

CITY of ALBUQUERQUE

EIGHTEENTH COUNCIL

COUNCIL BILL NO. F/S P-09-1 ENACTMENT NO. _____

SPONSORED BY: Brad Winter

1 CHARTER AMENDMENT PROPOSALS

2 TO BE SUBMITTED TO THE VOTERS AT THE OCTOBER 6, 2009 REGULAR
3 MUNICIPAL ELECTION.

4 WHEREAS, a regular municipal election will be held on Tuesday, October 6,
5 2009; and

6 WHEREAS, pursuant to Enactment No. O-2008-031, a City Charter Review
7 Task Force was established to examine the provisions of the City Charter for
8 the purpose of recommending amendments to the Charter; and

9 WHEREAS, the City Charter Review Task Force in its Report and
10 Recommendations submitted to the Council and the Mayor on May 4, 2009
11 made a number of recommendations concerning amendments to the City
12 Charter; and

13 WHEREAS, the Council has reviewed the recommendations of the Charter
14 Review Task Force and has determined that the following amendments to the
15 City Charter should be submitted to the voters at the October regular
16 municipal election.

17 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
18 ALBUQUERQUE:

19 That the following Charter Propositions be filed with the City Clerk and
20 submitted to the voters for approval at the regular municipal election to be
21 held on October 6, 2009. With each proposition is the Summary of the
22 proposition as it shall appear on the ballot and that at the election, the
23 qualified voters of the City of Albuquerque shall be permitted to vote “for” or
24 “against” each of the following proposals to amend the City Charter.

25 *PROPOSITION NO. 1 -- SUMMARY FOR BALLOT*

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1 Amending the City Charter to provide a new section listing and briefly
2 summarizing all of the provisions in the City Charter that govern elections.

3 ***PROPOSITION NO. 1***

4 Proposing to amend the City Charter by amending Article II, Elections, to add
5 the following new Section 1 at the beginning of Article II and renumbering
6 succeeding sections:

7 **ARTICLE II, SECTION 1. CHARTER ELECTION LAWS**

8 Section 1. CHARTER ELECTION LAWS. Article II, Elections, Article XIII,
9 Election Code, and Article XVI, Open and Ethical Elections Code, all govern
10 elections in Albuquerque. Article II sets forth candidate qualifications,
11 governing law, and the non-partisan election process. Article XIII establishes
12 campaign reporting requirements, contribution limitations, and the regulation
13 of campaign practices by the Board of Ethics. Article XVI allows candidates to
14 run for office with public financing. Candidates may choose to run for office
15 with either public financing or private financing. Whether publicly or privately
16 financed, a candidate must meet the Section 4 qualification requirement of
17 petition signatures.

18 ***PROPOSITION NO. 2 -- SUMMARY FOR BALLOT***

19 Amending the City Charter to provide that the salaries of the Mayor and
20 City Councillors shall be determined by a Citizens' Independent Salary
21 Commission appointed by the City's Accountability in Government
22 Committee.

23 ***PROPOSITION NO. 2***

24 Proposing to amend the City Charter by amending Article IV, Section 6,
25 Compensation of the Council; Article V, Section 2, Mayor's Term and Salary,
26 and adding a new Article XVII, Citizens' Independent Salary Commission to
27 read:

28 **ARTICLE IV, SECTION 6. COMPENSATION OF THE COUNCIL**

29 Section 6. COMPENSATION OF THE COUNCIL. Councillors shall
30 receive annual salaries as determined by a citizens' independent salary
31 commission.

32 **ARTICLE V, SECTION 2. MAYOR'S TERM AND SALARY**

1 Section 2. MAYOR'S TERM AND SALARY. The term of Mayor, unless
2 sooner recalled or removed, shall begin on December 1st of the year of
3 election and shall be for four years or until a successor is duly elected and
4 qualified. The Mayor's salary shall be determined by a citizens' independent
5 salary commission.

6 **ARTICLE XVIII, CITIZENS' INDEPENDENT SALARY COMMISSION**

7 A Citizens' Independent Salary Commission is created with the authority
8 to set the salaries of the Mayor and Councillors. The Commission has the
9 authority to evaluate the annual salaries and determine whether they should
10 be increased or decreased. The Commission has authority to consider all
11 factors relevant to the salaries.

