

City of Prescott
Mayor's Charter Review Commission



May 6, 2024 | 3:00 PM
201 N. Montezuma Street
Executive Conference Room, 3rd Floor
Prescott, AZ 86301

AGENDA

The following Agenda will be considered by the **Mayor's Charter Review Commission** at their meeting to be held **May 6, 2024**. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38431.02.

1. CALL TO ORDER

2. ROLL CALL

3. DISCUSSION & ACTION ITEMS

- A. Approval of the March 4, 2024 Charter Review Commission Meeting Minutes.
Recommended Action: MOVE to approve the minutes as presented
- B. Follow-Up Discussion Regarding Suggested Open Space Addition to Article VIII, Section 12 of the Prescott City Charter, and Information from Staff.
Recommended Action: This item is for discussion only. No formal action will be taken.
- C. Follow-Up Regarding Proposed Additions to the Prescott City Charter Regarding: 1) The Prohibition of Discrimination, and 2) Leasing of City-Owned Property.
Recommended Action: This item is for discussion only. No formal action will be taken.
- D. Presentation & Discussion Regarding Potential Amendments Proposed by Vice Chair Hess and Member McMinn.
Recommended Action: This item is for discussion only. No formal action will be taken.

4. ADJOURNMENT

Upon a public majority vote of a quorum of the Board, the Board may hold an executive session, which will not be open to the public, regarding any item listed on the agenda but only for the following purposes:

- (1) Discussion or consideration of personnel matters (A.R.S. §38-431.03(A)(1));
- (2) Discussion or consideration of records exempt by law (A.R.S. §38-431.03(A)(2));
- (3) Discussion or consultation for legal advice with the city's attorneys (A.R.S. §38-431.03(A)(3));
- (4) Discussion or consultation with the city's attorneys regarding the city's position regarding

contracts that are the subject of negotiations, in pending or contemplated litigation, or in settlement discussions conducted in order to avoid litigation (A.R.S. § 38-431.03(A)(4));

(5) Discussion or consultation with designated representatives of the city to consider its position and instruct its representatives regarding negotiations with employee organizations (A.R.S. §38-431.03(A)(5));

(6) Discussion, consultation or consideration for negotiations by the city or its designated representatives with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city (A.R.S. §38-431.03(A)(6));

(7) Discussion or consultation with designated representatives of the city to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property (A.R.S. §38-431.03(A)(7)).

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall on 5/2/24 at 9:00 a.m. in accordance with the statement filed by the Prescott City Council with the City Clerk.

Sarah M. Siep

Sarah M. Siep, City Clerk



TO: MAYOR AND CITY COUNCIL
AGENDA: May 6 Charter Review Commission Meeting
DATE: May 6, 2024
DEPT: City Clerk
ITEM #: 3.A
SUBJECT: Approval of the March 4, 2024 Charter Review Commission Meeting Minutes.

ITEM SUMMARY

This item is for the approval of the minutes from the March 4, 2024 Charter Review Commission meeting. Staff recommends approving the minutes as presented.

BACKGROUND

None.

FINANCIAL IMPACT

None.

RECOMMENDED ACTION

MOVE to approve the minutes as presented

ATTACHMENTS

1. March 4, 2024 Charter Review Commission Minutes



City of Prescott

Mayor's Charter Review Commission

March 4, 2024 | 3:00 PM
201 N. Montezuma Street
Executive Conference Room, 3rd Floor
Prescott, AZ 86301

MINUTES

1. CALL TO ORDER

Chair Arnold called the meeting to order at 3:00 p.m.

2. ROLL CALL

Charlie Arnold - Chair
Ralph Hess - Vice Chair
Michael Broggie - Member
Michael Gjede - Member
Jerry Hulm - Member (Excused)
Bonnie McMinn - Member

3. DISCUSSION & ACTION ITEMS

- A. Approval of the October 17, 2023 Charter Review Commission Meeting Minutes.
**MOTION BY CHAIR ARNOLD TO APPROVE THE MINUTES AS PRESENTED;
SECONDED BY MEMBER MCMINN: (4 - 1) VICE CHAIR HESS ABSTAINED**
- B. Presentation & Discussion Regarding Adoption of Proposed Charter Amendments at the November 7, 2023 General Election..

