



## CITY COUNCIL ACTION ITEM

Date July 16, 2009

TO: Mayor and City Council

FROM: John Szerlag, Acting City Manager  
Lori Grigg Bluhm, City Attorney  
Tonni L. Bartholomew, City Clerk

SUBJECT: Charter Revision Committee Recommendations

### **Background:**

At their Regular meeting on Monday, July 13, 2009, the Charter Revision Committee recommended the following three Charter Revision amendments to the City Council for placement on the November 3, 2009 Ballot:

1. Section 3.7 – Election of Mayor Pro Tem - Annual Term
2. Section 3.10 – City Manager; Appointment and Qualification - Residency
3. Section 6.2(g) - Vacancies in Elective Office

A copy of the Charter Revision Committee July 13, 2009 Meeting Minutes are attached for your convenience.

The recommended Charter Amendments and ballot language are as follows:

1. Section 3.7 – Election of Mayor Pro Tem - Annual Term

### **EXISTING CHARTER LANGUAGE:**

#### **Section 3.7 – Election of Mayor Protem:**

The Council shall, at its first meeting following each regular City Election, and after the newly elected members take office, elect one of its members to serve as Mayor Protem. He shall serve for a term expiring upon the election their successors.

### **PROPOSED REVISED CHARTER LANGUAGE:**

#### **Section 3.7 - Election of Mayor Pro Tem:**

The Council shall, at its first meeting in November, annually, elect one of its members to serve as Mayor Pro Tem. He or she shall serve for a term expiring upon the election of his or her successor.

### **PROPOSED BALLOT QUESTION:**

**Charter Amendment Proposal 09-**

A PROPOSAL TO AMEND THE TROY CITY CHARTER SECTION 3.7 – TO PROVIDE THAT THE MAYOR PRO TEM SHALL BE ELECTED BY THE COUNCIL MEMBERS ANNUALLY, RATHER THAN NOVEMBER IN EVERY ODD-NUMBERED YEAR.

Shall Section 3.7 be amended to provide that the Mayor Pro Tem be elected annually in November by the Council from among its members, rather than in November in every odd-numbered year?

Yes:

No:

2. Section 3.10 – City Manager; Appointment and Qualification - Residency

**EXISTING CHARTER LANGUAGE:**

**Section 3.10 - City Manager; Appointment and Qualification:**

The City Manager shall be the chief administrative officer of the City. He shall be selected on the basis of fitness and ability alone. At the time of his appointment, he need not be a resident of the City or State, but during the tenure of his office, he shall reside within the City. A vacancy in this office shall be filled by the City Council within one hundred and twenty (120) days.

**PROPOSED REVISED CHARTER LANGUAGE:**

**Proposed Charter Language**

**Section 3.10 – City Manager; Appointment and Qualification:**

The City Manager shall be the Chief Administrative Officer of the City. He or she shall be selected on the basis of fitness and ability alone. At the time of his or her appointment, he or she need not be a resident of the City or State, but during the tenure of his or her office, he or she shall reside within 20 miles of the City, unless otherwise provided for under State Law. A vacancy in this office shall be filled by the City Council within one hundred and twenty (120) days.

**PROPOSED BALLOT QUESTION:**

**Charter Amendment Proposal 09-**

A PROPOSAL TO AMEND THE TROY CITY CHARTER SECTION 3.10 – TO AMEND THE RESIDENCY REQUIREMENT FOR THE TROY CITY MANAGER, WHICH IS NOT ENFORCEABLE UNDER STATE LAW, AND REPLACE WITH STATUATORILY ALLOWABLE RESIDENCY REQUIREMENTS

**Section 3.10 – City Manager; Appointment and Qualification:**

Shall Section 3.10 be amended to delete the requirement that the Troy City Manager reside in the City (which is not enforceable under current State Law) and to substitute in its place a requirement that the City Manager shall reside within 20 miles of the city unless by law the City Manager is permitted to reside in a location even more distant

from the city?

Yes:

No:

3. Section 6.2(g) - Vacancies in Elective Office

**EXISTING CHARTER LANGUAGE:**

**Section 6.2 - Vacancies in Elective Office:**

- (g) Any City Council member desiring to become a candidate for any City elective office, except to succeed oneself, shall resign from the Council prior to the filing deadline of the municipal election.

