

# **Major Changes Found in the Draft Proposed Charter 3-7-2017**

## **What Don't We Change?**

- **Form of Government**
- **Ward Structure**
- **Number of Council Persons**

## **Why?**

When the commission studied and talked with citizens about potential changes to the form of government, ward structure, and council persons we came to the conclusion that such changes were both extremely divisive in the community and would not lead to significant improvement in the quality of our government. We identified dozens of different, less controversial changes that would lead to great improvements in the quality of our government that we believe the community can unite behind. In short we opted to set aside controversial, low-benefit changes in favor of low controversy, high-benefit changes.

## **The Changes**

The following are the major changes located in the charter, they are departures with the way the City's government has operated previously. In addition to these major changes, we incorporated minor tweaks to comply with state law, and some general clarification of language, that produces no change to the impact of the charter. When we first began the charter revision process we enumerated a number of principals that we would pursue with our changes: Government Accountability, Government Transparency, Public Involvement in Government, and Effective Government. These changes all reflect those values.

## **Article 1: In General**

### **Strong Ethics Standards**

*Beginning: Section 1-602 Page 10*

We found that the current charter lacked a strong set of enforceable and relevant ethics standards. We believe that this has made it easier for some public servants to act in an unethical manner. In addition, the Standards of Conduct Board from the current charter was effectively dissolved and, prior to dissolution, weak and ineffective.

We incorporated explicit ethical standard into the charter that do not allow for illegal activity, use of city resources for personal benefit, participation in activities and actions on matters where officials have a conflict of interest, and accepting of gifts or bribes. The new charter includes disclosure requirements for public servants and contractors where conflicts of interest exist. The ethics provisions that we incorporate into the charter are strengthened by requiring the Ethics and Accountability Board and our Ombudsperson to enforce the ethics provisions.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government accountability, government transparency, and the effectiveness of government.

### **Qualified Appointees**

*Beginning: Section 1-501 Page 7*

From our engagement with residents and current and former City employees we found significant concern that over the years there were appointees to positions that did not have the qualifications, experience, or ability to do the jobs they were appointed to. The most recent water crisis was just one example of people without the proper knowledge making decisions that affect City residents.

The new charter would require that prior to any appointments being made, qualifications would need to be set forth in ordinance and appointees would be required to demonstrate that they have those qualifications. Setting forth qualifications in ordinance means that the Council and Mayor would both have the opportunity to weigh in on the qualifications and that the qualifications, that there would be a measure of consistency over time, and that the public would have an opportunity to weigh in on any changes to the required qualifications of officials.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government accountability and effective government.

### **Improved Charter Enforcement**

*Beginning: Section 1-603 Page 15*

Our interviews with former officials and engagement with residents has brought to light numerous instances where the current City Charter was just ignored, with little or no recourse for

City residents. It is our belief that this has allowed for numerous abuses on the part of various administrations.

We have created a formal process via which citizens can seek remedy through the courts for charter violations. It also allows that a charter violation may be an accident and allows for the violator to correct the mistake before any penalties apply. We also provide specifically for the Ombudsperson to be a watchdog and enforce the charter. We believe that better Charter enforcement will help solve many issues the City has faced.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government accountability, public involvement, and government effectiveness.

### **Secure Pensions**

*Beginning: Section 1-503 Page 9, Section 7-302 Page 66*

The Commission has found that prior to moving pension obligations to the State of Michigan Municipal Employee Retirement system the City had underfunded pensions and that the City pensions system is currently less than 50% funded.

In both the first and seventh article we have put forward requirements to ensure that the City meets its pension obligations. In the first article we ensure that the City continues to utilize the statewide municipal employees' retirement system due to its quality management, stability, and the unbiased manner in which it informs the City of its actuarial obligations to employees. In the seventh article we require the city to fully fund new pension obligations to current employees. This would not mean that existing unfunded obligations are funded, but it would mean we would not create new unfunded pension obligations.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government accountability and government transparency.

