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SPECIAL MEETING OF THE COUNCIL OF THE CITY OF SAGINAW, MICHIGAN, HELD MONDAY, JUNE 8, 2009, AT 5:00 P.M. IN THE COUNCIL CHAMBER OF CITY HALL.

PRAYER AND PLEDGE OF ALLEGIANCE

Councilman Andrew Wendt offered a prayer and led the pledge of allegiance.

ROLL CALL

Mayor Joyce Seals called the meeting to order. The following councilpersons were present: Larry Coulouris, Daniel Fitzpatrick, Amanda Kitterman-Miller, Amos O'Neal, Bill Scharffe, Paul Virciglio, Andrew Wendt and Mayor Joyce Seals-8.

Absent: councilman Gregory Branch-1.

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Councilman Scharffe moved to waive the council Rules of Order and change the Order of Business to move Resolutions to this portion of the agenda, seconded by Councilwoman Kitterman-Miller.

RESOLUTIONS

RESOLUTION IN SUPPORT OF THE GARBER AUTOMOTIVE GROUP (GARBER BUICK) RETAINING ITS GENERAL MOTORS BUICK DEALERSHIP FRANCHISE

WHEREAS, since 1907 the Garber Automotive Group (Garber Buick) has been a committed partner in the Saginaw community with a distinguished track record of unparalleled community and economic development and public service; and

WHEREAS, just as General Motors has left an indelible manufacturing imprint on the Saginaw community, the philanthropic and other community based efforts of Garber Buick, beginning with Guy S. Barber some 102 years ago, following with his son Richard Garber, Sr. and currently under the very capable leadership of grandson Richard J. Garber, Jr., have also impacted the lives of many generations of citizens in the Great Lakes-Bay area of Saginaw, Midland and Bay Counties; and

WHEREAS, Garber Buick has supported many public, non-profit, charitable and community oriented projects and organizations too numerous to mention here, yet each one significant in the lives of many individuals who without the support of Garber Buick, would not have had the advantage necessary to overcome specific quality of life challenges; and

WHEREAS, as a Buick dealer, Garber Buick has a solid record of sales and dealership performance that includes:

- Second ranked Buick volume dealer in the North Central Region through March 2009 (Michigan, Ohio, Illinois, Indiana)
- Among the top ten Buick dealerships in volume in the United States of America
- Enjoys a sales effectiveness rating of 225.66 against the state, 218.47 versus the national rating, and holds a "Superior" rating from General Motors
- Customer satisfaction ratings of CSI Sales and Service for 12 months, 3.94 and 3.91 respectively, on a 4.0 scale; and

WHEREAS, Garber Buick has been a solid pillar of employment, providing job stability for over 46% of its staff who have worked there for over 10 years and 21% who have

worked for the dealership for over 20 years, thereby doing its part to nourish economic development through job creation and retention in an economically distressed area; and

WHEREAS, the decision to discontinue a franchise with one of Buick's highest performing dealerships that not only has demonstrated its value to the continuing sale of General Motors products, but also continues to invest its time and financial resources in an area where many businesses have long since abandoned any economic recovery efforts, is baffling at best and deeply troubling at its worst; and

WHEREAS, the Saginaw City Council views this support to be in the best interest of General Motors and the Tri-Cities region by preserving this community based, family owned business that has made a big difference not only over the past 102 years but today, at a time when urban centers throughout America are experiencing the most difficult economic conditions since the Great Depression; and

WHEREAS, as General Motors emerges from its Chapter 11 filings, and proceedings a leaner, more effective and efficient business, Garber Buick must continue its flagship role in helping sustain GM's recovery through its Buick sales, as well as continue to be a strong community citizen whose value has meant so much to so many for so long.

NOW THEREFORE BE IT RESOLVED, that the Saginaw City Council by its resolution in support of the Garber Automotive Group hereby appeals the recent General Motors decision to discontinue the Buick dealership franchise with Garber Buick.

BE IT FURTHER RESOLVED, that the Saginaw City Council not only on behalf of its 61,799 citizens but also the 403,070 residents of the Tri-Cities region, hereby petitions General Motors, and the United States government to remove Garber Buick from the recently announced closure list, as has been done with similar appeals on behalf of other dealerships.

BE IT FURTHER RESOLVED that a copy of this resolution, suitably enrolled be forwarded to the state, and Congressional delegations of the City of Saginaw, as well as to the governor and to the Office of the President of the United States.

Adopted unanimously.

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Joyce J. Seals, Mayor

Council members  
Greg Branch  
Larry Coulouris  
Daniel Fitzpatrick  
Amanda Kitterman-Miller  
Amos O'Neal  
William G. Scharffe  
Paul Virciglio  
Andrew Wendt

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Attest: Diane Herman, City Clerk

PERSONAL APPEARANCES

Earl Jesse, 310 S. Harrison, quoted the constitution of the State of Michigan which said, "All political power is inherent in the people. Government is instituted for their equal benefit, security and protection." Referenced this to speaking at Council. Said councils and school boards were the biggest violators.

Charles Conner, 535 S. Warren, Apt. 100, spoke on his removal from the Saginaw Housing Commission. Said the accusations made were false. Wants The Saginaw News to clear his name. Said he was voted in as resident counsel and he has not violated the trust residents put in him. Believes the decision was based on his color.

Otis Washington, 1405 Brown, said a racist campaign has been mounted against east-side citizens. They have been labeled undesirable and worthless. Believes the City wants to take their property for revitalization and give it to the rich and powerful. Objected to Charles Connor's removal. Said he has been a faithful representative and detailed some of his accomplishments.

REMARKS OF COUNCIL

Councilman O'Neal requested the City Manager provide him with a status report on an abandoned property at 2508 Lapeer, across from Morley Elementary.

Councilman Fitzpatrick said he had comments and questions on the Charter and would bring them up later in the agenda.

Councilman Coulouris reported from the Police & Fire Pension Fund that the investment of Funds had grown from \$77,664,732 in March to \$95,273,999 in May. Recognized the Northmoor Neighborhood Association for the new benches, picnic tables and general beautification of Deindorfer Woods.

Councilman Scharffe expressed his disappointment in General Motor's consideration of closing Garber Buick, which has been in operation for 102 years. Noted that Garber Buick built the Buick brand in the State of Michigan. Urged others concerned with the closing to write General Motors at the established website.

Councilman Wendt congratulated the 2009 graduates. Also shared his support for Garber Buick. Requested a fire run report from the Fire Chief. Spoke briefly on the proposed charter amendments and said it was not something Council would take lightly. Noted that council would make the recommendations but the voters would decide.

Mayor Seals mentioned recently attending the Urban Core Mayors meeting. The topic highlighted was "Real Revenue Sharing for Real Results". (*She requested the City Manager give Council members a copy of the handout.*) Said mayors are discussing making a change in how the revenue of the state is shared. The fear is that more funds will be lost next year, which the city cannot afford to lose. Thanked the City Manager for attending with her and said his presence was imperative. Noted today was her 60<sup>th</sup> birthday. Said the resolution for Garber was a part of their appeal process.

REPORTS FROM BOARDS AND COMMISSIONS AND COMMITTEES AND  
APPOINTMENT OF BOARDS AND COMMISSIONS MEMBERSFrom the Charter Review Ad Hoc Committee

Discussion of proposed amendments presented by the Charter Review Ad Hoc Committee.

City Manager Darnell Earley noted the Charter Review Ad Hoc Committee had presented its recommendations at the prior meeting and it was Council's charge to now approve, reject or amend those recommendations. He briefly explained the need for the tax structure to be amended.

