



Charter Subcommittee Agenda

City of Newton In City Council

Monday, April 30, 2018

6:00 PM
Room 205

Scheduled for Discussion:

Continued Discussion and Review:

- Article 3: Executive Branch (term limits excluded)
- Article 5: Financial Procedures
- Article 6: Administrative Departments

Respectfully Submitted,

R. Lisle Baker, Chair

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**ARTICLE 3.
EXECUTIVE BRANCH**

See. SECTION 3-1. Mayor; Election; Term; Compensation:

(a) There shall be a mayor, who shall be elected by and from the voters ~~of the city.~~

Comment [SC1]: SC accepted changes in this section

~~(a)~~(b) The mayor shall be the chief executive officer of the city. The mayor shall devote full time to the office and shall not hold any other elective public office, nor actively engage in any other business, occupation or profession during the term of office as mayor. The mayor shall hold office for the term of 4 years from the first ~~secular~~ day of January following the election and until the mayor's successor is qualified.

(c) No person shall be eligible for election to the office of mayor for a fourth consecutive full term.

Comment [JK2]: Charter Commission proposed instituting term limit of 3 consecutive terms. Recommend holding for separate discussion.

~~(b)~~(d) The mayor shall receive such salary as the city council shall determine by ordinance ~~from time to time determine,~~ but no change in such salary shall take effect during the current term of the mayor in office at the time of the adoption of the ordinance making such change.

Comment [SC3]: Reserved for the fall 2018 SC discussion

See.

SECTION 3-2. Executive Powers; Enforcement of Ordinances; ~~Assistants.~~ Staff.

Comment [SC4]: SC accepted changes in this section

(a) In General—The executive and administrative powers of the city shall be vested solely in the mayor, and may be exercised by the mayor either personally or through the several city agencies under the mayor's general supervision and control. The mayor shall ~~cause~~enforce the laws, ordinances, and orders for the government of the city ~~to be enforced,~~ and shall ~~cause~~keep a record of all official acts as mayor ~~to be kept.~~ To aid the mayor with official mayoral duties, the mayor may appoint ~~1 or more assistants~~staff, fix their salaries and define their duties.

Comment [SC5]: Changed to Staff to track with change in paragraph (a) below

Comment [SC6]: SC accepted changes in this section

~~(b) Citizen Assistance Officer. The mayor shall appoint a citizen assistance officer in accordance with section 3-3 and fix the officer's salary. The citizen assistance officer shall be responsible for processing citizen complaints and inquiries that are directed or referred to the officer. The citizen assistance officer shall establish and maintain procedures for the examination and appropriate referral of requests for information or assistance on any municipal matter. The citizen assistance officer shall maintain a central file, open to the public, of all inquiries and complaints together with their resolutions. The citizen assistance officer shall analyze data on citizen complaints and inquiries and shall regularly submit reports as directed by the mayor.~~

Comment [JK7]: Charter Commission recommended removal of Citizen Assistance Officer from charter – but not necessarily from office. See also – letter submitted to city council recommending continued and robust 3-1-1 system.

Comment [SC8]: The SC favored retaining some reference to citizen assistance and the addition of a reference to a Chief Admin Officer, but reserved to later when specific alternate language is available to consider.

See. (b) The mayor shall appoint a chief administrative officer to coordinate and direct the operations of the various departments and functions of municipal government. The chief administrative officer shall serve at the pleasure of the mayor and be appointed on the basis of having strong administrative and executive qualifications and shall be especially fitted by education, training and experience to perform the duties of the office.

Comment [SC9]: See comment above

Comment [JK10]: Recommendation was to add a charter requirement for Chief Administrative Officer, which most administrations have had – though the title seems to have varied causing confusion – this addition was designed to provide consistency.

SECTION 3-3. Appointments by Mayor-

~~(a)~~

(a) The mayor shall appoint all city officers, department heads and all volunteer members of city boards, commissions, committees and agencies for whom no other method of appointment is provided by this charter or by law.

