



**CHARTER REVIEW COMMITTEE**  
 Monday, January 11, 2016, 4:30 P.M.  
 Mayor and Council Chambers  
 City Hall, 255 W. Alameda  
 Tucson, Arizona 85701

**Legal Action Report**

**1. Roll Call**

Meeting was called to order by Vice Chairwoman, Randi Dorman, at 4:37 p.m.  
Those present and absent were:

Present:

Bruce Burke	Member, Mayor's Office
Mark Crum	Member, Ward 6
Randi Dorman	Vice Chairwoman, Ward 5
Tannya Gaxiola	Member, Ward 3
B. Joseph Howell	Member, Ward 1
Luke Knipe	Member, Ward 1
Leonard (Lenny) Porges	Member, Ward 2
Bonnie Poulos (arrived @ 5:00 p.m.)	Chairwoman, Ward 3
Tom Prezelski (arrived @ 5:15 p.m.)	Member, Ward 2
Jeff Rogers	Member, Mayor's Office
John Springer (arrived at 4:50 p.m.)	Member, Ward 4
Moon Joe Yee	Member, Ward 4

Absent:

John Hinderaker	Member, Ward 6
D. Grady Scott	Member, Ward 5

Staff Members Present:

Michael Rankin, City Attorney  
 Roger W. Randolph, City Clerk  
 Deborah Rainone, Chief Deputy City Clerk  
 Suzanne Mesich, Assistant City Clerk  
 Silvia Amparano, Finance Director  
 Elaine Becherer, City Manager's Office, Project Manager  
 Yolanda Lozano, City Clerk's Office

**2. Call to the Audience**

Christopher Cole, Pima County Libertarian Party, spoke about the City's finances and the election process and Arnold Urken also spoke about elections.

3. Presentation and Discussion on Current and Proposed Charter Taxing and Bonding Limitations:
  - a. Overview of City of Tucson Financial Status
  - b. Cap on Sales Tax
  - c. Pledging of Excise Taxes
  - d. Cap on Primary and Secondary Property Taxes

Information and Power Point presentation was given by Silvia Amparano, Finance Director, who fielded and answered questions.

Discussion ensued regarding the City's General Fund financial condition, debt overview and possible financial Charter amendments that affected three areas; sales tax, business privilege tax and excise tax. The Committee also reviewed recommendations made to the Mayor and Council from the previous Charter Review Committee (CRC).

- a. Cap on Sales Tax

Chairwoman Poulos suggested if each item was going to be discussed, that they take the one that had the least consensus from the previous CRC, which was removing the cap on sales tax. She said the options were to leave it as is, authorize the Mayor and Council to propose to voters a business transaction tax (sales tax) that exceeds 2%, leave as is unless voters approve an increase higher than 2%, keep a percentage cap but set at higher rate, or take the cap off altogether.

Committee Member Knipe stated he supported moving forward with the recommendation as previously presented by the 2014/15 CRC. He said he also supported a stronger recommendation. He defined a stronger recommendation as the strongest recommendation the CRC could make to remove the cap altogether or increase the percentage. He stated it was important to recognize that the 2% percent cap was a pretty unique feature and was not a burden that other cities faced. He commented on some of the business privilege taxes other cities impose and said he thought that as the City's revenue needs increased, the Mayor and Council were going to need the flexibility.

Committee Member Prezelski said he concurred with Mr. Knipe. He said the CRC should also look at what others cities had a restriction on their sales tax and what the results were because of that restriction. He said he understood most of the surrounding jurisdictions around Tucson had a higher cap or no cap at all.

Mr. Prezelski stated that information would be useful for future reference. He said both sides needed to be looked at. Therefore, he said he supported at least raising the cap if not getting rid of it altogether. He stated the people had a right to expect that the government they elected had the flexibility to solve their problems, which currently the City of Tucson did not have.

Committee Member Porges said he agreed with removing the cap since any raise in sales tax had to go to the voters anyway. He said it seemed redundant and an unnecessary part of the Charter.

Committee Member Burke stated he was undecided, but was looking for flexibility. He said he needed more information on whether to remove the cap or recommend a stronger version/option. He said the discussion and reading materials he had were helpful, but he needed more time.

Committee Member Dorman said she supported either raising or eliminating the cap and making sure it was understood that any actual increase required voter approval. She also commented that flexibility for the City was extremely important.

Chairwoman Poulos asked the City Attorney if the cap was removed, did raising the sales tax still require voter approval.

Michael Rankin, City Attorney, responded with, "not really." He said what was currently being discussed was a level above the earlier recommendation. He said that if only a portion of the Charter provision was struck, such that it still read that the Mayor and Council had the authority to assess, impose, levy and collect a sales tax and take the cap out altogether, then the Mayor and Council still had the legislative authority to set the cap. He said the Model Cities Tax Code itself did not include a cap on individual categories of sales tax.

Mr. Knipe suggested that one thing the CRC could do was to recommend to the Mayor and Council that they either increase or remove the cap.

Committee Member Springer stated he was still undecided and needed more time.

