AGENDA

City of Modesto
CHARTER REVIEW COMMITTEE/
SPECIAL COUNCIL WORKSHOP
Conference Room 2001, Second Floor
Tenth Street Place
1010 10th Street, Modesto, California

Wednesday, February 5, 2020, at 5:30 PM

Roll Call: Committee Members Chair Cecil Russell, Vice Chair Sam Pierstorff, Aaron Anguiano, Wendy Byrd, Janice Keating, Mike Moradian, Chris Tyler, Sandra Lucas, Tim Ragsdale, Jose Sabala and Renaldo Rucker

Roll Call: Regional Ad Hoc Members George Petrilakis and John Walker

PUBLIC COMMENT PERIOD

Three minute time limit per speaker

Only interested persons in the audience may present these matters. Under State law, Councilmembers may respond to matters being presented under this item only as follows:

a. Briefly respond to statements made or questions raised.
b. Ask a question for clarification.
c. Provide a reference to staff or other resources for factual information.
d. Request staff to report back at a subsequent meeting.
e. Finally, a Councilmember or the Council itself may take action to direct staff to place a matter of business on a future agenda.

CONSENT ITEMS – ROLL CALL VOTE REQUIRED
Any and all of the following agenda items are subject to action by the Modesto City Council.

This Agenda is on file at the Modesto-Stanislaus Library Reference Room, 1500 I Street, Modesto, in the City Clerk’s Office, Sixth Floor, 10th Street Place, and is available on the City’s Web site at www.modestogov.com.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk (209) 577-5396. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

CONSENT

1. Consider approving the Minutes from the January 22, 2020 Charter Review Committee.
   http://modestogov.com/AgendaCenter/Charter-Review-Committee-21

NEW BUSINESS

2. Consider reviewing suggested topics for consideration provided by the Mayor and Council, as well as City staff, as part of the Charter review.
   Link:_____________________________________________________

COMMITTEE MEMBER COMMENTS AND REPORTS

MATTERS TOO LATE FOR THE AGENDA

These may be presented by members of the Committee and staff upon determination by a majority vote that an emergency exists, as defined by State law, or by a 2/3 vote that (1) there is a need to take immediate action, and (2) that the need for action came to the Committee’s attention after the agenda was posted.

ADJOURNMENT

Posted pursuant to Government Code Section 54956 on the bulletin board at Tenth Street Place on ___________________________ at ___________________________ by ___________________________

_________________________   ___________________________

_________________________   ___________________________

date   time   signature

February 5, 2020
MINUTES

City of Modesto

CHARTER REVIEW COMMITTEE/
SPECIAL COUNCIL WORKSHOP

Conference Room 2001, Second Floor
Tenth Street Place
1010 10th Street, Modesto, California

Tuesday, January 22, 2020, at 4:00 PM

Roll Call – Present: Committee Members Chair Cecil Russell, Vice Chair Sam Pierstorff, Aaron Anguiano, Wendy Byrd, Janice Keating, Chris Tyler and Mike Moradian
Absent: Regional Ad Hoc Member John Walker
Roll Call – Also Present: Regional Ad Hoc Member George Petrolakis

PUBLIC COMMENT PERIOD

None.

CONSENT

http://modestogov.com/AgendaCenter/Charter-Review-Committee-21

ACTION: Motion (Tyler/Keating; 7/0) approving the Minutes from the January 7, 2020 Charter Review Committee.

NEW BUSINESS

2. Consider reviewing applications received for the four (4) additional members from the community to be appointed to the Charter Review Committee.
ACTION: Committee members reviewed 19 applications for the Charter Review Committee.

3. Consider interviewing applicants for the four (4) additional members from the community to the Charter Review Committee and forwarding recommendations to Council for approval.