(b) Appointments by the mayor of city officers and department heads shall ~~become effective~~ take effect 30 days from the date of the first regularly scheduled city council meeting after notice of the proposed appointment is filed with the city clerk, unless the city council rejects the appointment within ~~said~~ those 30 days.

(c) ~~All officers and city agencies shall reject such appointment, subject to the civil service laws of the commonwealth, appoint their subordinates and employees to hold office until they are removed by the officer or city agency under whom they serve; but the mayor shall approve all appointments in the police and fire departments, and the mayor shall have the power of removal in the police and fire departments.~~

~~(a)~~ (d) Appointments by the mayor of volunteer members of city boards, commissions, committees and agencies shall take effect 60 days from the date of the first regularly scheduled city council meeting after the notice of the proposed appointment is filed with the city clerk, unless the city council rejects the appointment within ~~said~~ those 60 days ~~shall reject such appointment. Rejection by the city council shall require a 2/3 vote.~~

~~(b) The mayor shall appoint a collector treasurer for a term coterminous with the mayor's term and until a successor for the position of collector treasurer is qualified unless removed by the mayor prior to the expiration of such term. The mayor shall submit the proposed appointment to the city council as soon as possible after the mayor's term commences or as soon as possible after a vacancy occurs in the collector treasurer's office. The city council must approve this appointment by majority vote of the full council within 90 days from the date on which notice of the proposed appointment is filed with the city clerk as provided in section 3-4, or the proposed appointment shall not take effect. Removal of the collector treasurer by the mayor prior to expiration of the collector treasurer's term in office shall not take effect until approved by majority vote of the full city council. The collector treasurer shall receive and pay out all money belonging to the city according to the order of its authorized officers. No other person shall have authority to pay any bill of any municipal department. The collector treasurer shall have such other powers and perform such other duties as the mayor may prescribe in addition to such duties as may be prescribed by law.~~

(e) ~~(c)~~ Rejection by the city council of an appointment by the mayor under (b) or (d) shall require a 2/3 vote.

(f) Appointments to multiple member bodies may include city employees only if allowed by the multiple member body's enabling language; provided that, unless otherwise required by law, such employees shall not serve as chair of the multiple member body. Unless otherwise required by law, no city employee shall serve on a multiple member body in a seat designated for a resident of the city.

Comment [SC11]: SC accepted changes in this section

Comment [JK12]: Charter provision stating that employees (outside of fire and police department) are hired by department heads and subject to civil service laws. This codifies provisions that had previously been adopted through home rule legislation - accepted by Newton, it did not represent a substantive change.

Comment [SC13]: The SC decided to accept this language if home rule legislation explanation was accurate. UPDATE: This reference was mistaken. This language was not added due to HRL, but is existing language relocated from Section 11-2

Comment [SC14]: SC accepted

Comment [SC15]: SC agreed to delete this section: has been moved to control of the mayor

Comment [JK16]: Removed specific language on collector-treasurer, which seemed unnecessarily specific and possibly based on a unique situation.

Comment [JK17]: Existing language (see above) that was relocated to clarify its applicability.

Comment [SC18]: SC accepted

Comment [JK19]: This provision prohibits city employees from serving on a board or commission, unless required by the enabling statute. Charter Commission sought to remove administration influence over boards and commissions designed to be run by citizens.

(b)(g) The question on rejection of any appointment made by the mayor shall not be subject to charter objection as provided in subsection (e) of section 2-9. (Acts of 1991, Chap. 50; Acts of 1992, Chap. 173.) section 2-9(c).

Comment [SC20]: SC accepted changes in this section

(h) See. The mayor shall regularly, but not less frequently than annually, provide to the city clerk and the city council a listing of all vacancies on city boards and commissions, along with an indication of the appointing authority responsible for filling the vacancy. The city clerk shall make the listing available to the public electronically.

Comment [JK21]: This adds an annual requirement for Mayor to submit listing of all vacancies on boards and commissions to city council and city clerk. Transparency was intended to prevent vacancies going unfilled for too long or retention of unnecessary boards and commissions.

