



City of Tucson
Charter Review Committee
Legal Action Report

DATE: Wednesday, March 25, 2015
TIME: 3:00 p.m.
LOCATION: City Hall Meeting Room (1st Floor)
City Hall, 255 W. Alameda
Tucson, Arizona

1. **Roll Call**

The meeting was called to order at 3:07 p.m. by Chair Nye. Those present and absent were:

Members Present:

Richard Miranda
Kasey C. Nye
Stephanie Healy
Edna Meza-Aguirre
Diana Rhoades
Tom Prezelski, arrived at 3:31 p.m.
Lenny Porges
Bonnie Poulos
Tannya R. Gaxiola
John A. Springer
Moon Joe Yee
Randi Dorman
John Hinderaker
Mark Crum

Appointer:

City Manager's Office
Mayor
Mayor
Ward 1
Ward 1
Ward 2
Ward 2
Ward 3
Ward 3
Ward 4
Ward 4
Ward 5
Ward 6
Ward 6

Members Absent

D. Grady Scott Ward 5

Staff Present:

Roger W. Randolph, City Clerk
Mike Rankin, arrived at 3:45 p.m.
Deborah Rainone
Suzanne Mesich
Stephanie Montoya
Theo Fedele
Alma Armendariz-Murrieta
Raphe Sonenshein

Representing:

City Clerk
City Attorney
City Clerk's Office
Facilitator

2. **Approval of Minutes and Legal Action Report**

It was moved by Mr. Crum, duly seconded, and carried by a voice vote of 13 to 0 (Tom Prezelski and D. Grady Scott absent/excused) to approve the legal action report and minutes of the February 19, 2015, March 10, 2015, March 12, 2015 meetings and the legal action report for the Preamble Subcommittee of March 21, 2015.

3. **Summary by Chair of Committee's Prior Actions**

Information and handout was provided by Chair Nye.

4. **Call to the Audience**

The following individuals spoke at the Call to the Audience:

Ted Maxwell, Eric Schindler, John Kromko, Peg Harmon, John-Peter Whilhite, and Roberto Bedoya.

(Mr. Prezelski arrived at 3:31 p.m.)

5. **Discussion and voting regarding final recommendations to Mayor and Council**

Introductory comments were provided by Chair Nye.

Information and handout was provided by Mike Rankin, City Attorney.

Discussion ensued, with questions fielded and answered by Mr. Rankin, Roger W. Randolph, City Clerk, and Raphe Sonenshein.

It was moved by Ms. Dorman, duly seconded, and carried by a voice vote of 14 to 0 (D. Grady Scott absent/excused) to adopt the recommendations on modifying the property tax cap and eliminating the prohibition on pledging sales taxes per the Chairman Summary Status Report of March 25, 2015.

It was moved by Ms. Dorman and duly seconded, to recommend changing the appointment and removal procedures as follows: Council appoints and removes the City Manager, City Clerk, City Attorney, and Magistrates with a majority vote; granting the City Manager authority to appoint all other Department Directors with approval by a majority vote of the Council; and granting City Manager sole authority to remove Department Directors.

A friendly amendment was offered by Mr. Hinderaker, and accepted by the motion maker, to include the language to recommend to Mayor and Council to refer to the voters of the City of Tucson at the next City election.

Ms. Dorman clarified her motion, to recommend changing the appointment and removal procedures as follows: Council appoints and removes the City Manager, City Clerk, City

Attorney, and Magistrates with a majority vote; granting the City Manager authority to appoint all other Department Directors with approval by a majority vote of the Council; granting City Manager sole authority to remove Department Directors; and make all Department Directors “at will” employees exempt from Civil Service Protections, except that the Police Chief and Fire Chief will retain their limited advisory civil service appeal rights. No change would be made to the civil service protections of rank-and-file employees.

The motion was carried by a voice vote of 14 to 0 (D. Grady Scott absent/excused).

