

FINAL REPORT
2011 CHARTER REVIEW COMMITTEE
CITY OF GRESHAM, OREGON
February 2, 2012

Summary

The 2011 City of Gresham Charter Review Committee has completed its work and is pleased to present its recommendations to the City Council and the people of the City of Gresham. The Committee recommends that the Council place six amendments before the voters.

- Section 7 (City Council) – Require all elections for City offices be nonpartisan.
- Section 8 (Councilors) – Remove the outdated reference to 1996 and 1998 elections. Provide that positions 1, 3 and 5 be elected at the November presidential election and positions 2, 4 and 6 at the November gubernatorial election.
- Section 9 (Mayor) – Remove the outdated reference to the 1986 election and provide that the Mayor be elected at the November gubernatorial election.
- Section 9 (Mayor) – To be consistent with the Section 32 requirement to fill vacancies at the next available election, delete the language in Section 9 that a mayoral vacancy be filled at the November biennial election.
- Section 11 (Qualification for Council) – Apply to appointees filling Council vacancies the same eligibility requirements as persons elected to Council.
- Section 32 (Filling of Vacancies) – Amend the definition of the “next available election” to eliminate a scenario where the same position is on the ballot twice in a single year and to clarify that the “one other issue or candidate” must be on the ballot of all voters in the City.

In addition, the Committee recommends that Council adopt ordinances or Council Rules to clarify or implement certain sections of the Charter.

The Committee recommends Council appoint a special task force, whose membership includes qualified professionals, to further research the issue of Council compensation.

The Committee recommends the creation of an internal audit committee to ensure transparency and independence of the chief compliance officer position.

Finally, the Committee recommends that Council appoint the next Charter Review Committee early in 2019 to allow more time to review issues, collect public input and inform voters of proposed ballot measures.

Committee Membership

Pursuant to Section 45B (Charter Review) of the Gresham Charter, Council appointed a Charter Review Committee in August 2011. The members of the Committee are Joan Albertson, Harrison Braaksma, Chris Lyons, Carol Nielsen-Hood, Carla Piluso, Carol Rulla, and John Vandermosten.

Meetings

The first meeting was held on September 22 at which time the Committee:

- Elected Ms. Albertson as Chair and Ms. Piluso as Vice-Chair of the Committee.
- Learned the history and structure of the Charter.
- Received *City Law* training which is provided to members of all City committees.
- Was informed that Section 21B (City Auditor) failed to pass by 60% of those voting on the measure in 2004 as required by Section 45A (Charter Amendments) and that the position was null and void.

At the next three meetings on October 13, October 27, and November 10, the Committee reviewed the Charter section by section. Each Charter section was discussed and categorized as follows:

- Charter Review Policy Issues – The Committee identified thirteen matters to review for substantive changes resulting in three recommended amendments and three issues recommended for further action.
- Charter Clean Up Issues – The Committee identified fifteen matters where the Charter language was outdated or inconsistent with other sections of the Charter resulting in three recommended amendments.
- Non-Charter Clarifications – Six matters were identified where clarifications could be made without a Charter amendment.
- No Action – The Committee identified no needed amendments or clarifications in the remaining Charter provisions.

Charter sections identified as policy issues were discussed by the Committee on November 17, December 1, December 15, and December 29. The January 17 meeting was a public forum where the public had the opportunity to have conversations with Committee members and submit their input in a variety of ways. The Committee also discussed Section 9A (Citizen Involvement), Charter clean up issues and non-Charter clarifications at the January 17 meeting.

A draft of the Committee's report was discussed at the January 24 meeting and this Final Report was approved on February 2.

Minutes of the Charter Review Committee meetings are at: <http://greshamoregon.gov/charterreview>.