SECTION 3-4. Notice of Appointment.

In making appointments, the mayor shall sign and file with the city clerk a notice of appointment, a copy of which shall be filed on the same day with the clerk of the council.

See:

SECTION 3-5. Removal of Officials; Vacancy Notification

Comment [SC22]: SC agreed to add "and otherwise" after "electronically" as not all people use technology. Accepted language

Comment [SC23]: SC accepted

(a) The mayor may remove any person appointed by the mayor by filing written notice thereof the removal with the city clerk.

Comment [SC24]: SC accepted

(b) See. If the position of a city officer or department head becomes vacant, the mayor shall notify the city clerk and the city council within 48 hours.

Comment [SC25]: . SC accepted language, but City Officer is not a defined term in definitions section

Comment [JK26]: Required notification from Mayor to city clerk and city council of key positions becoming vacant.

SECTION 3-6. Temporary Appointments.

Whenever

If there is a vacancy in an office appointed by the mayor occurs, whether by reason of disability, death, resignation or removal from office for any reason, the mayor may appoint the head of another city office or agency, or a city officer or employee, or some other person to perform the duties of the office for a period not to exceed 3 months. Whenever if a vacancy continues beyond 3 months, the mayor may make a second 3-month appointment, but no temporary appointment shall be continued beyond 6 months without the approval of the city council.

See.

SECTION 3-7. Communications to the City Council; Calling of Special Meetings of the City Council.

Comment [SC27]: Comptroller says timeframe is not reasonable. Larner says this refers to snapshot of finances at that time and not a report of the audited statements. Comptroller to consult with Gentile on language to bring back to Committee

(a) Communications— Within 6 weeks following the start of each fiscal year, the mayor shall submit to the city council, and make available to the public, a complete report on the financial and administrative activities of the city for the preceding fiscal year. The mayor shall from time to time throughout the year not less frequently than semi-annually, by written communications to

Comment [SC28]: Comptroller provides the information. Is it proper to have Mayor here?

Comment [JK29]: Required communication every six months of municipal revenues and financial condition of the city.

the city council, ~~keep it fully informed as~~ provide full disclosure of municipal revenues and all information related to the financial condition and future needs of the city and shall recommend such measures to ~~the council~~ as the mayor ~~judges~~ determines the needs of the city require.

(b) Calling Special Meetings — The mayor may ~~at any time~~ call a special meeting of the city council by causing a notice of such meeting that specifies the matters which the mayor desires to be considered to be left at the usual place of residence of each councilor or given to in hand ~~and public~~. Public notice of the meeting ~~to~~ shall be posted at least 2448 hours in advance of the time set for the meeting; ~~or~~ for such lesser period as the mayor may determine in case of an emergency, of which the mayor shall be the judge.

See.

SECTION 3-8. Adoption of Measures; Mayor's Veto.

Not sooner than 24 nor more than 96 hours after the adjournment of any meeting of the city council, the clerk of the council shall present to the mayor the record of the proceedings of the meeting and copies of all measures passed at the meeting. ~~If during the 24 hours immediately following such adjournment, a motion to reconsider is filed with the clerk of the council by any member of the city council who is entitled to make such a motion, the measure shall not be presented to the mayor but shall be presented to the city council for reconsideration at its next meeting.~~ , unless a city councilor has filed with the city clerk a motion to reconsider the measure under section 2-9(d). Every measure relative to the affairs of the city passed by the city council shall be presented to the mayor for the mayor's approval except: (i) any measure relating to the internal affairs of the city council; (ii) any measure relating to the election of officers whose election by the city council is authorized by law or this charter; ~~or (iii) the budget.~~ (iii) a matter exclusively within the jurisdiction of the city council; (iv) the budget; or (v) an action taken by the city council under section 10-2(d) or 10-3(a) in response to an initiative or referendum petition.

