

May 23, 2016

To: Mayor Salas and members of the City Council

From: Robert Ross, Charter Review Commission

Dear Mayor Salas and members of the City Council:

I voted no on this proposed Charter amendment not because of what it does, but because of what it does not do. This Charter amendment changes parts of Section 503 of the City Charter, the parts that relate to the residency requirements for the Office of the City Attorney, without changing other parts of Section 503 of the City Charter that I believe need to be changed. I have listed the changes that I believe need to be made below. If the City Council agrees that some or all of these changes should be made, and the changes are not included in this amendment, it may be necessary to have another Charter amendment to make these changes, resulting in an additional expense to the City.

Changes that may need to be made to Section 503 of the City Charter.

1. The method of filling vacancies on the City Council when there is one year or less remaining in the term of a vacant Council seat is different from the method of filling a vacancy in the Office of the City Attorney when there is one year or less remaining in the term of the City Attorney. If there is one year or less remaining in the term of a vacant City Council seat, the City Council has 45 days to appoint a person to fill that vacant seat. If the City Council is unable to make an appointment, the seat remains vacant. An election to fill the vacant seat is not held (see Section 303.C.1 of the City Charter), since holding a special election can be very expensive, and it would not make sense to hold an expensive special election to fill a vacant Council seat, when that Council seat would only be vacant for a few months. The method of filling a vacancy for the Office of the City Attorney is different. The Charter states that if a vacancy occurs with 24 months or less in the unexpired term of the Office of the City Attorney, and the City Council fails to fill the vacancy within 60 days, a special election shall be held, (see Section 503(F) of the City Charter). It does not say that if there is a vacancy in the Office of the City Attorney, and there is one year or less remaining in the term of the City Attorney, that a special election is not held. If a vacancy occurs with one year or less in the unexpired term of the City Attorney, an expensive special election must still be held. The City Council may want to change that section of the City Charter.

2. There may be differences between when a person appointed to fill a vacant City Council seat may seek election for that same City Council seat, and when a person appointed to fill a vacancy in the Office of the City Attorney may seek election for the Office of the City Attorney. When a person is appointed to fill a vacancy on the City Council, that person may not seek nomination and election to that office until a period of one year from the end of the appointed term has elapsed (see Section 300(B) of the City Charter). There appears to be no such restriction put on a person who is appointed to fill a vacancy in the Office of the City Attorney (Section 503(f) of the City Charter). A person appointed to fill a vacancy in the Office of the City Attorney may be able to run for that same office when the next general election for the Office of the City Attorney is held. If this is the case, the City Council may want to change that section of the City Charter.

3. There are differences between what constitutes a vacancy in the Office of City Attorney (Section 503(g) of the City Charter), and what constitutes a vacancy on the City Council. These differences should be discussed, and if necessary, changes should be made.

4. If this Charter amendment is approved, there will still be differences between the residency requirements for the Mayor (Section 300.A.1 of the City Charter), and the residency requirements for the City Attorney, (Section 503(d) of the City Charter). Since both the Mayor and City Attorney are elected at large, the City Council may want the residency requirements for the Mayor and the City Attorney to be the same.

If the City Council believes that some or all of these changes should be made to Section 503 of the City Charter, I recommend that this proposed Charter amendment be sent back to the Charter Review Commission for further review.

Sincerely,

Robert Ross
Charter Review Commission