ACTION: Committee members interviewed applicants for the four (4) additional members from the community to the Charter Review Committee and selected the following: Sandra Lucas, Tim Ragsdale, Renaldo Rucker and Jose Sabala. Alternate members were also selected: Alternate A – Monica Valencia; Alternate B – Paul Baxter; Alternate C – Dewey Bedford; and Alternate D – Douglas Highiet. The recommendations will be forwarded to Council for approval.

COMMITTEE MEMBER COMMENTS AND REPORTS

None.

MATTERS TOO LATE FOR THE AGENDA

None.

ADJOURNMENT

ACTION: Motion (Tyler/Pierstorff; 7/0) adjourning meeting at 6:30 p.m.

Attest: ______________________________________________________________________

Stephanie Lopez, City Clerk

January 22, 2020
DATE: December 20, 2019
TO: Stephanie Lopez
FROM: Joseph P. Lopez
SUBJECT: Charter Review Committee – Proposed Changes/Considerations

In response to the Mayor’s memo dated November 25, 2019, City staff has identified the following issues below that warrant review by the Charter Review Committee.

SECTION 800 – City Manager

Summary of Current Language: The City Manager need not be a resident of the City or State at the time of appointment, but during the City Manager’s tenure of office, the City Manager shall reside within the City.

Proposed Change/Consideration: California Government Code Section 50083 deems this residency requirement illegal,¹ and therefore this requirement should be removed.

SECTION 1104 – Meetings / Chairpersons

Summary of Current Language: (Section 1) Written notice to each member of any board or commission may be dispensed with as to any member of any board or commission who, at or prior to the time the meeting convenes, files with the Secretary of such board or commission a written waiver of notice and currently includes a reference to the notice being given by telegram.

(Section 2) Unless otherwise provided by the Council, or by this Charter, the City Manager shall provide a secretary for the recording of the minutes of each of such boards and commissions who shall keep a record of its proceedings and transactions. Each board and commission shall prepare and submit to the Council an annual report of its activities. Such report shall be made on the fiscal year basis and shall be submitted on or before September 1 of each year.

Proposed Changes/Consideration:

Section 1: The language in needs to be modernized to reflect the ever changing methods of communication. The language should be broad enough to accommodate technologies yet to come.

Section 2: It is not current the practice of the boards and commission to submit annual reports.

¹ California Government Code Section 50083 states that “no local agency shall require that its employees be residents of such local agency or district.”
SECTION 1107-1111 - Board of Personnel Appeals, Powers and Duties – Human Relations Commission

Issue: The Charter lists only four of the seventeen total boards and commissions for the city. The four boards and commissions are the Planning Commission, Board of Personnel Appeals, Culture Commission, and Human Relations Commission. Two of the four commissions listed in the Charter - the Human Relations Commission and the Board of Personnel Appeals - no longer exist.

Board of Personnel Appeals: shall consist of three members and the powers and duties include the selection of a hearing officer to hear the appeals of any person in the classified service relative to any suspension, demotion or dismissal, so long as a separate and distinct procedure has not been delineated by a valid and existing Memorandum of Understanding. And act in an advisory capacity to the City Manager on such personnel matters as may be referred to it by the City Manager.

Human Relations Commission: shall consist of seven (7) members, five (5) of whom shall be registered electors of the City, and two (2) of whom shall live outside the City but shall be registered electors of Stanislaus County. The Commission shall have the power and duty to:

- Act in an advisory capacity to the City Council in matters pertaining to human relations and behavior
- Formulate and recommend annually to the Council a program for furthering human relations
- Perform such other duties with respect to human relations and behavior as the City Council may prescribe by ordinance or resolution

Proposed Changes/Consideration:

First, staff recommends the Review Committee consider eliminating all boards and commissions from the Charter. Boards and Commissions often require modifications to their function because of legislative action by the City Council, city resources, and community interest. To ensure that the organization can be flexible with the existing boards and commissions, staff recommends considering the removal of the four commissions from the Charter and should be codified in the municipal code.

