



Office of the City Manager Memorandum

Date: August 14, 2012

To: Charter Review Committee Members

From: Laura A. Fitzpatrick, Assistant City Manager

CC: The Honorable Mayor and Members of the City Council
James C. Babin, Acting City Manager

Re: Report on Form of Government & Related Issues

At your meeting on August 6th, you requested the information listed below. This report contains that information organized into sections.

Part I: Form of Government

- Compare & Contrast Council-Manager and Strong Mayor Forms of Government
- List pros and cons for each (Note: Determining if a feature of a form of government is a “pro” or a “con” is in the eye of the beholder. As such, characteristics for each form are simply listed. The reader can decide whether each is an advantage or disadvantage.)

Part II: Form of Government and Population

- Is there a relationship between population and form of government?

Part III: Council-Manager Cities with a Full-time Mayor

- Do any exist? What are the duties of the Mayor? What is the salary of these mayors?

Part IV: Miscellaneous

- What dictates when salary (approved by ordinance) goes into effect? (State Law or City Charter)
- Under the current Charter (approved in 2012), who determines if the Mayor has a conflict between his/her jobs? (Question submitted by Steve vanHorn on 8/8.)

Part V: Summary/Discussion Questions

This section was not requested, but may be helpful for discussion. It includes questions for consideration when pondering form of government issues.

Part I: Council-Manager vs. Mayor-Council Form of Government

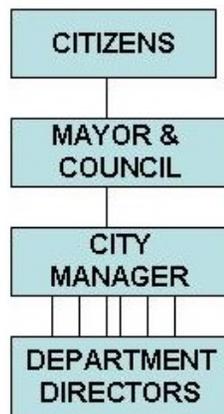
The council-manager and mayor-council (also referred to as strong mayor) forms of government have different organizational structures. These structures reflect different relationships between:

- The mayor and city council
- The department directors, mayor and city council

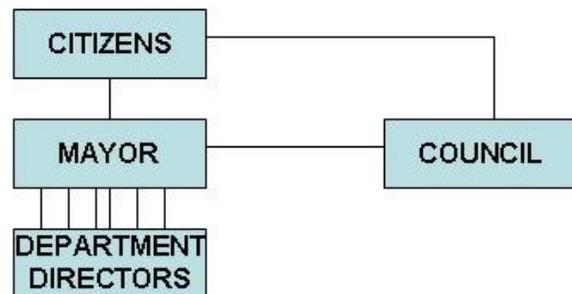
The council-manager form consists of an elected city council which is responsible for policy making, and a professional city manager, appointed by the council, who is responsible for administration of city services. The mayor-council form consists of an elected mayor who serves as the city's chief administrative officer, and a council which serves as the municipality's legislative body.

The organizational structure for each of these forms of government are below.

Council-Manager



Mayor-Council



Source: International City/County Management Association: "Forms of Local Government"

Characteristics of the Two Forms of Government

Council-Manager Form

- Intent is that political leadership comes from the entire governing body and not a single, charismatic individual.ⁱ
- The less power granted to the mayor, the more power and responsibility the council has.ⁱⁱ
- The city manager is hired on the basis of his/her education, experience, skills, and abilities (and not his/her political allegiances).ⁱⁱⁱ
- If the manager is not responsive to the governing body, it has the authority to terminate the manager at any time.^{iv}
- Employees are more isolated from political influence. As such, they are more likely to act in politically neutral ways that are responsive to the authoritative acts of the governing body, managerial direction, and the ethical standards of their profession.^v
- Promotes equity and fairness by ensuring that services are fairly distributed and that administrative decisions (such as hiring and contracting) are based on merit rather than favoritism.^{vi}

- Designed to promote partnership between the mayor and council. The mayor's role is facilitative.^{vii}

Mayor-Council Form

- Brings government closer to the voters in that elected leaders are solely accountable for the direct administration as well as the oversight of municipal functions.^{viii}
- All key policy and management decisions flow from the mayor's authority.^{ix}
- The Mayor has a freedom that an appointed manager doesn't have to speak out on public issues and to represent his city to other public officials without getting approval from a majority of the city council.^x
- There are more potential threats to maintaining a politically neutral staff.^{xi}
- Allows mayor to combine political and managerial skills.^{xii}
- Politicians elected to the position of mayor are not necessarily good administrators.^{xiii}
- This form of government most closely parallels the American federal government with an elected legislature and a separately elected executive.^{xiv}

Part II: Form of Government and Population

Attachment A is a chart that delineates form of government in specific population ranges. 64% of communities in the population range of 50,000 to 99,000 operate under the council manager government. (Rio Rancho's population is 87,521.) The council-manager government is the most prevalent form in five of the nine ranges. However, it is important to note that in every category a substantial percentage of communities operate under the mayor-council form of government, and it is the most prevalent form of government in four of the nine ranges.