*(City Assessor Lori Brown gave a power point presentation on City of Saginaw Property Taxes, comparing the City's millage rates to other cities in the State, explaining the revenue the City receives under the current tax structure, what is proposed under the amended Charter and the impact it will have on residential, commercial and industrial properties.)*

City Manager Darnell Earley stressed the fact that lifting the dollar and millage cap does not automatically equate to an increase in taxes.

Councilman Wendt said he had heard the proposed Charter would not be friendly to businesses.

City Manager Darnell Earley noted businesses do not pay any taxes on their personal property in a special millage like the public safety millage. Believes to shift some of that burden is more equitable than unfair. Said the public safety millage being a permanent part of the financial base and millage rate allows those businesses to be assured the City will have police and fire protection to protect their businesses as well as the customers who patronize their stores.

Councilman Scharffe recommended the following amendments to the Charter Committee recommendations:

#### CHAPTER I. INCORPORATION – POWERS

Section 1. The municipal corporation now existing and known as "City of Saginaw" shall be and continue a municipal corporation under the name of "City of Saginaw" and shall be vested with any and all powers which cities are, or may hereafter be, required or permitted to exercise or to provide for in their charters under the constitution and laws of the State of Michigan, as fully and completely as though the powers were specifically enumerated herein, except for such limitations and restrictions as are provided in this Charter, and no enumeration of particular powers of the City in this Charter shall [WGS1] be held to be exclusive.

**Comment [WGS1]:** Whenever the word "city" appears it means the City of Saginaw, Michigan and should, therefore, be capitalized. The same applies to the word "charter" (Charter of the City of Saginaw, Michigan.) All references have, therefore, been capitalized.

#### CHAPTER II. ELECTIONS

##### Wards and Districts

**Section 2.** The City of Saginaw shall constitute one (1) ward. The Council may by

ordinance establish convenient election districts. ~~Until the Council shall otherwise ordain, the election districts continue as now established [WGS2].~~

**Comment [WGS2]:** This may be an explanatory "comment" for purposes of the ballot proposal, but need not be part of the Charter language as such.

### Elections

Section 3. The general election laws of the **State of Michigan** shall apply to and control, as near as may be, all procedures relating to elections, except as otherwise provided by this Charter.

### Election Commission

**Section 9.** The election commission shall consist of the **City Clerk, the Chief of Police and the City Attorney**. The [WGS3] City Clerk shall be **Chairperson** [WGS4]. The Commission shall appoint the inspectors of election and fix their compensation and shall perform all of the duties required of City election commissions by state law or this Charter.

**Comment [WGS3]:** Again, it is suggested that all such "titles" should be capitalized

**Comment [WGS4]:** Gender neutral language: All references to male gender have been transformed to gender neutral language throughout this revision. Example: "Chairman" to Chairperson, "he" to he/she; "him" to him/her, "his" to his/her, etc., etc. IF anyone should prefer, the "he/she" term can be changed to "s/he" but this is used rarely.

## CHAPTER III. GOVERNING BODY

### The Council

Section 12. The Council shall consist of nine (9) members nominated and elected at large, and shall be vested with all legislative powers of the City except as otherwise provided by state law or this Charter. The City Clerk shall be Clerk of the Council.

### Term of Office

Section 13. The Council members shall hold office for a term of four (4) years from the Monday next following the City election at which they are elected, ~~except that the four (4) Council members receiving the smallest number of votes at the first election under this Charter shall hold office from January 6, 1936 until the Monday next following the regular City election in 1937 and the five (5) Council members receiving the largest number of~~

~~votes at said first election shall hold office from January 6, 1936, until the Monday next following the regular City election in 1939 [WGS5].~~

**Comment [WGS5]:** I see no reason to retain this old language. It appears to be extraneous under the revision.

#### Qualifications

Section 14. No person shall be eligible for the office of Council member unless he/she is a duly registered elector in the City and has been a resident of the City or any area annexed thereto for at least one (1) year immediately prior to the election at which he/she is a candidate.

#### Vacancies

Section 15. A vacancy occurring in the Council shall be filled within thirty (30) days by a majority vote of the remaining Council members, the appointee to hold office until the Monday next following the next regular City election; provided that no appointment shall be made within sixty (60) days prior to any regular City election; and provided further that, if a vacancy occurs more than forty (40) days next preceding a regular City election in the office of a Council member whose term is not then expiring, a successor shall be elected at such election for the remainder of the unexpired term.

#### Procedure in Filling Vacancies

Section 15(a). In filling a vacancy in the Council, the names of prospective appointees shall not be presented for seven (7) days, and no appointment shall be made for fourteen (14) days after the vacancy occurs.

Section 15(a) added (Amendment No. 3)  
Effective April 24, 1953

#### Mayor

Section 16. The Council shall, at its first regular meeting following the regular City election, choose one of its members Mayor who shall hold office until the Monday following the ~~next~~ [WGS6] regular City election. The Council shall choose one of its members Mayor pro tem who shall act in the absence or disability of the Mayor. In the event of a vacancy occurring in the office of the Mayor, the Council shall choose one of its members Mayor at the next regular meeting to serve for the unexpired term.

**Comment [WGS6]:** Under the old wording without the word "next" it would be an inaccurate statement to say "following the regular City election."

The Mayor shall be a voting member of the City Council and shall attend and preside at meetings of the Council, represent the City in intergovernmental relationships, appoint, with

the advice and consent of the Council **where required**, [WGS7] the members of citizen advisory boards and commissions, present an annual State of the City message, appoint the members and officers of Council committees, assign subject to the consent of Council agenda items to committees, and perform other duties specified by the Council. The Mayor shall be recognized as head of the City government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties.

**Comment [WGS7]:** Currently, not all appointments by the Mayor are required to have Council advice and consent (example: The Housing Commission.) Unless it is the intent of the Charter Committee to make ALL appointments by the Mayor subject to the advice and consent of the Council – which might not be a bad idea – then the words “where required” need to be added.

#### CHAPTER IV. LEGISLATION

##### Regular Meetings

Section 18. The Council shall meet at least twice monthly. At the first regular meeting following each regular City election, newly elected Councilpersons shall assume their duties of ~~their~~ office [WGS8].

**Comment [WGS8]:** A suggested minor syntax change that simplifies the language.

##### Special Meetings

Section 19. Special meetings shall be called by the City clerk on the request of the **Mayor** or **City Manager** [WGS9] or any three (3) Council members on at least six (6) hours' written notice to each Council member served personally or left at his/her usual place of residence; [WGS10] but any special meeting shall be a legal meeting for all purposes without such notice if all Council persons are in attendance or have waived notice.

**Comment [WGS9]:** The title “mayor” is short for the capitalized title of Mayor of the City of Saginaw, Michigan and should, therefore, be capitalized even when standing alone as “Mayor.” The same applies to the City Manager.

**Comment [WGS10]:** We may need to discuss and contemplate “notice” by email or fax. This is not addressed. If it was the INTENT of the Commission that those forms of notice be left out purposely, then the language should remain. If it was simply an oversight, then we need to discuss it

Section 20. A majority of the Council members shall be a quorum for the transaction of business. The Council may, by a majority vote of those present, compel the attendance of

its members and other officers of the City at its meetings and enforce orderly conduct therein. No Council member shall vote on any question in which he/she has any financial interest other than the common public interest; but on all other questions every Council member present shall vote. On all votes which are not unanimous, the yea or nay vote of each member shall be recorded by roll call, but where the vote is unanimous, it shall only be necessary to so state.

#### Rules

Section 21. The Council shall determine its own rules, and shall keep a journal of its proceedings in the English language, which shall be signed by the City clerk. All regular and special meetings of the Council shall be open to the public. The minutes of each Council meeting shall be prepared by the City clerk and be available to the public. Copies of minutes will be made available at no cost. [WGS11].