Public Involvement

The following steps were taken to facilitate public involvement in the work of the Charter Review Committee:

- Agendas were sent to:
 - *Outlook* and *Oregonian* newspapers
 - Members of the City Council
 - Chairs of the five Council Citizen Advisory Committees
 - Chair of the Neighborhood Coalition for distribution to neighborhood associations
 - Staff liaisons of the CCAC and subcommittees for distribution to committee members
 - Persons who requested notice of Committee meetings

- The web page for [Charter Review](#) included the following:
 - Agendas
 - Memorandums distributed to the Committee
 - Minutes and audio recording of meetings
 - A summary of the policy issue discussions
 - An email link (CAOmail@greshamoregon.gov) for citizens to provide comments

- Comments were received during the Charter review process:
 - At the beginning and end of each meeting
 - The January 17 meeting was a public forum
 - Comments were received from: Richard Strathern, Mark Thornsbury, Stu Quinn, John Deer, Dick Schneider, Greg Olson, Sue O'Halloran, Jeff Kaiser, Mads Ledet, and Councilor John Kilian
 - At the request of the Charter Review Committee, Erik Kvarsten (City Manager) discussed the City Auditor position and Tam Driscoll (Communications) discussed public involvement. Cathy Harrington (Neighborhoods and Community Engagement) spoke about the Citizen Involvement Committee.
 - Jim Mayer (*Oregonian*) regularly attended meetings and Mara Stine (*Outlook*) followed the Committee's activities via the Charter Review webpage.

Charter Review Policy Issues

The Charter Review Committee identified thirteen issues for further policy discussion. Three Charter amendments are recommended and three issues are recommended for further action. Attachment 1 is a summary of the Charter Review policy issues.

Key policy issues discussed by the Committee:

- Section 7 – Nonpartisan Elections. A majority of the Charter Review Committee recommends that Section 7 be amended to specifically require that the positions of Mayor and Councilors be nonpartisan.
- Section 7 – Election at Large or by District. A majority of the Charter Review Committee recommends no change to the current Charter language.
- Section 10 – Council Compensation. The Charter Review Committee recognizes that the Mayor and Councilors spend a significant amount of time each week on City business and should receive compensation for their service. However, the Charter Review Committee does not believe that a measure on the May 2012 ballot would pass by 60% of the votes cast. The Charter Review Committee recommends Council appoint a special task force, whose membership includes qualified professionals, to further research the issue of Council compensation.
- Section 11 – Qualification for Council. The Charter Review Committee recommends that Section 11 of the Charter be revised so the one-year residency and qualified voter requirements apply to appointees filling a Council vacancy.
- Former Section 21B – City Auditor. The Charter Review Committee debated this issue at length. One option considered was a Charter amendment for an elected auditor. The Committee unanimously concluded that an elected auditor was not the best approach because an auditor should focus on audits and not running for election and it would be difficult to replace an elected auditor that was not meeting expectations. A collaborative personality and ability to communicate is critical to performing this important function.

The Charter Review Committee also considered a Charter amendment similar to the 2004 proposal and reviewed the current position of Chief Compliance Officer. The Committee supports the expanded role of the Chief Compliance Officer to assist in developing and implementing an appropriate compliance structure for projects. In addition, the Committee believes that generally accepted professional standards require the Chief Compliance Officer to act independently of management. Finally, the work product of the Chief Compliance Officer has been, and is anticipated to continue to be, substantially the same as the work product of the City Auditor.

The Committee recommends that Council establish a method, such as an Internal Audit Committee which could be a sub-committee to the Finance Committee, to ensure that:

- Compliance Officer projects take into consideration the recommendations from various sources including Council, Finance Committee, City Manager, Chief Compliance Officer, the business community and the public.
- There is an independent review by the Internal Audit Committee of the recommendations of the Chief Compliance Officer and implementation of those recommendations that are fully or partially accepted by the City Manager.

The Charter Review Committee recommends that Council monitor the chief compliance officer position and consider placing a city auditor position on the ballot if, in the future, Council determines that formal separation from management is necessary for the position to be effective.

- Section 32 – Filling Vacancies. A majority of the Committee recommends that the definition of the “next available election” in Section 32 be modified as follows:
 - There must be at least one year from the special election to the next regular election for that position.
 - There must be one other issue or candidate on the ballot of all City electors.
- Form of Government. The Charter Review Committee reviewed information regarding the strong Mayor form of government and unanimously concluded that the current Council/Manager approach continues to be in the best interest of the City.

Charter Clean Up Issues

Attachment 2 is a summary of Charter clean up issues. There are a number of provisions that could be revised to eliminate outdated or inconsistent provisions.

A majority of the Charter Review Committee recommends that the following be placed on the May 2012 or November 2012 ballot:

- Amend Section 8 (Councilors) and 9 (Mayor) to clarify when each Council position and the Mayor will run for election.
- Amend Section 9 (Mayor) to resolve inconsistency with Section 32 (Filling of Vacancies). Section 9 provides for a biennial November election while Section 32 requires the vacancy to be filled at the next available election.

