

City of Tucker
Charter Review Commission Findings
Document Rev. 2 9-Oct-2019 (Final Revision)

General Information

The Commission acts as a recommending body. Its recommendations will be made to the City Council and Mayor who may or may not act upon those recommendations.

Issues are presented without considering whether they may be implemented by home rule or require action by the Georgia legislature.

At the meeting where votes were taken, one Commission member was absent, so there were a total of 8 members present to vote.

Issues are presented in Charter section order except for two issues which are not currently addressed in the Charter. Those issues are presented at the end of this document.

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Issue/Proposal

Should the constituency of one Council member from each district be changed from district only to the City at-large? For example, the Post 1 representative of each district would be elected only by citizens in that district while the Post 2 representative of each district would be elected by all citizens of the City. If not, should one or more at-large members be added to City Council?

Current Charter Verbiage

SECTION 2.01. - City council creation; number; election.

- (a) The legislative authority of the government of the City of Tucker, except as otherwise specifically provided in this Charter, shall be vested in a city council of which the mayor shall be a voting member.
- (b) The city council of the City of Tucker shall consist of six members, plus the mayor.
 - (1) There shall be three council districts, designated as Council Districts 1 through 3, as described in Appendix B of this Charter, which is attached to and made a part of this Charter of the City of Tucker.
 - (2) Two councilmembers shall be elected from each of the three council districts and shall hold Council District 1, Post 1; Council District 1, Post 2; Council District 2, Post 1; Council District 2, Post 2; Council District 3, Post 1; and Council District 3, Post 2, respectively. Each person desiring to offer as a candidate for councilmember for such posts shall designate the council post for which he or she is offering. Councilmembers shall be elected by a majority vote of the qualified electors of the respective council districts voting at the elections of the city. In the event that no candidate for a council post obtains a majority vote of the qualified electors of the council district voting in the election, then a run-off election shall be held. The candidates receiving the two highest numbers of votes in the election for such council post shall be included in the run-off election. The person receiving the highest number of votes of the qualified electors of the council district voting at such run-off election shall be elected. Each candidate for election to the city council shall reside in the district which he or she seeks to represent.

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Background/Discussion

The at-large representatives would theoretically approach City issues with a wider perspective and may alleviate the need for the two vote veto, a previous Commission issue.

Pros	Cons
<ul style="list-style-type: none">✓ Would have one Council member from each district responsible to the city at-large✓ Would encourage a “what’s best for the city” perspective in those members✓ May reduce occurrences of the two-vote veto✓ Adding at-large member(s) is an alternative	<ul style="list-style-type: none">✗ Would increase the cost of running for at-large positions because those candidates would need to promote themselves to a significantly larger audience✗ Increasing Council size from 7 members would increase the cost of governance and make it more unwieldy

Commission Recommendation

Seven ayes and one nay to the question. The charter should be changed so that one Council member from each district be elected by all the citizens of the City.

Considerations

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Issue/Proposal

Should the number of consecutive terms for City Council and Mayor continue to be limited?

Current Charter Verbiage

SECTION 2.02. - Mayor and councilmembers; terms and qualifications for office.

- (c) The number of successive terms an individual may hold a position as a councilmember shall be limited to two terms.
- (d) The number of successive terms an individual may hold the position of mayor shall be limited to three terms.

Background/Discussion

Of DeKalb cities, only three others have Mayoral term limits, and those are all two four-year terms, totaling eight years. Tucker's is three four-year terms, totaling 12 years.

Of DeKalb cities, no others have term limits on Council members.

In the City formation process, there were no term limits initially, but as the formation bill moved through the Legislature, term limits were added by legislator(s) and the final bill included limits.

If the Mayor or a Council member is not meeting citizens' expectations, citizens can always vote that person out of office, limiting their term(s).

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Pros	Cons
<ul style="list-style-type: none">✓ Unlimited terms would allow motivated and experienced individuals to continue to serve the City✓ It takes time and a great deal of effort for a new Council member or Mayor to receive training, learn the job, and serve the City at peak effectiveness. It's a potential waste for a person with that experience to be forced out of office if still willing to serve.✓ A "lame duck" situation would not be automatically created for a person serving their last (term limited) term	<ul style="list-style-type: none">✗ Perpetual incumbency

Committee Recommendation

No ayes and eight nays to the question. Terms of the Mayor and Council members should not be limited.

Considerations

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Issue/Proposal

Should salaries of the Mayor and City Council be increased? If not, should there be a cost-of-living adjustment applied to salaries?