12 (a) The Commission shall consist of five members selected by the
13 Accountability in Government Committee. All members shall be residents of
14 the City of Albuquerque and shall not be an officer, official or employee of the
15 City or an immediate family member of the same. The term of each member
16 shall be for four years, unless a member is selected to fill a vacancy, and no
17 member shall be appointed to more than two terms. The initial terms of
18 members of the newly established Commission shall be staggered; the initial
19 term for two members shall be two years and the initial term of three members
20 shall be four years.

21 (b) At least one year prior to each regular municipal election, the
22 Commission shall review the salaries paid by the City to the Mayor and
23 Councillors. If after such review the Commission determines that the salary
24 should be increased or decreased, the Commission shall file a written salary
25 schedule with the City Clerk indicating the proposed salary.

26 (c) Changes to the salaries shall not be effective for the
27 incumbent Mayor and Councillors, but shall be effective at the beginning of
28 the next term.

29 (d) Any change to salaries recommended by the Commission
30 shall be subject to the referendum procedures as provided for in Article III,
31 Section 2 of this Charter.

32 (e) All meetings of the Commission shall be open to the public
33 and subject to the Open Meetings Act, Sections 10-15-1 et seq. NMSA 1978.

PROPOSITION NO. 3 -- SUMMARY FOR BALLOT

Amending the City Charter to provide that the City Clerk shall have a term that coincides with the term of the Mayor and that the Clerk shall only be removed earlier upon a finding of cause made both by the Mayor and six City Councillors. Requiring six City Councillors to confirm the City Clerk's appointment by the Mayor. Clarifying that the City Attorney, Chief Administrative Officer and deputy administrative officers but not department heads are appointed subject to the advice and consent of the City Council and cannot serve for more than 45 days without their names being submitted to the City Council for confirmation.

PROPOSITION NO. 3

Proposing to amend the City Charter by amending Article V, Section 4, Duties of the Mayor, to read:

ARTICLE V, SECTION 4. DUTIES OF THE MAYOR

Section 4. DUTIES OF THE MAYOR.

The Mayor shall:

- (a) Organize the executive branch of the city;
- (b) Exercise administrative control and supervision over and appoint directors of all city departments, which appointments shall not require the advice or consent of the Council except as provided in (d) of this Section;
- (c) Be responsible for the administration and protection of the merit system;
- (d) With the advice and consent of the Council, appoint the City Attorney, the Chief Administrative Officer and deputy administrative officers. Appointees requiring the advice and consent of the Council shall be presented to the Council for confirmation within 45 days after the Mayor takes office or after a vacant appointed position is filled. When an appointee is presented to and not confirmed by the Council, the Mayor shall, within 60 days thereafter, nominate another person to fill the position, and the Mayor may continue to nominate until confirmation;
- (e) Select and remove the City Clerk only as follows:

1 1. The City Clerk shall be selected and appointed through an
2 open and competitive hiring process conducted by the Mayor with the advice
3 and consent of two-thirds of the entire membership of the Council.

4 2. The City Clerk's appointment shall be for a term that coincides
5 and terminates with the term of the Mayor making the appointment unless
6 sooner removed as provided herein.

7 3. The City Clerk may only be removed from office for cause by
8 the Mayor with the concurrence of two-thirds of the entire membership of the
9 Council after cause has been determined by the Director of the Office of
10 Internal Audit and Investigations.

11 (f) Except as otherwise provided for by ordinance, with the prior advice
12 and final consent of the Council appoint the members of city committees,
13 commissions and boards;

14 (g) Formulate the budgets of the city consistent with the city's goals and
15 objectives, as provided in this Charter;

16 (h) Establish and maintain a procedure for investigation and resolution
17 of citizen complaints;

18 (i) Prepare a written state of the city report annually, within thirty days
19 after final approval of the operating budget of the city, which report shall be
20 filed with the City Clerk, made a part of the permanent records of the city and
21 available to the public;

22 (j) Perform other duties not inconsistent with or as provided in this
23 Charter; and

24 (k) Faithfully execute and comply with all laws, ordinances, regulations
25 and resolutions of the city and all laws of the State of New Mexico and the
26 United States of America which apply to the city.