Part III: Council-Manager Cities with a Full-Time or Salaried Mayor (\$30,000 or greater)

As stated previously, it is unusual to have a salaried or full-time mayor in a city with a council-manager government. As such, there are not many examples, especially for mid-sized cities. As illustrated in Table B, it is more common for there to be a full-time (or salaried at a substantial wage) mayor in a larger council-manager city. Job duties as outlined in charters for the mayors in the cities below are in Attachment A.

Note that for all the communities except one (Long Beach) full-time status is not specified in the job duties portion of the charter. I will contact the sixteen cities below and inquire about: 1) the existence of the requirement of full-time employment of the mayor and the definition of full-time; and 2) if these mayors are permitted to have other full-time employment and related issues, such as addressing conflict of roles. I will report on that issue at the meeting.

TABLE A: Mid-sized Cities

<i>City</i>	<i>Pop.</i>	<i>Mayor's Salary</i>
Rio Rancho, NM	87,521	\$26,749
Las Cruces, NM	97,618	\$73,892
Ann Arbor, MI	114,925	\$41,200
Flagstaff, AZ	65,870	\$36,000
Tempe, AZ	161,719	\$54,409
Surprise, AZ	117,517	\$34,017
Peoria, AZ	154,065	\$30,278

TABLE B: Larger Cities

<i>City</i>	<i>Pop.</i>	<i>Mayor's Salary</i>
Phoenix, AZ	1,445,632	\$88,000
Sacramento, CA	471,991	\$115,000
Long Beach, CA	462,257	\$128,814
Riverside, CA	303,871	\$78,828
Cincinnati, OH	296,943	\$111,402
Glendale, AZ	226,721	\$48,000
Tucson, AZ	520,116	\$42,000
Mesa, AZ	439,041	\$38,002
Gilbert, AZ	208,453	\$37,822

Part IV: Miscellaneous

Authority for Effective Date of Salary

At the August 6th meeting, Vice-chairman Foley asked what dictates when salary (approved by ordinance) goes into effect? Is this State Law or City Charter?

The Constitution of the State of New Mexico dictates when salary can go into effect. The excerpt below is from the City Charter.

Section 2.04 Compensation; Expenses.

Compensation. *The Governing Body shall determine the salary of the mayor, City Council members, and municipal judge by ordinance, subject to the limits of the New Mexico Constitution and irrespective of the annual salary of the county commissioners of any county within which all or part of the City is situate.*

The excerpt from the State Constitution is:

Article IV – Legislative Department

Sec. 27. [Extra or increased compensation for officers, contractors, etc.]

No law shall be enacted giving any extra compensation to any public officer, servant, agent or contractor after services are rendered or contract made; nor shall the compensation of any officer be increased or diminished during his term of office, except as otherwise provided in this constitution.

Determination of Conflict of Interest

On August 8th, Chairman vanHorn asked under the current Charter (approved in 2012), who determines if the Mayor has a conflict between his/her jobs?

The charter currently states that the mayor shall:

Devote her/his full time to the discharge of mayoral duties and have outside employment only if the outside employment does not materially conflict with the performance of such duties.

Because a process for determining if a conflict exists is not specified, the Mayor is the person who makes the determination about any material conflict with the performance of duties.

Part V: Summary - Questions to Consider

In their 2009 article in *Public Management Magazine*, Robert O’Neill and John Nalbandian suggest considering the following questions when looking at a change in structure or charter:

- What problems or opportunities would changing the form of government address?
- What is not working as well as it should?
- What is the evidence that changing the organization’s structure or jurisdiction’s charter would fix the problem or open up a new opportunity?
- Does the organization structure enhance or diminish problem solving?

Finally, it may also be helpful to consider this contrast between the two forms of government. O’Neill and Nalbandian point out that “the mayor-council form separates legislative and executive powers, and the council-manager form unites them.”

ⁱ O’Neill, Robert and John Nalbandian. “Charter Reform: Ways to Think About It.” *Public Management*. Washington, DC: November 2009.