Current Charter Verbiage

SECTION 2.07. - Compensation and expenses.

The annual salary of the mayor shall be \$20,000.00, and the annual salary for each councilmember shall be \$14,000.00. Such salaries shall be paid from municipal funds in monthly installments. The mayor shall be provided an annual expense allowance of \$5,000.00 and each councilmember shall be provided an annual expense allowance of \$3,000.00 for the reimbursement of expenses actually and necessarily incurred by the mayor and councilmembers in carrying out their duties as elected officials of the city.

Background/Discussion

Current salaries are commensurate with a part-time job, but to well perform the jobs of Mayor or City Council member requires a great deal of time, much more than a part-time job, so compensation appears to be insufficient. The jobs of Mayor and City Council member may require more time than a person otherwise fully employed would be able to dedicate and so may prevent a fully employed person from deciding to serve in those roles without an increase in salaries. Many representatives now serving stated that current salaries were adequate and that increasing salaries to a full-time equivalent might attract candidates motivated more to having a full-time job rather than serving the City.

There is no cost of living adjustment in the charter.

Pros	Cons
<ul style="list-style-type: none">✓ Would compensate representatives in line with time commitment of service✓ Might allow a service-minded person with a full-time job to instead serve the City✓ An annual cost-of-living adjustment would allow salaries to keep pace with inflation without requiring charter amendment	<ul style="list-style-type: none">✗ Would increase city operating cost✗ Might attract candidates seeking compensation rather than service

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Commission Recommendation

No ayes and eight nays to the question of salary changes. Salaries of the Mayor and Council members should not be changed.

Four ayes and four nays to the question of cost-of-living adjustments. The charter should not be changed on this topic.

Considerations

Future Commissions should consider this issue in the context of inflation and salary purchasing power.

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Issue/Proposal

Should the Mayor and Council be paid according to City standard practice?

Current Charter Verbiage

SECTION 2.07. - Compensation and expenses.

The annual salary of the mayor shall be \$20,000.00, and the annual salary for each councilmember shall be \$14,000.00. Such salaries shall be paid from municipal funds in monthly installments. The mayor shall be provided an annual expense allowance of \$5,000.00 and each councilmember shall be provided an annual expense allowance of \$3,000.00 for the reimbursement of expenses actually and necessarily incurred by the mayor and councilmembers in carrying out their duties as elected officials of the city.

Background/Discussion

The charter states that Mayor and Council should be paid monthly, but current City standard practice is semi-monthly (24 times per year). This change would allow future payments to change with the City's standard practice.

Pros	Cons
<ul style="list-style-type: none">✓ Conforms to City standard practice✓ Allows for future changes in City standard practice without specific enumeration in the charter	* None

Commission Recommendation

Eight ayes and no nays to the question. Mayor and council member salaries should be paid in installments according to City standard practice as soon as practical.

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Issue/Proposal

Should the “two vote veto” on zoning issues be stricken from the charter?

Current Charter Verbiage

SECTION 2.10. - Quorum; voting.

- (a) Four councilmembers shall constitute a quorum and shall be authorized to transact business for the city council. The mayor shall be counted toward the making of a quorum. Voting on the adoption of ordinances shall be taken by voice vote, and the yeas and nays shall be recorded in the minutes, but on the request of any member, there shall be a roll call vote. In order for any ordinance, resolution, motion, or other action of the city council to be adopted, the measure shall receive at least three affirmative votes and shall receive the affirmative votes of a majority of those voting. Notwithstanding any provision to the contrary, no ordinance that effects the land use of parcels in only one district shall be adopted if the ordinance receives a no vote from both councilmembers that have met the residence requirement in that district. In order to effectuate such two-member denial of an adoption of a land use ordinance, a roll call vote must be requested.

Background/Discussion

Currently, if both Council members from a given district vote “no” on a land use issue, the issue fails regardless of the vote by the balance of Council. The veto was conceived as means to prevent a “noxious use” from being imposed on a district by the majority of Council. Enumeration of “noxious uses” is difficult at best, and may be impractical to implement. While the veto has only occurred once in the City’s 3-year history, it has the potential to divide the City on an issue and have lasting repercussions in later governance.

This issue received the greatest number of public comments and those were overwhelmingly in support of maintaining the “two vote veto”.