27 ***PROPOSITION NO. 4 -- SUMMARY FOR BALLOT***

28 Amending the process to amend the City Charter by: fixing the number of
29 signatures to petition for a change in the Charter at 20% of the number of
30 voters in the last four regular municipal elections; requiring the City Attorney
31 to review any proposed petition; requiring approval of six City Councillors to
32 propose a Council initiated amendment to the City Charter; requiring the City
33 Council to hold at least two public hearings on the proposed amendment;

1 requiring the ballot on a proposed amendment to the City Charter to contain a
2 summary of the proposed amendment reviewed by the City Attorney for
3 accuracy; allowing the City Clerk to correct errors and omissions in the City
4 Charter and delete provisions declared to be illegal.

5 **PROPOSITION NO. 4**

6 Proposing to amend the City Charter by amending Article VI, Charter
7 Amendments, to read:

8 **ARTICLE VI, CHARTER AMENDMENTS**

9 **Section 1. [PROCEDURE].**

10 Amendments to this Charter may be proposed by the Council or by
11 Petition.

12 **Section 2. [PETITION PROCESS].**

13 (a) Notice of intent to circulate a petition proposing any amendment to
14 this Charter must be signed by five qualified voters and filed with the City
15 Clerk;

16 (b) Concurrently with the filing of the notice of intent, the proposed
17 amendment shall be filed with the City Clerk;

18 (c) The number of qualified voters required to sign the petition shall be a
19 number more than 20% of the average number of voters who voted at the four
20 regular municipal elections prior to filing the notice of intent;

21 (d) Before any signatures are affixed thereon, the form of such petition
22 must be reviewed by the City Attorney and approved by the City Clerk as
23 provided by law, and the date of filing the notice of intent shown thereon;

24 (e) The petition, and any part thereof, must be filed with the City Clerk
25 within sixty days after the date of filing the notice of intent.

26 **Section 3. [COUNCIL PROCESS FOR ARTICLES OTHER THAN XII AND**
27 **XIII].**

28 (a) An amendment to the Charter proposed by the Council must be
29 approved by a vote of a majority of all Councillors plus one;

30 (b) The Council shall hold at least two public hearings prior to its vote
31 on the proposed Charter amendment. The Council may revise the proposed
32 amendment as a result of suggestions and recommendations made at the first
33 public hearing, but if such a revision is made at the second of the two public

1 hearings, the Council shall hold a third public hearing on the proposed
2 Charter amendment. Any revisions made shall be posted along with the
3 notice of the next meeting after a review by the City Attorney to ensure the
4 summary is still accurate after the revision.

5 Section 4. [ELECTION].

6 The election must be held within ninety days after the date of the Council
7 filing the proposed amendment with the City Clerk or from the time of filing the
8 petition with the City Clerk.

9 Section 5. [BALLOT].

10 At such election the ballot shall contain a summary, title and the complete
11 text of the proposed amendment and below the same the phrases "For the
12 Above Amendment" and "Against the Above Amendment" followed by spaces
13 for marking with a cross or a check the phrase desired. The summary of a
14 proposed amendment to the Charter may differ from its title and shall be a
15 clear, concise statement describing the substance of the proposed
16 amendment without argument or prejudice. The City Attorney must review the
17 form of the summary to determine that the summary accurately reflects the
18 text of the proposed amendment.

19 Section 6. [VOTE].

20 If a majority of the votes cast are against the amendment, it shall be of no
21 effect. If a majority of the votes cast are for the amendment, it shall be
22 adopted.

23 Section 7. [AUTHORITY OF CITY CLERK TO CORRECT].

24 Subject to review of the City Attorney and approval of a majority of the
25 Council, the City Clerk shall have authority to rearrange, renumber, reletter,
26 capitalize, punctuate and divide provisions of this Charter, and to correct
27 clerical errors and omissions and insert captions in accordance with the
28 meaning and intent of the provisions of this Charter, from time to time, and
29 may delete provisions which have become inoperative or any provision ruled
30 invalid by a court of competent jurisdiction. The City Clerk may substitute any
31 current title of an official or department in lieu of the title originally appearing
32 in the Charter provision, in accordance with the changes of title or duties
33 subsequently made by law.