Ms. Dorman asked for clarification that anything above 2% required voter approval. She said it was important that the Mayor and Council had the ability to put forth to the voters what they thought was important, but there were limitations in that the voters should decide if the taxes above 2% were approved.

Committee Member Gaxiola said she supported the recommendation from last time and not a stronger recommendation. She made reference to the CRC goals that allowed for the increase in flexibility to the Mayor and Council to finance the business of the City. She said she felt raising the cap allowed them that, but at the same time, it was important that the processes of the City be transparent, predictable, flexible and accountable. She commented involving the voters in the process was the way to ensure that.

Committee Member Crum said he also wanted to see other city restrictions to remove that concern from peoples' minds. He said besides taxes, bad roads, and poor government which inhibited economic development, so did infrastructure. He said he favored anything over 2% required voter approval.

Committee Member Yee stated voter approval was required for anything over 2% and would support removing the cap up to 2% giving the Mayor and Council the flexibility to be able to run the City in a way that was suitable.

Committee Member Rogers said he agreed with Mr. Knipe, Mr. Prezelski and Mr. Porges that a stronger recommendation was needed. He said his decision was coming from a good governance point of view. He stated, ideally, what the CRC was trying to do was make the Charter the best it could be. He said what he recommended was presenting the option to remove the cap or raise it and advise the Mayor and Council how the Committee felt.

Committee Member Howell commented that he had not had much time to do a great deal of research, but his initial reaction was to follow either removing the cap or raising it.

Chairwoman Poulos stated she wanted clarification on the 2% cap currently in the Charter. She asked if the Mayor and Council wanted to raise the tax a half percent could they do that today.

Mr. Rankin responded they could not because it required a Charter amendment and a Charter amendment required voter approval.

Ms. Gaxiola clarified a Charter amendment was required because that half percent put the City over the 2% cap. She asked if the tax was at 1.5% and the Mayor and Council wanted to raise it a quarter percent, would they be able to.

Mr. Rankin said that could be done without voter approval.

Ms. Poulos said she thought the previous recommendation was to leave the 2% cap in place, but give the Mayor and Council the ability within the Charter to raise the cap if they went to the voters for approval. She commented that the City was a poor city, but said she felt voters were often willing to pay for the services they needed if they were asked about what services they need.

Ms. Poulos said she was a bit hesitant about removing the cap altogether because she was not sure how prudent that was. She said she also felt this was the best opportunity, given the current restrictions, to raise money for improvements to the infrastructure within the community. She stated her sense was to remove or raise the cap but still recommend to the Mayor and Council that voter approval be obtained for any sales tax increase.

Mr. Prezelski asked staff how many other cities or surrounding cities such as Marana, Oro Valley and Sahuarita, required voter approval for any sales tax increase.

Mr. Rankin said he did not know but thought something was provided or at least identified to the CRC the first time around. He said he recalled one city that required voter approval for an increase or decrease in the sales tax. He said none of the surrounding cities had a restriction.

Mr. Knipe again commented that the Mayor and Council needed some flexibility and if given the authority, he was confident they would use it wisely. He said he was also confident that the voters would do something with the Mayor and Council if they did not, which was why there were elected officials.

It was moved by Committee Member Knipe, duly seconded, to recommend that the Mayor and Council increase the cap either by increasing the percentage or removing the cap altogether.

Mr. Burke questioned why a decision needed to be made right then and there when there were some members that were new and still undecided. He asked about the consultant that was to assist the Committee.

Mr. Rankin updated the Committee on his conversations with the consultant. He said he expected him to be at the next CRC meeting. He reminded the Committee that the consultant's expertise was not on the financial issues at hand, but on the structure of good governance.

Discussion continued on the goals and role of the CRC, past efforts on recommendations made, having consensus on the Committee, when the cap was put in place, which taxes fell under the 2% cap, credit ratings, how the items will be presented to the voters, other burdens by not removing the cap, and long term political effects.

Mr. Knipe stated he was not sure what percentage increase was currently being considered by the Mayor and Council.

Ms. Amparano responded that it had not been decided but the Mayor and Council had discussed the possibility of imposing a half cent, but they wanted to keep it simple with one question.

Mr. Knipe said he would be willing to support any recommendation that at least accommodated what the Mayor and Council were contemplating and he was agreeable to a friendly amendment to that affect.

Mr. Rogers asked staff when the 2% was put into the Charter and if anyone knew what the percentage was before that.

Mr. Rankin responded it was either in 1962 or 1969 and it was increased from 1% to 2%. He said at the same time, the exemption for food was also put in to try to mitigate the increase.

Ms. Poulos asked if the ballot initiative was a stand-alone item when the public voted on it. Staff responded that they did not know.

Ms. Poulos stated that one of the recommendations made by the previous CRC was to encourage the Mayor and Council to separate the issues out on the ballot so that voters had a choice. She said she too was very hesitant about removing

the cap and giving the Mayor and Council the ability to raise taxes without some kind of voter approval.

Ms. Poulos asked the Committee whether or not a vote could be delayed on the motion at hand and possibly modify it until the next meeting to allow the Committee more time to think about the recommendation.

