



## GOVERNMENT AFFAIRS COMMITTEE

April 2, 2012

The Government Affairs Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on April 2, 2012 at 3:30 p.m.

### COMMITTEE PRESENT

Christopher Glover, Chairman  
Alex Finter  
Dina Higgins

### COMMITTEE ABSENT

None

### STAFF PRESENT

Scott Butler  
Debbie Spinner  
Linda Crocker

#### 1. Items from citizens present.

There were no items from citizens present.

#### 2-a. Hear a presentation and discuss proposed Mesa City Charter changes, including but not limited to:

1. Discuss election procedure changes;
2. Conforming language to reflect Fall candidate elections;
3. Succession Policy in the case of vacancy in the Office of Mayor;
4. Capital Improvement Plan and Budget adoption timelines.

Assistant to the City Manager Scott Butler stated that this meeting would serve as an opportunity for staff to obtain feedback from the Committee and identify items for future discussion. He briefly summarized some of the proposed changes to the Mesa City Charter including; clarifying the City Charter language, changes to the signature requirements, succession policy changes for the Office of Mayor and changes to the Capital Improvement Plan (CIP) and budget adoption timelines.

Chairman Glover advised that there had been previous discussions with regard to capping the number of signatures that the Mayor would be required to collect at 1,000.

In response to a question from Chairman Glover, City Clerk Linda Crocker advised that the cities that have implemented the 1,000-signature requirement did not have a Council District System like Mesa.

Chairman Glover remarked that it seemed absurd to require the Mayor to gather 1,000 signatures and Councilmembers to gather 2,000 to 2,500 signatures. He suggested that the signature requirement for City Council candidates also be capped.

Mr. Butler advised that based on the recent signing of a bill by Governor Brewer the signature issue could be nullified. He provided a brief history of the bill that he said mandates city governments with populations over 175,000 to hold candidate elections in the fall cycle. In addition, he said that the City of Scottsdale put forth legislation that set the signature limit at 1,000 for Councilmembers who were running at-large. He noted that the consequence of this legislation was that it did not take into consideration cities that operate under a Council District System.

Mr. Butler stated that there had been discussions as to whether or not the 1,000-signature requirement applied to towns and municipalities. He advised that the Town of Gilbert ran a companion bill to the City of Scottsdale's legislation requesting that the State law be clarified to show that the 1,000-signature requirement did apply to towns and municipalities. He reported that City staff assisted the Town of Gilbert in the drafting of the companion bill and included language that addressed the issue of a Council District System and the 250-signature requirement.

In response to a question from Mr. Butler, City Attorney Debbie Spinner explained that the City Charter requires that the signature process be consistent with State law. She said that an ordinance would need to be adopted in order for the signature requirement to be reduced to 1,000 signatures for the Mayoral candidate and 250 signatures for Councilmembers.

In response to a question from Committeewoman Higgins, Mr. Butler explained that State law allows the City to adopt by ordinance a 250-signature requirement for district seats and a 1,000-signature requirement for at-large seats.

Responding to a question from Committeewoman Higgins, Ms. Crocker explained that there are minimum and a maximum signature requirements that candidates must meet. She said that Mesa was one of the few cities that counts and reports the total number of signatures turned in by the candidates.

Mr. Butler stated that the City could move forward with an ordinance adopting the 250-signature requirement for Councilmembers and the 1,000-signature requirement for the Office of Mayor, which is the only at-large position.

In response to a question from Committeewoman Higgins, Chairman Glover advised that District 4, at 137 signatures, had the lowest signature requirement. He said requiring 250 signatures would not be unreasonable and would even the playing field.

Chairman Glover stated that it was the consensus of the Committee that staff move forward with an ordinance adopting a 250-signature requirement for Councilmembers and a 1,000-signature requirement for the Office of Mayor.

Mr. Butler commented that there could be some technicalities as to when the law would actually go into effect.

Responding to a question from Chairman Glover, Ms. Spinner explained that it was still uncertain as to whether or not the signature requirement would affect this year's election. She said that staff would research and determine when the law would go into effect and when an ordinance could be brought forward for Council consideration.

Chairman Glover advised that he had some concerns regarding the succession policy for the Office of Mayor. He inquired as to whether or not the Vice Mayor could return to his or her Council seat if he or she did not want to assume the role of Mayor.