City Clerk Sarah Siep provided a brief overview to the Commission members regarding the passing of twelve of the thirteen presented charter amendments by the voters at the November 2023 General Election. The Governor's Office approved the amendments on January 31, 2024 making them official. The Charter document has been updated and is posted on the city website.

This item was for discussion only. No formal action was taken.

- C. Presentation & Discussion Regarding a Potential Open Space Addition to Article VIII, Section 12 of the Prescott City Charter.
This item was discussed after 3.D.

Member McMinn provided a presentation to the Commission regarding this being one of her top three items that she would like to have included in the charter. Including in the open space section of the Charter, purchases being protected in perpetuity. She has been able to work with staff over the last several months to put together a list that is as complete as possible. Seems to her that the city should do the same with this list of properties as we do with all of the ones that are already listed.

Vice Chair Hess commented that the General Plan Committee did indicate

support for protection of the property in the Charter, they stated that having the property available for a public purpose as an option as well. He disagrees with that, but he wanted to pass along the comments of the General Plan Committee.

Member McMinn stated that the timing of this is excellent, because the citizen survey showed that citizens really value open space and protecting it as much as possible.

Recreation Services Director Joe Baynes was presented and discussed that "public purpose" relates to BLM, a municipal building/fire station/etc is a clear definition.

Deputy City Attorney Matt Podracky asked if the desire is to have this be specific or more general for open space in general.

Member McMinn stated that the list is specific and the information contained in the Charter should be as well.

Chair Arnold stated that he interprets this as proposing something that would solidify that once the land is purchased it is protected. He isn't concerned about the police and fire side, but utilities is something that may need to be considered strategically in the future and should have a process to address that in the future.

Member McMinn stated that there could be protections similar to what is already in the Charter and have legal include language regarding easements etc.

Chair Arnold would also like information on anything that would prohibit the city from entering into a recreation or leasing agreement.

Mayor Goode concurred, what about installation of parking areas at public parks for example.

Vice Chair Hess asked if it would be possible to have varied protections depending upon the parcel.

Mr. Baynes responded that there are likely three different qualifications for the types of land, if the goal is to protect the land but leave the ability to adjust if and when necessary it would be appropriate to have "public purpose, ie fire stations etc".

Member of the public JD Greenberg addressed the Commission as a member of the community who is involved in the Open Space Alliance, and Central AZ Land Trust. She is aware of the cost for conservation easements, the chance to save some of the open space in perpetuity is very wise and economical way to go. There is going to be a lot of community push back regarding land being protected and not "used". She discussed the Open Space account that existed specifically for the purchase of open space properties, and the opportunity to have a temporary tax similar to the Prop 443. Going to the public about what will specifically be an area that would be part of this and be clear about it. Any provision for public uses should include public input.

Member of the public Michael Byrd with Prescott Creeks addressed the Commission and introduced himself. He feels this is an important effort, they hear from the public often about wanting to know what the long term plan and goals are for the protection of the city's open space. He wanted to come and listen and understand what is being proposed and how that may impact what his group has been working on.

Chair Arnold said there is value in proposing something like this in the City Charter as currently Acker Park and Watson and Willow Lakes are the only ones that are included but need to protect the intent and not put the city into a box that would cause problems in the future.

Vice Chair Hess stated that it might be important to get an idea of the three "categories" on the map and how that may apply (open space, viewshed versus recreation and lakes).

Mr. Podracky stated that staff can return with more specific "public purpose" definition and outline how this might look going forward. He asked if any of the land was donated.

Mr. Baynes responded that there is some donated property included in the list.

Ms. Greenberg said that maintenance needs to be written into all of this as well.

Chair Arnold asked about Acker Park.

Mr. Podracky stated that staff can pull the records and bring that information back.

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

- D. Presentation & Discussion Regarding Potential Additions to the Prescott City Charter Regarding: 1) The Prohibition of Discrimination, and 2) Leasing of City-Owned Property.

This item was discussed before Item 3.C.

Vice Chair Hess stated that he would like to add to Article II, Section 36 a section regarding prohibition of discrimination. He stated that he pulled language from state statute and would like to apply that to the Charter.

MLK Committee Members Robert Shegog and Jim Helbling addressed the Committee regarding the presentation they recently made to the General Plan Committee and discussed the importance of incorporating this in the Charter.

Vice Chair Hess continued and stated that the group provided information to the General Plan Committee and it will be included in the General Plan. Paragraphs A & B of the proposed are straight out of the State Constitution with a few additional classes to be included. Protections related to race, color, ethnicity, etc. Within Prescott, these issues are also prevalent, and our community is not immune to them.

