



# CITY MANAGER & CITY ATTORNEY MEMOS –

# CHARTER REVIEW COMMITTEE

Charter Review Committee  
February 19, 2020

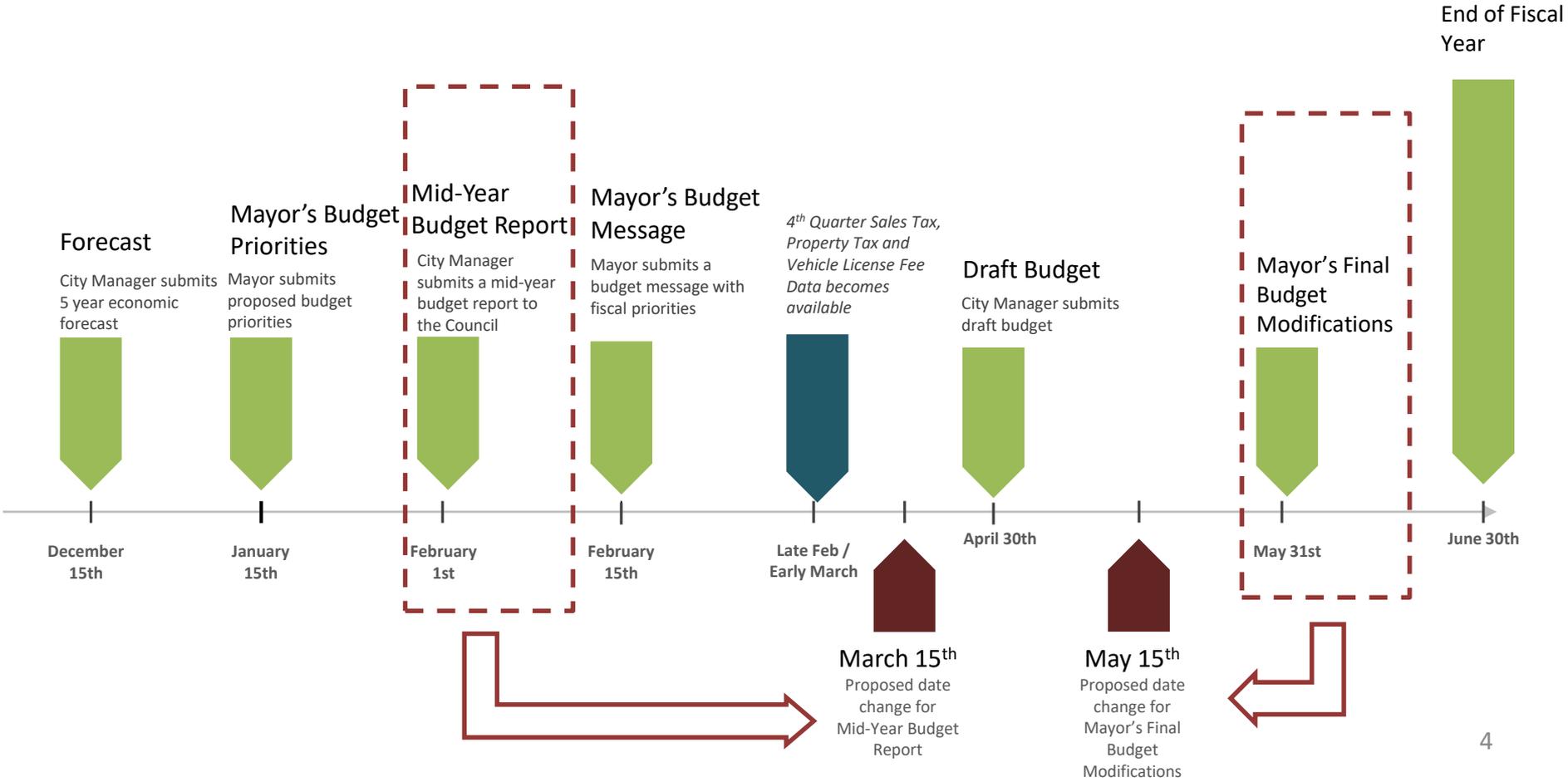
# Section 1313 – Purchase of Supplies and Equipment

