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Title: F/S Adopting A Proposition To Be Sent To The Voters At The 2023 Regular Local Election, Proposing To Amend The Albuquerque City Charter To Adopt A Council-Manager Form Of Government (Sanchez and Grout)
Sponsors: Louie Sanchez, Renée Grout
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Attachments: 1. P-1, 2. P-1 Approved Floor Substitute, 3. P-1 Approved Floor Amendment 1, 4. P-1 Approved Floor Amendment 2

Date	Ver.	Action By	Action	Result
6/21/2023	2	City Council	Passed	Fail
6/5/2023	2	City Council	Amended	Pass
6/5/2023	2	City Council	Amended	Pass
6/5/2023	2	City Council	Postponed as Amended	Pass
5/15/2023	1	City Council	Substituted	Pass
5/15/2023	1	City Council	Postponed as Substituted	Pass
5/1/2023	1	President	To be heard at the Council Meeting	
5/1/2023	1	City Council	Introduced	

CITY of ALBUQUERQUE TWENTY FIFTH COUNCIL

COUNCIL BILL NO. F/S P-23-1 ENACTMENT NO. _____

SPONSORED BY: Louie Sanchez and Renee Grout

CHARTER AMENDMENT PROPOSAL

F/S Adopting A Proposition To Be Sent To The Voters At The 2023 Regular Local Election,
Proposing To Amend The Albuquerque City Charter To Adopt A Council-Manager Form Of
Government (Sanchez and Grout)

WHEREAS, The City of Albuquerque currently operates as a Mayor-Council form of government; and

WHEREAS, The City has operated under such a form of government since 1974, when the City Charter was amended to move away from the Commission-Manager form to the current Mayor-Council form; and

WHEREAS, The current Mayor-Council form of government establishes two separate branches of government with delineated roles wherein an elected nine-member City Council is vested with the legislative authority of the City to enact all laws and policies conducive to the welfare of the City, and an elected Mayor controls and directs the executive branch of the City which is responsible for the most high-functioning executive tasks of the City all the way down to the most routine; and

WHEREAS, the staggering of terms amongst the nine-member Council establishes an opportunity for continuity within government while at the same time allowing the electorate to guide the direction of the City through their vote; and

WHEREAS, the current strong-mayor form of government does not offer the same level of continuity for the executive branch because processes, functions, approaches, knowledge and skills amongst appointed city administrators, who serve at the pleasure of the Mayor, are subject to wholesale change with each election - which can directly affect the services that most directly impact City residents; and

WHEREAS, Each new Mayor holds complete discretion to appoint new leadership to oversee critical city services; and

WHEREAS, Conversely, in the Council-Manager form of government, critical city services can be led by personnel hired based exclusively on their qualifications, who can remain serving based on their capabilities as opposed to who wins an election; and

WHEREAS, The strong-mayor form of government is not the only form of government available to the City of Albuquerque and several other modern, major cities in our region successfully operate under a Council-Manager form of government, including Las Cruces, Rio Rancho, El Paso, Phoenix, and Las Vegas, Nevada; and

WHEREAS, Most Council-Manager forms of government still include a critical role for a Mayor where the Mayor is integrated into the City Council as its presiding member, as opposed to being part of a separate branch of government; and

WHEREAS, Transitioning to the Council-Manager form provides an opportunity to make

Albuquerque's local government more efficient, stable, and fiscally responsible over the long-term.

BE IT PROPOSED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

SECTION 1. The City Clerk shall place the summary, title, and text of the following proposition on the ballot at the 2023 Regular Local Election, and City of Albuquerque voters shall be permitted to vote "for" or "against":

SUMMARY

Proposing to adopt a Council-Manager form of government consisting of a governing body and a professional administrator to function as city manager.

PROPOSITION

Proposing to amend the City Charter of the City of Albuquerque as follows

"ARTICLE IV. COUNCIL

Section 1. AUTHORITY AND MEMBERSHIP OF THE COUNCIL.