Second, staff recommends that the Human Relations Committee be eliminated. From a practical perspective, it does not exist, and its functions are not be carried out by any existing committee as described in the Charter. In title only, the Human Relations Committee has been merged with 2 other Human Resources advisory bodies: the Equal Opportunity and the Disability Commission. However, these Commissions do not encompass the functions outlined in the Charter for the Human Relations Committee.

And finally, staff recommends that the remaining two commissions – the Planning Commission and the Culture Commission be created by ordinance or Council resolution and removed from the Charter.
SECTION 1205 – Hearing Officer

Summary of Current Language: An appeal of any person in the Classified Service relative to any suspension, demotion or dismissal, where the right of appeal is granted by the Personnel System of the City of Modesto, shall be heard by a hearing officer, who shall be selected by the Board of Personnel Appeals.

Proposed Change/Consideration: The use of hearing officers as identified in the Charter is no longer a practice of the City. The City now uses State hearing officers and this is specified in the Memorandums of Understanding that the City has with the various employee associations. Therefore, this Charter section should be considered for removal.

SECTION 1302.1 - 1304 – Annual Budget

Summary of Current Language: Section 1302.1 through Section 1304 include various deadlines for the budget, including Section 1302.1 which requires a mid-year budget report by February 1st but the City does not receive property tax revenue or second quarter sales tax data until late February which can be helpful in informing the mid-year budget report.

Proposed Change/Consideration: The recommendation from staff is to review and modify the dates to ensure a timely adoption of the budget with sufficient time provided to receive data to inform the budget.

SECTION 1307 – Public Work To Be Done By Contract

Summary of Current Language: Every project involving an expenditure of City funds of more than the amount which the City Council shall establish by ordinance, for the construction or improvement of public buildings, works, drains, sewers, utilities, parks, playgrounds, and streets (exclusive of projects for resurfacing, maintenance and repair of streets, or any park or parks playground project otherwise subject to the public bidding requirements of this section that involves any donated labor and/or material) shall be let by contract to the lowest responsible bidder after notice by publication in the official newspaper by one or more insertions, the first of which shall be at least seven (7) days before the time for opening bids.

Proposed Change/Consideration: Recommendation from staff is to revise the language to reflect modern methods of communication and that language be flexible and adaptable for advances in communication methods.

SECTION 1311 – Contracts For Official Advertising

Current Language: In the event there is more than one (1) newspaper of general circulation published and circulated in the City, the Council shall advertise for one (1) day, setting forth distinctly and specifically the work contemplated to be done, and asking for sealed proposals therefor.

Proposed Changes/Consideration: Recommendation from staff is to revise the language to reflect modern methods of communication and that the language be flexible and adaptable for advances in communication methods.
SECTION 1313 – Purchase of Supplies and Equipment

*Current Language:* The Council, by *ordinance*, within one (1) year following the adoption of this section, shall adopt policies and procedures, including bidding regulations, governing purchases of supplies and equipment by the City.

*Proposed Change/Consideration:* The City's Purchasing Division has met the intent of this section by establishing an Administrative Directive and created an internal Purchasing Manual to ensure compliance with the Modesto Municipal Code.
MEMORANDUM

DATE: December 20, 2019
TO: Stephanie Lopez, City Clerk
FROM: Adam U. Lindgren, City Attorney
COPY: Mayor Ted Brandvold
       Joe Lopez, City Manager
RE: Charter Review Committee

The City Attorney’s Office has completed its preliminary review in response to the Mayor’s request for potential issues to be reviewed by the Charter Review Committee.

This list identifies legal issues that we recommend be further explored by the Committee as potential amendments to the Charter. It does not address any issues related to City policies, rather the following recommendations are being provided to address potential legal compliance issues with the Charter.

As this process moves forward, our office will be providing the Committee with detailed analysis of the issues listed below, as well as specific recommended revisions to the Charter to address those issues. This initial list may need to be supplemented based upon further changes in the law, and issues identified by the Committee, staff, and the Council.