### **Improved Public Notices**

*Beginning: Section 1-804 Page 17*

The Commission found that charter required public notice procedures were out of date and were built for a time when the city had a newspaper with daily circulation.

The new charter would require that the City meet the legal requirements of the State of Michigan for public notices, that public notices be published on the City's website, and in addition, that anyone who wishes to receive public notices may sign up to receive them.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government accountability, government transparency, and public involvement.

## **Affordable Insurance and Home Loans**

*Beginning: Section 1-401 Page 5*

As City of Flint residents the Charter Commission members are aware that home and auto insurance rates in the City are excessive in comparison to other localities. Additionally, it is extremely difficult for residents who wish to maintain and improve their homes to find financing to do so, even with good credit, due to the current situation of the City. These lead to higher rates of under and uninsured cars and homes, as well as a cycle of deterioration of housing conditions.

The Commission has inserted language into the Charter that would the enable the City to first study and then pursue a system to provide car and property insurance and home improvement loans to residents. This could be done through working with a non-profit agency, through City government, or in cooperation with another entity that pursues a similar program, such as the City of Detroit, which amended its charter to allow for such a program in a similar fashion in 2011. We believe that this program would help to address the disproportionate insurance costs faced by those who live in the City as well as the inability for City homeowners to access loans to improve or buy property.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government effectiveness.

## **Article 2: Elections**

### **Improved Election Cycle**

*Beginning: Section 2-301 Page 19*

Elections for City Offices occur in odd numbered years on opposing cycles and typically suffer from lower voter turnout. This structure has created a situation in which Council members may run against the Mayor without giving up their council position. Indeed, in many mayor elections there are multiple council members running against the incumbent mayor. The dynamic incentivizes the council members and mayor to not cooperate with each other. A council member can find political advantage in spending the first two years of their term attempting to embarrass or ensure the mayor fails, instead of working together to ensure the success of the City.

The Charter would require that the City transition to an election schedule in which City Offices would be elected during gubernatorial years. This would improve voter turnout in the City for both elections to City Offices and for elections to statewide offices, such as Governor. The election cycles of Mayor and Council would be aligned, so that potential candidates would need to decide if they want to run for Council or if they want to run for Mayor.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government accountability, government effectiveness and public involvement.

### **Candidate Disclosures**

*Beginning: Section 2-303 Page 20*

Recent events have shown that the community does not always have sufficient press resources reporting on municipal matters for the public to be fully informed of the background of candidates for elective office. This has led to significant disclosures on the backgrounds of candidates after election of the candidates instead to prior to the election.

The filing requirements in new charter would require candidates to swear that they are residents of the City, disclose any business interests that they have with the City, and disclose any failure to pay taxes to the City.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government transparency.

### **Citizens Petition for Public Improvements**

*Beginning: Section 2-401 Page 21*

There is currently no formal way for the citizens of a neighborhood to petition for public infrastructure improvements such as sidewalks, streets, water infrastructure, abandoned housing demolition or business district development. Many residents have expressed frustration with their ability to have the City address issues of decaying infrastructure and blight within their neighborhoods.

This creates a mechanism via which citizens in a neighborhood can formally bring the need for public improvements forward to Council to see them discussed by Council. It requires Council to discuss the issue and offers Council the ability to put forward to voters of the neighborhood the option to assess property in the neighborhood to fund the improvements. The Council may also decide to fund improvements in an alternate manner, or to not address the issue, if they believe the City cannot solve it.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government accountability and public involvement.

### **Vacancies in Elected Offices**

*Beginning: Section 2-411 Page 24*

The current charter does not have a method of handling a temporary absence of a councilperson or mayor due to an issue of illness or emergency. Also, due to state law changes since the previous charter, it is no longer legal to require the city administrator to live in the City and only a resident may take the position of Mayor, potentially creating a succession issue under the current charter.

