

## **Memo**

To: Citizen's Charter Committee  
From: Mark Flynn, Interim city attorney  
Re: Methods for electing a mayor  
Date: 14 October 2016

### **Current charter provision**

#### **§ 3-4. Mayor generally.**

At the organizational meeting thereof, the city council shall proceed to choose, by majority vote of all the members thereof, one of their number to be mayor and one to be vice-mayor for the ensuing two years. The mayor shall preside over the meetings of the council and shall have, the same right to vote and speak therein as other members, and shall have no veto power. He shall be recognized as the head of the city government for all ceremonial purposes, the purposes of military law and the service of civil process. The vice-mayor shall in the absence or disability of the mayor perform the duties of mayor, and if a vacancy shall occur in the office of mayor shall become mayor for the unexpired portion of the term. In the absence or disability of both the mayor and vice-mayor the council shall by majority vote of those present choose one of their number to perform the duties of mayor. (1962, c. 259)

### **Powers of mayors in Virginia**

In many localities, the mayor is the presiding officer, with no extra powers, and participates and votes as a member of council. Petersburg is in this group.

Some cities limit the mayor to vetoes of actions taken by council. A few are tie breakers.

The majority make the mayor a voting member.

### **Alternative methods of choosing a mayor**

1. Appointment by council.

- A. Term
    - i. 1 year This is done at the organizational meeting of council
    - ii. 2 years
    - iii. 4 years
  - B. Powers (one of group, tie-breaker or veto with override)
  - C. Removal of mayor – if the charter provides, the mayor may be removed by a super-majority vote of council.
2. Election by voters
- A. Term
    - i. 2 years  
Issue: makes it harder to find candidates, as running is difficult.  
Less of a mandate likely.
    - ii. 4 years
  - B. Powers (voting member of council, tie-breaker or veto with override)

## Examples

### Manassas Charter

§ 4. The municipal officers of the city shall consist of a mayor, six councilmen, .... The mayor, councilmen, ... shall be elected by the qualified voters of the city.

§ 6. ... On the Tuesday after the first Monday in November 2016, and every four years thereafter, there shall be elected by the qualified voters of the city of Manassas, a mayor, who shall be one of the electors of the city, and whose term of office shall begin on the first day of January following the date of his election and continue for four years and thereafter until his duly elected successor shall have qualified.

§ 8. The mayor shall preside at the meetings of the council and perform such other duties as may be prescribed by this charter and by general law, and such as may be imposed by the council, consistent with his office.

The mayor shall have no right to vote in the council except that in every case of a tie vote of the council, the mayor shall vote to break the tie not later than the next regular council meeting.

### Alexandria (mayoral powers similar to Petersburg)

On the day of the November general election in 2015, and every third year thereafter, the qualified voters of the city at large shall choose a mayor and six members at large of the

council for terms of three years from the first day of January following their election. A candidate for mayor shall file his petition therefor specifically; and a candidate for city council shall file his petition therefor specifically, provided, however, that a candidate who files his petition for mayor shall not have his name printed on the ballot for city council. The names of all candidates for city council and mayor shall be placed on the ballot in accordance with general law. Immediately above the list of names of candidates for city council shall appear the words "For City Council" vote for no more than six (6)," or some similar" designation. Immediately above the list of names of candidates for mayor shall appear the words "For Mayor, vote "or one," or some similar" designation.

**Norfolk** (mayoral powers similar to Petersburg)

**§ 5.1. Composition of council.**

On and after July 1, 2006, the city council shall consist of seven members, each elected from single-member wards as provided in § 3.2, and a mayor elected at-large

**Additional proposal**

• **Sec. 3-4. - Mayor [and vice–mayor] generally.**

The mayor and vice mayor shall be elected by the citizens at the November election. The positions are only open to members who have been on council for at least two years, eliminating any new members of council. The ballot shall have the name of current members of council who have at least two years remaining on council and of those persons who desire for their name to be placed on the ballot. The term will be for two years. If the member of council is defeated in the said election, then the job will go to the person obtaining the next highest number of votes. ~~At the organizational meeting thereof, the city council shall proceed to choose, by majority vote of all the members thereof, one of their number to be mayor and one to be vice-mayor for the ensuing two (2) years.~~ The mayor shall preside over the meetings of the council and shall have, the same right to vote and speak therein as other members, and shall have no veto power. He shall be recognized as the head of the city government for all ceremonial purposes, of military law and the service of civil process. **The city attorney shall explain the duties of each position to both the mayor and vice mayor and certify that s/he has informed them of their duties.** The vice-mayor shall in the absence or disability of the mayor perform the duties of mayor, and if a vacancy shall occur in the office of mayor shall become mayor for the unexpired portion of the term. In the absence or disability of both the mayor and vice-mayor the council shall by majority vote of those present choose one of their number, **who is not new to council,** to perform the duties of mayor.

**Number of council members**

1. Retain 7 wards

Mayor elected in addition, at large to make 8 total?

Mayor selected among the 7 members of council (current)?

2. Reduce to 6 or fewer wards + mayor

Requires adjusting boundaries to reduce by 1 ward.

This will take work with the registrar & state board of elections. Crater Planning District has software to assist moving ward lines to comply with voting rights act requirements and to create legitimate, contiguous, compact wards.

Impact of *Shelby County v. Holder*, 133 S. Ct. 2612 (2013)

A provision in §5 of the Voting Rights Act provided for preclearance by southern states of any change in voting. That included realigning voting district lines. Shelby ruled that the specific provision for preclearance in those states, current § 52 USC 10303, is unconstitutional. *Held* : Section 4 of the Voting Rights Act is unconstitutional; its formula can no longer be used as a basis for subjecting jurisdictions to preclearance.