The legislative authority of the city shall be vested in a governing body which shall constitute the legislative branch of the city and shall be known as a Council, consisting of nine members from separate Council Districts, each member to be known as a ~~Councillor~~ Councilor and one additional member to be known as Mayor. Each of the Council Districts shall elect one Councillor, who shall be a qualified voter of the District.

Section 5. COUNCIL ORGANIZATION.

~~[The Council shall elect a president from its number and shall determine its order and procedure.]~~
[The Mayor shall be the presiding officer of the City Council. The Mayor shall be a member of the Council entitled to cast a vote only in the event of a tie among the City Councilors.]

Section 7. MEETINGS OF THE COUNCIL.

(a) The Council or any of its component committees shall meet as frequently as its business may require. The Council shall establish regular Council meeting times by ordinance. Between official Council meetings the Council shall form itself into committees for consideration of specific areas of government, using citizenship participation in committee work if found advisable.

(b) All meetings of both the Council and the committees shall be open to the public and due notice thereof given. Records shall be kept of all voting by each ~~Councillor~~ Councilor, the Mayor, and committee member. Publicity shall be given to the minutes of all meetings of the Council and committees, and the official records of such meetings shall be open to inspection at all convenient

times.

Section 8. COUNCIL POWERS.

The Council shall have the power to adopt all ordinances, resolutions or other legislation conducive to the welfare of the people of the city and not inconsistent with this Charter, and the Council shall not perform any executive functions except those functions assigned to the Council by this Charter. [The Council shall appoint and set compensation for a City Manager.]

Section 10. COUNCIL DUTIES.

The Council shall:

- (a) Be the judge of the election and qualification of its members;
- (b) Establish and adopt by ordinance or resolution five-year goals and one-year objectives for the city, which goals and objectives shall be review and revised annually by the Council;
- (c) Consult with the [Mayor and City Manager], seek advice from appropriate committees, commissions and boards, and hold one or more public hearings before adopting or revising the goals and objectives of the city;
- (d) Review, approve or amend and approve all budgets of the city and adopt policies, plans, programs and legislation consistent with the goals and objectives established by the Council;
- (e) Preserve a merit system by ordinance;
- (f) Hire the personnel necessary to enable the Council to adequately perform its duties;
- (g) Perform other duties not inconsistent with or as provided in this Charter; ~~[and]~~
- (h) Faithfully execute and comply with all laws, ordinances, regulations and resolutions of the city and all laws of the State of New Mexico and the United States of America which apply to the city; and
- (i) Appoint and set compensation for the City Manager].

ARTICLE V. MAYOR [AND CITY MANAGER]

Section 3. POWERS; PERFORMANCE; APPOINTMENTS.

~~[The executive branch of the city government is created.]~~ The office of Mayor is created. ~~[The Mayor shall control and direct the executive branch. The Mayor is authorized to delegate executive and administrative power within the executive branch.]~~ The Mayor shall be the ~~[chief executive officer with all executive and administrative powers of the city and the]~~ official head of the city for all ceremonial purposes. [The Mayor shall be a member of the Council entitled to cast a vote only in the event of a tie.] ~~[The Mayor shall devote full time and attention to the performance of the duties of office and shall hold no other paid public or private employment.]~~

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 Chief Administrative Officer, any deputy administrative officers, the Chief of Police, and the Fire Chief. 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;~~
 - ~~— 1. The Police Chief or Fire Chief may be removed for cause by a vote of two-thirds of the entire membership of the Council.~~
- ~~—(e) Select and remove the City Attorney only as follows:~~
 - ~~— 1. The City Attorney shall be selected and appointed through an open and competitive hiring process conducted by the Mayor with the advice and consent of two-thirds of the entire membership of the Council.~~
 - ~~— 2. The City Attorney's appointment shall be for a term that coincides and terminates with the term of the Mayor making the appointment unless sooner removed as provided herein.~~
 - ~~— 3. The City Attorney may only be removed from office for cause by the Mayor with the concurrence of two-thirds of the entire membership of the Council after cause has been determined by the Director of the Office of Internal Audit and Investigations.~~
- ~~—(f) Select and remove the City Clerk only as follows:~~
 - ~~— 1. The City Clerk shall be selected and appointed through an open and competitive hiring process conducted by the Mayor with the advice and consent of two-thirds of the entire membership of the Council.~~
 - ~~— 2. The City Clerk's appointment shall be for a term that coincides and terminates with the term of the Mayor making the appointment unless sooner removed as provided herein.~~
 - ~~— 3. The City Clerk may only be removed from office for cause by the Mayor with the concurrence of two-thirds of the entire membership of the Council after cause has been determined~~

by the Director of the Office of Internal Audit and Investigations.

