CITY OF PRESCOTT

City of Prescott
City Council - Study Session

April 11, 2023 | 1:00 PM
201 N Montezuma Street
City Council Chambers, 3rd Floor
Prescott, AZ 86301

MINUTES

1. **CALL TO ORDER**
   Mayor Goode called the meeting to 1:01 p.m.

2. **ROLL CALL**
   Phil Goode - Mayor
   Brandon Montoya - Mayor Pro Tem
   Connie Cantelme - Councilwoman
   Eric Moore - Councilman
   Cathey Rusing - Councilmember
   Steve Sischka - Councilman
   Clark Tenney - Councilman

3. **DISCUSSION**

   A. Presentation from the Mayor's Charter Review Commission Regarding Proposed Amendments for the 2023 General Election Ballot.

   City Clerk Sarah Siep introduced the discussion regarding the ongoing work of the Mayor's Charter Review Commission and the twelve amendments the group is proposing for Council's review and future approval to be placed on the November 7, 2023 General Election Ballot. Ms. Siep introduced Commission Chair Charlie Arnold to present the proposed amendments.

   Chair Arnold provided a presentation to Council regarding the City Charter and proposed amendments. The Prescott City Charter has been amended 15 times by voters over the years with the last updates adopted and approved in 2011. The Commission is made up of six (6) members that have been working with staff regarding the 12 proposed amendments. These recommendations are for the Council's consideration and it is up to them if they chose to move these forward to the consideration of city voters at the General Election.

   Review of Proposed Amendments:
   * Absence to Terminate Membership - the Commission felt it was important to more clearly define what specific definitions were regarding meetings, days and how to determine membership and retaining a seat on council. The proposed language clarifies what notices are and took into consideration the language adopted by Council in the Rules of Procedure late last year.

   Mayor Pro Tem Montoya asked Chair Arnold if all of these recommended amendments would be considered individually on the ballot.

Chair Arnold confirmed.

Councilmember Rusing commented that they have done an extensive and impressive amount of work on these recommendations. She would suggest that a change be made that notice be provided to the City Clerk and Mayor for redundancy purposes.

Mr. Arnold responded that the Commission could speak with Legal staff about that, however, the intent of this was because the person who is absent could be the Mayor.

Mayor Goode asked Mr. Arnold to address the timeline for this process.

Mr. Arnold responded that the Commission will return in June with a presentation based on language changes and revisions based on today's conversation to review at a Study Session on June 13, and the finalized proposals will be before Council for approval and adoption at the June 27 Voting Meeting.

Ms. Siep confirmed.

* Consideration of Petitions - discussion regarding extending the period for consideration and action by Council from 30 days to either 60 or 90 days. Ultimately, the determination was 60 days which would allow staff to review and allow Council to review.

Councilman Tenney asked what determines what qualifies as a "petition".

City Attorney Joseph Young stated that this would put something onto a Council agenda for their consideration and review.

Mr. Arnold confirmed, the 30-day time period caused a rush for staff and Council in the past.

Councilman Tenney commented that not all petitions which might come forward would be reasonable for Council to look at. He would like to qualify what warrants being placed on an agenda or not.

Mayor Pro Tem Montoya echoed Councilman Tenney's comments.

Mr. Young reiterated that the language currently drafted is simply a timeline, it does not qualify what is worthy of being placed on a future Agenda.

Chair Arnold commented that the Commission will address this further in their future discussions.

Mayor Goode stated that the last time he remembers this was when Save the Dells was addressing the AED issues and the group petitioned for the Council to review it, and concurred that the timeline was difficult and that a criteria should be established perhaps determining that a specific number of people request Council discussion.

Councilman Sischka asked if this would apply to one individual who is petitioning the Council or if it is something that has been signed by a number of people.

Mr. Arnold responded that he has seen both and both would carry the same weight under the current language.

Councilman Moore stated that he feels it is important that part of the criteria is a person be a resident of the City of Prescott in order for the issue to be considered.

Councilwoman Cantelme commented that there could be a clause "at the discretion of the legal validity of the petition."

Mr. Young responded that there could be, but if the City Attorney could on their own determine that it shouldn't be reviewed that would take away the validity of this portion of the Charter.

* Qualifications of Electors/Registration of Candidates - state law regarding election law has changed and while one of the components of a Charter is to allow a city to conduct things as they see fit, there are some things that need to be brought up to speed in the Charter. For example the beginning of becoming a candidate is no longer set with the Statement of Organization so that needed to be removed. Moreover, the Clerk can be put in a bad position to make an interpretation of the validity of the signatures when state law provides a clear manner for that to happen. The Commission looked at what other charter cities are doing, their recommendation is to approve the language to remove an appointed person from having to make interpretations that would likely end up in court anyway. From his experience, this is a vast improvement over where the city has been. He added that this section was originally added because of poor implementation of rules from a previous City Clerk.

Councilmember Rusing asked how the Clerk determines the qualification of electors.

Mr. Arnold responded that it is based on a Section of the Charter which he will address shortly.

Ms. Siep added that candidates' citizen/voter status is verified with the County by her office.