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Pros	Cons
<ul style="list-style-type: none"> ✓ Defies the notion of majority rule at the City level ✓ Allows a single District’s Council members to preclude a land use action that the majority of Council and Mayor believe would benefit the City ✓ Raises the potential of rancor between Districts as a result of a veto vote ✓ Potentially allows an unscrupulous entity to preclude a land use action by influencing only two persons, the representatives of the District in which the veto occurs 	<ul style="list-style-type: none"> ✗ Supports neighborhood (district) preferences by bringing land use governance down to the District level ✗ Prevents a District from being “ganged up on” by other Districts

Committee Recommendation

Six ayes, no nays, and two abstentions to the question. The two vote veto should be stricken from the charter.

Considerations

Those abstaining indicated that if one Council member of each district were an at-large member they would likely have voted “nay”.

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Issue/Proposal

Should the maximum time between the first and second reads of a proposed ordinance be increased from 60 days to 65 days?

Current Charter Verbiage

SECTION 2.15. - Ordinance form; procedures.

(a) Every proposed ordinance and resolution shall be introduced in writing, and the city council shall have the authority to approve, disapprove, or amend such ordinance or resolution. A resolution may be passed at the time it is offered, but an ordinance shall not be adopted until the title of such ordinance shall have been read at two city council meetings, provided that the beginning of such meetings be not less than 24 hours nor more than 60 days apart. This requirement of two readings shall not apply to emergency ordinances, to ordinances passed during the first 90 days from the date on which the city begins operation, or to ordinances adopted at the first meeting of the initial city council as elected under subsection (b) of Section 2.02 of this Charter. The catchlines of sections of this Charter or any ordinance printed in boldface type, italics, or otherwise are intended as mere catchwords to indicate the contents of the section and:

- (1) Shall not be deemed or taken to be titles of such sections or as any part of the section; and
- (2) Shall not be so deemed when any of such sections, including the catchlines, are amended or reenacted unless expressly provided to the contrary.

Background/Discussion

The current 60-day maximum is difficult to comply with in the event an ordinance is deferred. The increase to 65 days would allow compliance.

Pros	Cons
✓ Increases compliance ✓ Accommodates 31 day months ✓ The change from 60 to 65 days is nominal	✗ None

Commission Recommendation

Eight ayes and no nays to both questions. Verbiage of SECTION 2.15 (a) should be changed from “60 days” to “65 days”.

Considerations

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Issue/Proposal

Should the number of Council members required to add an item to an agenda be increased from one to two?

Current Charter Verbiage

SECTION 3.01. - Powers and duties of the mayor.

(a) The mayor shall:

- (1) Preside over all meetings of the city council;
- (2) Set the agenda for meetings of the city council after receiving input from members of the city council, the city manager, and the public; provided, however, that an additional item shall be added to the agenda upon the written request of any member of the city council, and name of the mayor or councilmember placing an item on the agenda shall be noted on the agenda;

Background/Discussion

City Council meetings are the venue where issues important to the City are publicly discussed and voted upon. As public meetings, they provide a forum where, currently, a single Council member can add an agenda item for personal reasons, political or otherwise, which may not be for the benefit of the City. Adding an agenda item usually requires considerable work by City staff to research, prepare supporting documentation, and, on some occasions, provide a recommendation to Council and so should not be added frivolously. The proposed change is designed to reduce frivolous additions but still allow two or more Council members to add an agenda item for consideration.

Pros	Cons
<ul style="list-style-type: none"> ✓ Prevents a single Council member from adding a personally-motivated agenda item ✓ Encourages Council members to collaborate on agenda item additions ✓ Still allows adding an agenda item that two members support that the Mayor had overlooked or decided not to include 	<ul style="list-style-type: none"> ✗ None

Commission Recommendation

Seven ayes and one nay to the question. The charter should be revised to require two members to add an agenda item.

Considerations

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Issue/Proposal

Should SECTION 3.11 – City accountant be struck from the charter?

Current Charter Verbiage

SECTION 3.11. - City accountant.

The city council shall appoint a city accountant to perform the duties of an accountant.

Background/Discussion

Recommended by the City Manager.

Pros	Cons
✓ Streamlines City operations	<ul style="list-style-type: none">✗ Reduces public visibility of said engagement✗ Could create opportunity for a less-than-objective perspective on the part of the engaged accountant

Commission Recommendation

Eight eyes and no nays to the question. Section 3.11 should be struck from the charter.

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Issue/Proposal

- (1) Should the City Manager be enabled to engage a city internal auditor rather than appointment by Council?
- (2) Should that engagement be “as required” but no less than each fiscal year?

Current Charter Verbiage

SECTION 3.12. - City internal auditor.