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

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

~~(i) Establish and maintain a procedure for investigation and resolution of citizen complaints;~~

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

~~(k) Perform other duties not inconsistent with or as provided in this Charter; and~~

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

[(a) Preside at meetings of the City Council;

(b) Cast a vote on matters before the City Council, only in the event of a tie among the City Councilors;

(c) Have no administrative duties;

(d) Perform such other duties, except administrative duties, as may be prescribed by ordinance or by the provisions of this Charter;

(e) Be recognized as the head of the City government for all ceremonial purposes;

(f) Initiate an annual performance review of the City Manager with the advice of the Council;

(g) Represent the city in intergovernmental relationships including but not limited to representing the City on regional, state, and national boards and committees as necessary;]

Section 5. VACANCY IN THE OFFICE OF MAYOR.

(a) If the Mayor shall die, resign or terminate residence in the City of Albuquerque during his term of office, or be removed from office, the office of the Mayor shall become vacant.

~~[(b) If a regular election will occur within one year of the date on which the vacancy occurs, the President of the Council shall serve as Mayor Pro Tem until a successor is elected and qualified. If the President of the Council shall decline to serve, the Council shall select from among its membership the person to serve as Mayor Pro Tem until a successor is elected and qualified. If the President of the Council or any Councillor becomes Mayor Pro Tem pursuant to this Section, the Mayor Pro Tem shall cease to be a Councillor during the term as Mayor Pro Tem and the seat on~~

~~the Council shall become vacant. The Mayor Pro Tem shall receive the same salary on a pro-rata basis as that provided for the former Mayor.~~

~~(c) A vacancy in the office of Mayor which occurs more than one year prior to the next regular election shall be filled for the remainder of the unexpired term by a special election. During the interim between the date the office is vacated and the date of the special election, the Mayor's position shall be filled by a Mayor Pro Tem determined by the same procedure specified in Subparagraph (b) above. However, in this event, the Mayor Pro Tem shall temporarily cease to be a Councilor during the term as Mayor Pro Tem and the seat on the Council shall remain vacant until reassumed. Likewise, in this event the Mayor Pro Tem is exempt from the provision of Section 3 above that the Mayor shall hold no other paid public or private employment. During the interval the Mayor Pro Tem serves pursuant to this Subparagraph, the Mayor Pro Tem shall receive a pro-rata salary based on the same salary that the former Mayor was receiving and shall receive no salary as a member of the Council.~~

(b) At the first meeting of the City Council in the month of January of each year, the City Council shall elect one of its members to act as Mayor Pro Tempore. The Mayor Pro Tempore shall serve until the first meeting in the month of January of the following year or until a successor has been selected. The Mayor Pro Tempore shall perform the duties of the Mayor in event of a vacancy in the office of Mayor. For all purposes of this Charter, the Mayor Pro Tempore shall remain a Councilor and continue to hold voting rights as a Councilor but shall have additional powers as set forth herein.

(c) If a regular election will occur within one year of the date on which the vacancy occurs, Mayor Pro Tempore shall serve until a successor is elected and qualified. The Mayor Pro Tempore shall receive the same salary on a pro-rata basis as that provided for the former Mayor.

(d) A vacancy in the office of Mayor which occurs more than one year prior to the next regular election shall be filled for the remainder of the unexpired term by a special election. During the interim between the date the office is vacated and the date of the special election, the Mayor's position shall be filled by the Mayor Pro Tempore. During the interval the Mayor Pro Tem serves pursuant to this subparagraph, the Mayor Pro Tempore shall receive a pro-rata salary based on the same salary that the former Mayor was receiving and shall receive no salary as a member of the Council.