- Proposed Language: The Council, ~~by ordinance, within one (1) year following the adoption of this section,~~ shall annually review ~~adopt~~ policies and procedures, including governing bidding regulations and, ~~governing~~ purchases of supplies and equipment by the City.
- Justification: The City adopted an ordinance and policies and procedures that govern purchases and bidding as reflected in Title 8 of the Modesto Municipal Code. This change is an update to still require regular reviews of the adopted ordinance, as recommended by the committee.

# Section 1302.1 – 1304 – Annual Budget

- Current Language: The City Manager shall, on or before February 1 of each year, prepare and deliver to the Mayor and to the Council a Capital and Operating Mid-Year Budget Report...
- Proposed Language: Next slide
- Justification: The City does not receive property tax revenue or second quarter sales tax data until late February which can be helpful in informing the mid-year budget report. In addition, the current budget timeline requires the Mayor's Final Budget Modifications on May 31<sup>st</sup> (or 30 days prior to the new fiscal year) and Council to consider the Mayor's modifications and the draft budget in early June, which only allows for one meeting for Council to consider the approval of the budget. The recommended change would allow for the Council to consider the Mayor's modifications and the draft budget in late May, post the hearing notice, and allow for two Council meetings for the approval of the budget, which grants staff and Council additional flexibility with regard to changes to the proposed budget.

# Current and Proposed Budget Timelines



# Section 1107-1111 – Various Boards and Committees

- Issue: The Charter lists only four of the seventeen total boards and commissions for the city. The four boards and commissions are the Planning Commission, Board of Personnel Appeals, Culture Commission, and Human Relations Commission. Two of the four commissions listed in the Charter - the Human Relations Commission and the Board of Personnel Appeals- no longer exist
- Staff Recommendation: Remove Sections 1107 (Planning Commission), Section 1108-09 (Board of Personnel Appeals), Section 1110 (Culture Commission), Section 1111 (Human Relations Commission) from the Charter with a recommendation to Council that the Planning Commission and the Culture Commission or their functional equivalent be added to the municipal code.
- Justification: Staff recommends the Review Committee consider eliminating all boards and commissions from the Charter. Boards and Commissions often require modifications to their function because of legislative action by the City Council, city resources, and community interest. To ensure that the organization can be flexible with the existing boards and commissions, staff recommends considering the removal of the four commissions from the Charter and should be codified in the municipal code.

# Section 800 – City Manager Residency Requirement

- Proposed Language: No member of the Council shall be eligible for appointment to the office of City Manager during the term for which the member shall have been elected or appointed, not within one (1) year thereafter. ~~The City Manager need not be a resident of the City or State at the time of appointment, but during the City Manager's tenure of office, the City Manager shall reside within the City.~~
- Justification: The California Constitution and the Government Code prohibit a residency requirement for employees. Because city managers, although employees, are also charter officers, a minority of cities take the position the Constitution and Government Code do not apply. The safest legal recommendation is to remove the requirement.

*Previously Considered and Approved*

# Outdated Methods of Communication

- Current Language: Reference to Sections 1104 (telegram), 1307 (newspaper), and 1311 (newspaper), and remove any requirement in any section that requires the use of a telegram as a method of communication
- Proposed Language:
  1. **Section 1104 – Meetings/ Chairpersons:** Written notice to each member of any board or commission may be dispensed with as to any member of any board or commission who, at or prior to the time the meeting convenes, files with the Secretary of such board or commission a written waiver of notice. ~~The waiver may be given by telegram.~~

# Outdated Methods of Communication

- Proposed Language:

**2. Section 1307 – Public Work to be Done by Contract:** Every project involving an expenditure of city moneys of more than the amount which the City Council shall establish by ordinance, for the construction or improvement of public buildings, works, drains, sewers, utilities, parks, playgrounds, and streets (exclusive of projects for resurfacing, maintenance and repair of streets, or any park or parks playground project otherwise subject to the public bidding requirements of this sections that involves any donated labor and/or material) shall be let by contract to the lowest responsible bidder after notice by publication or any method permitted under state law, including in the official newspaper by one or more insertions, the first of which shall be at least seven (7) days before the time for opening bids.