The new charter would allow for temporary absence of up to forty five days in elective office, for example, if an elected officer was in a car accident, or otherwise unable to attend to their duties prior to any declaration of vacancy. In the event of a short-term vacancy in the office of Mayor the City Administrator would become acting mayor, as long as they had been a resident at least one year. Should the City Administrator not wish or be eligible to serve, Council Members would select a City resident.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government effectiveness and government accountability.

## **Article 3: Legislative**

### **Reinvigorate, Empower, and Grant Independence to Office of Ombudsman**

*Beginning: Section 3-501 Page 34*

The current charter has an Ombudsman's Office that is appointed by Council. There is no current Ombudsman in the City of Flint and has not been one for a number of years for various reasons, including decisions under emergency management. The Commission feels that the lack of an Ombudsman potentially contributed to lack of identification of water problems. Additionally, the Commission found a lack of enforcement of numerous Charter provisions and ethics standards within City government.

We have written provisions that would create an Ethics and Accountability Board. The Board would consist of one member appointed by each Councilmember from their ward and two members appointed by the Mayor. The Board would appoint the Ombudsperson who would investigate complaints, enforce the charter, conduct performance audits of City operations, and enforce ethics and root out misconduct. The Board would issue the reports of the Ombudsperson and insulate the Ombudsperson from political pressure that may exist in investigating complaints and enforcing the charter. The Human Relations Commission will exist under the Ethics and Accountability Board and will work in concert with the Ombudsperson to reduce discrimination, assist the public, and foster good relations in the community, outside of City operations. We have established a minimum funding level for the Office of Ombudsman from the already existing general property tax levy.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government accountability, government effectiveness, and public involvement.

### **Clarify Role of Council**

*Beginning: Section 3-101 Page 27*

We have found that there is some confusion as to the nature of the council's role in the City Government. The Charter has currently spread roles and duties through the charter, and it can be difficult for the average citizen to know the responsibilities of council.

The Commission has inserted language at the beginning of the Article on the Legislative Branch that explains the basic duties of Council members. This makes it easy for Council members, citizens, and potential future Council members to understand the role of the office.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government accountability, government transparency, and public involvement.

## **Expectations of City Council Members**

*Beginning: Section 3-104 Page 27*

Residents have expressed concern in community meetings about the behavior of Council members. Concerns include the Council's ability to treat members of the public and each other with respect and Council's knowledge of governmental practice.

The new charter sets behavioral expectations of Council members, requires City Council to write rules of procedure, and provides for the ability of Council to enforce its own rules.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government accountability, government effectiveness, and public involvement.

## **Regular Departmental Reporting**

*Beginning: Section 3-208 Page 29*

The City Council is the legislative body of the City and is responsible for passing the laws that govern the City. However, the Council does not currently have the ability to monitor the implementation of laws on the part of the executive other than to subpoena appointees and employees, which could easily be perceived as combative and increase tension between the branches of government.

The Commission has created language that allows for City Council to receive reports from department heads on a quarterly basis and to ask questions of department heads at that time.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government accountability, government transparency, and government effectiveness.

## **Set Term for City Clerk**

*Beginning: Section 3-401 Page 33*

The Clerk, appointed by the Council and serving at its will chairs the Election Commission which both conducts elections and manages the reapportionment of wards after the decennial census. This gives the council significant influence over both of these functions.

We have created a term of five years for the office of clerk, with the ability for a clerk to be reappointed when each term expires. This allows for some level independence in the office of clerk, particularly when conducting the reapportionment of council wards after each census. It retains the council's ability to appoint the clerk, and does not put a limit on the number of terms, allowing for continuity in the office.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government effectiveness.

## **Article 4: Executive**

### **Continues the Authority of a Strong Mayor**

*Beginning: Section 4-101 Page 42*

We have received strong indication from the community that they prefer the ability of the City to elect the Chief Executive of the City.