Mr. Helbling provided a handout to the Commission regarding a survey done by the group. He confirmed that a presentation was made to the General Plan Committee with this same information. The group received 247 responses to the survey, a majority of whom stated that they received discriminatory behavior while in Prescott at approximately 2/3 of respondents. They also included 68 comments that were provided during the survey.

Member McMinn asked for the rationale behind the survey.

Mr. Helbling responded that it was a google survey and worked with the Prism Network, Prescott College and Yavapai College.

Mr. Shegog added that there was a QR Code that allowed people to participate as well. The survey was active from April 2021-August/September 2021.

Member Broggie stated that they have included Prescott and surrounding communities and asked if there were respondents in the other cities as well.

Mr. Helbling stated that the question was "did you receive discrimination while in Prescott".

Chair Arnold thanked Mr. Shegog and Mr. Helbling for the information.

Vice Chair Hess stated that the reason he brought this to the Commission's attention is that there is a desire to put this before the voters as early as possible, but it is ultimately up to Council and he would like to urge the Commission to approve it.

Member Broggie asked if this would include how he felt when people moved here from California.

Assistant City Attorney Chris Resare stated that is not a protected class.

Chair Arnold stated that he would like to have the Legal Department review this information and address how this is already applicable to the position, how we would expand and what any possible liability would be in doing so and report back.

Member McMinn asked if not a Charter Amendment would an Ordinance or other means by which the city could address that if they determine not to move it forward.

Ms. Siep stated that this would be brought back at the next meeting.

Chair Hess stated that he would prefer a Charter Amendment, he also asked staff to look into whether C&D are actually necessary.

Mr. Podracky commented on the remedies and if there were any additional that they may want to consider.

Chair Arnold moves onto discussion regarding the next item proposed by Vice Chair Hess.

Vice Chair Hess commented that after reflecting on the amendments passed, the only provision impacting things that don't require a super-majority is a lease that is more than \$2 million for two-years so any high dollar property owned would also require that. Language is from the sale provision and changed to lease.

Chair Arnold asked about the City Manager's authority versus Council authority and how that would impact this.

Mr. Podracky responded that any lease of city property has to be approved by the Council, if this were adopted for more than \$2 million it could curtail their authority but Council would ultimately review and approve.

Chair Arnold commented that the overall perspective was to give more daylight to handling sale and/or lease of city property. The language that was put forward previously addressed and accomplished that. He would like to have legal do some more research regarding this and bring it back at the next meeting to discuss.

This item was for discussion only. No formal action was taken.

- E. Commission Discussion Regarding Potential Future Amendments to the Prescott City Charter & Future Meeting Schedule Throughout 2024.

Ms. Siep commented that staff will bring back follow up details regarding the information provided today and the Commission will meet again on Monday, May 6.

4. **ADJOURNMENT**

There being no further business to discuss, Chair Arnold adjourned the meeting at 4:30 p.m.

ATTEST:

CHARLIE ARNOLD, Chair

Staff Liaison



TO: MAYOR AND CITY COUNCIL
AGENDA: May 6 Charter Review Commission Meeting
DATE: May 6, 2024
DEPT: City Clerk
ITEM #: 3.B
SUBJECT: Follow-Up Discussion Regarding Suggested Open Space Addition to Article VIII, Section 12 of the Prescott City Charter, and Information from Staff.

ITEM SUMMARY

Following a presentation from Commission Member McMinn at the March 4 Commission Meeting regarding the addition of select Open Space to the existing Article VIII, Section 12 which outlines Watson Lake, Willow Lake and Acker Park be retained as open space and/or utilized for water supply and recreational purposes in perpetuity legal staff convened to review details in order to provide additional information to the Commission on how to proceed with a possible Charter Amendment. Staff will provide additional details as requested and provide possible recommendations for the Commission regarding a revision or addition to the Charter related to open space in the city.

BACKGROUND

None.

FINANCIAL IMPACT

None.

RECOMMENDED ACTION

This item is for discussion only. No formal action will be taken.

ATTACHMENTS

None



TO: MAYOR AND CITY COUNCIL
AGENDA: May 6 Charter Review Commission Meeting
DATE: May 6, 2024
DEPT: City Clerk
ITEM #: 3.C
SUBJECT: Follow-Up Regarding Proposed Additions to the Prescott City Charter Regarding: 1) The Prohibition of Discrimination, and 2) Leasing of City-Owned Property.