**Comment [WGS11]:** This may need to be modified since there is no "limit" stated. We could see some malcontent asking for let's say, 5,000 copies of the minutes and under this language we would be compelled to provide them because the language is so permissive. We need to either place a "limit" on the number of "free" copies or simply remove this language and let the laws that apply to FOIA requests govern the requests for copies. I suggest that it be removed.

#### Ordinances

**Section 22.** Legislation shall be by ordinance. Each ordinance shall be identified by a number and a short title. The style of all ordinances shall be "The City of Saginaw Ordains." The effective date of an ordinance shall be prescribed therein. At least two (2) weeks shall elapse between the introduction and enactment of an ordinance; enactment shall require the affirmative vote of not less than ~~five (5)~~ **a simple majority of the Council members elected, appointed, and seated**, and [WGS12] the effective date shall not be earlier than ten (10) days after enactment; except that ordinances immediately necessary for the preservation of the public peace, health or safety may be enacted on the date of introduction and given immediate effect by the affirmative vote of not less than ~~six (6)~~ **a simple majority plus one of the Council members elected, appointed, and seated**. No ordinance shall be amended by reference to its title only, but the section or sections amended shall be enacted in full. An ordinance may be repealed by reference to its number and title only.

**Comment [WGS12]:** The requirement of "5" members should not be in effect if, for example, due to vacancies on the Council there might be only seven members at the time of a vote!

#### Ordinance Record

Section 23. All ordinances and the dates of introduction and enactment and the vote

thereon shall be recorded by the City clerk in a book to be called "The Ordinance Book," and it shall be the duty of the Mayor and the City clerk to authenticate such record by their official signatures. Except as otherwise provided by this Charter, subsequent to the introduction of an ordinance, the City Clerk shall publish a notice of such introduction, which notice shall include the date the ordinance will be enacted and become effective, and shall enter his/her certificate as to the manner and date of publication under each ordinance in **The Ordinance Book.** [WGS13].

**Comment [WGS13]:** Again, capitalization required

#### Compilation and Revision

Section 24. The Council may, by resolution, order a general revision and compilation of ordinances. Such revision and compilation, when completed, shall be adopted by appropriate ordinance which shall also designate when such revised and compiled ordinances shall become effective. Such revised and compiled ordinances need not be recorded in the "The Ordinance Book" or the Council proceedings. Ordinances shall be available to the public at cost.

#### CHAPTER V. ADMINISTRATIVE SERVICE

##### City Manager

Section 25. The Council shall appoint a City Manager (**hereinafter "Manager"**) for an indefinite term who shall be the chief administrative officer and the head of the administrative branch of the City government. The Manager need not be a resident of the City or the State at the time of his/her appointment. The Council may designate a qualified administrative officer of the City to perform the duties of Manager during his/her absence or disability.

##### Qualifications

Section 26. The Manager shall be chosen solely on the basis of his/her executive and administrative qualifications with special reference to his/her training and actual experience in municipal administration. No member of the Council shall be eligible for appointment as **City Manager** until two (2) years subsequent to the termination of his/her service on the Council.

##### Removal

Section 27. The Manager may be removed by a ~~two-thirds majority~~ **majority** vote **plus one** of the **elected, appointed, and seated** members of the Council. At least thirty (30) days before removal of the Manager, the Council shall adopt a resolution stating its intention to remove him/her and the reasons therefore, a copy of which shall be served forthwith on the

City Manager, who may within ten (10) days demand a public hearing, in which event the final resolution removing the Manager shall not be adopted until such public hearing has been held. Upon passage of a resolution stating the Council's intention to remove the Manager, the Council may suspend him/her from duty, but his/her pay shall continue until his/her removal. The action of the Council in removing the Manager shall be final.

***(Possible Option to the Above Language)***

***Since some Council members and members of the public have expressed some misgivings about the requirement for a "2/3rds" (or, really, a simple majority plus one) vote to remove the City Manager, I propose the following as an alternative.***

***Removal***

***Section 27. The City Manager may be removed by a ~~two-thirds~~ simple majority vote of the members of the Council in two separate votes, held at two separate meetings of the Council not less than ten business days apart. Should the first vote produce a simple majority in favor of removal, the Manager shall be considered suspended from duty with all pay and benefits until the second vote of the Council and the Council shall designate a temporary Manager under the provisions of Section 25. Should the second vote fail to produce a majority vote in favor of the Manager's removal, the Manager shall be reinstated to his/her position immediately. Should the second vote produce a majority in favor of removal, the Manager will remain suspended from duty with pay and benefits until the date of his/her removal as established by the Council. At least thirty (30) calendar days before any vote on removal of the Manager, the Council shall adopt, by a simple majority vote, a resolution stating its intention to remove him/her and the reasons therefore, a copy of which shall be served forthwith on the City Manager, who may within ten (10) calendar days demand a public hearing, in which event the second final vote on removing the Manager shall not be adopted held until such public hearing has been held concluded. Upon passage of a resolution stating the Council's intention to remove the Manager, the Council may suspend him/her from duty, but his/her pay shall continue until his/her removal. The action of the Council in removing the Manager shall be final.***

General Powers and Duties of Manager

Section 28. The Manager shall supervise the administrative affairs of the City and shall carry out the policies formulated by the Council. He/she shall be charged with the preservation of the public peace and health and the safety of persons and property, and shall see to the enforcement of the ordinances of the City, this Charter and the laws of the State. He/she shall keep the Council informed of the condition and needs of the City and shall make such reports and recommendations as he/she may deem advisable, and perform such other duties as may be prescribed by this Charter, or required of him/her by

ordinance or resolution of the Council, not inconsistent with this Charter. He/she shall have the right to take part in the discussion of all matters coming before the Council, but not the right to vote.

#### Appointive Power of Manager

Section 29. The Manager shall have power to appoint and remove, subject to the provisions of this Charter, all officers and employees in the administrative service of the City, but the Manager may authorize the head of a department or office responsible to him/her to appoint and remove subordinates in such department or office. The appointments made by or under authority of the Manager shall be on the basis of the fitness, training, and experience of such appointees for the work they are to perform. All such appointments shall be without definite term unless for provisional, temporary, or emergency service not to exceed the maximum periods which may be prescribed by personnel regulations.

#### Council Not to Interfere in Appointments or Removals

Section 30. Neither the Council nor any of its committees or members shall direct or request the appointment of any person to or his/her removal from office or employment by the Manager or any of his/her subordinates. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the Manager either publicly or privately. Any violation of the provisions of this section by a Council member shall be a misdemeanor, conviction of which shall constitute immediate forfeiture of his/her office.

#### Appointive Officers

Section 31. The Manager shall appoint a City clerk, Treasurer, Assessor, Police Chief, Fire Chief, City Attorney, Director of Public Services and Director of Finance. The Manager shall also appoint such other officers and heads of departments as may be deemed necessary. The powers and duties of these officers and heads of departments shall be those prescribed by state law, by Charter, and by ordinance. The compensation of officers and employees shall be fixed by the Council. The Manager may create such additional administrative offices, or combine any administrative offices in any manner not inconsistent with state law, and prescribe the duties thereof as he/she may deem necessary for the proper operation of the City government.

#### Administrative Departments

Section 32. The administrative service shall be divided into such departments, divisions, and bureaus as may be provided by ordinance upon recommendation of the Manager. Such ordinance shall be known as "Administrative Code." Pending the passage of such code the Manager may establish temporary regulations. Each officer or director shall, subject to approval by the Manager, have supervision and control of his/her department and shall have power to prescribe rules and regulations, not inconsistent with this Charter and local ordinance.