Responding to Chairman Glover's questions, Ms. Spinner explained that the City Charter did not contemplate the Vice Mayor not wanting to become Mayor. She said that the City Charter states that "if the Office of the Mayor becomes vacant he (the Vice Mayor) shall become Mayor for the unexpired term and the Council shall then elect a new Vice Mayor within 30 days." She noted that this would be an automatic succession.

Committeemember Finter remarked that he would like to explore the options for the succession of the Mayor and the Vice Mayor. He inquired as to whether or not the City could hold a special election instead of requiring citizens to wait up to 3 years before they could actually vote for their Mayor.

Responding to a question from Committeemember Finter, Ms. Crocker advised that the cost to hold a special election would be approximately \$250,000.

Committeemember Finter remarked that due to the expense the citizens of Mesa would probably not appreciate the City holding a special election.

Chairman Glover suggested that the Vice Mayor's term be for one-year.

In response to a question from Chairman Glover, Ms. Crocker advised that staff could research the length of the Vice Mayor's term in other cities and provide that information to the Committee.

Ms. Spinner stated that if the Vice Mayor assumed the role of Mayor then his or her Council seat would need to be filled. She referred to the section of the City Charter related to filling vacancies and said that if the City were to change the succession plan for the Office of Mayor it could not conflict with filling a vacancy on the Council.

Committeemember Finter suggested that staff research an option where the Vice Mayor's Council seat could be filled by a temporary appointment until the regular election and allow the Vice Mayor to return to his or her Council district.

Discussion ensued regarding the succession of the Mayor and whether or not a Councilmember could return to their Council District after serving as Mayor.

Mr. Butler advised that staff would research and determine how other cities have handled the succession of the Mayor and the possibility of a Councilmember returning to represent their Council District.

Committeemember Finter commented that the Charter indicates that the Council will decide who the Vice Mayor will be however, it has been tradition that the Mayor selects the Vice Mayor and then asks for a ratifying vote by the Council.

Discussion ensued with regards to the nomination and appointment of the Vice Mayor.

In response to a question from Chairman Glover, Ms. Crocker advised that she and the City Attorney would draft language to clarify the City Charter and change the election cycle from the spring to the fall to comply with current State law.

Ms. Spinner advised that staff would need the direction from the Committee in order to draft the language changes. She discussed the following areas where the City Charter conflicts with State law as follows:

- Charter states the election shall be in March and State law says that the election shall be in November
- Charter states that Councilmembers shall take office during the first meeting in June and the State law says they will take office the second Tuesday in January

Ms. Spinner briefly outlined some options that would clarify the election date issue within the City Charter as follows:

- Amend the Charter to say that the Council will have the authority to set both the election date and the date that Councilmembers take office by ordinance
- Comply with State law, which will dictate the City elections
- Change the Charter to set specific dates for elections in August and November and for Council to take their seat in January.

Chairman Glover expressed his support for the option that will allow the Council to adopt an ordinance and set the election dates. He said that this option would provide the Council with the most flexibility.

Chairman Glover stated that it was the consensus of the Committee that staff pursue the option of an ordinance and allow the Council to set the election dates as well as the date that Councilmembers would take office.

In response to a question from Committeemember Finter, Mr. Butler explained that this was the first forum in which the proposed charter amendments had been discussed. He said that the items identified were not an all-inclusive list of Charter changes and that staff was interested in hearing the Committee's perspective and receiving direction as to how they would like to proceed. Mr. Butler noted that the Committee has provided direction with regard to the signature requirement and an ordinance for setting the election dates and the date that Councilmembers would take office.

In response to a series of questions from Committeemember Finter and Committeewoman Higgins, Ms. Spinner explained that each individual proposed change to the City Charter would require a separate question on the ballot.

Ms. Crocker advised that for purposes of clarity each section of the City Charter would be identified on the ballot.

Discussion ensued regarding how many items would be included on the ballot.

In response to a question from Committeewoman Higgins, Ms. Spinner explained that if the voters did not approve the changes to the City Charter then the Charter would remain as it is today and the City would be required to comply with State law. She identified two options that the Council would have if the changes to the City Charter were not approved by the voters as follows:

- Comply with State law
- Challenge the State law and declare that the law is not an issue of statewide concern

Discussion ensued regarding whether or not statewide concern exists.

Ms. Spinner discussed a pending case where the City of Tucson had challenged the State's authority to change municipal law with regard to partisan elections.

