

**CITY OF COLLEGE PARK, MARYLAND
REGULAR COUNCIL MEETING AGENDA ITEM**



AGENDA ITEM NUMBER 18-CR-01

Prepared By: Scott Somers, City Manager
Suellen Ferguson, City Attorney

Meeting Date: February 26, 2018

Presented By: Scott Somers, City Manager
Suellen Ferguson, City Attorney

Consent Agenda: No

Originating Department: City Manager's Office

Action Requested: The City Council is asked to hold a public hearing and then consider approval on 18-CR-01.

Strategic Plan Goal: Goal 5: Effective Leadership

Background/Justification:

During the February 6, 2018 Work Session the City Council directed staff to draft necessary changes to the City Charter. The Charter amendment with these changes was introduced on February 13, 2018.

In September 2017, the City Council's vote on Charter Amendment 17-CR-02 (the non-U.S. citizen resident voting measure) led to a legal review of the City Charter. At the direction of the City Council, outside counsel was retained to provide a legal opinion on several questions: 1) Is a supermajority requirement for Charter Amendments prohibited by State Law? *Yes. State law provides that a Charter Amendment resolution must be adopted by a "majority of all the individuals elected to the legislative body."* 2) Was a Charter Amendment which attempted to amend the Charter to allow non-citizen residents to vote in City elections adopted? *No. Four individuals voted in support of the amendment. Because a majority of all of the individuals elected to the legislative body is required to adopt a Charter Amendment Resolution, a majority vote of 5 was needed for the amendment to pass.*

Since last fall, the City Council, legal Counsel, and City staff have met several times to receive legal advice about necessary Charter amendments. A Charter resolution has been drafted to include those amendments. The Charter amendment repeals the super majority requirement for amendment of the charter. Most of the remaining amendments are items that were recommended to clarify and reiterate what has been the historic understanding and interpretation of the City Charter, which has been that the Mayor and Council make up the legislative body of the City, with the Mayor presiding, and voting in most instances only to break a tie.

It is important to note that none of the proposed Charter amendments before the Council will change the outcome of Charter Amendment 17-CR-02 (the non-U.S. citizen resident voting measure). That Charter Amendment was NOT adopted since it failed to receive a majority vote of 5 for the amendment to pass.

Several sections of the proposed draft are highlighted for review:

§C3-1 of the draft Charter further clarifies that the Mayor and Council is the legislative body of the City.

§ C6-1 of the draft Charter moves language specifying that the Mayor votes only in the case of a tie vote to § C6-2, since § C6-2 addresses voting requirements; further clarifies that the Mayor serves as a member of the legislative body, presides at meetings of the legislative body, and except as otherwise provided by law, votes on all matters coming before the Council in the case of tie votes.

§ C6-2 of the draft Charter adds clarifying language concerning the Presiding Officer and replaces existing language with language taken directly from State law to ensure compliance.

Considered at the February 6, 2018 Worksession were three substantive changes in §C6-2 that would have

changed the law. This section would have allowed the Mayor to vote with respect to alterations of assessments, spending money for a purpose different from the purpose for which the money was appropriated, spending money not appropriated at the time of the annual levy and transferring funds between major budget items, and adoption of Charter amendments, regardless if there is a tie vote. This option was not supported by a majority of the Council during the worksession; therefore, the existing language remains whereas the Mayor would be allowed to vote in most instances only to break a tie.

Fiscal Impact:

No fiscal impact

Council Options:

- 1) Hold a public hearing and then consider approval of 18-CR-01 as directed Council on February 6, 2018 and introduced on February 13, 2018. *(This option maintains language which allows the Mayor to vote in most instances only in the case of a tie vote.)*
- 2) Hold a public hearing and then consider approval of 18-CR-01 with amendments.
- 3) Delay any action in order to consider other Charter resolution amendments.
- 4) Elect to not consider any changes at this time.

Staff Recommendation:

Option #1 or Option #2

Recommended Motion:

I move to approve the attached Charter resolution that incorporates Charter amendments as drafted and introduced on February 13, 2018.

OR

I move to approve the attached draft Charter resolution that incorporates Charter amendments with the following amendments:_____.

Attachments:

Draft City Charter
Press Release dated October 18, 2017