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### Purchasing Procedure

Section 33. Competitive bids for all purchases and public improvements shall be obtained where practicable and contracts awarded to the lowest and best bidders. Sealed bids shall be asked for in all transactions involving the expenditure of ten thousand dollars (\$10,000) or more and the transaction evidenced by written contract submitted to and approved by the Council; provided that, in cases where it is clearly to the City's advantage to contract without competitive bidding, the Council upon recommendation of the Manager may so authorize. Detailed purchasing and contracting procedure shall be established by ordinance. The Council may authorize the making of public improvements by day labor.

### Investigations

Section 34. The Council, the Manager, or any person or committee authorized by either of them, shall have power to inquire into the conduct of any department, officer or officer of the City and to make investigation as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall be a misdemeanor.

### Bureau of Public Information and Complaint

Section 35. There is hereby established within the administrative service a bureau to be known as "Bureau of Public Information and Complaint" under the direction of an official appointed by the Manager. It shall be the duty of such bureau to furnish information concerning the City government and to receive the complaints of citizens relative to the public service for investigation and report. The procedure for handling complaints shall be specified by executive order of the Manager or prescribed in the administrative code. The bureau here created may be assigned other duties not inconsistent with the purpose of this section.

### Board of Review

Section 37. The Council shall appoint a **Board of Review** [WGS14] of five (5) citizens who are taxpayers on real property **within the City limits** and two alternate taxpayers that meet the same criteria who shall hold office at the pleasure of the Council. The Council shall fix the compensation of the members of the Board of Review.

<b>Comment [WGS14]:</b> Capitalization.
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CHAPTER VII.  
GENERAL FINANCE

Fiscal Year

Section 41. The fiscal and budget year of the City shall begin on the first day of July.

Financial Control

Section 42. The **City administrator in charge of director [WGS15]** of finance shall have the charge of the administration of the financial affairs of the City, including supervision of the offices of Assessor and Treasurer. He/she shall maintain such accounting control over the finances of the City, make such financial reports and perform such other duties as may be required by this Charter, by ordinance or by the Manager. As controller he/she shall audit and approve all liquidated claims against the City and the treasurer shall pay the same on duly certified vouchers.

<p><b>Comment [WGS15]:</b> Depending upon the organization at the time, there may not be a City "Treasurer" per se.</p>
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Budget Procedure

Section 43. At such time as may be requested by the Manager or specified by ordinance, each officer or director of a department shall submit an itemized estimate of the expenditures for the next fiscal year for the departments or activities under his/her control. The Manager shall review and submit the proposed budget to the Council on or before the last Monday in April.

Budget Hearing

Section 44. A public hearing on the budget shall be held before its final adoption by the Council, at such time and place as the Council shall direct, the notice of such public hearing shall be published at least one week in advance by the City clerk.

Budget System Bonds

Section 44(a). Any capital improvement items contained in the budget may be financed by the issuance of bonds as a part of the budget system of the City, provided that the amount of such bonds together with the taxes levied for the same year, shall not exceed the limit of taxation authorized by law. The budget shall indicate the items to be so financed by bonds.

Adoption of Budget, Tax Limit

Section 45. The Council shall, by resolution, determine and adopt the budget and make the appropriations for the next fiscal year and shall provide, by resolution, for a tax levy of the

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amount necessary to be raised by taxation at least thirty (30) days prior to the first day of the upcoming fiscal year. The millage rate that may be levied for operating purposes shall not exceed 20 mills or the limit provided by the Michigan Constitution.

#### Transfer of Appropriations

Section 46. After the budget has been adopted, no money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except pursuant to a budget appropriation. Except as otherwise provided in federal and state law and this Charter, the Council may transfer any unencumbered appropriation balance or any portion thereof from one department, fund, or agency to another.

#### Budget Control

Section 47. At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the Manager shall submit to the Council data showing the relation between the estimated and actual income and expense to date; and if it shall appear that the income is less than anticipated, the Council or Manager may reduce appropriations for any item or items, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the cash income. If the revenues exceed the amounts estimated in the budget, the Council may make supplemental appropriations. The Manager may provide for monthly or quarterly allotments of appropriations to departments, funds or agencies under such rules as he/she shall prescribe.

#### Borrowing Procedure

Section 48. Subject to the applicable provisions of federal and state law and this Charter, the Council, by resolution, may authorize the borrowing of money for any purpose within the scope of the powers vested in the City and the issuance of bonds of the City or other evidences of indebtedness therefore, and may pledge the full faith, credit and resources of the City for the payment of the obligation created thereby.

#### Special Assessment Bonds

Section 49. The Council shall, subject to the general laws of the State, have authority to borrow money in anticipation of the payment of special assessments made for the purpose of defraying the cost of any public improvement, or in anticipation of the payment of any combination of such special assessments, and to issue bonds therefore. Such special assessment bonds may be an obligation of the special assessment district or districts or may be both an obligation of the special assessment district or districts and a general obligation of the City. All collections on each special assessment roll or combination of rolls shall be set apart in a separate fund for the payment of the principal and interest of the bonds issued in anticipation of the payment of such special assessments, and shall be used for no other purpose.

#### Issuance of Bonds

Section 50. Each bond or other evidence of indebtedness shall contain on its face a statement specifying the purpose for which the same is issued and it shall be unlawful for any officer of the City to use the proceeds thereof for any other purpose, provided that, whenever the proceeds of any bond issue or any part thereof shall remain unexpended and unencumbered for the purpose for which said bond issue was made, the Council may, by the affirmative vote of six (6) members, authorize the use of such unexpended and unencumbered funds for the retirement of said bond issue or if such bond issue shall have been fully retired, then for the retirement of other bonds of the City. All bonds and other evidences of indebtedness issued by the City shall be signed by the Mayor and countersigned by the controller and the City Clerk under the seal of the City. Interest coupons may be executed with the facsimile signatures of the Mayor and controller. A complete and detailed record of all bonds and other evidences of indebtedness issued by the City shall be kept by the **administrator in charge of** ~~director~~ of finance. Upon the payment of any bond or other evidence of indebtedness the same shall be marked "canceled."

#### Depository

Section 51. The Council shall designate the depository or depositories for City funds, and shall provide for the daily deposit of all City moneys. The Council may provide for such security for City deposits as it may deem necessary, except that personal surety bonds shall not be deemed proper security.

#### Independent Audit

Section 52. An independent audit shall be made of all accounts of the City government at least annually and more frequently if deemed necessary by the Council. Such audit shall be made by qualified public accountants experienced in municipal accounting. An abstract of the result of such audit shall be made public. An annual report of the City's business shall be made available in such form as will disclose pertinent facts concerning the activities and finances of the City government.

#### Official Bonds

Section 53. Any City officer elected or appointed by authority of this Charter may be required to give a bond to be approved by the Council for the faithful performance of the duties of his/her office, but all officers receiving or disbursing City funds shall be so bonded. All official bonds, which shall be the same as provided by state law for such official in townships, shall be corporate surety bonds, and the premiums thereon shall be paid by the City. Such bonds shall be filed with the City Clerk.

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Trust Funds

Section 54. Trust funds, unless otherwise provided by the deed of trust, shall be kept separate and apart from all other funds and shall be invested, as authorized by the Council, by purchase in the open market of such bonds, debentures and other securities of recognized investment quality, except stocks, as are authorized by the laws of the State of Michigan for the investment of the funds of life insurance companies, except that such funds shall not be invested in any investment prohibited by the Constitution of the State of Michigan.

CHAPTER VIII.  
GENERAL TAXATION

Assessment Roll

Section 55. On or before the first Monday of March, or such other dates as the State mandates, of each year the **administrator assigned as Assessor (hereinafter "Assessor")** shall make and certify an assessment roll of all property in the City liable to taxation in accordance with the general tax laws of the State. The levy, collection and return of City, school, State and County taxes shall be in conformity with state law, except as otherwise provided by this Charter as to City taxes. The subjects of taxation for municipal purposes shall be the same as for State, County and school purposes under the general law.