The city council shall appoint an internal auditor to audit the financial records and expenditures of city funds and to report the results of such audits in writing to the city council at times and intervals set by the city council but no less than quarterly. Such audit reports shall, at a minimum, identify all city expenditures and other financial matters that the internal auditor either determines are not in compliance with or cannot conclusively be determined to be in compliance with:

- (1) The provisions of this Charter;
- (2) The applicable city budget; and
- (3) Applicable ordinances, resolutions, or other actions duly adopted or approved under the provisions of this Charter.

...

SECTION 5.07. - External audits.

- (a) There shall be an annual independent audit of all city accounts, funds, and financial transactions by a certified public accountant selected by the city council. The audit shall be conducted according to generally accepted accounting principles. Any audit of any funds by the state or federal government may be accepted as satisfying the requirements of this Charter. Copies of all audit reports shall be available at printing cost to the public.
- (b) As a minimum, all audits and budgets of the city shall satisfy the requirements of O.C.G.A. title 36, ch. 81, relating to local government audits and budgets.
- (c) The city council shall appoint the external auditor.

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Background/Discussion

Recommended by the City Manager.

As a matter of practice, appointment of the internal auditor by the city Manager rather than Council should not pose a problem.

There was discussion of review of expense accounts and credit cards to ensure those expenses are “actually and necessarily incurred”. It was confirmed that the internal auditor would perform that function.

Section 5.07 requires engagement of an external auditor on an annual basis.

Pros	Cons
<ul style="list-style-type: none">✓ Quarterly engagement of an internal auditor is suggested to be too frequent✓ Reduces cost by engaging internal auditor as required✓ Still required each fiscal year	<ul style="list-style-type: none">✗ Reduces public visibility of said engagement✗ City Manager could appoint a “weak” internal auditor who would not act independently✗ By changing from quarterly engagement to a minimum of each fiscal year, discovery of financial improprieties may be delayed

Commission Recommendation

Eight ayes and no nays to question (1). Verbiage of SECTION 3.12 should be changed from “city council shall appoint an internal auditor” to “City Manager shall engage an internal auditor”

Eight ayes and no nays to question (2). The verbiage “no less than quarterly” should be changed to “not less than each fiscal year”.

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Issue/Proposal

Should the deadline for the City Manager to present a proposed budget for the upcoming year be changed from the 9th month of the current year to the 11th month of the current year?

If so,

- a. should the special public hearing announcement of the proposed budget be changed from no less than 30 days prior to the date of the hearing to no less than 15 days, and
- b. should the deadline for Council adoption of the proposed budget be changed from the 11th month to the end of the fiscal year currently ending?

Current Charter Verbiage

SECTION 5.03. - Submission of operating budget to city council.

- (a) On or before a date fixed by the city council, but not later than the first day of the ninth month of the fiscal year currently ending, the city manager shall, after input, review, and comment by the mayor, submit to the city council a proposed operating budget and capital budget for the ensuing fiscal year. The budget shall be accompanied by a message from the mayor and city manager containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year, a general summary of the budget, and such other comments and information as they may deem pertinent. The operating budget, the capital budget, the budget message, and all supporting documents shall be filed in the office of the city manager and shall be open to public inspection.
- (b) Prior to passage of the budget, the city council shall hold a special public hearing at which the budget shall be presented and public comment on the budget shall be solicited. The date, time, and place of the special public hearing shall be announced no less than 30 days prior to the scheduled date for such hearing.

SECTION 5.04. - Action by city council on budget.

- (a) The city council may amend the operating budget or capital budget proposed by the city manager in accordance with subsection (a) of Section 5.03 of this Charter, except that the budget, as finally amended and adopted, shall provide for all expenditures required by law or by other provisions of this Charter and for all debt service requirements for the ensuing fiscal year; and the total appropriations from any fund shall not exceed the estimated fund balance, reserves, and revenues constituting the fund availability of such fund.
- (b) The city council shall adopt a budget on or before the first day of the eleventh month of the fiscal year currently ending. If the city council fails to adopt the budget by the prescribed deadline, the operating budget and capital budget proposed by the mayor and city manager shall be adopted without further action by the city council.

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Background/Discussion

Recommended by the City Manager.

The City Manager indicates that financial information for the upcoming year, e.g. DeKalb County millage rate, is not available by the 9th month, so a budget formally proposed at the 9th month would most likely require revision and reconsideration when that information becomes available. The City Manager states that an 11th month deadline would allow adequate time for staff to receive and evaluate necessary information, propose a more informed and realistic budget, and still allow the public, Council, and Mayor a month to review the proposed budget, hold a public hearing, and adopt a budget prior to the upcoming year.