It was moved by Mr. Hinderaker, duly seconded, and carried by a voice vote of 14 to 0 (D. Grady Scott absent/excused) to recommend to Mayor and Council to refer to the voters of the City of Tucson at the next City election an amendment to the City Charter that incorporates the Code of Ethics Ordinance adopted in the form as follows:

The City Manager, City employees, elected officials of the City, and their appointed staff members shall:

1. Consistently demonstrate professionalism and the commitment to ethics and excellence;
2. Recognize that the Mayor and Council serves as the link between the citizens and government, and as the legislative authority of the City, making the policy decisions about City functions based on the recommendations of the Manager;
3. Recognize that they do not set policy, but make policy recommendations and are responsible for carrying out the Mayor and Council’s policy decisions.

The elected officials of the City, and their appointed staff members, shall:

1. Recognize and respect the role of the City Manager and City staff, and shall not interfere with the execution by the City Manager of the Manager’s powers and duties, or order, directly or indirectly, the appointment by the City Manager of any person to an office or employment or removal therefrom.
2. Work solely through the City Manager or the City Manager’s designated staff. They may ask other City administrative officers and employees about the status of a matter and may ask for information, but shall not expressly or implicitly give orders or direction to those employees, publicly or privately.

It was moved by Mr. Hinderaker, duly seconded, to recommend to Mayor and Council to refer to the voters of the City of Tucson at the next City election an amendment to the City Charter that incorporates the preamble to the Tucson City Charter that was provided by the Preamble Subcommittee.

A friendly amendment was offered by Ms. Rhoades, and accepted by the motion maker to revise the language from “to provide economic opportunities that allow all citizens to prosper” to “to provide educational and economic opportunities that allow all citizens to prosper”.

A friendly amendment was offered by Ms. Gaxiola, and accepted by the motion maker to revise the language from “allow all citizens to prosper” to “allow all to prosper”.

Mr. Sonenshein recommended revising the language from “the City” to “this City”.

The motion was carried by a voice vote of 14 to 0 (D. Grady Scott absent/excused).

RECESS: 5:10 p.m.

RECONVENE: 5:41 p.m.

COMMITTEE MEMBERS: All present (D. Grady Scott absent/excused)

STAFF: All present

It was moved by Mr. Hinderaker, duly seconded, and carried by a voice vote of 14 to 0 (D. Grady Scott absent/excused) to recommend to Mayor and Council to refer to the voters of the City of Tucson at the next City election an amendment to the City Charter to replace councilman with council member, councilmen with council members, he with he/she, his with his/her; this proposal shall also include the provision in the Charter stating that “in this Charter all references to the masculine also include the feminine, where the context so requires, and vice versa.”

It was moved by Mr. Hinderaker, duly seconded, and carried by a voice vote of 14 to 0 (D. Grady Scott absent/excused) to recommend to Mayor and Council to refer to the voters of the City of Tucson at the next City election an amendment to the City Charter that updates the names of the appointed officers, superintendent of water, and superintendent of streets, to the Water Director and Transportation Director and to remove any references to appointed officers who no longer exist due to prior amendments to the Charter.

It was moved by Ms. Dorman, duly seconded, to recommend to Mayor and Council to refer to the voters of the City of Tucson at the next City election an amendment to the City Charter that the heading of Chapter 4, section 2, refers to both business privilege tax and property tax.

A friendly amendment was offered by Mr. Hinderaker, and accepted by the motion maker to add this recommendation to the prior recommendation that the cap on secondary tax be removed as one recommendation.

The motion was carried by a voice vote of 14 to 0 (D. Grady Scott absent/excused).

It was moved by Ms. Rhoades, duly seconded, and carried by a voice vote of 14 to 0 (D. Grady Scott absent/excused) to recommend to clean up the list of enumerated powers per Mr. Rankin’s previous suggestion and include the language in the appropriate place as previously approved regarding arts and culture.

