

**AGENDA
COUNCIL WORKSHOP
SEPTEMBER 1, 2016
5:30 P.M.**

- (1) Review council meeting agenda.
- (2) **Reminder:** September 15, 2016 City Council meeting will begin at 4:30 p.m. and there will be no council workshop.
- (3) City Charter and Council Member composition. (Information attached).

I believe that it is time to consider a reduction in the number of Council members currently serving. I have checked with other communities in Iowa with varying populations and found:

<u>City</u>	<u># Council Members</u>	<u>Form of Government</u>	<u>Population</u>
Fairfield	7	Mayor-Council	9,750
Pella	6 – Mayor Breaks ties	Mayor- Council	10,337
Burlington	4 – Mayor Votes	Council-Manager	25,539
Spencer	7	Mayor Council	11,206
Cedar Rapids	8 – Mayor Breaks ties	Council –Manager	129,195
Fort Madison	7	Council-Manager	11,332
Des Moines	6 – Mayor Breaks ties	Council-Manager	209,220
Indianola	6 - Mayor Breaks ties	Mayor-Council	15,305
Oskaloosa	7	Council-Manager	11,541
Council Bluffs	5	Mayor-Council	62,245
Waterloo	7	Mayor-Council	68,364

As you can see, none of these cities (including the large population cities) have nine council members with the average number being 6. With the loss of population and the inability of getting citizens to run for the Council it makes sense to reduce the number of council members at this time. I don't know whether you all received Douglas's memorandum dated July 7, 2016 so I am attaching it to this email. I asked Douglas to prepare this memo with the intention of seeking Council approval to consider the reduction and also determine what form of government we should move forward with.

As you can see in Douglas' memo, there are multiple forms of government in Iowa of which he set forth three. Douglas, Aaron and I have discussed each form and we agree that the best for Keokuk would be by home rule charter which can be tailored for our particular needs. We would also propose that Keokuk's method would continue to be a Mayor-Council with seven council members all elected at large. This would do away with election by wards and open up the possibility of encouraging more citizens to run for the council. Douglas has set out the process for making these changes and time is of the essence. I think we need to discuss this at next week's workshop. If you wish to make this proposal, a charter commission should be appointed as soon as possible to propose the charter changes.

If you have questions or comments before the next council meeting contact me and I will include Aaron and Douglas with regard to your questions and/or comments.

Memorandum

Date: July 7, 2016
To: Mayor Thomas D. Marion
cc: Keokuk City Council, and City Administrator Aaron Burnett
From: City Attorney Douglas Dorando
RE: Charter Amendment or Form of Government Change Process

I. INTRODUCTION.

Section 372.1 of the Code of Iowa allows cities to choose from among eight (8) possible forms of municipal government, all of which require a City Charter be filed with the Secretary of State. The Charter itself is an ordinance that sets forth how the city government is structured.

When the city is first incorporated, it begins with a Mayor-Council form, a form that Keokuk maintains to this day, and although it allows the city a great deal of freedom it is structurally limited by Section 372.4.

In recent years, the focus of the Keokuk City Council appears to have drifted towards exploring alternative structures of government. While seven others exist, I will try to address two options given to me to explore in council-manager forms, and one option that I would push for consideration of, the home rule charter.

As a strictly legal matter, it should be noted that in a Mayor-Council government, the number of wards may be increased or decreased by City Council Ordinance, as long as the number of council members remains an odd number, without changing the form of government or otherwise holding any special election.

II. PROCESS AND TIMING FOR A CHARTER CHANGE AND ITS IMPLEMENTATION.

In order to change the form of government (outside of Home Rule Charter as will be described below, and other forms not addressed in this memo), the following procedure and timing, condensed from Section 372.2, must be utilized.

- A. A city may only change the form of government once in a six (6) year period. As the current charter was adopted in 1975, this change could occur this year, but would not be modifiable again for six (6) years.
- B. Eligible electors¹ of the city may petition the Council to hold an election on adopting a different form of government. This requires 25% of the number of persons who in the last city election. That number was 1,568, and therefore would require no fewer than three hundred and ninety two (392) separate

¹ Let us not go there, yet. See, *Berent et al. v. City of Iowa City*, 739 N.W.2d 193 (Iowa 2007).

signatures of eligible electors. The petition must include to what form of government the electors seek the change.

- C. Following the receipt of the valid petition, the Council has fifteen (15) days to publish notice of the date of the special election. The election date shall be, pursuant to §39.2(4)(b):

For a city, on the day of the general election, on the day of the regular city election, on the date of a special election held to fill a vacancy in the same city, or on the first Tuesday in March, the first Tuesday in May, or the first Tuesday in August of each year.