If the deadline is extended, the schedule for announcement of the associated public hearing, holding of the hearing, and adoption by Council prior to the upcoming fiscal year may be compressed.

Pros	Cons
<ul style="list-style-type: none"> ✓ Reduces wasted staff time required to revise a incompletely informed draft budget at the 9th month ✓ Presents a more realistic and accurate budget at the 11th month ✓ Announcement 15 days prior to the special public hearing would become the minimum but would likely still be 30 days in practice. In any case 15 days would be sufficient for public notice. 	<ul style="list-style-type: none"> ✗ City Council and citizens have less time to consider the draft proposed budget ✗ Citizens have less time to respond to the special hearing announcement

Commission Recommendation

Eight ayes and no nays on the question and subsequent items (a) and (b). The deadline for presentation of a proposed budget should be the 11th month, notice of the special public hearing should be 15 days, and adoption of the budget should be by the end of the fiscal year currently ending.

Considerations

Staff, Mayor, and Council should endeavor to develop the proposed budget as early as possible to provide for citizen input and review prior to adoption.

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Issue/Proposal

Should the City call for another charter review commission in three years?

Current Charter Verbiage

SECTION 6.05. - Charter commission.

No later than three years after the inception of the City of Tucker, the mayor and the city council shall call for a Charter commission to review the city's experience and recommend to the General Assembly any changes to the Charter. Members of the Charter commission shall be appointed as follows: one member by the mayor, one member by the city council, and one member by each member of the Georgia House of Representatives and Georgia Senate whose district lies wholly or partially within the corporate boundaries of the City of Tucker. All members of the Charter commission shall reside in the City of Tucker. The commission shall complete the recommendations within the time frame required by the city council.

Background/Discussion

The charter does not address the issue of charter review beyond the initial three-year requirement.

Other cities recommend recurring charter reviews at intervals from a few years to ten years. In some cases, cities have not reviewed their charters in decades.

Pros	Cons
<ul style="list-style-type: none">✓ Would keep the City up to date✓ Tucker is still a young city and its charter may require more frequent reviews in its early years✓ Provides an opportunity to review recommendations of prior charter commissions which may not have been implemented	<ul style="list-style-type: none">✗ Takes time✗ Requires input from the Mayor, Council, and staff

Commission Recommendation

Eight ayes and no nays to the question. A second charter review commission should be called for in three years, 2022.

Considerations

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Issue/Proposal

Should a person currently serving on City Council or as Mayor be allowed to serve in another elected City office immediately after serving in their [possibly limited] current term?

Current Charter Verbiage

The current charter does not prevent a person serving in a different office immediately after a term of service.

Background/Discussion

Currently, a person service on City Council or as Mayor is able to run for the other Mayor/ City Council office immediately succeeding their current term. For example, a City Council member could run for Mayor and, if elected, serve as Mayor immediately after serving on City Council. A City Council member’s term is four years and the two representatives from a given district serve terms which are separated by two years. So the situation where a person could serve in a different position immediately after leaving another position would arise only for Mayor and Council terms which coincide (posts 2 in each district).

This issue may be particularly applicable under the current charter’s term limits.

Pros	Cons
✓ Continuity of service and experience is maintained if a person is allowed to continue serving the City in a different position	✗ A person could “bounce” between City Council and Mayor without end as term limits expire

Commission Recommendation

Eight ayes and no nays to the question. A person should be allowed to serve the City in another elected office immediately after the expiration of his/her current term; on this topic, no charter change is recommended.

Considerations

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Issue/Proposal

Should the Mayor be allowed to administer the oath of office for any City position, other than Council member, rather than requiring a judge to do so?

Current Charter Verbiage

The charter does not currently allow this. Enabling verbiage such as “Administer the oath of office for any City position, other than Council member” should be added to the charter as item (11) under SECTION 3.01. (a) .

Background/Discussion

Recommended by the City Manager.

Pros	Cons
✓ Streamlines the swearing in process without requiring a judge’s presence	* None

Commission Recommendation

Eight ayes and no nays to the question. Enabling verbiage such as provided above should be added to the charter.

Considerations

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Submitted by the Commission this 9th day of October, 2019.

Derik West, Chairman

Terry Grandison, Co-Chair

Rebekah Coblentz, Secretary

Terry Cole, Member

Libby Howze, Member

Bill Kaduck, Member

Angela Ross, Member

Kay Stewart, Member

Josh Wallace, Member