

AGENDA OF THE CHARTER REVIEW COMMITTEE
TUESDAY, MAY 26, 2020, 5:30 PM
915 S. TOVREAVILLE ROAD, BISBEE, AZ 85603

Due to Covid19 and Social Distancing Requirements this meeting will be held via GoToMeeting App. For more information, please call 520-432-6012.

THE MEETING WAS CALLED TO ORDER BY _____ AT _____ PM

ROLL CALL:

CHARTER REVIEW COMMITTEE

Ward I

Danielle Bouchever

Sean Hicks

Thomas Holz

Boyd Nicholl

Ward II

William Crow

Lisbeth Hines

Fred Miller

Catherine Wright

Ward III

Oney Crowley

Duane Earl Doane

Juanetta Hill

Sandra Hummingbird

Original Freeholder: Tom Wheeler

Former Committee Member: Sylvia Anable

CITY COUNCIL LIAISON

David M. Smith, Mayor

CITY STAFF LIAISON

Theresa Coleman, City Manager

Ashlee Coronado, City Clerk

CITY ATTORNEY

James Ledbetter

1. Discussion and Possible Recommendations on the Proposed Amendments that will be sent to Mayor and Council.

Chair

2. Discussion and Possible Recommendation on the need for a future meeting.

Chair

Adjournment

Anyone needing special accommodations to attend this meeting should contact Ashlee Coronado at (520) 432-6012 at least twenty-four hours before the meeting.

**PROPOSED AMENDMENTS APPROVED BY THE CHARTER REVIEW COMMITTEE AND
RECOMMENDED TO THE BISBEE CITY COUNCIL FOR SUBMITTAL TO THE ELECTORS OF
THIS CITY**

The appointed Charter Review Committee initiated its analysis and consideration of the Bisbee City Charter on November 4, 2020, and met regularly through April, 2020. The following proposals are submitted by this Committee to the Bisbee City Council, for submittal to the electors of this City, as recommended amendments that will help this Charter to continue to best serve the City of Bisbee and its citizens.

1. Preamble

Throughout this instrument or whenever the context of this instrument so requires, words used in the masculine or feminine gender are gender neutral; the singular number includes the plural and the plural the singular. The word "person" includes a corporation, company, partnership, association, or society as well as a natural person.

2. Section 1.03 Powers of the City

(i) Streets, Alleys, Public Grounds

The City shall have exclusive jurisdiction to control and regulate the use and enjoyment of its streets and alleys, public grounds, or ways including stairs.

3. Section 2.08 Duties of the Mayor

(d) Appointments

The Mayor shall appoint or remove members to the various committees, boards, and commissions, after due official notice to the public, and with the consent of the Council.

4. Section 2.14 Meetings of Council, Boards, Commissions and Committees

(b) Open Meeting Law

All meetings of the City Council, the City's boards, commissions, and committees shall be open to the public, in accordance with the Arizona Revised Statutes pertaining to the open meeting law. ~~No executive session may be held for the purpose of taking any legal action involving a final vote or decision. In the event that State Law shall become more restrictive than the provisions of Subsection (c) hereof, State law shall control.~~

5. Section 3.04 Bonds

~~(a) Bond Required of Manager~~

~~The Manager shall furnish a corporate surety bond to be approved by the Council, which shall be conditioned upon the faithful performance of the duties imposed upon the Manager as herein prescribed. The premium for such bond shall be a proper charge against the City.~~

6. Section 3.09 Removal of City Manager

(a) Preliminary Resolution

~~The Council shall appoint the City Manager for an indefinite term and may remove the Manager by a four-sevenths vote of its members as a preliminary resolution. At least 40 days before such removal shall become effective, the Council shall, by a four-sevenths vote of its members adopt a preliminary resolution stating intent to remove the Manager.~~

(b) Public Hearing

~~Within ten days the City Manager may reply in writing and may request a public hearing, which shall be held no earlier than 20 days nor later than 30 days after filing of such request.~~

~~The Mayor shall call a public hearing and shall be held at the next regularly scheduled Council Meeting.~~

(c) Final Resolution of Removal

~~After such public hearing, if one is requested, and after full consideration, the Council, by a four-sevenths vote of its members, may adopt a final resolution of removal.~~

~~After such public hearing and after full consideration, the Council, by a four-sevenths vote of its members, may adopt a final resolution of removal.~~

~~(e) Salary upon Removal~~

~~If the removal is for malfeasance or misfeasance in the performance of the Manager duties or the Manager shall be convicted of a felony or any offense in violation of the Manager's official duties, the Council shall cause to be paid to the Manager any salary due the Manager to the date of the preliminary resolution. Otherwise, the Manager shall be paid forthwith upon his or her removal the Manager's salary for the next three months following the adoption of the preliminary resolution for removal.~~

(h) Removal Following Election/Appointment

~~Notwithstanding the provisions of this section, the City Manager shall not be removed from office, other than for misconduct in office, during or within a period of 90 days next succeeding any general municipal election held in the City at which election a member of the Council is elected or when a new Council Member is appointed. After the expiration of the 90-day period, the provisions of this section as to the removal of said City manager shall apply and be effective.~~

~~Notwithstanding the provisions of this section, the City Manager shall not be removed from the office other than for misconduct in office, during or within a period of 90 days following the seating of newly appointed council members, After the expiration of the 90-day period,~~

the provisions of this section as to the removal of the said City manager shall apply and be effective.