ⁱⁱ O’Neill, Nalbandian – see above

ⁱⁱⁱ “Council-Manager Form of Government: Frequently Asked Questions.” Published by the International City/County Management Association. www.icma.org

^{iv} “Council-Manager Form of Government: Frequently Asked Questions.”

^v O’Neill, Nalbandian - – see above

^{vi} “Council-Manager Form of Government: Frequently Asked Questions.”

^{vii} O’Neill, Nalbandian - – see above

^{viii} Romanet, Jr., Andrew L. “Governance in Mayor-Council Cities.” *County and Municipal Government in North Carolina*. Article 6. UNC - Chapel Hill School of Government: 2007.

^{ix} Levy, David B. “Powerful-mayor government does not serve public interest.” www.citymayors.com December 8, 2009.

^x Smith, Evan. “Perspectives on mayor-council vs. council-manager city government.” *The Weekly Herald*. Everett, WA: October 28, 2011.

^{xi} O’Neill, Nalbandian - – see above

^{xii} DelVecchio, Rick. “Oakland Council to Consider ‘Strong-Mayor’ Government Rule.” *San Francisco Chronicle*. July 9, 1996.

^{xiii} Romanet, Jr. Andrew L. – see above

^{xiv} “Forms of Local Government.” International City/County Management Association. www.icma.org

ATTACHMENT A

**Most Prevalent Form of Local Government in Specific Population Ranges (2012):
Council-Manager (CM) vs. Mayor-Council (MC)**

<u>Between 2,500 and 4,999</u> (2,283)	<u>Between 5,000 and 9,999</u> (1,945)	<u>Between 10,000 and 24,999</u> (1,852)	<u>Between 25,000 and 49,999</u> (789)	<u>Between 50,000 and 99,999</u> (422)
CM: 864 (38%) MC: 1,258 (55%)	CM: 914 (47%) MC: 853 (44%)	CM: 973 (53%) MC: 708 (38%)	CM: 496 (63%) MC: 255 (32%)	CM: 270 (64%) MC: 142 (34%)

<u>Between 100,000 and 249,999</u> (180)	<u>Between 250,000 and 499,999</u> (36)	<u>Between 500,000 and 1,000,000</u> (23)	<u>Over 1,000,000</u> (9)
CM: 118 (66%) MC: 59 (33%)	CM: 16 (44%) MC: 19 (53%)	CM: 7 (30%) MC: 15 (65%)	CM: 3 (33%) MC: 6 (67%)

Note: The council-manager form of government is the most prevalent form in five of the nine ranges. Fifty-three percent (53%) of municipalities with a population between 5,000 and 249,999 residents are governed under the council-manager structure (2,771 out of 5,188).

Source: ICMA Municipal Yearbook, 2012

ATTACHMENT B: Job Duties

Las Cruces, NM

Mayor's duties as outlined in the charter:

- Chair the council
- Vote on all matters coming before the council
- Recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law
- Propose programs and policies to the council annually in a formal statement

Ann Arbor, MI

Mayor's duties as outlined in the charter:

- Be the presiding officer of the Council
- Have all the powers and duties of a Council Member, including the power and the duty to vote
- Give the Council information concerning the affairs of the City and recommend such measures as deemed expedient
- In emergencies, have the powers conferred by law upon sheriffs to prevent disorder, preserve the public peace and health, and provide for the safety of persons and property;
- Execute or authenticate by signature such instruments, as the Council, this charter, or any State or federal law shall require
- Be the ceremonial head of the City
- Appoint all Council Committees and be a member thereof and make other appointments as provided in this charter or by the Council

Flagstaff, AZ

Mayor's Duties as outlined in the charter:

- Be the Chairperson of the Council, and preside over its meetings
- Make and second motions and shall have a voice and vote in all its proceedings
- Recognized as head of the City government for all ceremonial purposes, and by the Governor for purposes of martial law
- Shall have executive but no regular administrative duties

Surprise, AZ

Mayor's duties as outlined in the municipal code (Surprise does not have a Charter):

- The mayor of the city shall be the presiding officer of common council meetings.

Tempe, AZ

Mayor's duties as outlined in the charter:

- The mayor shall be a member of the council and its presiding officer.