Non-Charter Clarifications

Attachment 3 is a summary of the recommended non-Charter clarifications. The Committee recommends Council:

- Establish a process to keep a record of the boundaries of the City.
- Review the various City adopted ethics provisions for consistency.
- Adopt a resolution to keep a record of the results of City elections.

- Establish a process to draw lots to resolve a tie between candidates.
- Amend GRC Article 2.18 (Council Citizen Advisory Committees) to require committee members to take an oath of office.
- Adopt an ordinance to clarify when Section 34 (Mode of Enactment) requires changes to a proposed ordinance be “read aloud.”

Conclusion

The Charter Review Committee thanks Council for the opportunity and privilege to review the City of Gresham Charter. Each one of us took the responsibility seriously and has a new respect and appreciation for this valuable document. The Committee has reviewed each section of the Charter and considered all of the input it has received. The Committee has concluded the City of Gresham is best served by a Council/Manager form of government, elected officials should continue to be elected at large, and that a Charter position of City Auditor is not needed at this time. The Committee recognizes that the Mayor and Councilors should receive compensation for their service and recommends the task force to research this issue be appointed in the near future. To add clarity to the current Charter of the City of Gresham, the Committee recommends Council refer to the voters ballot measures that will clarify election and appointment provisions.

The Committee wishes to express our deep appreciation for the excellent cooperation we received from City Attorney David Ris, Diane Johnson, Patricia Tate, and the other members of the City Attorney’s staff. Their willingness to serve us and our City was exceptional.

Attachments:

- #1 – Charter Review Policy Issues
- #2 – Charter Clean Up Issues
- #3 – Non-Charter Clarifications

CHARTER REVIEW POLICY ISSUES

SECTION	POLICY ISSUE	RECOMMENDED
<p>7 – City Council</p>	<p>Should the Charter specifically require that the positions of mayor and councilors be nonpartisan?</p>	<p>RECOMMENDED: A majority of the Charter Review Committee recommends the following AMENDMENT so the Charter specifically requires that the positions of mayor and councilors be nonpartisan.</p> <p>Section 7. CITY COUNCIL. The council shall consist of a mayor and six councilors elected from the city at large. <u>All elections for city offices must be nonpartisan.</u></p> <p><i>CRC Minutes – 12/1/11, Pages 7-8</i> <i>CRC Minutes – 12/15/11, Page 12</i> <i>CRC Minutes – 12/29/11, Page 14</i> <i>CRC Minutes – 1/17/12, Page 4</i> <i>CRC Minutes – 1/24/12, Pages 18</i></p>
<p>11 - Qualification for Council</p>	<p>The Charter currently requires that a person elected to council must reside in the city for at least one year preceding the election but does not include such a requirement for an appointee.</p> <p>Should the Charter be amended to provide a one-year residency requirement for an appointee filling a council vacancy?</p>	<p>RECOMMENDED: A majority of the Charter Review Committee recommends the following AMENDMENT to Section 11(a):</p> <p>No person may be eligible to serve on the council unless at the time of their election <u>or appointment</u> he or she is a qualified voter under the meaning of the Constitution of Oregon and has resided in the city at least one year immediately preceding the election <u>or appointment</u>. For the purpose of this section, city shall mean any area included in the corporate limits as of the date of the election <u>or appointment</u>.</p> <p><i>CRC Minutes – 10/27/11, Pages 6-7</i> <i>CRC Minutes – 12/1/11, Pages 8-10</i> <i>CRC Minutes – 1/24/12, Page 13</i></p>

CHARTER REVIEW POLICY ISSUES

SECTION	POLICY ISSUE	RECOMMENDED
<p>32 – Filling of Vacancies</p>	<p>Section 32 provides that a vacant position shall be filled by appointment but that an elected successor for the unexpired term shall be chosen at the next available election date if the vacancy is 30 days before the filing deadline for the election, the vacancy is at least one year before the regular election for that position, and there must be at least one other issue or candidate on the ballot.</p> <p>Should the process to fill a vacant elected position be revised?</p>	<p>RECOMMENDED: The majority of the Committee recommends that the definition of the next available election be modified as follows by AMENDMENT:</p> <ul style="list-style-type: none"> • There must be at least one year from the special election to the next regular election for that position. This would avoid the situation where the next available election to fill the remainder of the term is in May and the election for the new four year term takes place six month later in November. • The “one other issue or candidate” must be on the ballot of all city electors. This would avoid a situation where an election would be required where the other issue or candidate was only on the ballot for a portion of the City. <p><i>CRC Minutes – 11/10/11, Pages 5-6</i> <i>CRC Minutes – 12/29/11, Pages 6-12</i> <i>CRC Minutes – 1/24/12, Pages 13-18</i></p>