Board of Review

Section 56. The Board of Review shall meet on the first Monday in March, or such other dates as the State mandates, to review and correct the assessment roll. It shall have the same powers and perform like duties in all respects as are by general law conferred upon and required of Board of Review in townships. The Board of Review shall choose its own Chairperson and a majority of the members shall constitute a quorum. The Assessor shall be Clerk of the Board and shall keep a record of its proceedings.

Notice of Meetings

Section 57. Notice of the time and place of the sessions of the Board of Review shall be published by the City Clerk at least ten (10) days prior to the second Monday in March, or such other dates as the State mandates. The Board shall be in session for purposes of review between the hours of nine (9) a.m. and twelve (12) noon. The Board will hold at least one of its required sessions beginning at three (3) p.m. The Board will not convene on Saturdays and Sundays or any day on which the City Hall is not open to the public. On or before the first Monday in April, or such other dates as the State mandates, the Board of Review shall enforce the assessment roll as provided by general law. Such roll shall be the assessment roll for City, school, State and County taxes and for any other taxes that may be authorized by law.

#### Tax Apportionment

Section 58. The **administrator assigned as** Director of Finance (**hereinafter Director of Finance**) shall certify to the Assessor the amount of the tax levy fixed by the Council. The assessor shall apportion the tax levy ratably to each person and piece of property on the assessment roll, and spread said tax together with all special assessments and reassessed taxes upon said roll.

#### Treasurer to Collect

Section 59. After extending the taxes on the assessment roll and certifying to such roll, the Assessor shall make a copy thereof, which shall constitute the tax roll. Forthwith the Director of Finance shall annex his/her warrant to the tax roll, directing and requiring the Treasurer to collect from the several persons named in such roll the several sums set opposite their respective names. The taxes thus levied shall become, on July first or as soon thereafter as levied, a debt to the City from the persons against who they are levied and the amount levied together with all charges thereon shall become a continuing lien until paid on the property of the taxpayer, of the same character and extent as the lien created by general law for State and County taxes. The Treasurer shall have like power and duty to collect City taxes as is granted to and required of township treasurers in the collection of State and County taxes.

#### Taxes, When Due

Section 60. City taxes shall be due and payable on the first day of July of each year. All taxes paid on or before the thirty-first day of July of the same year shall be collected without additional charge. After said thirty-first day of July, there shall be added one-half ( $\frac{1}{2}$ ) of one percent (1%) for each and every month, or fraction thereof, to taxes remaining unpaid, together with such collection fee as the Council may by resolution prescribe, but not exceeding one-half ( $\frac{1}{2}$ ) of one percent (1%). The Council may by resolution **recommended by the Manager** authorize the **administrator serving as** Treasurer, for a period not extending beyond the next March first, to accept partial payments on taxes and special assessments together with interest and collection charges in such manner as the Council may determine.

#### Return to County Treasurer

Section 61. On the first day of March following receipt of said roll the **administrator assigned as Treasurer (hereinafter "Treasurer")** shall return all unpaid taxes on real property to the County Treasurer in the same manner and with like effect as returns of State and County taxes are made by township treasurers. Such return shall include all the additional charges hereinbefore provided, which charges shall in such return be added to the amount levied in said roll against each description. The taxes thus returned shall be collected in the same manner as other taxes returned to such County Treasurer are

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collected under the provisions of the general tax laws of the State, and the same rate of interest and all charges shall be collected thereon, and all taxes and charges upon lands so returned as delinquent shall be and remain a lien thereon until paid. At the time of making said return, the Treasurer shall make and file in his/her office a copy thereof upon which he/she shall record subsequent collections or reassessments as returned to he/she/she by **such** County Treasurer.

CHAPTER IX.  
SPECIAL ASSESSMENTS

Council Resolution

Section 62. The Council shall have power to determine that the whole or any part of the expense of any public improvement shall be defrayed by special assessments upon the property especially benefited and shall so declare by resolution. Such resolution shall state the estimated cost of the improvement, what proportion of the cost thereof shall be paid by special assessments, and what part, if any, shall be a general obligation of the City, the number of installments in which assessments may be paid, and shall designate the districts or land and premises upon which special assessments shall be levied.

Procedure Fixed by Ordinance

Section 63. The Council shall prescribe by general ordinance complete special assessment procedure concerning plans and specifications, estimate of costs, notice of hearing, the making of the assessment roll and correction of errors, the collection of special assessments, and any other matters concerning the making of improvements by the special assessment method. A special assessment district shall expire at the time the special assessment for which it was created expires.

Off-street Parking

Section 63(a). The Council may acquire, improve and equip off-street areas for the parking of motor vehicles, and may defray the cost thereof in whole or in part by special assessment as provided in this chapter for other public improvements.

Boulevard Lighting

Section 63(b). The Council shall have power to determine that the whole or any part of the cost of installing a boulevard lighting system on any street may be assessed upon the lands abutting thereon, subject to such limitations and conditions as are now or may hereafter be provided in Subdivision 2 of Sec. 4-d of Act No. 279 of the Public Acts of 1909, as amended. Sections 62 and 63 of this chapter shall, except where inconsistent herewith, be applicable to public improvements authorized by this section.

CHAPTER XI.  
UTILITIES - FRANCHISES - PERMITS

Franchises

Section 70. All irrevocable public utility franchises and all renewals, extensions and amendments thereof shall be granted only by ordinance. No such ordinance shall be adopted before thirty (30) **calendar** days after application therefore has been filed with the Council, nor until a full public hearing has been held thereon. No such ordinance shall become effective until it has been submitted to the electors and has been approved by three-fifths of the electors voting thereon. No such ordinance shall be submitted to the electors at an election to be held less than sixty (60) **calendar** days after the grantee named therein has filed its unconditional acceptance of such franchise, and it shall not be submitted to a special election unless the expense of holding the election as determined by the Council shall have been paid to the Treasurer by the grantee. No exclusive franchises shall ever be granted and no franchise shall be granted for a longer term than thirty (30) years. No such franchise shall be transferable, directly or indirectly, except with the approval of the Council expressed by ordinance.

Right of Regulation

Section 71. All public utility franchises, whether it be so provided in the ordinance or not, shall be subject to the right of the City: (a) to repeal the same for misuse or nonuse, or for failure to comply therewith; (b) to require proper and adequate extension of plant and service and the maintenance thereof at the highest practicable standard of efficiency; (c) to establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates; (d) to make independent audit and examination of accounts at any time, and to require reports annually; (e) to require continuous and uninterrupted service to the public in accordance with the terms of the franchise throughout the entire period thereof; (f) to impose such other regulations as may be determined by the Council to be conducive to the safety, welfare and accommodation of the public.

Regulation of Rates

Section 72. All public utility franchises shall make provision for fixing rates, fares and charges, and for readjustments thereof at periodic intervals of not more than five (5) years, either by arbitration upon terms to be specifically set forth in the franchise, or by any state agency, at the election of the City. The value of the property of the utility used as a basis for fixing such rates, fares and charges shall in no event include a value predicated upon the franchise, goodwill or prospective profits.

Purchase, Condemnation

Section 73. The City shall have the right to acquire by condemnation or otherwise the property of any public utility in accordance with the general laws of the State, provided that the price to be paid shall in no event include any value predicated upon the franchise,

goodwill or prospective profits.

#### Revocable Permits

Section 74. Temporary permits for public utilities, revocable at any time at the will of the Council, may be granted by the Council by resolution on such terms and conditions as it shall determine, provided that such permits shall in no event be construed to be franchises or amendments to franchises. Any such resolution shall be subject to the referendum provided for by this Charter.

