

Sec. 3.01. - Governing Body.

The governing body of the city shall be a city council composed of six (6) councilmembers and a mayor, each elected for a term of three years. The council places shall be designated 1, 2, 3, 4, 5 and 6, and the mayor and councilmembers for Places 1, 3 and 5 shall be elected from the city at-large. Councilmembers for Places 2, 4 and 6 shall be elected from single member districts established by ordinance for the 2002 and subsequent elections. The terms of the members of the council shall be staggered, with two councilmembers being elected each year and the mayor being elected each third year.

Issue: the ordinance in 2002 established the election cycles for district 6 so that it is never concurrent with the Mayoral election. The impact of this is that the Mayoral election always takes place at the same time as the elections for the other single member districts. Turnout from those districts may be higher in the mayor's race as a result.

Section 3.03. - Term Limits.

No person elected to the council in 2011, or thereafter, shall be elected thereafter to serve more than three consecutive regular terms of office as a councilmember or as the mayor; provided that a person may serve up to three consecutive regular terms of office as a councilmember and thereafter be elected and serve up to three consecutive regular terms of office as the mayor. A person elected to fill an unexpired of one year or less will remain eligible to serve three regular terms of office.

Issue: It may never become an issue but under this term limit provision, a mayor could not serve three consecutive terms and then run for city council, but a member of the city council can serve for three consecutive terms and then serve for three consecutive mayoral terms. The Commission may consider reaffirming that this was intentional.

Sec. 3.05. - City Council Judge of its Members.

The council shall be the judge of the election and qualifications of its members, may determine the rules of its proceedings, and shall have power to compel the attendance of absent members and to punish members for disorderly conduct. After due notice and opportunity to be heard, upon not less than six affirmative votes the council shall have the power to remove any elected officer for conviction of a felony, gross immorality, habitual drunkenness, corruption, misconduct or malfeasance in office, or failing to continuously reside with the city and/or the district from which elected. Officers or employees of the city appointed directly by the council may be removed by majority vote of the council at any time after notice in compliance with the open meetings laws.

Issue: It is not clear that the council member that is the subject of any disciplinary action is not permitted to vote. The six affirmative votes essentially would require that the decision be unanimous. The current six vote provision would also prevent the council from disciplining one of its members if there is a vacancy on the council.

Sec. 4.01. - Mayor.

The mayor shall serve as the ceremonial head of the city, preside at all meetings of the council and provide the leadership necessary to good government. He or she shall work with the council to obtain legislation in the public interest and with the city manager to ensure that the same is enforced, and participate in the discussion and vote on all legislative and other matters coming before the council. The mayor shall have signatory authority for all legal contracts and commitments of the city; sign all ordinances and resolutions; recommend appointees for the boards and commissions; work and coordinate with the city manager and the council; and, to the extent provided by state law in time of declared emergency, may take command of the police and govern the city by proclamation, maintain order and enforce all laws.

Issue: The recommendation language related to appointments may need clarification. Is this a nomination and confirmation process? Anyone can technically make a "recommendation" for anything. Historically, this has been treated as a nomination and confirm process, but that may not be the intention of the original authors or not what the Commission thinks is best. It is a very loose word for something that is traditionally a formal process.

Sec. 4.03. - The City Council.

(f) Provide for boards and commissions as deemed necessary by the council, and as required by this charter, and appoint and remove all such boards and commissions upon the recommendation of the mayor provided that, if an appointment or removal has been considered at two regular meetings and no recommendation has been made the council may take action by motion and vote;

Issue: No reference to committees. Also, "recommendation" language is repeated here.

(o) For good cause, order a recall election to be held for or with respect to any member of the city council;

Issue: Is this subsection subject to the 6 vote requirement in Sec. 3.05?

Sec. 5.09. - Election by Majority.

The mayor and councilmembers shall be elected by majority vote. No measure shall be adopted except by a majority vote and a tie vote shall defeat the measure.

Issue: Low turnout and increasing numbers of individuals filing for positions have frequently led to runoff elections that rarely if at all have resulted in an election of a candidate who was not the top vote recipient in the general election. Simply eliminating the 50%+1 requirement could lead to an unintended consequence of a group of individuals colluding to run a large number of candidates for a single seat, thus significantly lowering the percentage of votes necessary to win

the election. The runoff elections are costly and do not typically change the outcome. This issue has been raised by members of the community who volunteer for the elections and the Commission may wish to consider addressing it while ensuring that any unintended consequences of making a change cannot occur.

Sec. 8.12. - Reserve Fund.

A reserve fund shall be established. Except when expended only for an emergency, the reserve fund shall over time be funded in an amount equal to at least twenty-five percent of the annual operating budget. If expended the reserve fund shall be restored as soon thereafter as practicable.

Issue: Annual operating budget or general fund? A second reserve fund was established by a prior city council that was “three months of the general fund.” This ordinance creating the conflicting fund has been repealed. However, since it was a contentious matter at the time it was being considered, the Commission may wish to evaluate whether this provision is consistent with standard practice. The annual budget includes dedicated revenues but an emergency fund balance doesn’t typically include encumbered funds.

Sec. 12.04. - Conflict of Interest.

No officer or employee of the city shall participate in the deliberation or decision on any issue, subject or matter before the council or any board or commission, if the officer or employee has a personal financial or property interest, direct or indirect, in the issue, subject or matter, that is different from that of the public at large. An interest arising from job duties, compensation or benefits payable by the city shall not constitute a personal financial interest.

Issue: What constitutes an interest that is different from the public at large? For example, is membership or being an officer in a neighborhood HOA an interest that is different if the council is going to commit resources, expend funds, litigate, or otherwise act upon an interest that is substantially unique to just that neighborhood and is being requested by such an HOA. There are other entities within the city such as non-profit boards in which a city official may be a member. Does this provision require recusal in such circumstances? A clarification here may be helpful in the future.

Sec. 13.08. - Charter Review.

The council shall review the charter every two years to determine if any amendment should be considered. The council shall appoint a charter review commission, consisting of seven (7) qualified voters of the city, not less often than every fifth year. The term of each charter review commission shall be six (6) months and such commission shall review, hold hearings upon, and make recommendations for the amendment, if any, of this charter. Any resulting charter elections shall be noticed and held in compliance with state law.

Issue: Is this the appropriate timing and process?

Council Recommendations for Consideration by the Charter Review Commission

1. Anyone who has filed a lawsuit against the city is prohibited to run for any elected office within the city of Kyle.
2. Any council member that runs for a different seat should lose their existing seat. Also, should anyone who runs and gets elected, their term should terminate and is not eligible to complete the rest of their term. Effective 1/2016.