

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Councilmember Johnny Khamis

SUBJECT: POTENTIAL BALLOT MEASURE DATE: June 28, 2020
TO AMEND THE CITY CHARTER

Approved

Date

06/28/2020

RECOMMENDATION

Approve Vice Mayor Jones' memo dated June 23rd with the following modifications:

1. Add a second sentence to item B.2. that reads, "Before appointment of a City Manager takes effect, the appointment of the City Manager must be brought to the next regularly-noticed Closed Session of the City Council. The City Council may reject the proposed appointment by a 7-vote supermajority of the City Council, otherwise the Mayor's appointment will take effect and will be announced at that same day's Open Session meeting."
2. Add item D.5. to read, "The Mayor cannot direct the City Manager or Department Heads to withhold material information from members of the City Council nor direct the City Manager nor Department Heads to de-emphasize material information shared with members of the City Council."
3. Modify item E.1. to read, "Before the City Manager or a department head is dismissed by the Mayor, as regards either, or City Manager, as regards department heads, the Mayor or City Manager will promptly notify the Council, and the proposed dismissal will be agendized at the next Closed Session meeting at least 72 hours following such notification. If, by a 7-vote supermajority, the City Council votes against dismissal, the department head will not be terminated."

BACKGROUND

We can empower the Mayor so that we have a City more responsive to the needs of its residents while at the same time maintaining the direct lines of communication that exist between the City administration and the City Council. An empowered Mayor should not mean a disempowered City Council. The changes I propose will ensure that the City Councilmembers will continue to be informed and effective advocates for their constituents.

I am grateful to my colleagues, Vice Mayor Jones and Councilmember Jimenez, who have proposed several improvements to the way our City is governed for voters to consider this fall.

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These changes address concerns that have been raised by people from a variety of viewpoints – from labor to business and from good-government advocates to advocates for people of color. I offer specific changes to the reforms that have been proposed that should work to complement and improve what we put before the voters in November. The first change will ensure the Council still has a critical role to play in the City Manager’s appointment, the second proposal ensures that Councilmembers will continue to have frank and open discussions with the City administration and be strong advocates for their constituents’ concerns, and the third improves the process for all involved in the difficult decision to terminate an underperforming City Manager or department head. Taken together, these changes and additions will ensure that the City Manager continues to interact with – and remains responsive to - all Councilmembers.

The first proposal simply provides the City Council with a consent role in the appointment of the City Manager. It is important for the smooth functioning of the City that the Mayor’s choice of City Manager not be opposed by a large portion of the City Council, and it is better that any broad objections be known before a hire takes place.

The second proposal addresses the need for the City Manager and department heads to remain responsive to all members of the City Council and to continue to keep the City Council well informed. In a traditional Strong Mayor system, the Mayor is in the Executive role, is not a legislative official, and is not restricted from interacting with each member of the City Council. With the proposed reforms, the Mayor remains a voting member of the City Council and the Brown Act will restrict his ability to keep all members of the Council apprised of what the Executive Team is working on. If the Mayor can hire or fire the City Manager without Council participation, or the Mayor can direct the City Manager or department heads to withhold or diminish the importance of material information, then these officials may see no obligation to interact with anyone except for the Mayor, who will be directing their day-to-day activities. Each Councilmember must continue to be able to interact with the City Manager and department heads so that the Executive Team remains privy to perspectives from across our diverse City and so that the Councilmembers can continue to have direct discussions with them about the needs and concerns of our constituents.

The third proposal is a practical suggestion to improve the process proposed for dismissal of department heads. It also explicitly includes the City Manager. It is much better for all involved – both the City and the department head – that the Mayor consult with the City Council BEFORE a dismissal takes place, and not after the fact. Asking the Council to weigh in after the fact is leaving the Council in the position of trying to put toothpaste back into the tube. It can also create uncertainty, discomfort, and possible damage to the prospects of the person being terminated. Improving the process by placing consultation with the City Council before a potential termination occurs can also avoid unnecessary financial and legal complications.

With these small improvements to keep the City Council involved in the hiring and dismissal of the City Manager, ensuring there is a free flow of information between the Administration and Councilmembers, and consulting with the Council prior to making consequential termination decisions, we will have a better proposal to put before the voters in November.