- D. The election shall proceed as required in chapters 39 to 53 of the Iowa Code. A simple majority wins, but if it fails, that proposed form of government may not be resubmitted to voters for four (4) years.
- E. If adopted, the elected officers of the adopted form will be elected at the next regular city election held more than 84 days after the special election where the form was adopted, and becomes effective the beginning of the term following the regular city election.
- F. If adopted, no city staff, departments, agencies, ordinances, or resolutions are repealed until repealed, except those ordinances irreconcilable with the new form of government, and the city shall adopt on the first day of the new term a new charter embodying the adopted form, and file said charter with the Secretary of State, and keeping copies for the City Clerk.

III. VARIOUS FORMS OF GOVERNMENT.

As mentioned above, there are eight permitted forms of city government in Iowa. They are: Mayor-Council; Commission; Council-manager-at-large; Council-manager-ward; Home Rule; Special Charter; city council consolidated; and commonwealth. This memo will only address three of these: the two council-manager types, and the home rule.

A. COUNCIL-MANAGER FORMS OF GOVERNMENT

Council-Manager forms of government actually include two very distinct types of government and roles, and are treated as separate forms of government in sections 372.6 & .7. Mayor Marion asked for a rough outline of both.

1. Council-Manager-at-large form.

Council-manager-at large form has five city council members, all of whom are elected at-large for staggered four-year terms, and elects from their membership one council member to serve as mayor, and another to serve as mayor pro tem. The mayor in this form retains his status as a council member and a right to vote.

However, the council can choose, after adopting this form, to adopt a resolution (or be petitioned by the electorate) to elect a mayor directly and elect the four remaining council members at large. If that were implemented, the mayor would be elected for a four-year term and would select the mayor pro tem, and would remain a council member with a vote. Such a measure would not be repeatable for the first six years following its passage.

The powers of the city manager are laid out in Section 372.8, a copy of which is attached, and are similar, but more broad and with more power, than the powers currently vested in the City Administrator's office and would include some that are currently vested in the Mayor.

2. Council-Manager-Ward form.

Council-Manager-Ward form has a council of six members and a mayor. Of the six, council members, all may be elected (one from each ward) from each of six wards. Alternatively, two may be elected at-large, and the remaining four may be elected one from each of four wards. In either case, the mayor will be directly elected at-large, and like in the at-large form, will retain status as a council member with a vote.

The powers of the city manager are laid out in Section 372.8, a copy of which is attached, and are similar, but more broad and with more power, than the powers currently vested in the City Administrator's office and would include some that are currently vested in the Mayor.

B. HOME RULE CHARTER.

Home rule charter is perhaps one of the least used forms of governance,² but one that grants the most freedom to the City to set its government function and structure. The phrase "Home Rule" stems from the constitutional grant of power and authority by the Iowa Constitution, added as an amendment and with an Iowa Code modification in 1968.³ The core of this is embodied in Section 364.1 "A city may, except as expressly limited by the Constitution of the State of Iowa, and if not inconsistent with the laws of the general assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the city or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents." Although the structure, powers, and limits of Home rule authority has been accomplished through numerous Iowa Supreme Court opinions, this remains the broadest grant of authority for the local population to structure itself to these general ends.⁴

² At present it is believed only 5 cities use this form of Government including Clinton, Cedar Rapids, Fort Dodge, Iowa City, and Marion, the remaining 942 communities use "general law" charters and are therefore more strictly governed in their fundamental governance doctrines by the state legislature.

³ An interesting narrative of this exists on the Iowa League of Cities website.

<https://www.iowaleague.org/members/Pages/HomeRule.aspx> (Accessed July 6, 2016).

⁴ Specifically, attention should be drawn to the 1995 Iowa Supreme Court opinion in *City of Clinton v. Sheridan*, 530 N.W.2d 690 (Iowa 1995). This case held that general law cities are prohibited from adopting local initiative and referendum measures. The rationale is that state statutes grant municipal legislation power to city councils (Iowa Code § 364), and a city provision allowing electorate-initiated ordinances would improperly contradict these statutes, and authority could be granted through future state legislation. The court confirmed that charter cities can grant initiative and referendum power within the charter for local ordinances/measures.

A Home Rule Charter requires only five (5) provisions: a council made up of an odd number and no fewer than five members; a mayor, who may be a member of the council; staggered two or four year terms of office; powers and duties of the mayor and council; and a council representation plan. Beyond these provisions, the charter has substantial leeway on the structure and powers of the city government, and provides for an easy amendment process for structural changes related to the government.

Process for Implementation of a Home Rule Charter.

The process for the adoption of a Home Rule Charter, although similar to the process laid out above, has a couple of significant differences. Like above, the proposal for a Home Rule Charter must be proposed by the city council, or by the 392 signatures of eligible electors. Following this proposal or petition, however, the council shall appoint a charter commission within 30 days, who will prepare and file with the council a proposed charter within six months. Following this, the full text must be published, and a special election must be held.