economical to do so.

SECTION 4.12 PURCHASING

A purchasing system shall be established for all City departments and offices. The City Council shall consider and adopt rules and regulations governing the contracting for purchasing, inspection, storing, distribution or disposal of all supplies, materials and equipment require by any department or office of the City.

SECTION 4.13 TEMPORARY LOANS

Money may be borrowed in anticipation of the receipts from taxes during any fiscal year, by the issue of notes, certificates of indebtedness or revenue bonds; but the aggregate amount of such loans at any time outstanding shall not exceed twenty-five (25) percent of the receipts from all taxes during the preceding fiscal year; and all such loans shall be paid out of the receipts from taxes for the fiscal year in which they are issued.

SECTION 4.14 BONDED DEBT LIMIT

The City shall not incur an indebtedness evidenced by obligation bonds which shall in the aggregate exceed the sum of twenty (20) percent of total assessed valuation for purposes of City taxation, of all the real and personal property within the City, exclusive of any indebtedness that has been or may hereafter be incurred for the purposes of acquiring, constructing, extending or maintaining municipal utilities, for which purpose a further indebtedness may be incurred by the issuance of bonds, subject only to the provisions of the State Constitution and of this Charter.

No bonded indebtedness which shall constitute a general obligation of the City may be created unless authorized by the affirmative votes of a majority of the electors voting on such proposition at any election at which the question is submitted to the electors and unless in full compliance with the provisions of the State Constitution, other State laws and this Charter.

ARTICLE V.
Personnel

SECTION 5.01 PERSONNEL CLASSIFICATION

The administrative service of the City shall be divided into unclassified and classified service:

(A) The unclassified service shall comprise the following officers and positions:

(1) All elective officers;

(2) The *officers of the City, as defined in this charter* ~~City Administrator, City Attorney, City Clerk, personnel officer, and the head of each department of the City~~;

(3) All members of boards and commissions;

(4) Positions in any class or grade created for a special or temporary purpose for a period of not longer than six months;

(5) Persons employed to render professional, scientific, technical or expert services of any occasional or exceptional character;

(6) Part-time employees paid on an hourly or per diem basis.

(B) The classified service shall comprise all positions not specifically included by this section in the unclassified service.

SECTION 5.02 APPOINTMENTS AND PROMOTIONS

All appointments to and promotions within the classified service shall be based upon selection of the best qualified individual as determined by means of recognized personnel selection techniques. 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.~~

SECTION 5.03 PERSONNEL RULES AND REGULATIONS

The City Council shall implement the personnel system provided by this Charter by adopting rules and regulations governing the administration thereof. Such personnel rules and regulations shall provide, among other things, for:

(1) The preparation, installation, revision, and maintenance of a position classification plan covering all positions in the classified service, including minimum standards and qualifications for each class; and

(2) The preparation, revision and administration of a plan of compensation directly correlated with the position classification plan, providing a range or maximum rate of pay for each class.

SECTION 5.04 SUSPENSION, DEMOTION AND DISMISSAL

An employee holding a position in the classified service may be suspended without pay, demoted, or removed from a position for malfeasance, misconduct, incompetency, inefficiency or for failure to perform the duties of the position or to observe the established rules and regulations in relation thereto, or to cooperate reasonably with superiors or fellow employees, but subject to the right to a hearing in the manner set forth by the City Council.

Any employee so suspended, demoted, or removed shall be given in writing the reasons for the suspension, demotion, or removal. Said employee shall be allowed a reasonable time for answering the same and may demand a public hearing upon the charges, with such hearing to be held in accordance with procedures established therefor. Hearings may be conducted informally, and the technical rules of evidence need not apply, but the employee whose suspension, demotion or removal is sought shall be heard in person, if he/she requests, be permitted to be represented by counsel and to produce testimony in his/her own behalf.

SECTION 5.05 RETIREMENT SYSTEM

The City Council shall have the power to provide for the creation, establishment and maintenance of a retirement or pension plan or plans for any or all officers and employees of the City. The pension system for members of the police and fire departments as set forth in Section 47 of the Charter in effect on January 1, 1979, shall be incorporated in the City Code, and any amendment thereto shall not be effective unless approved by a majority of the voters voting thereon at a general or special election.

SECTION 5.06 AUTHORITY TO JOIN OTHER SYSTEMS

The City of Piedmont, by and through its City Council, is hereby empowered to join in or continue as a contracting agency in any retirement or pension system or systems existing or hereafter created under the laws of the State of California, or the United States of America, to which municipalities and municipal officers and employees are eligible.