CHARTER REVIEW POLICY ISSUES

SECTION	POLICY ISSUE	RECOMMENDED FURTHER ACTION
<p>10(a) - Compensation</p>	<p>Based on the legislative history of the 1984 amendment of Section 10 of the Charter, members of council receive no compensation for their service except for reimbursement of expenses.</p> <p>Should the Charter be amended to provide for compensation for service as an elected official?</p>	<p>The Charter Review Committee unanimously recommends no change to the current Charter language at this time.</p> <p>RECOMMENDED FURTHER ACTION: The Charter Review Committee’s research included the League of Oregon Cities Elected Officials Stipends & Benefits 2006 report. The Charter Review Committee recognizes that the mayor and councilors spend significant time on their official duties and should receive some compensation for service. However, the Committee does not believe that a Charter amendment on the May 2012 ballot would pass by 60% of the votes cast due to economic conditions and the lack of time to provide information to voters.</p> <p>The Charter Review Committee recommends council appoint a special Task Force, whose membership includes qualified professionals, to further research the issue of council compensation.</p> <p><i>CRC Minutes – 10/27/11, Pages 2-5</i> <i>CRC Minutes – 12/1/11, Pages 4-7</i> <i>CRC Minutes – 12/15/11, Pages 12-14</i> <i>CRC Minutes – 1/24/12, Page 13</i></p>

CHARTER REVIEW POLICY ISSUES

SECTION	POLICY ISSUE	RECOMMENDED FURTHER ACTION
<p>21B - City Auditor</p>	<p>In 2004, 54% of the voters approved adding a city auditor office to the Charter. Pursuant to the 60% requirements of Section 45A, the Charter amendment did not take effect.</p> <p>Should the Charter be amended to establish an appointive office of city auditor?</p>	<p>A majority of the Charter Review Committee recommends no change to the current Charter language at this time.</p> <p>RECOMMENDED FURTHER ACTION: The Committee recommends that council establish a method, such as an Internal Audit Committee which could be a sub-committee to the Finance Committee, to ensure that:</p> <ul style="list-style-type: none"> • Compliance officer projects take into consideration the recommendations from various sources including Council, Finance Committee, City Manager, Chief Compliance Officer, the business community and the public. • There is an independent review by the Internal Audit Committee of the recommendations of the Chief Compliance Officer and implementation of those recommendations that are fully or partially accepted by the City Manager. <p>The majority of the Committee recommends that council monitor the chief compliance officer position and consider placing a city auditor position on the ballot if, in the future, council determines that formal separation from management is necessary for the position to be effective.</p> <p><i>CRC Minutes – 9/22/11, Page 6</i> <i>CRC Minutes – 12/15/11, Pages 4-11</i> <i>CRC Minutes – 12/29/11, Pages 1-5</i> <i>CRC Minutes – 1/24/12, Pages 2-9</i></p>

CHARTER REVIEW POLICY ISSUES

SECTION	POLICY ISSUE	RECOMMENDED FURTHER ACTION
45B – Charter Review	<p>Section 32 requires council to appoint a Charter Review Committee every eight years starting in 2003.</p> <p>Should council be allowed to appoint a Charter Review Committee more frequently than every eight years? Should the appointment of an interim Committee restart the eight year time period for the next Charter review?</p>	<p>The Charter Review Committee unanimously recommends no change to current Charter language. The provision does not prohibit council from appointing a Charter Review Committee more frequently than every eight years. Appointment of an <i>interim</i> Committee would not restart the eight-year period.</p> <p>RECOMMENDED FURTHER ACTION: The Committee recommends that council appoint and activate the next Committee early in 2019 to allow additional time for the Committee to consider Charter issues, to collect public input, and to provide sufficient time to inform voters of proposed ballot measures.</p> <p><i>CRC Minutes – 11/10/11, Page 10</i> <i>CRC Minutes – 1/24/12, Page 18</i></p>