#### Joint Use

Section 75. Every public utility may be required by the City to permit joint use of its property and appurtenances located in the streets, alleys and public places of the City by other utilities insofar as such joint use may be reasonably practicable upon payment of reasonable rental therefore; provided that in the absence of agreement, upon application by any public utility, the Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefore, which award shall be final.

#### Use of Streets

Section 76. The right to use, control and regulate use of its streets, alleys, bridges, and public places, and the space above and beneath them is hereby reserved to the City, and every public utility franchise shall be subject thereto. Every public utility shall pay such part of the cost of improvements or maintenance of streets, alleys, bridges and public places, as shall arise from its use thereof and shall protect and save the City harmless from all damages arising from said use.

### CHAPTER XII. RECALL - INITIATIVE - REFERENDUM

#### Recall

Section 77. The general election laws of the State of Michigan shall apply to and control all procedures related to recall, initiative, and referendum.

### CHAPTER XIII. CEMETERIES - PARKS - TRUSTS

#### Cemetery and Park Lands

Section 83. No cemetery owned or hereafter acquired by the City shall be sold in whole or part unless approved by a majority of the electors at a general or special election. No park owned or hereafter acquired by the City shall be sold in whole or part unless approved by a majority of the electors at a general or special election, or unless the park or portion of the park is not required under an official master plan of the City.

CHAPTER XIV.  
MISCELLANEOUS PROVISIONS

Oath of Office

Section 89. Every person elected or appointed to any City board or commission, before entering upon the duties of his/her office, shall take and subscribe to an oath of office as provided by general law, which shall be filed and kept in the office of the City clerk.

Notice of Election or Appointment

Section 90. Written notice of election or appointment of any City officer or appointment to any City board or commission shall be mailed to him/her at his/her address in the City by the City clerk within forty-eight (48) hours after the appointment is made or the vote canvassed. If within ten (10) days from the date of the notice, such officer shall not take, subscribe to and file with the City clerk an oath of office, such neglect shall be deemed a refusal to serve and the office shall thereupon be deemed vacant, unless the Council shall extend the time in which such officer may qualify.

Restrictions

Section 91. No person in default to the city shall be eligible for election or appointment to any city office or appointment to any City board or commission. No officer shall hold any remunerative elective or appointive office outside of the city government except notary public or supervisor. No officer ~~or employee~~ shall be a candidate for any **partisan elective**[WGS16] office. ~~or a member of any committee or similar organization of any political party or participate actively in partisan politics, except that a council may be a candidate to succeed himself.~~

**Comment [WGS16]:** Under this language, a Council member who chooses to run for a partisan political office would have to resign. OTHER partisan activities, however, would NOT disqualify the member. Example: Working on a partisan campaign staff of another candidate for state or federal office would not disqualify a council member from service on the Council. The word "employee" is stricken in compliance with the Hargrove decision.

Section 91(a). **Any elected or appointed Council member** ~~Persons holding an elected or person holding a~~ ~~appointed~~[WGS17] position **on any board or commission to which they have been appointed by the Mayor or the Council** shall be deemed to have abandoned their position if they remain in default to the city for 45 days after they have been properly notified.

**Comment [WGS17]:** What is meant by "appointed" position? Does this mean the City Manager or only Council members or those persons appointed to boards or commissions? If it means Council members or board or commission appointments made by the Mayor or the Council, then it should say that.

#### Vacancy Defined

Section 92(a). In addition to other provisions of this Charter, a vacancy shall be deemed to exist in City Council when a City Council member dies, resigns, is removed from office, moves from the City, is convicted of a felony or judicially declared to be mentally incompetent.

Section 92(b). In addition to other provisions of this Charter, a vacancy shall be deemed to exist in any office when an officer dies, resigns, is removed from office, is convicted of a felony or judicially declared to be mentally incompetent.

#### Official Interest in Contracts

Section 93. No elective or appointive officer shall take any official action on any contract or other matter in which he/she has any financial interest other than the common public interest. Any officer violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall forfeit his/her office.

#### Private use of Public Property

Section 94. No officer or employee shall devote any City property or labor to a private use.

#### Misdemeanors Under Charter

Section 95. All offenses in this Charter declared to be misdemeanors and all violations of City ordinances shall be punishable by fine not exceeding five hundred dollars (\$500) or imprisonment for a period not exceeding ninety (90) days, or both, in the discretion of the court.

#### City Planning Commission

Section 98. The Council shall by ordinance establish and maintain a City Planning Commission having the powers and duties prescribed by state law.

#### Uniform Accounting

Section 99. The accounting system of the City shall conform to any uniform system of accounting that may be provided by state law.

#### Public Records

Section 100. All records of the municipality shall be public, in accordance with the provisions of federal and state law.

## Headings

Section 101. Chapter and section headings are for convenience only and shall not be considered to be part of the Charter.

CHAPTER XV.  
SCHEDULE

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~~Section 91(a). Persons holding an elected or appointed position shall be deemed to have abandoned their position if they remain in default to the City for 45 days after they have been properly notified [WGS18].~~

**Comment [WGS18]:** See changes suggested above.

## Ordinances Continued

Section 107. All bylaws, ordinances, resolutions, rules or regulations of the City, not inconsistent with this Charter, in force at the time this Charter becomes effective, shall continue in full force until amended or repealed. All administrative powers and duties of the commissioners there under shall be exercised by the Manager or other appropriate officers.

## Obligations Unaffected

Section 108. All taxes and assessments levied or assessed and all charged thereon and all fines and penalties imposed, uncollected at the time this Charter becomes effective, shall be collected as if such change had not been made; if a different remedy is provided by this Charter, or by any ordinance or resolution adopted pursuant thereto, which can be made applicable to any rights existing upon the effective date of this Charter, the remedy shall be deemed to be accumulative to the remedies before provided.

## Severability

Section 109. The sections of this Charter and the parts thereof are severable, and in the event of any provision being declared unconstitutional or contrary to state law, it is hereby declared the intent of the Charter Commission and the electors voting thereon that such unconstitutionality or illegality shall not affect the validity of any other provision of this Charter.

\* \* \* \*

Councilman Scharffe said what he tried to do with any changes made to the language was to bring the intent of the change forward and clarify it.

Councilman Fitzpatrick noted that Chapter VII, Section 45, changing the tax structure appeared to be the most important item to address. Suggested all other changes be put on hold and address the tax cap. Would like to see a declining income tax rate for

residents as the millage rate rises. Thinks Council is biting off too much trying to handle all the amendments at one time.

Mayor Seals, as Vice-Chair of the Committee, said the Committee looked at the issue more than once. Noted income tax revenues account for 12 million dollars of the City's budget. The City would be in big trouble if it were removed. Said the City would have to make up the loss.

City Manager Darnell Earley said the millage rate is set each year by Council as a means of balancing the budget. The millage rate is adjusted to the cost of the General Fund's budget based on the taxable value. In other words, it is first determined how the City is going to spend the money, then the millage rate is raised accordingly. He noted income tax is not part of the Charter, but it is governed by State law and can be considered at any time.

Councilman Fitzpatrick said Council has to understand the amendments and be able to explain them and sell them to the voters. Noted some of the changes are more important than others.

Councilman Virciglio restated Councilman Fitzpatrick's concerns in suggesting that instead of having a three or four page ballot and overwhelming the voter, maybe the City should just put the tax cap question on the ballot. He questioned if the voters would be overwhelmed by so many items on the ballot.

City Manager Darnell Earley said other cities had made it all part of one election.

City Attorney Thomas Fancher said it was a hard question to answer. Said staff would certainly try to draft the language in a way that was clear.

Councilman Virciglio thanked Councilman Scharffe for his work and said he had no problem moving forward.