# Outdated Methods of Communication

- Proposed Language:

**3. Section 1311 – Contracts for Official Advertising:** The Council shall let annually contracts for the official advertising of competitive bidding events for the ensuing fiscal year. Official advertising contracts may be let to digital or print platforms, as permitted under state law. In the event the official advertising contract is to be let to a newspaper, if there is more than one (1) newspaper of general circulation published and circulated in the City, the Council shall advertise for one day, setting forth distinctly and specifically the work contemplated to be done, and asking for sealed proposals therefor. The proposals shall specify the type and spacing to be used at the rates named in the bids. The Council shall let the contracts for such official advertising to the lowest responsible bidder publishing a newspaper in the city which is a newspaper of general circulation and has been in existence at the time of the awarding of the contract at least one year; provided that the council may reject any or all bids and advertise for new bids. Except as otherwise provided by the provisions of state law applicable to chartered cities, claims against the City shall be filed as prescribed by ordinance.

# Outdated Methods of Communication

- Justification: The language needs to be modernized to give ample flexibility to reflect the ever-changing methods of communication. The language should be broad enough to accommodate technologies yet to come to ensure that the City may use digital or print methods of advertising.

# Section 1104 – Meetings / Chairpersons

- Current Language: The City Manager shall provide a secretary for the recording of the minutes of each of such boards and commissions who shall keep a record of its proceedings and transactions. Each board and commission shall prepare and submit to the Council an annual report of its activities. Such report shall be made on the fiscal year basis and shall be submitted on or before September 1 of each year.
- Proposed Language: The City Manager shall provide a secretary for the recording of the minutes of each of such boards and commissions who shall keep a record of its proceedings and transactions. ~~Each board and commission shall prepare and submit to the Council an annual report of its activities. Such report shall be made on the fiscal year basis and shall be submitted on or before September 1 of each year.~~
- Justification: It is not the current practice for boards and commissions to submit annual reports

# Section 1205 – Hearing Officer

- Proposed Language: An appeal of any person in the classified service relative to any suspension, demotion, or dismissal, where the right of appeal is granted by the Personnel System of the City of Modesto, shall be heard by a **state** hearing officer, **from the State Mediation and Conciliation Service** ~~who shall be selected by the Board of Personnel Appeals~~
- Justification: The use of hearing officers as identified in the Charter is no longer a practice of the City. The City now uses State hearing officers and this is specified in the Memorandums of Understanding that the City has with the various employee associations.

*Any Questions?*

# *City Attorney's Memo*

# Amend Charter Section 501(b)(4) “Criteria for Districting” to add subsection F

(4) **Criteria for Districting.** To ensure fair and effective representation for all citizens of the City, the Commission, in recommending a districting or redistricting plan, and the Council, in approving or rejecting a districting or redistricting plan, shall consider the following criteria for the districts ~~to the extent practicable~~:

- (A) district boundaries should be geographically compact and contiguous;
- (B) district boundaries should follow visible natural and man-made features;
- (C) district boundaries should respect communities of interest. A community of interest is defined as a geographic area comprised of residents who share similar interests including, but not limited to, social, cultural, ethnic, geographic or economic interests, or formal government or quasi-governmental relationships, but not including relationships with political parties, incumbents, or candidates;
- (D) district boundaries should be drawn without regard for advantage or disadvantage to incumbents or challengers;
- (E) district boundaries should be drawn without regard for advantage or disadvantage to any political party;
- (F) district boundaries shall be consistent with the California Voting Rights Act of 2001, as may be amended from time to time.

*Any Questions?*