CHARTER REVIEW POLICY ISSUES

SECTION	POLICY ISSUE	NOT RECOMMENDED
<p>7 – City Council</p>	<p>Councilors are currently elected at large. Should districts be established for the nomination and/or election of councilors?</p>	<p>A majority of the Charter Review Committee recommends NO CHANGE to the current Charter language. Some members of the Committee recommend that the question of nominating or electing councilors by district should receive more in-depth study in the future. <i>CRC Minutes – 10/13/11, Pages 3-5</i> <i>CRC Minutes – 11/17/11, Pages 2-12</i> <i>CRC Minutes – 1/24/12, Pages 10 -13</i></p>
<p>9A – Citizen Involvement</p>	<p>Should the Charter be amended to improve citizen involvement?</p>	<p>The Charter Review Committee unanimously recommends NO CHANGE to the current Charter language. The current provision addresses citizen involvement appropriately. <i>CRC Minutes – 10/13/11, Page 10</i> <i>CRC Minutes – 1/17/12, Pages 2-3</i> <i>CRC Minutes – 1/24/12, Page 10</i></p>
<p>17 - Council President</p>	<p>Should the Charter require that the position of council president be rotated among councilors?</p>	<p>The Charter Review Committee unanimously recommends NO CHANGE to current Charter language. Council should continue to have the flexibility to select the councilor that will best fill the role of council president. <i>CRC Minutes – 10/27/11, Page 8</i> <i>CRC Minutes – 12/15/11, Pages 11-12</i> <i>CRC Minutes – 1/24/12, Page 10</i></p>

CHARTER REVIEW POLICY ISSUES

SECTION	POLICY ISSUE	NOT RECOMMENDED
<p>20 – City Manager (f) Interference with Administration</p>	<p>Section 20(f) prohibits a member of council from directly or indirectly attempting to influence or coerce the manager in the making of any appointment or the removal of any officer or employee, in the purchase of supplies, or attempt to exact any promise relative to any appointment from any candidate for manager.</p> <p>Should other issues be added to these prohibitions?</p>	<p>The Charter Review Committee unanimously recommends NO CHANGE to current Charter language.</p> <p><i>CRC Minutes – 10/27/11, Pages 9-11</i> <i>CRC Minutes – 12/15/11, Page 12</i> <i>CRC Minutes – 1/24/12, Page 13</i></p>
<p>31 – Office Vacancies</p>	<p>Section 31(a) and (b) list circumstances when an elective office would be deemed vacant including death, resignation, recall, ceasing to reside in Gresham, and failing to qualify for the office.</p> <p>Should elected office be deemed vacant in other circumstances such as interference with the city manager?</p>	<p>The Charter Review Committee unanimously recommends NO CHANGE to current Charter language. Section 20(f)(2) currently provides that a member of council that violates the interference provision forfeits their office after a public hearing by the council is held and a determination of guilt is established.</p> <p><i>CRC Minutes – 11/10/11, Pages 3-4</i> <i>CRC Minutes – 12/29/11, Pages 6-12</i> <i>CRC Minutes – 1/24/12, Page 13</i></p>
<p>45A – Charter Amendments</p>	<p>Should the Charter requirement that amendments be approved by at least 60 percent of electors casting votes for or against the measure be revised?</p>	<p>The Charter Review Committee unanimously recommends NO CHANGE to current Charter language. The 60% requirement ensures that changes to the Charter have broad support from the electors.</p> <p><i>CRC Minutes – 11/10/11, Pages 9-10</i> <i>CRC Minutes – 12/29/11, Pages 12-13</i> <i>CRC Minutes – 1/24/12, Page 18</i></p>

CHARTER REVIEW POLICY ISSUES

SECTION	POLICY ISSUE	NOT RECOMMENDED
General	<p>The City of Gresham is currently a council/manager form of government where council makes policy decisions and the city manager is the administrative head of the city. Other forms of government used by local cities include strong mayor (City of Beaverton) where the mayor is the chief administrative officer and the mayor/commission (City of Portland) where each elected official administers an assigned unit of the city.</p> <p>Should Gresham’s form of government be revised?</p>	<p>The Charter Review Committee unanimously recommends NO CHANGE to current Charter language. After reviewing the advantages and disadvantages of the different approaches, the Charter Review Committee determined that the council/manager form of government best serves the needs of the City of Gresham.</p> <p><i>CRC Minutes – 11/17/11, Pages 2-12</i> <i>CRC Minutes – 1/24/12, Page 18</i></p>