Councilwoman Kitterman-Miller said she respects the two-year work of the Committee and believes Council's role is to review, but not rehash, their recommendations.

Councilman Coulouris said the Committee gave much thought to every page and every chapter. He believed there were three major topics: removal of the City Manager, the City Manager's controlling limit raising from \$2,000 to \$10,000 and the tax cap removal. Said he would like Section 91 addressed, which prohibits a Councilperson from retaining his seat while running for a partisan position. Said it should be reinstated back to its original status.

Councilman O'Neal questioned whether the timing was right to lift the tax cap given the state of the economy. Asked what the attitude of the voters would be with so any lost jobs. Inquired about the timeline to complete the task.

City Attorney Tom Fancher said he had spoken to the Attorney General (A.G.) on the matter and believes it is doable. Mr. Fancher gave the following timeline:

- Council directs staff to put the amendments in ballot proposal language.
- A resolution is prepared and brought to Council for approval.
- The approved resolution would be sent to the A.G.
- The A.G. would approve or object to certain sections
- Council would deal with those objections and then place the proposals on the ballot.

He noted that if any changes were made after receipt from the A.G., it would have to go back to the A.G. for review.

Councilman Virciglio noted that removal of the tax cap does not necessarily mean a raise in taxes. He explained the City is not getting the 7.5 mills set in 1979 because of the revenue cap of \$3,800,000, the City had to reduce it to 5.3 mills. There were 6 additional mills added for police and fire and 3 mills for rubbish which was a total of 14.25 mills. Under the amended Charter, the voter would pay 11 mills, which is a 3.25 mill reduction. Most citizens will be saving money and the City will not have to go back to the voters for a renewal of the 6 mills for police and fire because it will be rolled in to the 11 mills and the removal of the 3 mills for rubbish will be beneficial to the commercial businesses in Saginaw because they are presently paying the 3 mills and not getting that service. He urged citizens to look at their tax bill and see where the money goes.

Councilwoman Kitterman-Miller said time is critical. If the City does not get some of the questions on the November ballot, it will have to wait until August 2010 to piggyback on another election.

Councilman Wendt suggested Council begin review of the amendments. Said he disagreed with Councilwoman Kitterman-Miller and believes it is Council's responsibility, as the legislative body, to make the final decisions.

Councilman O'Neal noted the purpose of an open meeting was to discuss. Said if there were questions from the Council table, surely there would be questions from the general public. Said Council needs to educate the public, particularly at the neighborhood meetings.

Councilwoman Kitterman-Miller suggested Council go through the Charter chapter by chapter.

Mayor Seals asked if anyone had any problems with the preamble. (*No one expressed any issues.*)

Mayor Seals then moved to Chapter I and asked if there were any issues.

Councilman Scharffe requested his recommendations for capitalization for titles, use of the word "City," etc., be approved subject to final review by the City Attorney for any chapters affected.

Councilman Coulouris moved to approve the recommendation, seconded by Councilman Virciglio.

(Discussion: Councilman Virciglio said he had reviewed Councilman Scharffe's suggested changes and believes Council should accept the suggestions, pending approval of the City Manager, City Attorney and Charter Review Ad Hoc Committee, unless any Council member wants to take any change made by Councilman Scharffe and change or alter it.)

Mayor Seals noted there was a motion on the floor and called for the vote.

Adopted unanimously.

Councilman Virciglio then moved, in the interest of time, unless any member of Council wants to add to Councilman Scharffe's recommended changes or disagreed with any one or several of his recommendations, to submit the proposed document to the City Attorney and the Charter Review Ad Hoc Committee for their recommendations and changes, if any, and bring it back to Council at the next meeting, seconded by Councilman O'Neal.

Mayor Seals called for exceptions.  
 Councilman Coulouris, Chapter V;  
 Mayor Seals, Chapter IV;  
 Councilmen Fitzpatrick and Coulouris, Chapter XIV; and  
 Councilman Scharffe, Chapter XVI.  
 All other Chapters were adopted unanimously.

Chapter IV, Section 19.

Mayor Seals said the Committee had discussed having notices by electronic means at length, particularly with regard to emails. She thought the Committee had put some language to that affect in the Charter, but doesn't see it.

Councilman Scharffe moved that the following language to be placed at the end of Chapter IV, Section 19: *"At the request of the Council member, notices may be provided to him/her via email or facsimile"*, seconded by Councilwoman Kitterman-Miller.

Councilman Wendt suggested the language be amended to include a phone call.

After confirming with the City Attorney this was allowable under the Open Meetings Act, Councilman Scharffe amended his motion to have the language read: *At the request of the Council member, notices may be provided to him/her via email, facsimile, or telephone"*, seconded by Councilman O'Neal.

The amendment to add "or telephone" was adopted unanimously.

Council then voted on the main motion, which was also adopted unanimously.

Revised Section 19:

Special Meetings

Section 19. Special meetings shall be called by the City clerk on the request of the **Mayor or City Manager** or any three (3) Council members on at least six (6) hours' written notice to each Council member served personally or left at his/her usual place of residence; but any special meeting shall be a legal meeting for all purposes without such notice if all Council persons are in attendance or have waived notice. At the request of the Council member, notices may be provided to him/her via email, facsimile, or telephone.

Chapter IV, Section 21

Councilman Scharffe expressed his concerns about the number of copies someone could request. He said the number of copies should be limited or the sentence eliminated. (*City Clerk Diane Herman noted that under Section 24, Ordinances were available at cost and suggested this be consistent.*) Councilman Scharffe moved to amend the last sentence of Section 21 to read as follows: *Copies of minutes will be made available at cost*, seconded by Councilman Virciglio.

Adopted unanimously.

Revised Section 21:

## Rules

Section 21. The Council shall determine its own rules, and shall keep a journal of its proceedings in the English language, which shall be signed by the City clerk. All regular and special meetings of the Council shall be open to the public. The minutes of each Council meeting shall be prepared by the City clerk and be available to the public. Copies of minutes will be made available at cost.

Councilman Scharffe said he was not referring to three members being absent from a meeting. If there are nine people seated, elected and appointed, you would still need five votes no matter how many were in attendance. This refers to vacancies on the Council, i.e. if you were down to a seven-person Council. Do you still want five members to vote, or in this case, four members?

Councilman Virciglio moved to approve the language suggested by Councilman Scharffe, seconded by Councilwoman Kitterman-Miller.

Adopted unanimously.

Section 22

## Ordinances

**Section 22.** Legislation shall be by ordinance. Each ordinance shall be identified by a number and a short title. The style of all ordinances shall be "The City of Saginaw Ordains." The effective date of an ordinance shall be prescribed therein. At least two (2) weeks shall elapse between the introduction and enactment of an ordinance; enactment shall require the affirmative vote of not less than **a simple majority of the Council members elected, appointed, and seated**, and the effective date shall not be earlier than ten (10) days after enactment; except that ordinances immediately necessary for the preservation of the public peace, health or safety may be enacted on the date of introduction and given immediate effect by the affirmative vote of not less than **a simple majority plus one of the Council members elected, appointed, and seated**. No ordinance shall be amended by reference to its title only, but the section or sections amended shall be enacted in full. An ordinance may be repealed by reference to its number and title only.

Chapter V, Section 25 and 27

Councilman Coulouris said he wanted to keep this section as proposed by the Committee with a 2/3 vote for the removal of the City Manager.

Councilman Scharffe suggested the language "elected, appointed and seated" remain and it would read as follows: *The Manager may be removed by a two-thirds majority vote of the elected, appointed, and seated members of the Council.*

Councilman Fitzpatrick referred to Section 25 and said to be fair and balanced; he believed this section should be amended so it should take 2/3 members of Council to appoint a new city manager. He said Section 27 already has a 2/3 provision for removing a longer-sitting city manager. Said he'd only support the language if there were also a 2/3 vote to hire the city manager.