Mayor Pro Tem Montoya asked if this changes what the Clerk is currently doing.

Ms. Siep responded that it does not change the process which is already happening, but rather it clarifies what the ministerial duties of the Clerk are and how the process is administered.

* Leases of City Property with Option to Purchase - this is something that is becoming more commonplace and the Commission looked at how those guidelines could be made more clear and bring daylight to how these situations

are handled. This provides legal parameters for the city entering into these types of agreements and also establishes the $2 million threshold for a referral to the voters in order to sell.

Mayor Goode commented that this was brought forth because of a concern he had as a Councilman when a lease with option to purchase came before the Council and there was a sort of loophole in the Charter when the process wasn't addressed.

Mayor Pro Tem Montoya asked how the Commission came up with the $2 million figure.

Chair Arnold responded that the city had a list of properties that could be disposed of and there was a clear delineation of properties that were at or under this amount.

Ms. Siep added that staff and members of the Commission did some research into how other communities are handling this as well as state statute regarding similar situations and the sale of city owned properties.

Deputy City Attorney Matt Podracky commented that state statute requires any property over $1.5 million for non-chartered cities which had not been updated in some time so inflation is contemplated as well.

Councilman Tenney asked if there is any contemplation in adding to the language a contemplation for CPI increases.

Mr. Arnold responded that was not addressed specifically, but it could certainly be reviewed and updated in the future if they would like to do so and the Commission could also discuss that further when comments from this meeting are reviewed.

Councilwoman Cantelme asked if there is any contemplation of how to handle if the sale of the property is not approved by the voters.

Mr. Arnold responded that there was discussion regarding how that would be handled. It is impossible to address all of the what ifs, but Legal staff will be looking to see if there is anything that could tighten it up at all.

Mr. Podracky added this is contained in Article VIII, Section 12, and essentially there would need to be another vote. The remedy also could be for the Council to have another vote on how to handle sale of the property.

* Nomination for General Election - this was rewritten to address some of the issues that would arise if there is a runoff and who qualifies for that and what would happen if a candidate withdrew. The existing language is complicated, so the Commission went round and round discussing so while this is still a little complicated it better qualifies what happens for a general election.

Mayor Pro Tem Montoya asked if there are two candidates who don't win in the

Primary and it requires a runoff what would happen if one candidate withdraws.

Mr. Arnold responded that there would still be a general election but this language provides clarity on who moves on to that general election.

Ms. Siep confirmed.

Mr. Arnold added that if there is no candidate, a vacancy would be created when a new Council is seated and then the new Council would follow the appointment process and appoint a person to fill the vacancy.

* Qualifications - current qualification for Council is residency for one year, as well as not being able to hold another office for which you receive compensation and can't be a felon. This section has been batted around since the first meeting, and their recommendation is to have a citizen reside in Prescott for three years. This gives them time to get to know our city and understand our policies.The Commission went back and forth between two and three years and the majority felt that three years was the optimal. It also clarifies and simplifies some of the language.

Councilman Tenney asked if this addresses a real current issue that the city has had or is this just updated language. For example, has there been anyone that has been a candidate in the last several years who would have been disqualified by not being a resident here for at least three years.

Mr. Arnold said he couldn't point to a specific example but the Commission felt it was important and this was a good compromise to ensure those who are serving have a good knowledge of the community.

Mayor Pro Tem Montoya asked about the verification of residency, and reaching out to the County.

Ms. Siep stated that she verifies with the County for the voter registration and residency status.

Councilwoman Cantelme asked if there was any thought given to whether or not they have to be a renter or homeowner.

Chair Arnold responded there was not.

* Sale of City Property - this proposal would add Subsection 3 regarding property exceeding a value of $2 million requiring a vote of the people. It doesn't provide a timeline on the back end if there is a no vote, but any attempt in current time to get around this would be met with a legal challenge.

Councilman Sischka asked if this would be in arears and expressed that he would be concerned regarding if people decided they did not want anything on a certain piece of city property and how that would be handled.

Chair Arnold confirmed it would only be anything after the adoption of the updated City Charter.

Councilwoman Cantelme stated that this still doesn't address if it is voted no and what the timing is, for example could it be triggered every two years or something like that.

Chair Arnold said that it could be brought back to the voters, but there is also no time limit on when that could occur. Involving the voters in the decision-making process addresses some previous concerns and takes away many questions.

Mr. Young responded that things can be set up for election over and over again and absent requirements disallowing that, they can be brought back to the next available election.

Councilmember Rusing said she likes this because it gives the voters power and a say.

Councilman Sischka asked if there is a section addressing the purchase of property.

Chair Arnold said not at this time.

* Stipend of Mayor & Council - this proposal is for a slight increase to City Council stipends. Based on a review of other charter cities and the time commitment of Council the Commission felt these slight increases were appropriate. Chair Arnold added that the City of Flagstaff provides a compensation to the Mayor that exceeds $100,000 and in his opinion members of this Council should be paid more, this is a reasonable increase and will not make anyone rich. The intention is to offset the commitment to serving our community,

Mayor Pro Tem Montoya asked if there was any consideration in lowering the stipend.