Mr. Butler reported that the State Legislature passed a law prohibiting cities from holding partisan elections. He explained that the City of Tucson, who was the only city to hold partisan elections, challenged the law and won at the trial court and appellate level. He said that the appellate court noted that even though State law preempts local charters there should be an exception, especially with regards to elections. He stated that the burden was on the State to prove that this was an issue of statewide concern and a ruling from the Supreme Court was expected in the near future.

Ms. Spinner advised that cities and towns were waiting to see how broad the language would be in the Supreme Court's ruling and if it would provide direction beyond that particular issue. She explained that the Supreme Court could overturn the Court of Appeals decision and require Tucson to have non-partisan elections.

Committeewoman Higgins commented that the ballot would be very long if it included all of the Charter amendments.

Ms. Spinner stated that the City would not be prohibited from holding a separate election specifically for changes to the City Charter.

Chairman Glover expressed his concerns with regards to the cost of holding a separate election. He stated that citizens could experience voter fatigue or apathy by having to participate in an additional election.

Mr. Butler discussed how the Courts upheld the State Legislature's ability to move cities and towns to the four-date election cycle. He said that legislation was passed in the early 1990's setting four dates each year on which cities and towns could hold elections. He reported that the State law requiring cities with populations over 175,000 to hold elections in the fall cycle, had not been challenged in Court. He added that all of the cities were waiting to see how broadly the Supreme Court will rule on the Tucson partisan election issue.

In response to a question from Councilwoman Higgins, Mr. Bulter explained that there has been legislation introduced that would require all cities, regardless of size, to move their elections to the fall cycle of even numbered years. He said that even if the Supreme Court were to rule broadly on behalf of the City of Tucson, charter cities might be exempt from that mandate. He added that it is anticipated that the Supreme Court's decision will alleviate some of the confusion.

Responding to a question from Committeemember Finter, Mr. Butler advised that he had not been approached by any member of the Council with regards to placing the issue of the Mayor's pay on the agenda. He said the only items that were brought forward were issues that members of the Council had voiced concerns on or had requested at previous meetings.

Budget Director Candace Cannistraro stated that it was staff recommendation that the March 1<sup>st</sup> date be eliminated from the CIP and budget adoption timelines in order to allow staff more preparation time. She said that the City Charter reads that "the Manager shall prepare and submit to the Council a five-year Capital Improvement Program by March 1<sup>st</sup> of each year." She advised that each year staff submits documentation for the CIP however, the March 1<sup>st</sup>, date has become problematic.

Ms. Spinner explained that there was a requirement that says that the Council, by resolution, shall adopt the CIP with or without amendments on or before the adoption of the annual budget. She stated that the March 1<sup>st</sup> deadline could be eliminated in its entirety with the understanding that the CIP must be adopted prior to the adoption of the annual budget.

Ms. Cannistraro advised that there has never been an issue in meeting the content requirements of the CIP. She said that Section 605 addresses what should be included in the CIP, such as:

- Clear general summary of its contents
- List of capital improvements over the next 5-year time period
- Cost estimates
- Method of financing
- Recommended time schedules
- Estimated annual costs of operating and maintaining facilities

Ms. Cannistraro stated that the problem was not with the content of the document but with the March 1<sup>st</sup> date. She explained that at the time the City Charter was written projects were single-source funded and very centralized. She stated that today the City's financing is much more complex and staff does not always have the cost estimates from the regional partners by March 1<sup>st</sup>.

In response to a question from Chairman Glover, Ms. Spinner explained that a date did not need to be specified and that the language could simply read that "the Manager will prepare and submit to the Council a 5-year CIP." She said that the only part of the language that would be changed would be the deletion of the words "by March 1<sup>st</sup> of each year."

Chairman Glover stated that the direction of the Committee would be to delete the "by March 1<sup>st</sup>" language from the City Charter.

Mr. Butler advised that staff would research the issues discussed today as well as the succession of Mayor in other cities and provide that information to the Committee. He also said that staff would draft language to clarify the charter provisions with regards to the spring and fall election cycle.

Chairman Glover thanked staff for their efforts.

3. Adjournment.

Without objection, the Government Affairs Committee meeting adjourned at 4:13 p.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Government Affairs Committee meeting of the City of Mesa, Arizona, held on the 2<sup>nd</sup> day of April 2012. I further certify that the meeting was duly called and held and that a quorum was present.

---

LINDA CROCKER, CITY CLERK

bdw