Within 10 days of receipt of a measure, the mayor shall return it to the clerk of the council with or without approval, or with a veto. Upon the mayor's approval of a measure it shall be considered adopted. If a measure is vetoed, the mayor shall attach a written statement explaining the reasons for the veto. Measures vetoed by the mayor shall be considered again by the city council at a meeting ~~no~~ not sooner than 7 days after receipt of the mayor's veto. If the city council, ~~notwithstanding such veto by the mayor,~~ shall again pass such vetoed measure by a 2/3 vote of the full council then in office, it shall then be considered adopted. Every measure not approved or vetoed by the mayor shall be considered adopted 10 days after it has been presented to the mayor.

See.

SECTION 3-9. Temporary Absence from the Office of the Mayor.

Comment [SC30]: SC accepted language in this paragraph

Comment [JK31]: Doubled posting requirement for special city council meetings to provide at least 48 hour notice, in line with Open Meeting Law.

Comment [JK32]: No substantive edits here – simply re-written to incorporate provisions from other places in the charter that fit neatly here. However – the language is also dependent upon the re-write in Article 10, which included several of these provisions as well as the re-write of Article 2.

Comment [SC33]: SC accepted changes in this paragraph

Comment [JK34]: This was re-located to Article 2 because it seemed to pertain to the powers of the city council more than the executive.

Comment [JK35]: Intended to clarify that veto override must be by 2/3 of the membership.

Comment [SC36]: SC did not accept this language. Retain "full council"

Comment [SC37]: SC needs to discuss further. Language seems ok

Whenever

If by reason of sickness, absence from the city or ~~other cause~~ otherwise, the mayor shall be
unable to attend to perform the duties of the office of the mayor, the president of the city council
or the vice president of the city council in the event of the president's disability through sickness or
absence shall, as acting mayor, possess the powers of the mayor only in those matters not
admitting of delay requiring immediate attention, but the acting mayor shall have no power to
make permanent appointments. If neither the mayor nor the president of the city council is
able to perform the duties of the office of the mayor, the vice-president of the city council shall
possess the powers of acting mayor. The city council, with approval of the mayor, may provide
by ordinance for the handling of certain administrative duties of the mayor by other city
councilors during the temporary absence of the mayor.

Comment [JK38]: Added provision regarding succession for office of Mayor.

During any period in which the president or the vice-president of the city council is serving as acting mayor, the acting mayor shall not serve as the presiding officer of the city council.

The restriction contained in section 3-1 relative to holding other office or actively engaging in a business, occupation or profession shall not apply to an acting mayor holding office under this section. See.

SECTION 3-10. Vacancy in the Office of the Mayor.

(a) If a vacancy occurs in the office of the mayor, by death, resignation, removal from office, failure to elect or otherwise at any time preceding the last 9 calendar months of the term for which the mayor was elected, the city council shall forthwith call, at its next regular meeting, introduce a measure calling for a special election to fill the vacancy for the remainder of the unexpired term— and shall, within 30 days, act on that measure. The special election shall be held within 150 days and, if a preliminary election is required under section 8-3, the preliminary election shall be held within 100 days of the calling of the election.

Comment [JK39]: Intended to clarify ambiguity of "forthwith" and provide a specific timeline for city council to take action.

Comment [SC40]: SC would like to discuss more as well as 150 days provision

Comment [JK41]: Timeline for special election developed in line with many other charters and advice from consultants.

Comment [SC42]: Reverses presumption of succession. Needs further discussion

(b) If a vacancy occurs in the office of the mayor during the last 9 calendar months of the term for which the mayor was elected, the clerk of the council shall forthwith call a special meeting of the city council and the city council shall by majority vote of the full council elect 1 of its members as acting mayor for the remainder of the unexpired term. If the city council fails to elect an acting mayor as aforesaid within 30 days of the date of the meeting called by the clerk of the council, the president of the city council shall become acting mayor, shall exercise all the rights and powers of the mayor and shall be sworn to the faithful performance of the duties of the office. Upon the election and qualification of any member of the city council as acting mayor under this section, a vacancy shall exist in the member's council seat. president of the city council shall serve as the acting mayor until the next election for mayor is held. If the city council president is unable or unwilling to serve, the vice president of the city council shall serve as mayor. If both the council president and the council vice