- In addition, he shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law and civil defense.
- He shall execute all contracts and other documents in the name of the city.
- He shall from time to time communicate to the city council such information and recommend such measures as may, in his judgement, tend to the improvement of the finances, law enforcement, health and comfort of the citizenry and good government of the city.
- Neither the mayor nor any other council member shall have any administrative duties.

Peoria, AZ

Mayor's duties as outlined in the charter:

- The mayor shall be the chairman of the council and shall preside over its deliberations.
- He shall be recognized as head of the city government for all purposes.
- The mayor shall have no regular administrative duties, but he shall, on behalf of the council, confer and advise with the city manager to insure that council programs and policies are being carried out in full.
- In addition thereto, the mayor shall govern the city by proclamation during times of riot, civil insurrection, major disaster and times of great public danger.

Phoenix, AZ

Mayor's duties as outlined in the charter:

- *To be chief official of City; duty to enforce ordinances.*
The Mayor shall be the chief executive officer of the City, and ex-officio chairman of the Council, and shall see that the ordinances thereof are enforced.
- *Annual and periodic reports to Council.*
The Mayor shall annually and from time to time give the Council information relative to the affairs of the City, and recommend for its consideration such matters as he may deem expedient. He may annually submit to the Council a program budget.
- *Legal recognition as official head of City.*
The Mayor shall be recognized as the official head of the City by the courts for the purpose of service of civil process upon the City and the instituting of any action or proceeding at law or equity for and in behalf of the City, and appearing in any manner before the courts on behalf of the City; he shall be recognized by the governor and other State officials as the chief and official head of the City.
- *Authority during emergency.*
The Mayor shall govern the City during times of great emergency and shall make proclamations necessary arising out of that emergency. Any violation of proclamations made pursuant to this authority shall be a misdemeanor.
- *Right to appoint personal secretary.*
The Mayor shall have the right to appoint his personal secretary and such personal staff as may be authorized by ordinance, who shall not be subject to the provisions of the Civil Service of the City of Phoenix, being Chapter 2, Article VI, of the Code of the City of Phoenix, 1969.

Sacramento, CA

Mayor's duties as outlined in the charter:

- The presiding officer of the city shall be the mayor.
- Shall be recognized as the official head of the city for the performance of all duties lawfully delegated to the mayor by this Charter, by action of the council or by other laws.
- Shall provide leadership within the community in the sense that the mayor shall have the primary, but not exclusive, responsibility of interpreting the policies, programs and needs of city government to the people, and as the occasion requires, may inform the people of any change in policy or program;
- Shall have the right but not the exclusive power to make recommendations to the city council on matters of policy and program that require council decisions;
- May propose ordinances and resolutions which shall be considered by the city council;
- Shall appoint and may remove members of the boards and commissions and advisory agencies in accordance with Article XV except as otherwise provided in this Charter;
- Shall have and exercise such other powers and duties as provided in this Charter, the laws of the state, and ordinances and resolutions of the city.

Long Beach, CA

Mayor's duties as outlined in the charter:

- The Mayor shall be the chief legislative officer of the City
- The performance of the duties of the office of Mayor shall be considered as the full-time employment of the person occupying that office.
- The Mayor shall preside at meetings of the City Council.
- The Mayor shall have no vote, but may participate fully in the deliberations and proceedings of the City Council.
- The Mayor shall be recognized as head of the City government for all ceremonial purposes and by the governor for purposes of military law, but shall have no administrative duties other than those provided for in Section 207.
- The Mayor shall represent the City at large and utilize the office of Mayor to provide community leadership and as a focal point for the articulation of city-wide perspectives on municipal issues.
- On or before the 15th day of January of each year, the Mayor shall communicate by message to the City Council a statement of the conditions and affairs of the City, and make recommendations on such matters as the Mayor may deem expedient and proper.

Section 207 – Legislative Department

- There is hereby created a Legislative Department which shall be under the direction and control of the City Council and the Mayor who shall also act as chief administrative officer for the department. This department shall consist of the Mayor, the City Council, the City Clerk, and all assistants, secretaries, stenographers and clerical help in the office of the City Clerk and such employees as may be deemed necessary to serve in the office of the Mayor and City Council to aid them in fulfilling their legislative duties in gathering, organizing and analyzing data and information relating to matters requiring legislative action.