Chair Arnold responded there was not.

Mayor Goode added that there is an expectation that members of the City Council participate in a wide variety of memberships and make donations and be involved in the community even outside their commitment to Council. A reasonable stipend is required for that.

Chair Arnold added that this is not the Council determining their stipend, it is putting it in the hands of the voters. It also ties things to the CPI increases, which is used for city employee pay as well.

Councilmember Rusing added that in Flagstaff the Mayor and Council also receive health insurance and pension.

* Term of Mayor - Commission is recommending changing term of the Mayor from two years to four years. This was put in place years ago before the Council-Manager form of government when the Mayor really ran the city. However, that is

not the case now. It is difficult for a person to run for election, get elected and then get their feet under them before having to run for office again. There are numerous other charter cities that use the four-year term for the Mayor.
Chair Arnold added that it will not impact the election we are currently in.

Mayor Pro Tem Montoya asked if this was a unanimous recommendation from the Commission.

Ms. Siep and Chair Arnold confirmed it was.

Councilman Tenney commented that he agreed with the reasoning for making this change.

Councilmember Rusing commented that based on the history of Prescott, most Mayors do serve two terms and then it is tough to get elected to a third term.

* Vacancies in Council & Office of the Mayor - Council is currently given two options which has generated a tremendous amount of debate in the community so the commission took a look and unanimously decided to only provide the option to only appoint to the next election with clarification on how that process would work and timing for those as well. It also establishes how a vacancy in the office of Mayor would be addressed.

Councilman Moore stated that he understands the controversy surrounding this issue, but he thinks it is dangerous to only have one option to not allow enough time for the person to get enough signatures to get on the ballot.

Ms. Siep reiterated that a timeframe is established, that is for 30 days prior to the petition filing deadline, but if the Council desires to do so the timing could be updated.

Mayor Pro Tem Montoya echoed Councilman Moore's comments, and stated he feels 60-90 days would be more appropriate. He added that the Mayor operates as the Chairman of the Board for the City and asked if the Mayor's term is moved to four years and someone on the elected body is selected, would they serve until the end of this term or just until the next election.

Chair Arnold responded that the Commission could look into that and address it.

Councilman Sischka stated that it's impossible to cover all bases in these types of situations, but what if someone purposely resigns to have someone take over and so they do it based on the timeframe.

Chair Arnold commented that they didn't discuss how they could address this. If they are trying to align who their replacement would be they could be delving into an open meeting law issue anyway. Ultimately, the Council decides the language but they can look at it.

Councilwoman Cantelme commented that the language could be that if the person steps down beyond 50% of their term, the appointment would be through the next election, otherwise until the end of their term.

Councilman Tenney commented that when a vacancy occurs and when someone is appointed there is a few weeks in between so he concurred that the 30-day mark doesn't work and should be extended. He is also concerned about hamstringing a future Council and feels the more options they have the better. It may also limit the pool of candidates who would apply.

Councilmember Rusing echoed Councilman Tenney's comments. The same rules should apply to the Mayor and they should be appointed until the next election and then run for election.

Mayor Goode stated that in the past there have been situations where Council seats have come open and they are able to appoint people who have had long and broad experience in the community but then did not run for office afterward, so that should be considered as well.

Ms. Siep reviewed the language regarding the Mayor Pro Tem and clarified that this would be aligned with the adoption made by Council regarding appointments annually at the second meeting in November.

Mr. Arnold concurred. He added that the motion is sometimes made by the Mayor and other times by other members of Council but ultimately it is up to the whole Council.

Councilmember Rusing stated that rotating the Mayor Pro Tem for one year gives everyone a chance to assume additional responsibility and gain knowledge. An appointed Mayor Pro Tem can appear as a co-mayorship.

Councilman Tenney thanked Chair Arnold and the Commission for the time they have put into this.

Chair Arnold thanked Councilman Tenney for his comments. The Commission has been working really hard and he was really impressed by all the members.

Mayor Pro Tem Montoya echoed Councilman Tenney's comments, everyone is taking these jobs very seriously and it shows. He is grateful for the Commission doing the work and the Mayor for seeing the need.

Mayor Goode stated that it is clear this is long overdue, there are some ancient issues that generated some of the changes in the Charter. He feels periodically the Charter should be looked at.

Chair Arnold added there is more work to be done, the Commission identified what they feel were the pressing issues and that is what they are presenting now. The citizens of Prescott chose to be a charter city and have chosen to amend these as needed, so this document matters. The state legislature would like to tell cities what is best for them, and there is a bill threatening to eliminate that ability, so ultimately what is great about this document is Council will make a recommendation and the citizens can decide. This will continue to be a good document.

This item was for discussion only, no formal action was taken.

4. ADJOURNMENT

There being no further business to discuss, Mayor Goode adjourned the meeting at 2:30 p.m.

PHILIP R. GOODE, Mayor

ATTEST:

SARAH M. SIEP, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the City Council Study Session of the City of Prescott, Arizona held on April 11, 2023. I further certify the meeting was duly called and held and that a quorum was present.

Sarah M. Siep, City Clerk