ARTICLE VI.
Boards and Commissions

SECTION 6.01 CREATION OF BOARDS AND COMMISSIONS

The City Council may create by ordinance such operational, advisory, appellate or rule-making boards and commissions as may be required for the proper operation of any function or

department of the City. In doing so, the Council shall prescribe their function, duties, powers, jurisdiction and the number of board and commission members.

SECTION 6.02 MEMBERSHIP, TERM OF OFFICE

Members of boards and commissions shall be appointed by majority vote of the City Council to serve three (3) year terms, and until their respective successors are appointed, with no person serving more than two consecutive terms of office. Members may be removed after a hearing by the affirmative vote of four (4) members of the Council. If a member of a board or commission is absent from three (3) consecutive regular meetings of such board or commission, unless by permission of such body expressed in its official meeting record or by permission of the Council, that office shall become vacant and shall be so declared by the Council. Appointments to fill any vacant, unexpired term shall be made by majority vote of the Council in the same manner as regular appointments are made. The Council shall by Council Resolution adopt and maintain in effect written policies and procedures for City Commission appointments. Any person who serves as a member of a board or commission for more than eighteen (18) months of an unexpired term shall be considered to have served a full term of office. (Charter Amendment 1984)

SECTION 6.03 COMPENSATION

The members of boards and commissions shall serve without compensation for their services to the City, but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the City Council.

SECTION 6.04 ORGANIZATION

Each year on a date set by their respective rules, each board and commission shall meet to organize by electing one of its members to serve as presiding officer at the pleasure of such body. Each board and commission established by the City Council shall hold meetings at such regular intervals as the proper transaction of business shall require or as established by ordinance. All meetings shall be public except as otherwise provided by law.

SECTION 6.05 PUBLIC RECORD

Minutes for each of such boards and commissions shall be kept as a record of its proceedings and transactions. Each board or commission shall prescribe its own rules and regulations which shall be consistent with this Charter and with City Council ordinances and resolutions, and copies of which shall be kept on file with the City Clerk.

ARTICLE VII.
Public Schools

SECTION 7.01 GOVERNING BOARD

The Board of Education shall have control and management of the public schools in the Piedmont Unified School District in accordance with the Constitution and general laws of the State, and is hereby vested with al powers and charged with all the duties provide by this Charter and all the general laws of the State for city boards of education.

SECTION 7.02 MEMBERSHIP, TERM OF OFFICE

The Board of Education shall consist of five (5) members elected from the City at large for a term of four (4) years. Board members shall be elected at the times and in the same manner provided for members of the City Council and shall be required to meet the same eligibility qualifications. No person who has served two (2) full consecutive terms as a member of the Board of Education shall be eligible to hold office until one (1) full intervening term of four (4) years has elapsed. Any person who serves as a member of the Board for more than eighteen (18) months of an unexpired term shall be considered to have served a full term.

SECTION 7.03 COMPENSATION

The members of the Board of Education shall not receive any compensation for their service to the School District. Board members may receive actual and necessary expenses incurred in the performance of their duties of office as determined by the Board.

SECTION 7.04 VACANCIES

The same rules governing the creation of vacancies or causing forfeiture of office from the City Council shall also apply to the members of the Board of Education. A vacancy on the Board shall be filled by appointment of a majority vote of said Board, with the appointee holding office for the remainder of the unexpired term or until the next general municipal election. If a vacancy on the Board of Education continues for sixty ~~thirty~~ (*60* ~~30~~) days, the vacancy shall be filled by *special election.* ~~the President of the Board of Education.~~

SECTION 7.05 ORGANIZATION

The Board of Education shall annually, pursuant to the requirements of the California Education Code, elect one of its own members to be President of the Board and another to serve as Vice-President. Either of these officers may be removed by the affirmative vote of four (4) members. (Charter Amendment 11/4/2014)

SECTION 7.06 MEETINGS

The Board of Education shall meet at such times and places as may be designated by resolution of said Board. Three (3) members of the Board shall constitute a quorum, except as otherwise provided by law~~, but a less number than three (3) at a scheduled meeting may adjourn and compel the attendance of absent members in such manner as the Board may prescribe~~. All meetings of the Board of Education shall be public, except as otherwise provided in the California Government and Education Codes. The Board shall determine the rules of its proceedings.

ARTICLE VIII.
Elections

SECTION 8.01 GENERAL MUNICIPAL ELECTIONS

General Municipal elections for the election of officers and for such other purposes as the City Council may proscribe, shall be held on the first Tuesday after the first Monday of November in even numbered years. (Charter Amendment 11/4/2014)

SECTION 8.02 SPECIAL MUNICIPAL ELECTIONS

All other municipal elections that may be held by authority of this Charter, or of general law, or by ordinance, shall be known as special municipal elections.