7. Section 7.07 Posting at ~~City Hall~~

Copies of titles of proposed ordinances and resolutions heretofore mentioned shall be posted ~~at the City Hall~~ 96 hours before the hour the City Council convenes to act upon the ordinance or resolution. During the said 96-hour period, copies of the entire proposed ordinance or resolution heretofore mentioned shall be made available for inspection by the public at any time during the City's regular business hours. In the event that copies are not so made available to the public for inspection and the said title is not so posted, the ordinance or resolution shall not be brought before the Council for action.

8. Section 7.10 Publication of Ordinances and Resolutions

All ordinances, except those necessary for the immediate preservation of the peace, health, or safety of the City, and resolutions having the effect of ordinances shall be published at least once a week for two consecutive weeks in the official newspaper of the City and the City's official Website before they become effective and operative. Emergency measures shall be published twice in the official newspaper of the City and the City's official Website within 30 days after their passage.

9. Section 8.038 Bids

Any advertisement for bids published by the City shall distinctly and specifically state the character of the City improvement, purchase, or kind of supplies, materials, equipment, and services required. Such notice shall be published at least once in the official newspaper and on the City's official web site, not less than five days prior to the opening of bids. Bidding shall be by sealed proposals only and under such regulations as may be prescribed by the Council. The Manager, with the approval of the Council, shall have the power to reject any and all bids and advertise for bids again.

10. ARTICLE XV. GENDER PROHIBITION AGAINST DISCRIMINATION

~~Whenever the context of this instrument so requires, words used in the masculine gender include the feminine and neuter, the singular number includes the plural and the plural the singular. The word "person" includes a corporation, company, partnership, association, or society as well as a natural person.~~

No person shall be appointed to, removed from, favored in any way, or discriminated against with respect to any City position because of race, color, gender, gender identity, sexual orientation, religion, national origin, familial status, age, political affiliation, disability, or United States military veteran status, except as such favor may be authorized by law. Any person who themself or with others

willfully violates Article XV shall upon conviction thereof be guilty of a misdemeanor.

11. ARTICLE XVI. SUCCESSION IN GOVERNMENT

~~Section 16.01 — Rights of Officers and Employees Preserved~~

~~Nothing in this Charter contained, except as specifically provided, shall affect or impair the rights or privileges of officers or employees of the City or of any office, department, or agency existing at the time when this Charter takes effect or any provision of law in force at the time this Charter shall take effect and not inconsistent with the provisions of this Charter in relation to the personnel, appointment, rank, grades, tenure of office, promotion, removal, pension and retirement rights, civil rights, or any other rights or privileges of officers or employees of the City or any office, department, or agency.~~

~~Section 16.02 — Continuance of Present Officers~~

~~All persons holding administrative office at the time this Charter takes effect shall continue in office and in performance of their duties until provisions shall have been made in accordance therewith for the performance of such duties or the discontinuance of such office.~~

~~Section 16.03 — Continuance of Present Offices, Departments or Agencies~~

~~(a) — Conduct Business~~

~~Any office, department or agency provided for in this Charter to be named or with powers and duties the same or substantially the same as those heretofore existing, shall be deemed a continuation of such office, department or agency and shall have powers to continue any business proceedings or other matters within the scope of the powers and duties prescribed by this Charter. Any office, department, or agency not provided for in this Charter heretofore existing shall continue to exercise powers and duties as the same were heretofore exercised and shall have the power to continue any business proceedings or other matters within the scope of its regular powers and duties until such office, department, or agency shall be changed or abolished by the Council as heretofore provided in this Charter.~~

~~(b) — Powers and Duties~~

~~The powers conferred and the duties imposed upon any office, department or agency of the City by the laws of this State shall, if such office, department, or agency be abolished by this Charter or under its authority, be thereafter exercised and discharged by the office, department, or agency designated by the Council, unless otherwise provided herein.~~

~~Section 16.04 — Continuance of Appointive Boards and Commissions~~

~~All appointive boards, committees, and commissions heretofore existing shall continue and shall exercise such powers and duties as was granted~~

~~them until such boards and commissions shall be changed or abolished by the Council as heretofore provided in this Charter.~~

~~Section 16.05 — Transfer of Records and Property~~

~~All records, property, and equipment whatsoever of any office, department, or agency or part thereof, all of the powers and duties of which are assigned to any other office, department, or agency by this Charter, or under its authority, shall be transferred and delivered to the office, department, or agency to which such powers and duties are so assigned.~~

~~Section 16.06 — Continuance of Contracts~~

~~All contracts entered into by the City or for its benefit prior to the taking effect of this Charter shall continue in full force and effect.~~

~~Section 16.07 — Pending Actions and Proceedings~~

~~The adoption of this Charter shall not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes full effect brought by or against the City or any office, department, agency or officer thereof.~~

~~Section 16.08 — Ordinances to Remain in Force~~

~~All ordinances, resolutions, and regulations of the City in force at the time this Charter takes effect and not inconsistent with the provisions hereof are hereby continued in force until the same shall be duly amended or repealed.~~

~~Section 16.09 — Inauguration of Government under This Charter~~

~~If a majority of the qualified electors of the City voting on the question vote to ratify this Charter, the provisions of this Charter shall go into effect for all purposes immediately upon the approval of the Governor, as provided by the Constitution of this State.~~

Notes on the Suggested Changes to the City Charter.