Comment [JK43]: Changed contingency plan for vacancy in office of Mayor. Eliminated provision calling for city council to elect an acting mayor, definite succession plan included.

president are unable or unwilling to serve, the council shall elect from among its membership a councilor to serve as the acting mayor.~~The restriction contained in section 3-1 relative to holding other office or actively engaging in a business, occupation or profession shall not apply to an acting mayor holding office under this section.~~ The removal from residency within the city shall create a vacancy in the office. (Referendum of 11-04-75.)

(c) Upon the certification of the results from the next election, the person elected to be mayor shall be immediately sworn and begin serving as mayor and the new mayor shall, in addition to the term for which the member was elected, serve for the balance of the then-unexpired term.

The mayor's removal from residency within the city shall create a vacancy in the office.

ARTICLE 5.
FINANCIAL PROCEDURES

See-SECTION 5-1. Financial Condition of the City

The mayor shall annually prepare a forecast of city revenues, expenditures and the general financial condition of the city. The forecast shall cover at least 5 years and shall include all funds subject to appropriation. The forecast shall also include, but need not be limited to, an identification of factors with significant impact on the financial condition of the city, revenue and expenditure trends, potential sources of new or expanded revenues and long or short-term actions which may enhance the financial condition of the city. The mayor shall submit the forecast to the city council at least 6 months prior to the mayor's submission of the next fiscal year's operating budget and shall make the forecast available to the public for inspection.

SECTION 5-2. Submission of Budget; Budget Message.

Within the period prescribed by state statute, the mayor shall submit to the city council a proposed budget for the ensuing fiscal year, which shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year, an accompanying budget message and supporting documents.

The mayor's message shall explain the budget for all city agencies both in fiscal terms and in terms of work programs. It shall: (i) outline the proposed financial policies of the city for the ensuing fiscal year; (ii) describe the important features of the budget; (iii) indicate any major changes from the current fiscal year in financial policies, expenditures, and revenues and the reasons for such changes; (iv) summarize the city's debt position; and (v) include such other material as the mayor deems desirable or the city council may reasonably require.

~~See.~~The budget shall include funding for legal assistance to the city council and an independent audit of all city accounts. The amount of funding for legal assistance to the city council may be amended by ordinance; provided however, that such an ordinance shall not take effect until the fiscal year following its adoption.

SECTION 5-23. Action on the Budget.

The city council shall adopt the budget, with or without amendments, within 45 days following the day the budget is received by the city council. In amending the budget, the city council may delete or decrease any programs or amounts, except expenditures required by law or for debt service, but it may not increase any programs or amounts.

If the city council fails to take action with respect to any item in the budget within 45 days after receipt of the budget, such amount shall, without any action by the city council, become a part of the appropriations for the year and be available for the purposes specified.

See SECTION 5-34. Capital Inventory and Capital Improvement Program.

(a) ~~Submission~~—The mayor ~~shall prepare and submit to the~~and city council ~~a 5-year capital improvement program at least 6 months prior to receipt~~shall be active stewards of the ~~next fiscal year's operating budget.~~city's physical assets.

~~(b) Contents~~—~~The capital improvement program~~(b) Capital Inventory — The mayor shall establish and update not less frequently than annually, an inventory of significant capital assets, such as: buildings; infrastructure (water, sewer, storm water, and road systems); moveable equipment; and such other property as determined by ordinance. The city council shall, by ordinance, establish the requirements of the inventory, such as: age; condition; maintenance and repair history; remaining useful life; and other features the city council deems appropriate.

(c) Capital Improvement Program— The mayor shall create a capital improvement program, which shall include: (i) a clear summary of its contents; (ii) a list of all capital improvements proposed to be undertaken during the next 5 fiscal years with supporting data and rationale; (iii) cost estimates, method of financing and recommended time schedules; and (iv) the estimated annual cost of operating and maintaining the facilitiescapital assets included. ~~The above information~~capital improvement program shall be revised and extended ~~each year.~~annually.