**PROPOSED REVISED CHARTER LANGUAGE:**

**Section 6.2 - Vacancies in Elective Office:**

- (g) Any member of City Council who wants to run for a City office at the next General City Election shall file an irrevocable letter of resignation that shall be effective no later than the next General City Election, and which shall be filed with the City Clerk no later than 4:00 PM on the 120th day prior to the next General City Election

**PROPOSED BALLOT QUESTION:**

**Charter Amendment Proposal 09-**

*This provision shall be effective for each City official elected at the City Election on November 3, 2009 and thereafter.*

A PROPOSAL TO AMEND THE TROY CITY CHARTER SECTION 6.2(g) – VACANCIES IN ELECTIVE OFFICE TO ALLOW FOR CONTINUED SERVICE FOR SITTING COUNCIL MEMBERS SEEKING ANOTHER ELECTED CITY OFFICE UNTIL THE SEATING OF THE NEW COUNCIL

**Section 6.2 - Vacancies in Elective Office:**

Shall Section 6.2(g) be amended by deleting the requirement that a City Council member seeking to be a candidate for any other City elective office shall resign for the Council prior to the filing deadline for the municipal election and substituting in its place a requirement that such City Council member shall instead file with the City Clerk an irrevocable letter of resignation that shall take effect no later than the next General City Election?

Yes:

No:

**RECOMMENDED MOTIONS:**

1. Section 3.7 – Election of Mayor Pro Tem - Annual Term

Resolution #2009-07-  
Moved by  
Seconded by

RESOLVED, That the Troy City Council **APPROVES** as to form the following proposed Charter Amendment for the November 3, 2009 City General Election:

**A PROPOSAL TO AMEND THE TROY CITY CHARTER SECTION 3.7 – TO PROVIDE THAT THE MAYOR PRO TEM SHALL BE ELECTED BY THE COUNCIL MEMBERS ANNUALLY, RATHER THAN NOVEMBER IN EVERY ODD-NUMBERED YEAR.**

Shall Section 3.7 be amended to provide that the Mayor Pro Tem be elected annually in November by the Council from among its members, rather than in November in every odd-numbered year?

YES \_\_\_ NO \_\_\_

Yes:  
No:

2. Section 3.10 – City Manager; Appointment and Qualification:

Resolution #2009-07-  
Moved by  
Seconded by

RESOLVED, That the Troy City Council **APPROVES** as to form the following proposed Charter Amendment for the November 3, 2009 City General Election:

**A PROPOSAL TO AMEND THE TROY CITY CHARTER SECTION 3.10 – TO AMEND THE RESIDENCY REQUIREMENT FOR THE TROY CITY MANAGER, WHICH IS NOT ENFORCEABLE UNDER STATE LAW, AND REPLACE WITH STATUATORILY ALLOWABLE RESIDENCY REQUIREMENTS**

Shall Section 3.10 be amended to delete the requirement that the Troy City Manager reside in the City (which is not enforceable under current State Law) and to substitute in its place a requirement that the City Manager shall reside within 20 miles of the city unless by law the City Manager is permitted to reside in a location even more distant from the city?

YES \_\_\_ NO \_\_\_

Yes:  
No:

3. Section 6.2(g) - Vacancies in Elective Office:

Resolution #2009-07-  
Moved by  
Seconded by

RESOLVED, That the Troy City Council **APPROVES** as to form the following proposed Charter Amendment for the November 3, 2009 City General Election:

***This provision shall be effective for each City official elected at the City Election on November 3, 2009 and thereafter.***

**A PROPOSAL TO AMEND THE TROY CITY CHARTER SECTION 6.2(g)  
– VACANCIES IN ELECTIVE OFFICE TO ALLOW FOR CONTINUED  
SERVICE FOR SITTING COUNCIL MEMBERS SEEKING ANOTHER  
ELECTED CITY OFFICE UNTIL THE SEATING OF THE NEW COUNCIL**

Shall Section 6.2(g) be amended by deleting the requirement that a City Council member seeking to be a candidate for any other City elective office shall resign for the Council prior to the filing deadline for the municipal election and substituting in its place a requirement that such City Council member shall instead file with the City Clerk an irrevocable letter of resignation that shall take effect no later than the next General City Election?

YES \_\_\_ NO \_\_\_

Yes:  
No:

A meeting of the Troy Charter Revision Committee was held July 13, 2009, at City Hall, 500 W. Big Beaver Road. Chairman Daniel Bliss called the Meeting to order at 3:35 PM.