CHARTER CLEAN UP ISSUES

SECTION	ISSUE	POSSIBLE CHARTER AMENDMENT	RECOMMENDED
8 - Councilors	Section 8 was last amended in 1994 and fixed the starting point for future elections of councilor to the November elections in 1996 and 1998.	At the 1996 November election, councilors from positions 1, 3 and 5 shall be elected for four year terms and councilors from positions 2, 4 and 6 shall be elected for two year terms. At each biennial November election commencing in 1998 , councilors shall be elected from three positions by a plurality of the voters for terms of four years. <u>Councilors for positions 1, 3 and 5 shall be elected at the presidential election and councilors for positions 2, 4 and 6 shall be elected at the gubernatorial election.</u>	RECOMMENDED: A majority of the Charter Review Committee recommends that this AMENDMENT be placed on the ballot. An amendment would make it easier to determine when each council position will run for election.
9 – Mayor	1. This section was last amended in 1984 and fixed the starting point of future mayoral elections as the 1986 November election.	At the November election held in 1986 and every fourth year thereafter, a A mayor shall be elected for a term of four years <u>at the gubernatorial November election</u> . The mayor in office when this Charter is amended shall continue in office for the term for which then elected. At each biennial November election, a A mayor shall be elected, if necessary, to fill any vacancies pursuant to Section 32 of this Charter.	1. RECOMMENDED: A majority of the Charter Review Committee recommends that this AMENDMENT be placed on the ballot. An amendment would make it easier to determine the mayoral election date.
	2. The vacancy provision was not revised when Section 32 was amended in 1998 to require vacancies to be filled at the next available election. Section 32 controls as it does not exclude the Mayor and was amended after Section 9.		2. RECOMMENDED: A majority of the Charter Review Committee recommends that this AMENDMENT be placed on the ballot. An amendment would eliminate a conflict between Section 9 and Section 32.

CHARTER CLEAN UP ISSUES

SECTION	ISSUE	POSSIBLE CHARTER AMENDMENT	NOT RECOMMENDED
12 – Council Meeting	It is unclear if the requirement for two “regular meetings” includes policy development and roundtable meetings. Although “regular” was deleted from Section 31 in 1994, it was not removed from Section 12.	The council shall hold a regular meeting at least twice each month in the city at a time and at a place which it designates. It shall adopt rules for the government of its members and proceedings.	NOT RECOMMENDED: Under Oregon’s Public Meeting Law, council’s reoccurring business, policy development and roundtable meetings are regular meetings.
19 - Mayor	Bond industry and city practice does not include council approval of bonds. Industry practice does not require an obligee to endorse a bond.	After the council approves a bond of a city officer or a bond for a license, contract, or proposal, the mayor shall endorse the bond.	NOT RECOMMENDED: No Charter or Code provision requires council approval of a bond so the requirement that the mayor endorse the bond will not be triggered.
20 - City Manager (a) - Office	It is unknown when council last required a city manager to post a bond. The posting of a bond by a city manager is not generally required by Oregon cities.	Before taking office, he or she shall give a bond in such amount and with surety as may be approved by the council. The premiums on the bond shall be paid by the city.	NOT RECOMMENDED: The requirement for the city manager to post a bond has not been triggered because council has not approved a surety or bond amount.
20 - City Manager 20(g) - Ineligible Persons.	This nepotism provision is inconsistent with state law. It is an unlawful employment practice for any employer to base employment decisions on family relationship except in cases of direct supervision. State law applicable to governmental employers prohibit supervisors from making employment decisions impacting relatives.	<u>Subject to Oregon law,</u> Neither the manager's spouse nor any person related to the manager or his or her spouse by consanguinity or affinity within the third degree may hold any appointive office or employment with the city.	NOT RECOMMENDED: The Charter Review Committee recommends making no change to the Charter. The Committee recommends the city attorney provide information regarding the inconsistency with state law in notes to the Charter.