SECTION 8.03 PROCEDURE FOR HOLDING ELECTIONS

Unless otherwise provided by ordinances hereafter enacted, all elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exists or may hereafter be amended, for the holding of elections in general law cities so far as the same are not in conflict with the Charter.

SECTION 8.04 INITIATIVE, REFERENDUM, AND RECALL

There are hereby reserved to the electors of the City the powers of the initiative and referendum and recall of municipal elective officers. The provisions of the Elections Code of the State of California, as the same now exists or hereafter may be amended, governing the initiative and referendum and the recall of municipal officers, shall apply to the use thereof in the City so far as such provisions of the Elections Code are not in conflict with the provisions of this Charter.

ARTICLE IX.
General Provisions

SECTION 9.01 GENERAL PLAN

The City Council shall adopt, and may from time to time, modify a general plan setting forth policies to govern the development of the City. Such plan may cover the entire City and all of its functions and services or may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire City and all of its functions and services. The plan shall also serve as a guide to Council action concerning such City

planning matters as land use, development regulations and capital improvements.

SECTION 9.02 ZONING SYSTEM

The City of Piedmont is primarily a residential city, and the City Council shall have power to establish a zoning system within the City as may in its judgement be most beneficial. The Council may classify and reclassify the zones established, but no existing zones shall be reduced or enlarged with respect to size or area, and no zones shall be reclassified without submitting the question to a vote at a general or special election. No zone shall be reduced or enlarged and no zones reclassified unless a majority of the voters voting upon the same shall vote in favor thereof; provided that any property which is zoned for uses other than or in addition to a single-family dwelling may be voluntarily rezoned by the owners thereof filing a written document executed by all of the owners thereof under penalty of perjury stating that the only use on such property shall be a single-family dwelling, and such rezoning shall not require a vote of the electors as set forth above.

SECTION 9.03 CONFLICT OF INTEREST

Subject to the provisions of State law, the City Council may adopt from time to time such ordinances, resolutions and regulations as the Council shall consider necessary and proper to prevent conflict of interest between the City and its officers, employees or members of boards, commissions or committees.

SECTION 9.04 GENERAL LAWS APPLICABLE

All general laws of the State applicable to municipal corporations, now or hereafter enacted, and which are not in conflict with the provisions of this Charter or with ordinances hereafter enacted, shall be applicable to the City. The City Council may adopt and enforce ordinances which, in relation to municipal affairs, shall control as against the general laws of the State.

SECTION 9.05 SEPARABILITY

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

SECTION 9.06 CHARTER ENFORCEMENT

The provisions of the Charter shall be enforced, with violations punishable in the manner provided by State law and by City ordinance.

SECTION 9.07 CHARTER AMENDMENT

Amendments to this Charter may be proposed by the City Council or by the initiative process, as prescribed by this Charter and by State law.

All proposed Charter amendments shall be presented to the qualified voters of the City at a general or special election. If a majority of said voters voting upon a proposed amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time is therein fixed, thirty (30) days after its adoption by the voters.

SECTION 9.08 EFFECTIVE DATE

This Charter shall take effect on March 31, 1980, and upon its filing with the California Secretary of State.

Item #1 – Town Hall Meeting on Possible Amendments to the City Charter
Correspondence Received Before 4:00PM on Monday, June 25th

Councilmembers:

Thank you for hosting the upcoming special council meeting and for the open and transparent process of your proposal of possible amendments to the city charter. I am a board member of the League of Women Voters of Piedmont, but I am writing today as a private citizen, and our board has not discussed taking a position on these changes .

I believe that you have explained and justified most changes very well, and I have several questions that I would like clarification on:

1) ***Changes in the maximum reserve limits***: My understanding of the current language is that there is no longer a maximum reserve but a target of 15%. What could and would the members of this council do if the reserve grew to 50% or 100% of the annual budget?
    a. ***Text of staff report:*** "Currently, the last two paragraphs of this section require that the City maintain a reserve of no more than 25% of the budget for the purpose of maintaining municipal services during periods of reduced revenues as well as meeting unforeseen contingencies and emergencies."
    "If the Charter were to include any provisions relating to the reserves of the General Fund, best practice and prudence would dictate speaking to the need to build and maintain reserves as opposed to placing artificial limits on the size of the reserve. For these reasons it is proposed that the section be amended to state that the City shall maintain a General Fund Reserve and that the Council shall strive to maintain the reserve in an amount not less than 15% of the General Fund operating budget. Note that the addition of "operating budget", rather than simply referring to "the budget", provides needed clarity as to exactly how to apply referenced percentages."
    b. ***In brief, what assurances do we have that the reserve limits be managed responsibly?***
2) ***Changes in "contract work":*** Would or could the council require approvals for the city granting contracts of over $5000 without a bidding process? Would or could the council require approval if the city accepts bids a certain percentage over the lowest responsible bidder? Would or could the city post information on no-bid contracts or accepted bids that were higher than the lowest responsible bidder in a timely manner to the city website (or some yet unnamed platform as discussed by Councilmember Cavenaugh)?
    a. ***Text of staff report:*** "As written, this section requires the City to go through a formal bidding process for all public works contracts over $5,000, subject to certain exceptions. The process of preparing formal bid documents is costly and can add significant time to projects. 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. Currently, the City Code allows projects of $5,000 or under to be procured at markets rates, projects from $5,001 to $75,000 to go through informal bidding, and projects of over $75,001 to go through the formal bidding process. It is important to note that the proposed

amendment does not eliminate the requirement that public works projects be awarded to the lowest responsible bidder, though the sentence slated for elimination removes that language. The requirement for awarding a contract to the lowest responsible bidder still exists in the City's purchasing ordinance and in the state's public contracts code."

b. ***In brief, what assurances will the voters have that our tax dollars will continue to be spent in a responsible manner and that there will be systems in place to monitor the new freedoms we are being asked to grant the city?***

3) ***Changes to term limits:*** Your stated rationale was to "blunt the power of incumbency and to allow greater opportunity for residents to consider running for office", but I agree with Councilmember Cavenaugh that this rationale is not particularly compelling given that such strict term limits seem to be unusual among comparable cities and that (according to Councilmember Cavenaugh) only two individuals have run for a third term of office and one was defeated and the other ran unopposed. Are council members worried about any particular former council members? Is this concern more important than consistency with other cities in California? To repeat councilmember Cavenaugh 's question: what problem are you trying to solve? For the record, when Dublin voters voted on this single issue, it was defeated.

   a. ***Text of staff report***: "The proposed amendments to term limits for the City Council 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. The stated rationale for extending this time frame was to blunt the power of incumbency and to allow greater opportunity for residents to consider running for office."

   b. **In brief: What problem are you trying to solve with the change in term limits? And, why should the prohibition on serving a third term be longer than San Francisco and Dublin?**

4) ***A change in the number of required council meetings:*** I believe that Councilmember Rood suggested a requirement of "at least monthly", but this was also considered a burden in the summer time. Would the Council consider language such as "a minimum of 12 or more meetings"?

   a. ***Text of staff report:*** "SECTION 2.07(A) - MEETINGS The suggested revision to this subsection would eliminate the requirement that the Council meet twice per month, and put in place a requirement that it meet regularly. Under the current requirement, it could be construed that the Council is violating the Charter if it does not hold two regular meetings in a given month. Removing this provision simply allows the Council, by resolution or ordinance, to set its schedule of regular meetings. The Council has met on the first and third Mondays of the month for over thirty years. There is no intent to change this schedule or reduce the number of regular meetings. The proposed amendment simply would remove the requirement of two meetings per month from the Charter."

   b. **In brief: would the council consider a commitment to some number of minimum annual meetings in the Charter?**

Thank you all for your service and for your consideration of these questions.

Sincerely and respectfully,

-Chris Krenn

Dear Council,

Unfortunately, I will not be able to attend tonight's meeting on the proposed changes to the City Charter but I wanted to send in my opinion.

I have watched the meetings where the changes were discussed and also read the interesting thoughts on the Piedmont Civic Association website : https://www.piedmontcivic.org/2018/06/21/council-authority-could-be-transferred-to-city-administrator/

I have lived in Piedmont for many, many years and witnessed many very qualified, thoughtful, hard-working City Council members come and go. I appreciate that the City Council adds additional well-thought-out opinions which are helpful in making important employee decisions for the City with input from the City Administrator. I have no doubt that if the City Administrator has reason to make a decision that in general, the City Council will see things his or her way. However, I am totally against giving that power over to the City Administrator alone. I feel that keeping that power in the hands of the City Council benefits Piedmont. I see no reason to change and I am very surprised that this very big change in our City government is possibly going to be part of a ballot measure.

I feel that the changes suggested, specifically the changes in SECTION 3.01 -OFFICERS AND EMPLOYEES which takes power away from the elected City Council (who represent the voice of the residents of Piedmont) and gives it to the City Administrator alone is a change that I cannot support.

If these changes become part of the ballot measure, I will have to vote NO on the entire ballot measure.

Thank you for your service to the Piedmont community,

Nancy Lenahan