



**TALENT CITY COUNCIL
REGULAR COUNCIL MEETING DRAFT MINUTES
TOWN HALL
July 20, 2016 – 6:45 P.M.**

Study Session, Regular Council & TURA meetings are being digitally recorded and will be available on the City website

The City Council of the City of Talent will meet in Regular Session at 6:45 PM Wednesday July 20th in the Town Hall, 206 E. Main Street. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to the City Recorder at 541-535-1566, ext. 1012.

The City Council reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the study session and/or meeting.

REGULAR COUNCIL MEETING- 6:45 PM

Anyone wishing to speak on an agenda item should complete a Public Comment Form and give it to the City Recorder. Public Comment Forms are located at the entrance to the meeting place. Anyone commenting on a subject not on the agenda will be called upon during the "Citizens Heard on Non-agenda Items" section of the agenda. Comments pertaining to specific agenda items will be taken at the time the matter is discussed by the City Council.

1. Call to Order/Roll Call

Members Present

**Mayor Stricker
Councilor McManus
Councilor Cooke
Councilor Pederson
Councilor Wise
Councilor Collins**

Members Absent

2. Pledge of Allegiance

3. Community Announcements

- **City Manager, Tom Corrigan welcomed the new Finance Director, Ryan Martin. Mr. Martin introduced himself.**
- **Mayor Stricker announced the Parks Commission is discussing having a movie in the Park.**
- **There is a CERT training schedule you can find on the City website.**

3.1 Councilor Cooks Resignation (see attached).

Mayor Stricker thanked Councilor Cooke for her years of service to the City.

Don Steyskal- 461 Arnos, Talent-Mr. Steyskal spoke regarding his years working with Councilor Cooke and thanked her for her service.

Council gave consensus to surplus Councilor Cookes ipad and gift it to her as a thank you.

Councilor McManus spoke that it was a pleasure working with Councilor Cooke.

Councilor Pederson moved to accept Councilor Cookes resignation effective at the end of this meeting. Councilor Abshire seconded. Mayor Stricker repeated the motion. Discussion: None. All Ayes. Motion passed unanimously.

4. Public Hearings

Public hearings are conducted under a prescribed procedure depending on the topic. The presiding officer will conduct the hearing in accordance with those procedures which will allow for public input at the announced time.

5. Citizens Heard on Non-Agenda Items

Limited to 5 minutes or less per Mayoral discretion

- Dolly Warden – 255 Colver Rd. #88, Talent – Ms. Warden spoke that Grants Pass has become the next Bee City USA at their last Council Meeting.
- Meadowsweet Levi – 106 N. First St., Talent -Ms. Levi thanked Council. She asked for support from Council regarding the monarch butterflies (*see attached*).

6. Public Presentations

Items that do not require immediate Council action, such as presentations, discussion of potential future action items. Time limited to 15 minutes per presentation unless prior arrangements have been made.

6.1 None

7. Consent Agenda

The consent agenda consists of items of a repeating or routine nature considered under a single action. Any Councilor may have an item on the consent agenda removed and considered separately on request.

7.1 Approval of Regular Council Meeting Minutes for July 6, 2016

Councilor Pederson suggested to add elaboration on item 10.4 stating his question “if there was any protection in the Resolution to keep the County from absorbing the funding again”. Which Mr. DeBoer responded no.

Councilor Pederson moved to approve the minutes as amended. Councilor Cooke seconded. Mayor Stricker repeated the motion. Discussion: None. All Ayes. Motion passed unanimously.

7.2 Acknowledge receipt of Payables

Councilor Wise moved to acknowledge receipt of the Payables. Councilor Pederson seconded. Mayor Stricker repeated the motion. Discussion: None. Motion passed unanimously.

7.3 Appoint Kathleen Sharrar to the Parks Commission

Mayor Stricker suggested to confirm this appointment.

Councilor Wise moved to approve the application of Kathleen Sharrar to the Parks Commission. Councilor Pederson seconded. Mayor Stricker repeated the motion. Discussion: None. All Ayes. Motion passed unanimously.

8. Regular Agenda

Citizens will be provided the opportunity to offer comments on action items after staff has given their report and if there is an applicant, after they have had the opportunity to speak. Action items are expected to result in motions, resolutions, orders, or ordinances.

8.1 Boys and Girls Club

Due to a no show this item was tabled.

9. Information Items

9.1 Talent Charter

Mr. Corrigan gave a staff report.