ITEM SUMMARY

Following a presentation from Vice Chair Hess at the March 4 Commission Meeting regarding proposed additions to the Charter listed below, staff convened to review information in order to provide details to the Commission on how to proceed with possible Charter Amendments. Staff will provide additional details as requested and provide possible recommendations for the Commission regarding a revision or addition to the Charter related to anti-discrimination and leasing of property in the city.

As adapted from the state anti-discrimination constitutional provision (Art 2, Section 36).

Amend Prescott City Charter Article X title to read, "Declaration of Rights."

Section 1 remains unchanged. Add Section

2. Preferential treatment or discrimination prohibited.

A. The city shall not grant preferential treatment to or discriminate against any individual or group on the basis of race, color, ethnicity or national origin, sexual orientation, gender expression or identity, religious practice, spiritual practice, age, or mental/physical disability in the operation of public employment, public education or public contracting.

B. The remedies available for a violation of this section are the same, regardless of the injured party's race, color, ethnicity or national origin, sexual orientation, gender expression or identity, religious practice, spiritual practice, age, or mental/physical disability, as are otherwise available for a violation of the existing anti-discrimination laws of this state.

C. This section applies only to actions that are taken after the effective date of this section

D. This section is self-executing.

Amend Prescott City Charter Article VIII, Section 11 by adding a second paragraph:

Any lease of any land, building or part thereof owned by the City, the value of which exceeds two million dollars shall not be leased for a period of more than two years unless: (1) a public hearing to receive public comment shall be held at least thirty days prior to a regular council meeting at which the proposed lease is agendaized for discussion and possible action; and (2) the lease must be authorized by a super majority vote of three-fourths of the city council approving the proposed lease of the property.

BACKGROUND

None.

FINANCIAL IMPACT

None.

RECOMMENDED ACTION

This item is for discussion only. No formal action will be taken.

ATTACHMENTS

None



TO: MAYOR AND CITY COUNCIL
AGENDA: May 6 Charter Review Commission Meeting
DATE: May 6, 2024
DEPT: City Clerk
ITEM #: 3.D
SUBJECT: Presentation & Discussion Regarding Potential Amendments Proposed by Vice Chair Hess and Member McMinn.

ITEM SUMMARY

Staff has received a request from Vice Chair Hess and Member McMinn regarding additional potential amendments as follows:

Vice Chair Hess

Article I - Incorporation, Form of Government, Powers and Boundaries, Section 3 - Powers of City

*Proposed amendment: add the following bolded text to the end of the second paragraph ". . . may sell, lease, mortgage, hold, manage and control such property as its interest may require **subject to the provisions of this charter.**"*

Rationale: other provisions of the charter set forth conditions on sale, lease, transfer of property.

Article II - The Council, Section 1 - Powers of the Council

Proposed amendment: delete 2nd paragraph prohibiting collective bargaining

Rationale: City negotiates employment conditions with city manager and city attorney. Deletion does not mandate bargaining and allows city flexibility. [A number of Prescott police officers are members of the Arizona Association per Jon Brambila].

Article VIII - Contracts, Section 11

Proposed amendment: add a second paragraph:

Any lease of any land, building or part thereof owned by the City, the value of which exceeds two million dollars shall not be leased for a period of more than two years unless: (1) a public hearing to receive public comment shall be held at least thirty days prior to a regular council meeting at which the proposed lease is agendized for discussion and possible action; and (2) the lease must be authorized by a super majority vote of three-fourths of the city council approving the proposed lease of the property.

Rationale: provides opportunity for more public input and super majority vote for approval of high value leases of city-owned property similar to the provisions for sale and lease/purchase of high value city-owned property.

Article VIII - Contracts, Section 12 - Sale of city property

Proposed amendment: add sale prohibition for list of open space property similar to Acker Park paragraph

Rationale: protect open space in perpetuity as set forth in Prescott's 2003 General Plan

Article X Initiative, Referendum, and Recall

Proposed amendment: replace article title to "Declaration of Rights" and add the following additional section patterned after Article 2, Section 36)

"Section 2 - Preferential treatment or discrimination prohibited.