CHARTER CLEAN UP ISSUES

SECTION	ISSUE	POSSIBLE CHARTER AMENDMENT	NOT RECOMMENDED
21A - City Attorney	The city attorney recommends employment decisions to council based on the needs of the city for legal expertise and performance issues. In contrast, Section 20(c)(3) gives the manager authority to hire and fire the manager’s employees.	The city shall have a city attorney and such assistant city attorneys and other staff members as the council deems necessary. The city attorney and the city attorney's staff shall be appointed and removed by a majority vote of the entire council.	NOT RECOMMENDED: While an amendment would make it more efficient for the city attorney to hire and fire employees, the need for the change does not rise to the level of a Charter amendment
31 Office Vacancies (c) & (d) – Absence from city & failure to attend	The Charter Review Committee discussed whether these sections of the Charter should specifically mention telephone attendance	(c) An elective office becomes vacant whenever its incumbent is absent from the city for a period of 45 days except that the council may grant the incumbent a leave of absence of not more than 90 days. (d) An elective office shall be declared vacant whenever its incumbent fails to attend three consecutive meetings of the council <u>in person or by electronic means</u> , unless absent upon leave of the council is first obtained.	NOT RECOMMENDED: The Oregon Public Meeting Law allows attendance at meetings by electronic means. In addition, Section 32(b) of the Charter mentions “attend meetings by an alternative form such as telephone.”
45 – Referendum	The Charter contains no mention of the ability of council to refer measures to the voters.	The people reserve to themselves the referendum power, which is to approve or reject ordinances and amendments to the Charter at an election as provided by ordinance, the Oregon Constitution and state law. <u>Council may refer to the people to approve or reject ordinances, amendments to the Charter, and other measures as provided by the Oregon Constitution, state law, and ordinance.</u>	NOT RECOMMENDED: A Charter amendment is not required as council referral of measures to the people is allowed by state law.

CHARTER CLEAN UP ISSUES

SECTION	ISSUE	POSSIBLE CHARTER AMENDMENT	NOT RECOMMENDED
46 – Recall	1. The reference to “citizen” is inconsistent with the use of “people” in Section 44 (Initiative) and Section 45 (Referendum).	The citizens <u>people</u> of the City of Gresham shall have the power and authority to recall an elected officer of the city. The manner and effect shall be that prescribed by state law except for the number of signatures necessary to order a recall. A petition signed by 10 percent of the number of persons registered to vote in the city at the last general election is necessary to order the recall of the mayor.	1. NOT RECOMMENDED: While an amendment would make the Charter more consistent, the need for the change does not rise to the level of a Charter amendment.
	2. Section 46 was not updated in 1986 when election by district was deleted from the Charter.	A petition signed by 10 percent of the persons registered to vote in the district from which the councilor was elected at the last general election is necessary to order the recall of a councilor. The petition shall set forth the reason for the recall. If the official affected by the petition for recall offers his or her resignation to the council, it shall be accepted and take effect on the day it is ordered and be effective for the remainder of the term.	2. NOT RECOMMENDED: While an amendment would make this section consistent with the 1986 amendments, for purposes of implementing this section, the term “district” can be interpreted to be the entire city. The need for the change does not rise to the level of a Charter amendment.

CHARTER CLEAN UP ISSUES

SECTION	ISSUE	POSSIBLE CHARTER AMENDMENT	NOT RECOMMENDED
47 – Conflict of Interest	Section 47 does not refer to the mayor.	No councilor-elected official may be pecuniarily interested in any contract, the expenses of which are to be paid by the city. No councilor-elected official or member of the planning commission shall participate in the discussion or vote on any subject in which he or she is pecuniarily interested.	NOT RECOMMENDED: The majority of the Charter Review Committee determined that other provisions apply to the Mayor and are substantially similar to Section 47. These laws include Oregon’s Government Ethics Law and the council resolution adopted pursuant to Section 18A (Code of Ethics) of the Charter.
New Section – Severability	Severability provisions are common in legal documents. The League of Oregon Cities Model Charter, state law, and the Gresham Revised Code have a severability provisions. However, the Oregon Constitution does not have a severability provision.	Adding a severability provision would mean that if a Charter provision is challenged in court, the court could sever the unlawful portion but retain the lawful language.	NOT RECOMMENDED: Courts will use the principal of severability even in the absence of a specific provision authorizing that approach.
New Section – Scrivener Error	Such a provision would provide a method to correct grammatical, numbering, and other errors included in previous Charter amendments.	Add a scrivener error provision.	NOT RECOMMENDED: In 1998, a similar provision was rejected by voters 8,614 yes to 10,894 no.