Section 6. CITY MANAGER, APPOINTMENT, QUALIFICATIONS, REMOVAL

(a) Appointment. The Council shall appoint a City Manager by a vote of at least six (6)

members of the Council and shall fix the City Manager's compensation. The Council may at its own discretion seek professional advice in the appointment of a City Manager. The City Manager shall not be appointed for any definite term and shall serve at the pleasure of the Council. The Council shall enter into an employment contract with the City Manager which shall establish, among other matters, compensation and benefits. The City Manager shall have no property rights arising from employment with the City other than the right to accrued salary and benefits.

(b) Qualifications. The City Manager shall be appointed solely on the basis of executive and administrative qualifications. No preemployment residence requirements shall be imposed for appointment. After employment, the City Manager must be a resident of the City of Albuquerque.

(c) Removal. The City Manager shall be subject to removal at the discretion of the Council by a vote of at least six (6) members of the Council.

Section 7. CITY MANAGER POWERS AND DUTIES

(a) The City Manager shall be the chief administrator of the City and shall be responsible to the Council for the administration of all City affairs, including but not limited to, the administration of all organizational units placed in the City Manager's charge by this Charter and by ordinance.

(b) The City Manager shall also have the following powers and duties:

(1) Organize the executive branch of the city;

(2) Exercise administrative control and supervision over and appoint the Chief of Police, Fire Chief, City Attorney, City Clerk, and directors of all city departments, which appointments shall not require the advice or consent of the Council;

(3) Be responsible for the administration and protection of the merit system;

(4) Prepare a written state of the City report annually, within thirty (30) days after final approval of the operating budget of the City, which report shall be filed with the City Clerk, made part of the permanent records of the City and available to the public;

(5) Formulate the Budgets of the City consistent with the City's goals and objectives, as provided in this Charter;

(6) Submit annually to the Council and make available to the public a complete report of the finances and administrative activities of the City for the preceding fiscal year;

(7) Perform such other duties as are specified in this Charter, the City Manager's employment contract, or as may reasonably be required by the Council.]

ARTICLE VII. THE OPERATING BUDGET AND THE CAPITAL IMPROVEMENT PROGRAM

Section 1. [[CITY MANAGER] [MAYOR] TO FORMULATE].

The [City Manager] ~~[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 [City Manager] ~~[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]~~ City Manager.

~~[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].~~

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

ARTICLE X. MERIT SYSTEM

Section 1. MAINTENANCE OF THE MERIT SYSTEM.

It is necessary for the optimum functioning of the ~~[Mayor-Council form of]~~ Council-Manager government that the city maintain a merit system governing the hiring, promotion, discharge and general regulations of employees. The ~~[Mayor and]~~ Council shall maintain by ordinance, and the ~~[Mayor]~~ City Manager shall administer, a merit system which shall include as a minimum, reasonable provisions establishing:

- (a) Classified and unclassified service;
- (b) Methods of service rating of classified employees;
- (c) Methods of initial employment, continuation thereof and promotion, recognizing efficiency and ability as the applicable standards;
- (d) Appropriate grievance and appeal procedures for classified employees; and
- (e) An active personnel board composed of individuals not employed by the city.

Section 2. INVOLVEMENT IN PERSONNEL MATTERS.

(a) Councillors are prohibited from becoming involved in the hiring, promotion, demotion or discharge of any city employee, except those positions for which the Charter requires the advice and consent of the Council and those personnel who are hired by and directly responsible to the Council.

(b) ~~[Except to the extent necessary for the administration of the merit system, t]~~ [T]he Mayor is prohibited from becoming involved in the hiring, promotion, demotion, or discharge of any city employee except those personnel hired for unclassified positions directly responsible to the Mayor.

ARTICLE XI. ORDINANCES

Section 1. STYLE.

The enacting clause of an ordinance of the City of Albuquerque shall be: "Be It Ordained By the Council, the Governing Body of the City of Albuquerque:".

Section 2. ADOPTION.

If a majority of a legal quorum of the Councillors present at a Council meeting vote in favor of adopting the ordinance or resolution, it is adopted.

