

TO: Charter Commission
THROUGH: Mark Tessmer, Charter Commission Chair
FROM: Kori Land, City Attorney
CC: Matt Fulton, City Manager
DATE: December 13, 2016
SUBJECT: Potential Charter Amendments



City of West St. Paul

BACKGROUND INFORMATION:

There are a few Charter provisions that may be ripe for discussion: Sections 2.03/4.02 and Section 2.06. While we are not suggesting you have an in-depth discussion on these sections at this time, we would ask that you consider whether you want to discuss these sections at a future date for a thorough and thoughtful discussion.

Sections 2.03/4.02 Elective Officers/Officers to be Elected and Terms of Office

These sections provide for the length of the terms of the Mayor and Council. The Mayor is elected for 2 years, while the Council members' terms are 4 years. It has been suggested that the Mayor's term should be changed to 4 years. There have been numerous discussions in the past about this section, but no changes have been made.

Section 2.06. The Mayor

The Mayor does not have the ability to vote (except in limited situations), but does have veto power over ordinances and resolutions. The veto requires 5/6 votes to be overridden. While this Charter provision has been discussed in the past, it has been rarely used, and therefore, was left unchanged. In the past 2 years it has been used on three occasions and it was discovered that the Charter is not exactly clear as to when it may be used and the timing of the meeting to override it.

Things to consider:

- If the Charter Commission recommends giving the Mayor full voting authority, then the veto power should be removed.
- If the Charter Commission chooses to keep the limited vote with veto power, the actions that can be vetoed could be better defined. The Charter section states the Mayor can veto an *ordinance* or *resolution*, but does not state what kinds of voice motions this might include. For example, often, there is no resolution before the Council but there is a voice vote on an action. Depending on the action item, the motion may or may not be subject to veto, but that is not clear in the Charter. After some limited research, it appears that veto power is intended for legislative actions only, not administrative or judicial actions.
 - *Legislative* actions: ordinances, policies
 - *Administrative* actions: approving agreements and contracts

- *Judicial* actions: revoking licenses, upholding violations of ordinances
- The Charter states that if there is a veto, then the Council must reconsider the action at the next *regular* meeting. It is unclear as to whether a special meeting called by 3 members of the Council is a regular meeting.

Examples as to when the veto power was used in the last 2 years:

CC Meeting Date	Action Item	Veto Overturned? Date of Reconsideration	Result
2/23/15	Construction contract with Eureka Construction in the amount of \$23,061,745.00 for Phase 1 of the Robert St. Improvements, Project #11-3	Yes Special Meeting March 3, 2015	Project awarded to Eureka
5/19/15	Marie Avenue Improvements – Project #15-1 awarded to Bituminous Roadways	No May 26, 2015	Project rebid
9/12/16	Authorizing Easement Acquisitions for Parcel 100 of the Robert Street Improvement project (Firestone)	No September 26, 2016	Renegotiated the settlement with property owner

Below is the relevant Charter Section.

Sec. 2.06. The Mayor. The Mayor shall be the presiding officer of the Council, except that the Council shall choose from its members a president pro-tem who shall hold office at the pleasure of the Council and shall serve as president in the Mayor’s absence and as the Mayor in the case of the Mayor’s disability or absence from the City.

Subd. 1. The Mayor shall not have a vote as a member of the Council except in the following circumstances:

- a. The case of a tie vote,
- b. The hiring or removal of the City Manager,
- c. The appointment of a person to fill a Council vacancy,
- d. The sale of a public utility,
- e. An amendment to the Charter, or
- f. Otherwise as required by state law.

Subd. 2. All ordinances and resolutions, shall, before they take effect, be presented to the Mayor, and if he or she approves thereof he or she shall sign the same. If the Mayor does not sign, he or she shall return the ordinance or resolution to the City Clerk to be presented to the Council at their next regular meeting thereafter. The Mayor shall not have veto power on matters on which he or she has the right to vote. The Mayor may strike and eliminate any line item amount in the city budget or reduce the sum appropriated therefore within five days after Council passage of the budget. Such elimination or reduction of any line item amount shall constitute a veto of the line item and may be reconsidered as provided for in the case of a veto.

Upon the return of any ordinances or resolutions by the Mayor without his or her signature the vote by which the same was passed may be reconsidered, and if after such reconsideration the Council shall pass the same by a vote of five of the members-elect, it shall have the same effect as if approved by the Mayor; and in such case the votes shall be ayes and nays, and shall be entered by the City Clerk on the record.

If any ordinance or resolution shall not be returned by the Mayor within five (5) days (Sundays excepted) after it shall have been presented to him or her, the same shall have the same effect as if approved.

Again, we are not asking for an in-depth conversation at this time. We would like the Charter Commission to consider if these sections are something you would like to study and if so, what information would you need to continue the conversation.

If further discussion is needed, we would anticipate setting another meeting date after the first of the year, so it would be helpful if everyone brought their calendars to the meeting.