OCTOBER 3, 2019

Section 1.03 Powers of the City

- (i) Streets, Alley, Public Grounds: Fred Miller moved to add Ways Including Stairs, Boyd Nichol seconded. Motion Passed Unanimously.

NOVEMBER 4TH, 2019

Section 2.08 Duties of the Mayor

- (d) Appointments: Fred Miller moved to add "or remove" to read "The mayor shall appoint or remove members to the various.... Oney Crowley seconded, Motion Passed Unanimously.

Section 2.14 Meetings of Council, Boards, Commissions and Committees

- (a) Time
- (b) Open Meeting Law: Sandra moved to remove the last two sentences of this section "No executive session...State law shall control" William Crow seconded; Motion Passed Unanimously.

Section 3.04 Bond

- (a) Bond Required of Manager: Oney Crowley motioned to have this section removed, Juanetta Hill seconded. Motion Passed Unanimously.

DECEMBER 9th, 2019

No changes

JANUARY 27th, 2020

Section 3.09 Removal of City Manager

- (a) Preliminary Resolution
Sandra Hummingbird Moved to keep only the first sentence and remove the second sentence. The first sentence to read: The Council shall appoint the city manager for an indefinite term and may remove the Manger by a four-sevenths vote of its members as a preliminary resolution. Fred Miller Seconded. Motion passed unanimously.
- (b) Public Hearing
Fred Miller Moved to Change wording to: The Mayor shall call a public hearing and shall be held at the next regularly scheduled Council Meeting. Sandra Hummingbird seconded. Motion passed unanimously.
- (c) Final Resolution of Removal
Bill Crow Moved to change wording to: After Such Public hearing and after full consideration, the Council, by a four-sevenths vote of its members, may adopt a final resolution of removal. Catherine Write seconded. Motion passed Unanimously.
- (d) Suspension from Duties
- (e) Salary upon Removal

Fred Miller moved to remove this section altogether. Bill Crow Seconded. Motion passed Ayes-5 Nays-4

(f) Council Discretion to Remove

(g) Council Action Final

(h) Removal Following Election

Bill Crow Moved to Change wording to:

(i) Removal Following Election /Appointment

Notwithstanding the provisions of this section, the City Manager shall not be removed from the office other than for misconduct in office, during or within a period of 90 days following the seating of newly appointed council members. After the expiration of the 90-day period, the provisions of this section as to the removal of the said City manager shall apply and be effective. Sean Hicks Seconded. Motion passed unanimously.

February 3rd, 2020

Section 7.07 Reading and Passage of Ordinances and Resolutions: Effective Date Requirements

(c) Posting at City Hall

Sean Hicks moved to change the title to only “Posting” and remove “at City Hall” Sandra Hummingbird seconded and passes Unanimously.

Fred Miller motioned to change wording in first sentence to “Copies of the titles of proposed ordinances and resolutions heretofore mentioned shall be posted at the City Hall and on the City’s official website... Seconded by Catherine Wright. Passed Unanimously.

Section 7.10 Publication of Ordinances and Resolutions

Fred Miller moved to change add the City’s official website to the wording to read “...ordinances shall be published at least once a week for two consecutive weeks in the official newspaper for the City and the City’s official Website before they become effective and operative. Emergency measures shall be published twice in the official newspaper of the city and the City’s official Website within 30 days after their passage.” Bill Crow seconded and passed unanimously.

Section 8.03 Bids

Fred Miller moved to add City Official website to read... “Such notice shall be published at least once in the official newspaper and on the City’s official web site not less than 5 days prior to the opening bids.” Sean Hicks seconded. Motion passed unanimously.

March 9th, 2020

Discussed removing “Gender” as Article XI adding City Attorney’s at the beginning of the Charter as either a preamble or disclaimer (to be determined). City Liaison to make inquiry about how best to add first paragraph City attorney recommendations “References to Gender in the City Charter”. No vote until guidance obtained.

Discussed changing Article XV to Prohibition Against Discrimination using City Attorney’s second and 3rd paragraph from “References to Gender in the City Charter”

Committee to make a vote next meeting after receiving guidance from City Liaison.

Article XVI Succession in Government

Fred Miller motioned to strike all of Article XVI. Seconded by Oney Crowley. Passed Unanimously.

Discussion on tabled on Section 7.05 Tax response. Waiting for legal guidance and will decide next meeting if changes should be made.