It was moved by Ms. Gaxiola, duly seconded, and carried by a voice vote of 14 to 0 (D. Grady Scott absent/excused) to recommend to Mayor and Council they refer to the voters of the City of Tucson at the next City election an amendment to the City Charter that grants the Mayor a full voice on all matters before the Council and for the Mayor to count toward a quorum.

It was moved by Ms. Poulos, duly seconded, to convey to Mayor and Council that the Committee was divided on the issue of ward only elections but the Committee feels that it is an important issue that should be investigated further either through an advisory measure on the ballot or creating a working group that can assess this issue.

A substitute motion was offered by Mr. Hinderaker, duly seconded, to recommend to Mayor and Council to refer to the voters of the City of Tucson at the next City election an amendment to the City Charter to provide that all candidates running to represent the specific city council ward be nominated in the primary and elected by the voters of that ward to the general election and this issue be placed on the ballot as a separate item than any other items the Committee is recommending.

The substitute motion failed by a roll call vote of 7 to 7 (Ms. Dorman, Ms. Gaxiola, Mr. Porges, Ms. Poulos, Mr. Prezelski, Ms. Rhoades, and Mr. Springer dissenting with D. Grady Scott absent/excused).

A friendly amendment was offered on the original motion by Ms. Gaxiola, and accepted by the motion maker, to ask Mayor and Council to form a working group to study only the electoral issues.

Mr. Rankin repeated the motion, to recommend Mayor and Council to consider forming a citizens committee or other working group to continue to exam the issue of ward only elections together with other interrelated election issues, including but not limited to, how they relate to annexations, non-partisan structure of the elections, as well as, the timing of the mayoral election in relation to other elected officials.

The motion was carried by a roll call vote of 8 to 6 (Mr. Crum, Ms. Healy, Mr. Hinderaker, Mr. Miranda, Mr. Nye, and Ms. Rhoades dissenting with D. Grady Scott absent/excused).

(Mr. Prezelski departed at 7:14 p.m.; returned at 7:16 p.m.)
(Mr. Crum departed at 7:21 p.m.; returned at 7:23 p.m.)
(Ms. Poulos departed at 7:22 p.m.; returned at 7:23 p.m.)
(Ms. Gaxiola departed at 7:27 p.m.)

RECESS: 7:29 p.m.

RECONVENE: 7:42 p.m.

COMMITTEE MEMBERS: All present (D. Grady Scott absent/excused)

STAFF: All present

It was moved by Ms. Rhoades, duly seconded, to recommend to Mayor and Council to refer to the voters of the City of Tucson at the next City election an amendment to the City Charter that lifts the sales tax above 2% with voter approval.

Ms. Rhoades withdrew her motion.

It was moved by Ms. Poulos, duly seconded, and carried by a roll call vote of 9 to 5 (Mr. Crum, Ms. Dorman, Ms. Gaxiola, Ms. Healy, and Mr. Hinderaker with D. Grady Scott

absent/excused) to recommend to Mayor and Council to consider changing the Charter by raising the sales tax above 2% with voter approval.

It was moved by Mr. Hinderaker, duly seconded, and carried by a voice vote of 14 to 0 (D. Grady Scott absent/excused) to recommend to Mayor and Council that of the items that the Committee voted to recommend for referral to the voters of the City of Tucson at the next City election the following items be presented to the voters as a package: the preamble; the inclusion of the non-interference provision in the Charter; provisions related to civil service protections; mayoral parity; hiring and termination of department directors; clean-up related to gender, department titles, and job descriptions. The items that would be considered separately are the following: property tax, sales tax, pledging tax, and combining the enumerated powers and arts and culture.

It was moved by Mr. Prezelski, duly seconded, and carried by a voice vote of 14 to 0 (D. Grady Scott absent/excused) to approve all recommendations made.

6. **Adjournment 8:28 p.m.**