Mr. Knipe stated he would be happy to withdraw his motion and it was agreed upon by the seconder.

Ms. Poulos recapped that the issues to be discussed at the next meeting with regards to the sales tax; did the Committee want to recommend a new cap; recommend removing the cap; and/or did the Committee want to add to the recommendation that the Mayor and Council go to the voters for approval when the sales tax was raised.

b. Pledging of Excise Tax

c. Cap on Primary and Secondary Property Tax

Chairwoman Poulos stated that one of the prior discussions was to modify the ability to have a cap on the assessed value of property taxes so that it applied only to the primary property tax and not to the secondary tax. She said one of the recommendations was to remove the cap altogether for both. She asked for the Committee's thoughts on the recommendation or if there was a new recommendation to be made.

Ms. Dorman reiterated the reasons why the past Committee recommended putting the \$1.75 cap on the primary property tax only and removing it from the secondary was because it would increase the City's bonding capacity. She stated that the primary tax could only increase 2% per year anyway and there was still enough room in the primary tax so that the \$1.75 was a sufficient cap and the secondary required voter approval regardless. She said she supported the recommendation as it was put forward.

It was moved by Mr. Knipe, duly seconded, and CARRIED by a voice vote of 12 to 0 (Committee Members Hinderaker and Scott absent), to recommend amending Chapter IV § 2 to change the heading to "Business privilege tax and property tax,:" and modify the \$1.75 per \$100 assessed value limit on ad valorem taxes so that it does not apply to secondary property taxes, **but only so long as** state law requires a majority of voters to approve any increases to the secondary property tax on the ballot in a general election.

Ms. Poulos stated this was a preliminary recommendation of the Committee and it would be revisited at the end of deliberations to make a final recommendation to the Mayor and Council.

Ms. Poulos read the next recommendation on excise tax that the previous CRC put forth. She said she thought this item was one of the sticking points in being able to get better financing.

It was moved by Mr. Knipe, duly seconded, and CARRIED by a voice vote of 12 to 0 (Committee Members Hinderaker and Scott absent), to recommend amending Chapter IV §1(16)(a) to delete the prohibition on pledging excise taxes.

4. Presentation and Discussion Regarding Form of Elections – List topics for future deliberation

Information and presentation was provided by Chairwoman Poulos. She said she looked at the electoral process itself and that the current system was referred to as a hybrid system. She stated in all of her recommendations the Mayor was voted for, in both the primary and general elections, as an at-large position. Her list consisted of the following items.

- a. Currently - individuals running in the General Election were nominated and voted by voters in their ward and in the General Election, they were elected city wide. In other words, she said council members were nominated in a Primary by their ward and elected at-large in the General Election.
- b. At-Large - this system would allow all voters within the City to vote on the candidates for each ward in a Primary Election and vote for them in a General Election.
- c. Ward Only - in a Primary Election, only voters living in that particular ward could nominate the candidates to run in the General Election and they would also be the only ones to vote for those candidates in the General Election.
- d. Mixed Council - allows for the six current seats and what was recommended at the time was to increase the number of council member seats from 6 to either 7, 8, to 9, increasing the make-up of the council by 1, 2 or 3 members and the new members would be elected at-large both in the Primary and General Elections. There would be a mix on the council where six seats would be elected by ward representing that ward and 1 to 3 members who would be elected at-large in the Primary and General Elections and would not be restricted to having to live in a certain part of the City.

Mr. Rogers stated that, if the mayor still had a vote, the increase should be 2 or 4, not 1 or 3 because of the risk of tie votes. He said in all practicality 2 would be the most voters would accept.

Ms. Poulos said that was true if the mayor retained his mayoral parity with the council. She said one of the issues she thought would be addressed was whether or not the City would move to a slightly stronger form of mayor government and not have mayoral parity but give the mayor the opportunity to veto a vote by the council.

Ms. Poulos outlined some of the related issues with the various types of elections such as timing of the elections, staggered terms for council members, staggering just the mayoral election from the council elections so that the mayor is elected at an election where the council members were not, possibly increasing the mayoral term to six years, electing all members, including the mayor at the same time, partisan vs. non-partisan, cost, campaign finance, residency requirements, weighted voting, proportional representation and term limits.

Discussion ensued on the pros and cons of each of the issues and types of elections.

Mr. Rogers said the list was pretty thorough, but he had one issue he wanted to hear the consultant's point of view. He said, from the standpoint of good governance, was there a trade off when at-large voters were lost and a ward only system was used and did people tend to look out for their own ward and become narrow-minded and parochial in their interests. He said he wanted to have a philosophical discussion about what worked to create a better governed city.

5. Call to the Audience

There were no speakers.

6. Meeting Schedule for Future Meetings

Chairwoman Poulos stated that, in light of the fact that the consultant could only attend two meetings a month, she asked the Committee what they thought was appropriate.

Discussion ensued; the next meeting was scheduled for January 25, 2016, at which time the complete schedule will be finalized.

7. Adjournment

Meeting was adjourned at 7:00 p.m.