A. The city shall not grant preferential treatment to or discriminate against any individual or group on the basis of race, color, ethnicity or national origin, sexual orientation, gender expression or identity, religious practice, spiritual practice, age, or mental/physical ability in the operation of public employment, public education or public contracting.

B. The remedies available for a violation of this section are the same, regardless of the injured party's race, color, ethnicity or national origin, sexual orientation, gender expression or identity, religious practice, spiritual practice,

age, or mental/physical ability as are otherwise available for a violation of the existing anti-discrimination laws of this city and the State of Arizona.

C. This section applies only to actions that are taken after the effective date of this section.

D. This section is self-executing.

Rationale: Codifies a demonstration that Prescott truly is "Everybody's Home Town" by reinforcing and expanding the state constitution prohibition of discrimination.

Article XI - City Court, Section 4 - Presiding Officer; appointment; term; Justice of Peace as City Judge

Proposed amendment: delete "Justice of Peace as City Judge" in the title

Rationale: unnecessary, as it is not referenced in the text of the section

Article XIII General Provisions

Proposed amendment: add "Section 9 - General Plan Major Amendment (recommended to Charter Review by General Plan Committee)

Rationale: addresses public dissatisfaction with the lack of enforceability of Prescott's previous general plans by requiring voter approval of major amendments. This is not a cure-all yet will help.

Prescott City Council shall submit each proposed major amendment to every general plan adopted by the electorate of the City of Prescott in accordance with Arizona State law to the voters for ratification at the next regularly scheduled municipal election or at a special election scheduled at least one hundred twenty days after the governing body resolved to adopt the major amendment to the plan.

The governing body shall include a general description of the major amendment to the revised plan and its elements in the municipal election pamphlet and shall provide public copies of the revised plan in at least two locations that are easily accessible to the public and may include posting on the municipality's official internet website.

If a majority of the qualified electors voting on the proposition approves the major amendment to the revised plan, it shall become effective as provided by law. If a majority of the qualified electors voting on the proposition fails to approve the major amendment to the revised plan, the current plan remains in effect until a new amended plan is approved by the voters.

Member McMinn:

1) Consider amending Article IV, section 3 to reinstate City Treasurer As a position reporting to Council. Placing the Finance Director under the Council will provide a a greater span of control for our elected officials and provide a better conduit and direction for fiscal policy discussions.

2) Consider special provision under land use to require the dedication of lands (meaningful designated open space of at least 25% for all annexations and plats) AND/OR fees from developers to support essential city services. Scottsdale, Bisbee, Casa Grande, Douglas, Goodyear, Peoria and Tempe include this provision.

3) Article II, Section 21(?)-Explore additional "guardrails" to protect the sanctity of Executive Sessions and provide additional penalties for disclosing, discussing and/or releasing of confidential materials and/or conversations occurring during Executive Sessions. Violating the confidentiality of an executive session might expose the jurisdiction to potential financial loss and may also erode trust and collegiality among governing body members. Such behavior should be taken seriously, and a local government should seek legal advice from its agency's legal counsel about specific executive session confidences.

4) Tempe City Charter: [Tempe City Code Sec. 9.01](#)

The public may want some additional recourse/options (as opposed to a recall) in the event of issues with elected officials.

5) Article I, Section 3. paragraph 4 is vague and confusing concerning bringing utilities to the property line of a development/private property. Many years ago, for example, when Yavapai Hills went in, the developer was responsible for acquiring easements and bringing wet utilities to his property. Now, the City is doing it for them

and this needs to stop. This clause needs to be crystal clear.

6) Past City Attorney, Mr. Palladini, made sure that an “adjoining and adjacent properties” clause was included in every annexation and development agreement. He even included it into the Stringfield Ranch Water Improvement District language. This clause is very harmful. It ties the hands of future Councils that may want to negotiate better terms for future annexations and promotes sprawl. The Charter needs to bar this Clause and anything like it from DA’s, Annexations, IGA’s, Districts, or any contracts.

7) Developers currently can haul in fill dirt and mass grade large portions of land and let it sit there for 20 years, with no plans. It is very harmful, causing dust, stormwater erosion, and is unsightly. An example is the corner of 89A and Granite Dells Parkway in Granite Dells Estates. I support a Charter amendment that requires no grading till water, and a final, not preliminary, plat is approved by the City.

BACKGROUND

None.

FINANCIAL IMPACT

None.

RECOMMENDED ACTION

This item is for discussion only. No formal action will be taken.

ATTACHMENTS

None