PROPOSITION NO. 5 -- SUMMARY FOR BALLOT

Amending the budget process to provide that the Mayor prepares the biennial capital improvements budget for submission to the Council. Setting specific dates for City Council action on the Mayor's annually proposed operating budget.

PROPOSITION NO. 5

Proposing to amend the City Charter by amending Article VII, The Annual Operating Budget, to read:

ARTICLE VII. THE OPERATING BUDGET AND THE CAPITAL IMPROVEMENT PROGRAM

Section 1. [MAYOR TO FORMULATE].

The Mayor shall formulate the City's operating budget and the biennial capital improvement budget in consultation with the Council. The budgets shall be consistent with this Charter, the City's adopted goals and objectives, City legislation, and the Comprehensive Plan.

Section 2. [COUNCIL REPRESENTATIVE TO PARTICIPATE].

A representative of the Council shall be allowed to participate in all meetings and have access to all information relating to the formulation of the budget.

Section 3. [PROPOSAL AND APPROVAL DATE].

The Mayor shall propose the operating budget to the Council by April 1. The Council shall approve the operating budget as proposed or amend and approve it by May 31 after it is proposed by the Mayor.

Section 4. [PUBLIC HEARINGS].

During the deliberation by the Council, the Council shall hold at least three public hearings on the proposed budget. The Mayor, or the Mayor's representative, shall be present at the hearings on the proposed budget to answer questions about the budget.

Section 5. [FAILURE OF COUNCIL TO APPROVE].

If the Council fails to approve an operating budget by May 31 after it is proposed to the Council by the Mayor on April 1, then the operating budget as proposed by the Mayor is deemed approved by the Council.

Section 6. [PROCEDURE ORDINANCE].

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1 A procedure for formulation of the annual operating budget shall be
2 established by ordinance adopted by the Council, after consultation with the
3 Mayor, consistent with this provision of the Charter. The ordinance shall
4 establish a conference committee comprised of six members, three of whom
5 shall be designated by the Mayor and three of whom shall be designated by
6 the Council, for the resolution of any disagreements between the Mayor and
7 the Council that arise concerning the operating budget during the period
8 between April 1 and May 31.

9 ***PROPOSITION NO. 6 -- SUMMARY FOR BALLOT***

10 Amending the City Charter to provide that enforcement of the Open and
11 Ethical Elections Code shall be a civil process conducted by the Board of
12 Ethics and Campaign Practices rather than a criminal process conducted by
13 the City Attorney.

14 ***PROPOSITION NO. 6***

15 Proposing to amend the City Charter by amending Article XVI, Open and
16 Ethical Elections Code, Section 21, Penalties – Enforcement, to read:

17 **ARTICLE XVI, SECTION 21. PENALTIES - ENFORCEMENT**

18 The Board of Ethics and Campaign Practices shall enforce the Open and
19 Ethical Elections Code pursuant to Articles XII and XIII of the City Charter.

20 ***PROPOSITION NO. 7 -- SUMMARY FOR BALLOT***

21 Amending the City Charter by adding a new Article providing that the City
22 Council is the City's ultimate planning and zoning authority, including the
23 adoption and interpretation of the Comprehensive Plan and the Capital
24 Improvement Plan. The Council is also the City's ultimate authority with
25 respect to interpretation of adopted plans, ordinances, and individual cases.
26 The Mayor is responsible for overseeing the implementation, enforcement,
27 and administration of land use plans.

28 ***PROPOSITION NO. 7***

29 Proposing to amend the City Charter by adding a new Article XVII to read:

30 **ARTICLE XVII. [PLANNING].**

31 Section 1. The Council is the City's ultimate planning and zoning
32 authority, including the adoption and interpretation of the Comprehensive
33 Plan and the Capital Improvement Plan. The Council is also the City's

1 ultimate authority with respect to interpretation of adopted plans, ordinances,
2 and individual cases.

3 Section 2. The Mayor or his designee shall formulate and submit to the
4 Council the Capital Improvement Plans and shall oversee the implementation,
5 enforcement, and administration of land use plans.