CHARTER CLEAN UP ISSUES

SECTION	ISSUE	POSSIBLE CHARTER AMENDMENT	NOT RECOMMENDED
General	The Charter is inconsistent in how it refers to office, officer, official, and employee throughout the Charter.	Not Applicable.	<p>NOT RECOMMENDED: The meaning of these terms can be determined by the context in which these terms are used.</p> <p><i>“Use of Officer” is a separate table that analyzes the use of these terms throughout the Charter and is available upon request.</i></p>
General	Errors were discovered in the Charter that were not included in any ballot voted on by the people	Not Applicable.	<p>Typographical errors in Sections 20(d) (Seats at Council) and 32(b) (Filling of Vacancies) that were not included in any ballot voted on by the people have been corrected. In addition, Section 21B (City Auditor) has been removed from the Charter. An explanation of those corrections has been added to the History of Changes that accompanies the Charter.</p>

NON-CHARTER CLARIFICATIONS

SECTION	ISSUE	RECOMMENDATION
<p>3 – Boundaries</p>	<p>"The repository of city records shall include at least two copies of this Charter, each containing an accurate, up-to-date description of the boundaries. The copies and descriptions shall be available for public inspection at any time during regular office hours."</p> <p>What is the repository of city records?</p> <p>What is the description of the city boundaries?</p>	<p>Council should adopt an ordinance that would provide, for purposes of Section 3, that the repository of city records is the city recorder.</p> <p>There is no metes and bounds description of the city's current boundaries. To meet this Charter requirement, council should adopt an ordinance that would require:</p> <ul style="list-style-type: none"> • Two originals of a map of the city boundaries be provided to the city recorder as the repository of city records. • An affidavit from the person responsible for maintaining the city limits portion of the Geographical Information System (GIS) of the city that states the map accurately reflects city boundaries based on the various official annexation and de-annexation actions taken since the 1948 Charter boundaries. • The map and affidavit to be updated when territory is annexed to or de-annexed from the city.
<p>18A - Code of Ethics</p>	<p>The ethical obligations of council and staff are established in several ways including Oregon’s Ethics Law, Section 47 (Conflict of Interest), provisions adopted pursuant to Section 18A (Code of Ethics), and other ethical provisions adopted by council resolution and employee rules adopted by the city manager.</p>	<p>To ensure that the provisions adopted by council and the city manager are consistent with state law and the Charter, council should direct the city attorney to review city adopted ethic provisions and make recommendations for any appropriate revisions.</p>

NON-CHARTER CLARIFICATIONS

SECTION	ISSUE	RECOMMENDATION
26 – Election Results	Section 45A of the Gresham Charter provides that a Charter amendment is not effective unless approved by 60% of those voting on the measure. Section 26 of the Charter requires that election results be entered into the record of council proceedings.	To ensure that these requirements are met in future elections, the Charter Review Committee recommends that after each election council should adopt a resolution to formally enter the election results into council records and to document the percentage of voter approval of measures. Consistent with Charter requirements, each resolution should state: (1) The total number of votes cast for each person and the name and office of each person elected; and (2) The total number of votes cast for and against each measure, whether a Charter amendment received 60% of the vote, and each measure enacted or approved.
27 – Tie Votes	Section 27 provides that council is to prescribe the manner of a public drawing of lots to resolve a tie between two candidates for an elective office.	To address this Charter required matter prior to the next election, council should direct the city attorney to prepare an ordinance or resolution to prescribe the manner for a public drawing of lots to resolve a tie between two candidates.
29 – Oath of Office	Members of the Charter Review Committee noted that some jurisdictions require members of advisory committees to take an oath of office.	Council should add provisions to Gresham Revised Code Article 2.18 (Council Citizen Advisory Committees) to require advisory committee members to take an oath of office at the commencement of each term.
34 – Mode of Enactment	Section 34 is unclear regarding the requirement to read aloud changes made to proposed ordinances.	Council should add provisions to the Gresham Revised Code that “reading aloud” as used in Section 34 applies when changes made between the distribution of agenda materials and action by council at the meeting.