**ROLL CALL:**

**PRESENT:** Maryann Bernardi, Daniel Bliss, Jerry E. Bloom, Shirley Kanoza, William Weisgerber  
**ABSENT:** Mark Solomon, Cynthia A. Wilsher  
**ALSO PRESENT:** Acting City Manager John Szerlag, City Attorney Lori Bluhm, City Clerk Tonni Bartholomew

**APPROVE THE AGENDA:**

Resolution #CR-2009-07-008  
Moved by Bliss  
Seconded by Kanoza

RESOLVED, That the Agenda for the July 13, 2009 Charter Revision Committee meeting be **APPROVED** as placed on the table.

Yes: Bernardi, Bliss, Bloom, Kanoza, Weisgerber  
No: None  
Absent: Solomon, Wilsher

**MOTION CARRIED**

**APPROVAL OF MINUTES: March 20, 2009**

Resolution #CR-2009-07-009  
Moved by Kanoza  
Seconded by Bernardi

RESOLVED, That the Charter Revision Committee Minutes of March 5, 2009 are hereby **APPROVED** as amended.

Yes: Bernardi, Bliss, Bloom, Kanoza, Weisgerber  
No: None  
Absent: Solomon, Wilsher

**MOTION CARRIED**

**PROPOSED CHARTER AMENDMENT: Section 3.7 – Election of Mayor Pro Tem**

City Attorney Bluhm gave a brief overview of the proposed amendment. She noted that the amendment was overlooked back in 2005 when the State Law changes tied to Election Consolidation forced Charter amendments to bring the Charter into compliance.

Discussion continued on the impact of the amendment. Member Weisgerber suggested that the election of Mayor Pro Tem be by the electorate. He indicated that he also believes that the members of Council should be elected by Ward.

**MOTION TO RECOMMEND PROPOSED CHARTER AMENDMENT: Section 3.7 – Election of Mayor Pro Tem**

Resolution #CR-2009-07-010

Moved by Bliss

Seconded by Bloom

RESOLVED, That the Charter Revision Committee hereby **RECOMMENDS** the Staff Proposed Amendment to Section 3.7, Election of Mayor Pro Tem, as presented, be forwarded to City Council for placement on the November 3, 2009 General Election Ballot.

Yes: Bernardi, Bliss, Bloom, Kanoza, Weisgerber

No: None

Absent: Solomon, Wilsher

**MOTION CARRIED**

**PROPOSED CHARTER AMENDMENT: Section 3.10 – City Manager; Appointment and Qualification**

Member Kanoza questioned if there is really a problem with the length of time of 120 days or was the issue really with the Council process?

Member Bernardi indicated that the recent process was botched by the Council, however she believes that there really is a problem with insufficient days to do a thorough job. She noted that the process is much different today than it was when the original Charter language was drafted. She noted that the process often reaches far outside of Troy's boundaries and there are also many more opportunities in the process; such as the public Town Hall meeting. She said she supports placing the 180 day option before the voters.

Member Bloom noted that he would not like to see the position vacant for that length of time.

Member Kanoza agreed that 180 days it too long. She noted that if the process were extended too long, the public would lose track of what was going on with the process.

Member Bernardi referenced comments made at the Council meeting by Council Member Beltramini. She noted that Council Member Beltramini's husband works for higher education and they have a process built into the hiring of senior staff members that allows for an extension of a vacancy whenever there is a failed hiring process.

Member Weisgerber questioned what would happen if the Council did not fill the vacancy and how long could a vacancy exist? He suggested that the Mayor take over for a vacant City Manager.

**MOTION TO RECOMMEND PROPOSED CHARTER AMENDMENT: Section 3.10 – City Manager; Appointment and Qualification:**

Resolution #CR-2009-07-011

Moved by Bernardi

Seconded by Bliss

RESOLVED, That the Charter Revision Committee hereby **RECOMMENDS** the Staff Proposed Amendment to Section 3.10, City Manager; Appointment and Qualification, as presented referencing the length of time a vacancy in the office of City Manager be increased from 120 days to 180 days, be forwarded to City Council for placement on the November 3, 2009 General Election Ballot.