6 ***PROPOSITION NO. 8 -- SUMMARY FOR BALLOT***

7 Amending the City Charter by adding a new Article providing that the City
8 Council shall by ordinance establish a process for addressing disputes
9 between the City Council and Mayor over their respective duties under the
10 Charter. That process shall include the creation of a three member committee
11 to resolve allegations of a violation; one member appointed by the Council,
12 one member appointed by the Mayor and the third member appointed by the
13 first two.

14 ***PROPOSITION NO. 8***

15 Proposing to amend the City Charter by adding a new Article XIX to read:

16 **ARTICLE XIX. [DETERMINATION OF SEPARATION OF POWERS ISSUES**
17 **UNDER THE CHARTER].**

18 A procedure for resolving disputes between the executive and legislative
19 branches of government with respect to their respective duties and
20 obligations under the City Charter shall be established by ordinance adopted
21 by the Council after consultation with the Mayor. The ordinance shall establish
22 a conference committee for the determination of the role of the City Council
23 and the Mayor under the Charter. The committee shall be limited to making
24 determinations on issues raised by either the Mayor or the City Council. The
25 City Attorney shall not participate as either an advocate before or advisor to
26 the committee. The committee shall be comprised of three members. The
27 Mayor shall appoint one member and the Council shall appoint one member.
28 The two members so appointed shall select the third member to serve as the
29 chairperson of the committee. The appointment of a committee member by
30 one appointing authority shall not be approved or disapproved by the other
31 appointing authority.

32 ***PROPOSITION NO. 9 -- SUMMARY FOR BALLOT***

Amending the City Charter to provide that the petition to become a candidate for Mayor requires the signatures of three thousand (3,000) registered city voters and to become a candidate for City Council requires the signatures of five hundred (500) registered voters residing in the district which the person desires to represent.

PROPOSITION NO. 9

Proposing to amend the City Charter by amending the existing Article II, Section 3, Qualifications for Mayor and Councillors, to read:

ARTICLE II, SECTION 3. QUALIFICATIONS FOR MAYOR AND COUNCILLORS

Section 3. QUALIFICATIONS FOR MAYOR AND COUNCILLORS.

Persons desiring to become candidates for Mayor shall, before being placed on the ballot, file with the City Clerk a petition containing signatures of three thousand (3,000) registered city voters. Persons desiring to become candidates for District Councillor shall, before being placed on the ballot, file with the City Clerk a petition containing signatures of five hundred (500) registered voters residing in the district which the person desires to represent.

PROPOSITION NO. 10 -- SUMMARY FOR BALLOT

Amending the City Charter to provide that the City Attorney shall have a term that coincides with the term of the Mayor and that the City Attorney shall only be removed earlier upon a finding of cause made both by the Mayor and six City Councillors. Requiring six City Councillors to confirm the City Attorney's appointment by the Mayor.

PROPOSITION NO. 10

Proposing to amend the City Charter by amending the existing Article V, Section 4(d) and adding a new Article V, Section 4(e), while renumbering subsequent paragraphs; 4(d) and 4(e) shall read:

“(d) With the advice and consent of the Council, appoint the Chief Administrative Officer and deputy administrative officers. Appointees requiring the advice and consent of the Council shall be presented to the Council for confirmation within 45 days after the Mayor takes office or after a vacant appointed position is filled. When an appointee is presented to and not confirmed by the Council, the Mayor shall, within 60 days thereafter, nominate

1 another person to fill the position, and the Mayor may continue to nominate
2 until confirmation;

3 (e) Select and remove the City Attorney only as follows:

4 1. The City Attorney shall be selected and appointed through an
5 open and competitive hiring process conducted by the Mayor with the advice
6 and consent of two-thirds of the entire membership of the Council.

7 2. The City Attorney's appointment shall be for a term that
8 coincides and terminates with the term of the Mayor making the appointment
9 unless sooner removed as provided herein.

10 3. The City Attorney may only be removed from office for cause
11 by the Mayor with the concurrence of two-thirds of the entire membership of
12 the Council after cause has been determined by the Director of the Office of
13 Internal Audit and Investigations.

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