No changes were made to the responsibilities and authority of the Mayor. The new Charter gives the Mayor the authority to organize the administration to meet the government services needs of the city. To encourage accountability and transparency the new charter calls for the administration to provide more public reporting and greater cooperation with City Council.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government accountability and government effectiveness.

### **Restructured Executive Departments**

*Beginning: Section 4-203 Page 42*

The current charter allows for up to ten executive departments and mayoral appointees to head them that may be created and re-organized to address enumerated functions. The City currently has six executive departments to address those functions.

The new charter specifies the departments of law, human resources and finance, gives authority to the Mayor to create another five departments for a total of eight (8) departments and to appoint each of the directors. In addition, the Mayor can appoint up to five additional executive staff including the City Administrator. All the department heads and executive staff positions must have a job description that includes skills, experience, training that is approved by City Council as an ordinance.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government accountability and government effectiveness.

### **Depoliticize and Professionalize the City Attorney**

*Beginning: Section 4-601 Page 48*

A problem brought to the attention by numerous parties is the politicization of the City Attorney's role. The City Attorney is appointed by the mayor and serves at the will of the Mayor. In the past many City Attorneys have acted as the Mayor's attorney, acting at the direction of the Mayor, as opposed to the interests as the City as a whole. Inexperience and lack of independence have led to costly mistakes such as the Genesee Towers inverse condemnation that cost the City \$6 million dollars and resulted in a special assessment on the tax rolls of every property owner.

The new charter establishes the Chief Legal Officer to be the City Attorney for the municipal corporation of the City of Flint to be clear that the attorney represents all the parts of city government and the interest of the whole city. The City Attorney is still nominated by the Mayor

and approved by City Council. The Mayor or City Council can call for the removal of the City Attorney but will need the approval of the other.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government accountability and government effectiveness.

**Codified Right to Collective Bargaining**

*Beginning: Section 4-401 Page 44*

Across the country the collective bargaining rights of public employees have been under assault and have been removed in some instances. This is of particular concern to the Commission.

The charter explicitly enshrines the right of employees of the City of Flint to organize and collectively bargain.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government effectiveness.

## **Article 5: Civil Service Commission**

### **Maintain the Commission and Enforce the Merit Principle**

*Beginning: Section 5-201 Page 54*

The commission is aware that classified employees over a number of decades have had concerns of retribution, and failure to advance their careers if they do not take actions that are in violation of the charter or are otherwise dubious or unethical. Such a fear makes it difficult to ensure that the charter is enforced.

The new charter maintains the Civil Service Commission and adds language clarifying their duty to ensure that merit and not political pressures govern hiring and promotion.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government effectiveness.

### **Non-Interference with Hurley Medical Center**

*No language inserted*

We find that maintaining City ownership while ensuring non-interference in the hospital's operations to be best for the proper functioning of the hospital. Hurley Medical Center employees have been represented by their unions exclusively for a number of years.

The Charter would leave the representation of Hurley Medical Center employees to their employee unions.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government effectiveness.

## **Article 6: Multiple Member Bodies**

### **Maintain the Same Appointment Process**

*No language inserted*

The appointment procedure and structure of boards, commissions and committees as described in the current charter, by the Mayor with approval of Council, functions efficiently and effectively. The Charter Commission is not proposing any changes.

### **Increase Public Accountability and Transparency**

*Beginning: Section 6-101 Page 56*

The City of Flint has a numerous boards, commissions, and committees that undertake a wide variety of tasks. It is difficult for both citizens and Council Members to stay apprised and engaged with what is occurring in these bodies.

The new charter requires timely filing of minutes that can be inspected by the public as well as regular public reporting to City Council.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government transparency and public involvement.

### **Continue Effective Management of Hurley Medical Center**

*No language inserted*

The Commission finds that Hurley Medical Center is a valuable asset for our community, vital to the health and safety of our residents and that it should be maintained as a leading medical facility under ownership of the City. Its independence from political pressures of the City allowed it to identify the lead crisis during emergency management. We have not proposed changes to the management of Hurley Medical Center.