Riverside, CA

Mayor's duties as outlined in the charter:

- The Mayor shall be the presiding officer at all meetings of the City Council
- The Mayor shall be the official head of the City for all ceremonial purposes.
- The Mayor shall have the primary but not exclusive responsibility for interpreting the policies, programs and needs of the City government to the people, and of informing the people of any major change in policy or program.
- The Mayor shall advise the City Council on all matters of policy and public relations and perform such other duties as may be prescribed by this Charter.
- During the months of January or February, the Mayor shall deliver a State of the City message at any location within the City that the Mayor deems appropriate at which the Mayor will present the Mayor's programs, objectives and priorities.

Cincinnati, OH

Mayor's duties as outlined in the charter:

- The mayor shall preside over all meetings of the council
- The mayor may call a special meeting of the council.
- The mayor shall appoint and may remove the vice—mayor and the chair of all committees of the council without the advice and consent of the council.
- The mayor shall assign all legislative matters to the appropriate committee for consideration.
- The mayor may propose and introduce legislation for council consideration.
- The mayor shall be recognized as the official head and representative of the city for all purposes, except as provided otherwise in this charter.
- The mayor shall deliver an annual address to the council and citizens of the city reporting on the state of the city and making recommendations for the establishment and achievement of future city goals.
- The mayor shall transmit to the council the annual budget estimate prepared by the city manager. The transmittal shall occur within 15 days after receipt from the city manager and may include a letter commenting on the proposed budget.
- The mayor shall perform such other duties as may be prescribed by this charter or as may be imposed by council, consistent with the office.
- The mayor shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the governor for military purposes
- In time of public danger or emergency, the mayor may, with the consent of the council, take command of the police, maintain order and enforce the law.
- The mayor shall appoint his or her assistants in the unclassified service and shall fix their salaries. Such assistants shall serve at the pleasure of the mayor and shall constitute the mayoral service. All other appointments to be made by the mayor shall be made with the advice and consent of the council except as otherwise provided in this charter.

Glendale, AZ

Mayor's duties as outlined in the charter:

- The mayor shall be the chairman of the council and preside over its deliberations.
- He shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law, but shall have no regular administrative duties.

Tuscon, AZ

Mayor's duties as outlined in the charter:

- *Executive duties generally*
The mayor shall be the chief executive officer of the city, and ex officio chairman of the council, and shall see that the ordinances thereof are enforced.
- *To preside at council meetings*
The mayor, when present, shall preside at all meetings of the council.
- *Reports and recommendations to council*
The mayor shall annually, and from time to time, give the council information relative to the affairs of the city, and recommend for its consideration such matters as he may deem expedient.
- *Recognition by courts and state officials as official city head*
The mayor shall be recognized as the official head of the city by the courts for the purpose of service of civil process upon the city and instituting any action or proceeding at law or equity for and in behalf of the city, and appearing in any manner before the courts on behalf of the city; he shall be recognized by the governor and other state officials as the chief and official head of the city.
- *Emergency powers*
The mayor shall take command of the police and govern the city by proclamation during times of great danger.

Mesa, AZ

Mayor's duties as outlined in the charter:

- The Mayor shall be a member of the Council and its presiding officer.
- He shall be recognized as head of the City government for all ceremonial purposes and by the Governor for purposes of military law and civil defense.
- Neither the Mayor nor any other Councilmember shall have any administrative duties.

Gilbert, AZ

Mayor's duties as outlined in the municipal code (Gilbert does not have a Charter):

- Be the chief executive officer of the town.
- Be the chairperson of the council and preside over its meetings. The mayor may make and second motions and shall have a voice and vote in all its proceedings.

- Execute and authenticate by his signature such instruments as the council, or any statutes, ordinances of this Code shall require.
- By proclamation, declare a local emergency to exist due to fire, conflagration, flood, earthquake, explosion, war, bombing, acts of the enemy or any other natural or manmade calamity or disaster by reason of threats or occurrences of riots, routes or affrays or other acts of civil disobedience which endanger life or property within the town. After declaration of such emergency, the mayor shall govern by proclamation and impose all necessary regulations to preserve the peace and order of the town including, but not limited to:
 - ✓ Imposition of a curfew on all or any portion of the town.
 - ✓ Ordering the closing of any business.
 - ✓ Closing to public access any public building, street or other public place.
 - ✓ Calling upon regular or auxiliary law enforcement agencies and organizations within or without the political subdivision for assistance.
- Provide an annual State of the Community Address in January of each year at a time and place to be determined by the mayor.
- The mayor shall perform such other duties authorized or required by state statute and this Code.