Yes: Bernardi, Bliss

No: Bloom, Kanoza, Weisgerber

Absent: Solomon, Wilsher

**MOTION FAILED**

**PROPOSED CHARTER AMENDMENT: Section 3.10 – City Manager; Appointment and Qualification**

City Attorney Bluhm gave a brief overview of the proposed amendment. She noted that the State Law changed 9 years ago. She noted that the amendment would mirror State Law. She informed the Committee that should the amendment not be placed on the ballot for voter's consideration or should the ballot question not receive sufficient votes, State Law would be referenced in the Charter and take precedence over the Charter provision.

**MOTION TO RECOMMEND PROPOSED CHARTER AMENDMENT: Section 3.10 – City Manager; Appointment and Qualification:**

Resolution #CR-2009-07-012

Moved by Bloom

Seconded by Bernardi

RESOLVED, That the Charter Revision Committee hereby **RECOMMENDS** the Staff Proposed Amendment to Section 3.10, City Manager; Appointment and Qualification, as presented referencing the Residency Requirement for the Troy City Manager, be forwarded to City Council for placement on the November 3, 2009 General Election Ballot.

Yes: Bernardi, Bliss, Bloom, Kanoza, Weisgerber

No: None

Absent: Solomon, Wilsher

**MOTION CARRIED**

**PROPOSED CHARTER AMENDMENT: Section 3.10 – City Manager; Appointment and Qualification**

Member Bernardi repeated her concerns voiced at the last meeting and indicated that she believes the proposal could result in more elections. She indicated that the amendment could discourage Council Members from running for the office of Mayor. She stated also believes the amendment adds complexity and grows the role of government. Member Bernardi stated that the amendment could result in as many as 6 vacant seats if all Council Members decided to run for the office of Mayor. However removing the Charter requirement entirely could result in only one vacancy and that seat could be filled by an appointment of Council.

Member Bloom indicated that he will be voting “no” as he has come up with a better solution. He noted that intent is to prevent surprises at the filing deadline and to make the process fair. The purpose is to attract good candidates.

Member Kanoza stated that she is a firm believer that Council Members should have to resign his or her position if they wish to seek another elective office. They should give their all either to the position they were elected to serve or 100% as a potential candidate. She does not believe you can do both.

**MOTION TO RECOMMEND PROPOSED CHARTER AMENDMENT: Section 6.2 (g) – Vacancies in Elective Office:**

Resolution #CR-2009-07-013

Moved by Bliss

Seconded by Kanoza

RESOLVED, That the Charter Revision Committee hereby **RECOMMENDS** the Staff Proposed Amendment to Section 6.2 (g), Vacancy in Elective Office, as presented, be forwarded to City Council for placement on the November 3, 2009 General Election Ballot.

Yes: Bliss, Kanoza,  
No: Bernardi, Bloom, Weisgerber  
Absent: Solomon, Wilsher

**MOTION FAILED****CHARTER REVISION COMMITTEE MEETING SCHEDULE:**

Member Bernardi indicated she prefers days, but can be available evenings.

Member Kanoza indicated she is available both days and evenings. She informed the Committee that Member Wilsher prefers evenings.

Member Bloom noted that he is available both days and evenings. He also stated that he will not be available the Month of March.

Member Weisgerber stated he is available at either time.

Chair Bliss stated he prefers late afternoon meetings, but could be available early evenings.

City Attorney Bluhm reminded the Committee that Member Solomon is a professor at Walsh and has evening classes.

**MOTION TO INDICATE MEETING SCHEDULE PREFERENCES:**

Moved by Bliss

Seconded by Weisgerber

RESOLVED, That the Charter Revision Committee hereby **REQUESTS** that future Committee meetings be scheduled in an alternating fashion, beginning with the next meeting in the evening and then rotating between day and evening meetings.

**AMENDMENT:**

Resolution #CR-2009-07-014

Moved by Bloom

Seconded by Bernardi

RESOLVED, That the motion be **AMENDED** by **SUBSTITUTING** “**REQUESTS** that” with “**PREFERS** that their”.

Yes: Bernardi, Bliss, Bloom, Kanoza, Weisgerber

No: None

Absent: Solomon, Wilsher

**MOTION CARRIED**

**AMENDMENT:**

Resolution #CR-2009-07-015

Moved by Bloom

Seconded by Bernardi

RESOLVED, That the motion be **AMENDED** by **INSERTING** “*the second Thursday of the month*” following “alternating fashion”.