## **Article 7: Finance**

### **Eliminate Raiding of Water Funds**

*Beginning: Section 7-106 Page 63*

The Charter Commission has found that it is common City practice through multiple administrations and under emergency management for sewer and water funds to be transferred to the general fund for general government purposes. This has been done through direct transfers and borrowing that is never paid back. The result is higher water and sewer rates for customers.

Language has been added to the charter explicitly barring the transfer, encumbering or borrowing from funds that are designated for specific purposes, including enterprise funds such as sewer and water.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government accountability and government transparency.

### **More Structured and Open Budgeting Process**

*Beginning: Section 7-101 Page 60*

The Charter Commission has found that the budget process tends to begin very late in the fiscal year. It suffers from lack of early communication between the executive and legislative branches and citizens often have no opportunity to provide feedback until the very end of the process. This reduces community involvement and creates unneeded tension between the Council and Mayor.

The new charter will require that the City Council and the Mayor begin the work on the budget early with input from the public and create continuous budget creation and monitoring schedule. It requires the Mayor and Council to agree on goals and objectives and develop a preliminary budget before the introduction of the formal budget by the Mayor. This is intended to create a positive working relationship between the Council and Mayor in the budgeting process. The public has an opportunity to participate throughout the process.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government transparency, government effectiveness, and public involvement.

### **Improved Budget Monitoring**

*Beginning: Section 7-103 Page 62*

It has been an unfortunate regular occurrence that enacted budgets are not followed, or that spending runs ahead of pace, leaving not enough money at the end of the fiscal year. This is an issue of inadequate monitoring of the budget and leads to last minute transfers and too common emergencies.

The Commission has added language that requires the Chief Financial Officer to provide the Council and the public a monthly spend plan and report monthly on the status of the budget and current spending.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government transparency and government effectiveness.

### **Improved Revenue Estimation**

*Beginning: Section 7-104 Page 62*

One method via which budgeting errors have occurred in the City is through the over-estimation of revenues. This has led to budgets that are balanced on paper, but are not balanced in reality. Budget with overestimation of revenues mean that the actual budgeting decisions are made by unelected officials behind closed doors instead of by the people's elected representatives.

A revenue estimating commission is created with members who are experts in municipal finance and includes both administration representatives and council representatives to estimate current and future revenues of the City. This information is provided to the Mayor and Council to inform current year spending and budget development.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government transparency and government effectiveness.

## **Article 8: Regulatory Powers**

### **Affordable Water and Sewer Fees**

*Beginning: Section 8-203 Page 71*

City of Flint has some of the highest water and sewer rates in the country and has many lower income residents who have extreme difficulty it paying those high water rates.

The new charter requires Council to enact an ordinance creating a payment assistance program for residents in need within two years of enactment.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government transparency and government effectiveness.

### **Voter Approval before Privatization**

*Beginning: Section 8-206 Page 71*

In our discussion with community members we have become aware of a general concern that City assets will be privatized without the input of the public. Currently our charter allows for the council to privatize city assets, such as the water and sewer utilities with a two thirds vote.

The revised charter will require a vote of the public before public utility assets are sold.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government transparency, government accountability, and public involvement.

### **Transparent Accounting of Water Funds**

*Beginning: Section 8-205 Page 71*

Significant concern has arisen over the manner in which our utilities are managed, and the budgeting of water and sewer fees paid by citizens. The current budget and comprehensive annual financial report do not provide significant detail into the disposition of fees paid by citizens.

The Charter is written to require more detailed reporting from publically owned utilities such as our sewer and water utilities.

We believe that by addressing these problems and implementing the solutions that we have developed we will increase government transparency and government accountability.

## **Article 9: Transition**

This article does not contain charter changes that are relevant to the manner in which government will operate in the long term. It details the manner in which we transition from the current to the new charter when adopted.