~~[Section 3. MAYOR'S APPROVAL OR DISAPPROVAL; OVERRIDE VETO.~~

~~—The Mayor shall have presented for approval every proposed ordinance, resolution or act creating rights or duties, and if the Mayor approves, shall within ten days from presentation sign it and deposit it with the City Clerk, and if the Mayor disapproves, the Mayor shall likewise within ten days return it to the Council with objections and the proposal shall not be effective unless two-thirds of the entire membership of the Council at the next regularly scheduled meeting approve the proposal. If the Mayor shall fail to approve or disapprove any such ordinance, resolution or act within ten days after presentation it shall nevertheless be in full force and effect as if the Mayor had approved the same. The Mayor's veto power shall not extend to any measure approved by the voters in accordance with the initiative procedure of this Charter and such measure shall be effective on the date approved by the voters or on any other effective date as stated in the measure.~~

~~Section 4. MONEY APPROPRIATIONS.~~

~~—The Mayor shall have presented for approval every proposed ordinance, resolution or act appropriating money. The Mayor may approve or disapprove any part or parts, item or items of any proposed act appropriating money and such parts or items approved shall become effective, and such as are disapproved shall be void unless passed over the Mayor's veto as herein provided.~~

~~Section 5. TIME LIMITS.~~

~~—All veto authority of the Mayor shall be exercised within 10 days after presentation of the matter to the Mayor by the Council. The Council shall take action on any disapproved or altered ordinance, resolution or act at the next regularly scheduled meeting after return of the same to the Council by the Mayor.]~~

Section [6 3]. AUTHENTICATION; PUBLICATION; EFFECTIVE DATE; CODIFICATION.

(a) An ordinance shall be recorded and preserved by the City Clerk, authenticated by the signature of the presiding officer of the governing body and City Clerk, and bear the seal of the city. The ordinance shall be published one time either in its entirety or by title and general summary of the subject matter contained in the ordinance, whichever the Council elects to do.

(b) An ordinance shall not become effective until five days after it has been published, unless passed and approved as an emergency measure, in which event it shall become effective immediately following publication or at a subsequent date determined by Council.

(c) If the ordinances of the city are codified, it is not necessary to publish same in entirety. An ordinance, referring to the codification by title only and specifying one place in the city's municipal offices where the codification may be inspected during normal and regular business hours, may be published instead of the codification.

Section [7 4]. PUBLIC VOTE ON PERFORMING ARTS CENTER.

The city shall not appropriate funds for a performing arts center costing more than ten (10) million dollars without prior approval of a majority of votes cast on the proposed performing arts center in a municipal election. The city may, however, appropriate funds to study, to analyze the feasibility of, and to undertake preliminary design of any such center prior to the election required by this section.]

ARTICLE XVII. [PLANNING]

Section 1.

The Council is the city's ultimate planning and zoning authority, including the adoption and interpretation of the Comprehensive Plan and the Capital Improvement Plan. The Council is also

the city's ultimate authority with respect to interpretation of adopted plans, ordinances, and individual cases.

Section 2.

The [Mayor City Manager] or his designee shall formulate and submit to the Council the Capital Improvement Plans and shall oversee the implementation, enforcement, and administration of land use plans.

~~[ARTICLE XIX. [DETERMINATION OF SEPARATION OF POWERS ISSUES UNDER THE CHARTER]~~

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

SECTION 2. TIME OF FILING WITH THE CITY CLERK.

The Director of City Council Services, or designee, shall file this Charter amendment proposal with the City Clerk upon its final passage.

SECTION 3. SEVERABILITY CLAUSE.

If any section, paragraph, word or phrase of this proposition is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this proposition. The Council hereby declares that it would have passed this proposition and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 4. Effective Date; Transition Period. This proposition is effective immediately. The Charter Amendment described in Section 1 of this proposition takes effect on January 1, 2026, so long as certified as approved by the voters. If so approved, the City shall appoint a transition planning committee comprised of appointees by both the Mayor and the City Council. This

committee will be charged with the completion of transition and reorganization planning by no later than December 31, 2025.