Yes: Bernardi, Bliss, Bloom, Kanoza, Weisgerber

No: None

Absent: Solomon, Wilsher

**MOTION CARRIED**

**VOTE ON AMENDED MAIN MOTION:**

Resolution #CR-2009-07-016

Moved by Bliss

Seconded by Weisgerber

RESOLVED, That the Charter Revision Committee hereby **PREFERS** that their future Committee meetings be scheduled in an alternating fashion the second Thursday of the month, beginning with the next meeting in the evening and then rotating between day and evening meetings.

Yes: Bernardi, Bliss, Bloom, Kanoza, Weisgerber

No: None

Absent: Solomon, Wilsher

**MOTION CARRIED**

**CHARTER REVISION COMMITTEE MEETING PUBLIC COMMENT RULES:**

Member Bernardi noted that she believes the public should be allowed to address the Committee at both the beginning and end of the meeting.

Member Kanoza noted that the Committee is just an advisory committee and she believes the placement of Public Comment at the end of the agenda is correct.

Member Bloom suggested allowing public comment prior to every item.

Member Bernardi stated she does not understand the relevance of the statement that the "Committee is just an advisory committee". She believes the committee is pretty important. She indicated she agrees that public comment at each item would give the public an opportunity to comment prior to the committee voting.

Discussion continued on the placement of Public Comment on the Committee's Agenda and the length of time individuals would have to address the Committee. It was noted that the length of time could be at the discretion of the Chair.

City Attorney Bluhm advised the Committee that the Open Meetings Act does provide opportunity for committees to set rules for public comment. She cautioned giving the Chair the unlimited authority to establish time constraints, which could appear that the time limit was directed at the substance of the public comment and possibly quash any comment. She recommended that the committee establish a time frame by resolution and to consider adjusting the time frame at the beginning of a meeting if the committee had a large agenda or the large number of individuals wishing to address the committee.

**MOTION TO ESTABLISH RULES FOR PUBLIC COMMENT AT CHARTER REVISION COMMITTEE MEETINGS:**

Moved by Weisgerber

Seconded by Bloom

RESOLVED, That the Charter Revision Committee hereby **ALTERS** the Charter Revision Committee's Agenda Format to allow for Public Comment at the beginning of the agenda and prior to a vote on any motion that could result in a change to the Charter with the time limitation to be determined by the Chair at the beginning of each meeting.

**MOTION TO POSTPONE:**

Resolution #CR-2009-07-017  
Moved by Kanoza  
Seconded by Bernardi

RESOLVED, That the motion to establish Public Comment Rules be **POSTPONED** until the next meeting of the Charter Revision Committee.

Yes: Bernardi, Bliss, Bloom, Kanoza, Weisgerber  
No: None  
Absent: Solomon, Wilsher

**MOTION CARRIED**

City Clerk Bartholomew to provide the Committee with the City Council's Rules of Procedure Public Comment Section.

**MOTION TO RECOMMEND PROPOSED CHARTER AMENDMENT: Section 6.2 (g) – Vacancies in Elective Office:**

Resolution #CR-2009-07-018  
Moved by Bloom  
Seconded by Bernardi

RESOLVED, That the Charter Revision Committee hereby **RECOMMENDS** the following proposed Amendment to Section 6.2 (g), Vacancy in Elective Office, to be forwarded to City Council for placement on the November 3, 2009 General Election Ballot:

*(g) Any member of City council who want to run for a City office at the next General City Election shall file an irrevocable letter of resignation that shall be effective no later than the next General City Election, and which shall be filed with the City Clerk no later than 4:00 PM on the 120<sup>th</sup> day prior to the next General City Election.*

Yes: Bernardi, Bloom, Kanoza, Weisgerber  
No: Bliss  
Absent: Solomon, Wilsher

**MOTION CARRIED**

**AUDIENCE PARTICIPATION:** None.

**ADJOURNMENT:**

Resolution #CR-2009-07-019

Moved by Bloom

Seconded by Bliss

RESOLVED, That the Charter Revision Committee Meeting of Monday, July 13, 2009 be  
**ADJOURNED.**

Yes: Bernardi, Bliss, Bloom, Kanoza, Weisgerber

No: None

Absent: Solomon, Wilsher

Meeting ADJOURNED at 5:10 PM.

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Daniel Bliss, Chair

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Tonni L. Bartholomew, City Clerk