After additional discussion, Councilman Scharffe moved that Section 25, in the first two sentences be changed to read as follows: *"The Council shall appoint a City Manager (hereinafter "Manager") for an indefinite term by a 2/3 majority vote of the elected,*

*appointed and seated members of the Council. The Manager shall be the chief administrative officer and the head of the administrative branch of the City government,"* seconded by Councilwoman Kitterman-Miller.

Adopted unanimously.

Revised Section 25:

City Manager

Section 25. The Council shall appoint a City Manager (hereinafter "Manager") for an indefinite term by a 2/3rds majority vote of the elected, appointed and seated members of the Council. The Manager shall be the chief administrative officer and the head of the administrative branch of the City government. The Manager need not be a resident of the City or the State at the time of his/her appointment. The Council may designate a qualified administrative officer of the City to perform the duties of Manager during his/her absence or disability.

Councilman Coulouris moved to leave the language in Section 27, as proposed by the Charter Review Ad Hoc Committee.

Mayor Seals questioned, for consistency, if he wanted to leave the language, "elected, appointed and seated" of which he agreed.

Councilman Coulouris said the language would read as follows: "*The Manager may be removed by a 2/3 majority vote of the elected, appointed, and seated members of the Council*" and the remainder of the section remain as proposed, seconded by Councilman Scharffe.

Mayor Seals questioned whether he wanted to add Councilman Scharffe's suggested language with regard to "calendar" days.

Councilman Scharffe suggested adding additional language with regard to the number of days to read as follows: *At least thirty (30) calendar days before removal of the Manager, the Council shall adopt a resolution stating its intention to remove him/her and the reasons therefore, a copy of which shall be served forthwith on the City Manager, who may within ten (10) business days demand a public hearing, in which event the final resolution removing the Manager shall not be adopted until such public hearing has been held.*

Councilman Coulouris, as maker of the motion, moved to support this amendment, along with Councilman Scharffe who had seconded the motion. (*City Clerk Diane Herman read the full motion.*)

Adopted unanimously.

Revised Section 27:

Removal

Section 27. The Manager may be removed by a two-thirds majority vote of the elected, appointed, and seated members of the Council. At least thirty (30) calendar days before removal of the Manager, the Council shall adopt a resolution stating its intention to remove him/her and the reasons therefore, a copy of which shall be served forthwith on the City Manager, who may within ten (10) business days demand a public hearing, in which event the final resolution removing the Manager shall not be adopted until such public hearing has been held. Upon passage of a resolution stating the Council's intention to remove the Manager, the Council may suspend him/her from duty, but his/her pay shall continue until his/her removal. The action of the Council in removing the Manager shall be final.

Chapter V, Section 37

Councilman Scharffe moved that section 37 be amended to read as follows: “*The Council shall appoint a Board of Review of five (5) citizens who are taxpayers on real property within the City limits and two alternate taxpayers that meet the same criteria, who shall hold office at the pleasure of the Council. The Council shall fix the compensation of the members of the Board of Review,*” seconded by Councilman O’Neal.

Adopted unanimously.

Revised Section 37:

Board of Review

Section 37. The Council shall appoint a Board of Review of five (5) citizens who are taxpayers on real property within the City limits and two alternate taxpayers that meet the same criteria who shall hold office at the pleasure of the Council. The Council shall fix the compensation of the members of the Board of Review.

Chapter XIV, Section 91.

Councilman Coulouris moved that the language for this Section remain as is in the original Charter, seconded by Councilman Wendt. The original language reads as follows:

Restrictions

Section 91. No person in default to the city shall be eligible for election or appointment to any city office. No officer or employee shall hold any remunerative elective or appointive office outside of the city government except notary public or supervisor. No officer or employee shall be a candidate for any elective office or a member of any committee or similar organization of any political party or participate actively in partisan politics, except that a councilman may be a candidate to succeed himself.

Councilman Fitzpatrick requested the language “...or a member of any committee or similar organization” be removed because it is already widely disregarded.

Councilman Scharffe noted that due to the *Hargrove* decision, the word “employee” would need to be removed. He suggested the language be revised to read as follows:

Restrictions

Section 91. No person in default to the City shall be eligible for election or appointment to any city office or appointment to any City board or commission. No officer shall hold any remunerative elective or appointive office outside of the city government except notary public or supervisor. No officer shall be a candidate for any partisan elective office.

After some discussion and clarification from the City Attorney, Councilman

Coulouris moved to remove the word "employee" from his suggested language, seconded by Councilman Wendt. After further discussion, City Clerk Diane Herman read the motion made by Councilman Coulouris. Adopted by the following vote:

Ayes: Councilman Coulouris-1.

Nays: Councilpersons Wendt, Fitzpatrick, Kitterman-Miller, O'Neal, Scharffe, Virciglio and Mayor Seals-7.

Absent: Councilman Branch-1.

Councilwoman Kitterman-Miller moved to accept the language as proposed by Councilman Scharffe, seconded by Councilman O'Neal.

Adopted unanimously.

Revised Section 91:

Restrictions

Section 91. No person in default to the City shall be eligible for election or appointment to any city office or appointment to any City board or commission. No officer shall hold any remunerative elective or appointive office outside of the city government except notary public or supervisor. No officer shall be a candidate for any partisan elective office.

Section 91(a)

Councilman Scharffe moved to approve section 91 as he earlier proposed. (*He read the language*), seconded by Councilwoman Kitterman-Miller.

Adopted unanimously.

Revised Section 91(a)

Section 91(a). Any elected or appointed Council member or person holding a position on any board or commission to which they have been appointed by the Mayor or the Council shall be deemed to have abandoned their position if they remain in default to the city for 45 days after they have been properly notified.

Councilwoman Kitterman-Miller moved for adoption of the remainder of Chapter IV, seconded by Councilman Scharffe.

Adopted unanimously.

Chapter XVI.

City Attorney Tom Fancher explained the meaning of Chapter XVI, which allowed for the City to have a police and fire pension system by ordinance, which it does, and Chapter XVII, which put restrictions on firefighter hours, which are now covered by union contract. He noted that the Committee discussed both these chapters simultaneously. Believes the intent of the Committee was to only eliminate Chapter XVII. He suggested that Section 1 of Chapter XVI from the original Charter be returned.

Councilman Scharffe moved to retain Section 1 of Chapter XVI of the former City

Charter.

Adopted unanimously.

Revised Chapter XVI

**CHAPTER XVI.  
POLICEMEN AND FIREMEN RETIREMENT SYSTEM**

Section 1. A complete retirement system shall be provided for policemen and firemen of the city by general ordinance.

Councilwoman Kitterman-Miller moved to approve any sections not discussed in Chapters IV and V, seconded by Councilman O'Neal.

Adopted unanimously.

Councilman Virciglio moved to approve all the remaining recommendations as presented by the Charter Review Ad Hoc Committee, subject to approval by the City Attorney, seconded by Councilman Coulouris. *(There was some discussion on the issue of lifting the tax cap.)*

Adopted unanimously.

Mayor Seals noted that it was the understood that all amendments would be placed on the November 2009 ballot.

City Attorney Tom Fancher said it is his understanding that staff had been directed to prepare the Charter in ballot language in a format, which would include an explanation of the change, bring it back to Council as a resolution for approval, after which it would be sent to the A.G. for review to place on the November ballot.

Mayor Seals questioned the possibility of having the amendments on more than one election.

City Attorney Tom Fancher said it was possible but he would know more in a week.

ADJOURNMENT

At 8:20 p.m., Councilman Scharffe moved to adjourn the meeting, seconded by Councilman O'Neal.

Adopted unanimously.

Diane M. Herman  
City Clerk