- Minor modifications to further comply with the California Voting Rights Act, in response to recent case law and new 2020 Census data.
- Ensuring Charter compliance with state laws regarding the process of disposing of surplus City lands. A November 2019 court decision indicates that the City will need to comply with additional processes to sell surplus land. Our office is evaluating whether this requires a Charter amendment, or merely changes to the Municipal Code and/or City policies.

CONFIDENTIAL: This material is subject to the attorney-client and/or attorney work product privileges. Do not disclose the contents hereof. Do not file with publicly accessible records.
CHARTER ITEMS TO BE REVIEWED (MASTER LIST - COUNCIL)
(UPDATED JANUARY 15, 2020)

1. Elections in line with State.

2. Possible Auditor elected.


4. Review and expansion of the City Auditor responsibilities to include adding the requirement the position adhere to California Government Code 1236(a) which states, *"all city, county and district employees that conduct audits or that conduct audit activities of those respective agencies shall conduct their work under the general and specified standards prescribed by the Institute of Internal Auditors or the Government Auditing Standards issued by the Comptroller General of the United States, as appropriate"*

5. Consider creation of an Audit Committee composed of three members of the City Council (Mayor and two members of the City Council) and two qualified residents of the City of Modesto.

6. Consider whether Charter Officers be required to be full time employees of the City of Modesto?

7. Consider whether there should be a requirement for a mandatory forensic audit (every two years) of professional service contracts?

8. Consider removing requirement of Modesto City School Board elections.

9. Add clean-up of Salary Setting Commission and Districting Commission meetings from even years to odd years.

10. Add clean-up of outdated terms/requirements such as “telegrams” under Boards, Commissions and Committees.

11. Review effectiveness of council term limits and determine if modifications are warranted.

12. Review clean up language from last Charter Review changes/amendments.

13. To Reaffirm the Council-Manager form of Modesto City Government and intent. Issues:
   a. Over the years form of government has been water down allowing Mayor/council to assume they have Charter authority in day to day operations.
   b. Employees, Charter Officers, Citizens and council members do not follow the current Charter mandate at times.
c. Return the process budget to the City Manager and, eliminate the Mayor’s pre preferred role in the process. The current practice has created individual desires and interest that are seldom shared by purposeful deliberated process by the full council.

14. Establish a primary for all City elections to sink prior to November City General Elections in even years to match the State (i.e. March) of California. This would eliminate (unless a candidate receives 50%+1) post November election runoff to February of the next uneven year.

15. To review and consider public discussion on our current Council makeup of one elected Mayor City wide and six council members in districts elections verses five district election and an a annual rotating Mayor and Vice Mayor like the County of Stanislaus Board of Supervisors formant.

16. Review the current district’s boundaries based on population, community diversity and demographics.

17. Review and have public discussion for possible change to City-wide elected office of the Auditor, verses appointed by the Modesto City Council.

18. Review Sec 601. – Powers and Duties of the Mayor for efficiencies and possible inefficiencies which may inhibit the position to effectively address issues of importance to the citizens of Modesto.

19. Review the Charter for regional issues such as do school district items need to remain in the Charter?

20. Does anything in the Charter prevent or interfere with the City cooperating on issues outside city limits such as providing regional and cost effective fire services, preserving prime agricultural lands, addressing social issues such as homelessness or similar issues?

21. Should anything be added to the Charter to encourage regional approaches?

22. Section 300. Regular Municipal Elections
   - Review of whether elections should conform to federal election calendars with spring primary and November general election for Council and Mayor

23. Section 601 Power and Duties of Mayor

24. Section 800 City Manager
   - Necessity of residency language
25. Section 902.1 Office of the City Auditor
   • Review of function of reporting obligations

26. Section 1302 Annual Budget
   • Review how the budget is formulated and by whom and the general process and
     timeframes for adoption