~~(c) Public Hearing~~—~~The city council shall publish in 1 or more newspapers of general circulation in~~(d) Submission — The mayor shall submit to the city council the general summary of inventory and the 5-year capital improvement program and a notice stating: (i) at least 6 months prior to the times and places where copiesmayor's submission of the operating budget for the next fiscal year.

~~(e) Public Hearing~~—~~The city council shall make the proposed capital improvement program are available for inspection by~~to the public; ~~and (ii) the date, time and place, not less than 2 weeks after the publication, when a~~ and shall hold at least 1 public hearing, in accordance with state law, on the capital improvement program ~~will be held by the city council.~~

~~(d) Adoption~~ — After the public hearing, concurrently with the passage of the next fiscal year's budget, the city council may amend and shall, by resolution, adopt the capital improvement program ~~with or without amendments.~~

~~(Referendum of 11-04-75.)~~

Sec.(g) Annual Report—The mayor shall annually report on the city’s progress regarding the capital improvement program.

SECTION 5-45. Contracts.

All contracts entered into for or in behalf of the city by any officer or city agency shall be subject to the approval of the mayor, unless otherwise provided by law.

SECTION 5-6. Independent Audit

The city council shall annually provide for an independent audit of all city funds to be conducted by a certified public accountant in accordance with generally accepted accounting principles. The city council shall, by ordinance, establish procedures for oversight and administration of the annual audit including: (i) method of selection of an independent auditor; (ii) the scope of the audit; and (iii) receipt of the report and any recommendations from the auditor, including recommendations regarding internal controls.

ARTICLE 6.
ADMINISTRATIVE DEPARTMENTS

Sec. SECTION 6-1. Reorganization Plans by City Council.

~~Except as otherwise provided by law or this charter, the city council may by ordinance: (i) reorganize, consolidate or abolish any existing city agency in whole or in part; (ii) establish new city agencies; and (iii) prescribe the functions of any city agencies. All city agencies under the direction and supervision of the mayor shall be headed and administered by officers appointed by the mayor.~~

Sec. 6-2. Reorganization Plans by Mayor.

(a) The mayor may, ~~from time to time,~~ prepare and submit to the city council reorganization plans which may, subject to applicable law and this charter, reorganize, consolidate or abolish any city agency, in whole or in part, or establish new city agencies as the mayor considers necessary or expedient. The reorganization plan shall be accompanied by an explanatory memo which shall include: __ (i) reference to any ordinances to be repealed or modified; and (ii) a summary of proposed ordinance language changes to be put into effect by the plan.

(b) Every reorganization plan shall, upon receipt by the ~~clerk of the city~~ council, be referred to an appropriate committee of the city council which shall, not more than 30 days ~~later~~after receipt of the plan, hold a public hearing on the matter and shall, not later than the second regular meeting of the city council following the hearing, report either that it approves or disapproves of the plan. A reorganization plan shall become effective 90 days after the date it is received by the city council unless the city council has prior to that date voted to disapprove the reorganization plan or unless a later effective date is specified in the plan. A reorganization plan presented by the mayor to the city council under this section ~~may~~shall not be amended by the city council but shall either be approved or rejected as submitted ~~and~~, Reorganization plans shall not be subject to charter objection as provided in ~~subsection (e) of section 2-9-(c).~~

~~(Referendum of 11-04-75; Acts of 1992, Chap 174.)~~

~~Sec. (c) The mayor shall provide notice, not later than March 1, to the city council of any reorganization plan reasonably expected to affect the budget for the ensuing fiscal year.~~

SECTION 6-32. Publication of Reorganization Plan.

~~An~~

The city clerk shall maintain an up-to-date record of any reorganization plan adopted under this article ~~shall be kept on file in the office of the city clerk~~ and copies of all such plans shall be included as an appendix in any publication of the ordinances of the city.