The Charter Ad-Hoc Committee and Legal had suggested changes (*see attached*). Council went over each of the changes and gave consensus to the following:

City Charter Changes

Preamble – As Legal suggested.

Mayor Vote – Keep as is.

Chapter IV Council Section 19 Vacancies Subsection 2 e: - Keep the provision but change the language so that the provision applies only in the case of conviction of a felony and move the provision to subsection 1 which takes the “vacancy” determination away from the City Council and which requires incumbent’s vacancy automatically, upon conviction of a felony.

Section 19 Subsection 2 (a) and (b) – 10 days.

Chapter IV Section 19 (1) – agreed with recommended recommendations by the Committee.

Chapter IV Section 19 (2) – add Mayor to the provision and section 20.

Chapter IV Section 20 – agreed with recommendations by the Committee.

Chapter IV Section 22- Accept the recommendation of the attorney.

Chapter VI Section 24 subsection (6) – remove subsection 6 and move all of Section 24 to Chapter III “Form of Government”.

Council agreed to put the Charter on the ballot as a whole.

9.2 Marijuana Tax

Mr. Corrigan gave a staff report.

Council gave consensus to add this to the ballot. Council gave a majority consensus to have the 3% tax go to Parks maintenance and repair. It was decided to revisit the distribution in 5 years.

9.3 Diesel Tax

Mr. Corrigan gave a staff report (*see attached*).

Council gave consensus to not put this on the ballot.

Councilor Pederson moved to extend the Council Meeting for 15 more minutes. Councilor Collins seconded. Mayor Stricker repeated the motion. Discussion: None. Councilor Pederson, Councilor Wise, Councilor Collins: YES. Councilor McManus, Councilor Abshire and Councilor Cooke: NO. Mayor Stricker: YES. Motion passed 4/3.

10. City Manager & Other Department Reports

Items for discussion by the City Manager and Department Heads as needed.

Mr. Corrigan gave Department and City Reports:

- The Front Street bid award will be on the August 3rd Council Agenda to pick a contractor.
- Met with Historical Society regarding their lease.
- Spoke with Friends of the Library regarding bench selections.
- Sidewalk and School house bids are done. It will be done within the next 2 weeks.
- DOT Interchange will be on the August 17th.
- Wagner Creek E-coli results are back to normal.
- Lead and copper readings were done. The regional pump station was added to the study; the City was told the results were high. If so the City
- Will be interviewing the RARE Participants tomorrow.
- Passed the first round of Blue Sky Grant for the solar addition to the Community Center. Will meet with Blue Sky next week.
- We have a renter who will be using the Commercial Kitchen in the Community Center.
- The YMCA will be renting the Community Center for low impact exercise.
- The new Surfaces are here. IT Director, Lana Director will be sending an email to the Council to set up a meeting to pick up the Surfaces.

11. Other Business

11.1

Mayor Stricker suggested to bring the Monarch Butterfly issue that was requested by Meadowsweet Levi to the first Council Meeting in September. Council gave consensus to do so.

Councilor Wise spoke regarding the Cascade Siskiyou Monument. It was decided to have a presentation on this on the August 17th Council Agenda to endorse them by Resolution.

12. Mayor and Councilor - Committee Reports and Councilor Comments

Rogue Valley Area Commission on Transportation – Mayor Stricker (alternate)

Together for Talent Committee – Councilor Collins

Metropolitan Planning Organization – Mayor Stricker & Councilor Cooke (alternate)

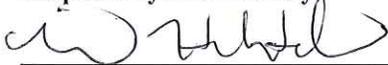
Planning Commission – Councilor Wise & Councilor Abshire (alternate)
Public Art Advisory Committee – Councilor McManus
Parks Commission – Mayor Stricker
Traffic Safety & Transportation Commission – Councilor Cooke
Rogue Valley Council of Governments – Councilor McManus & Mayor Stricker (alternate)
Talent Historical Society – Councilor Abshire
Harvest Festival Committee – Councilor McManus
Economic Development - Councilor Pederson & Council McManus
Chamber – Councilor Pederson
Talent Charter Review – Councilor Cooke

Due to time running out there were no reports.

13. Adjournment

The Council Meeting adjourned at 9:45 PM

Respectfully submitted by:



City Recorder, Melissa Huhtala

Attest:



City Manager, Tom Corrigan

The City of Talent is an Equal Opportunity Provider

Note: This agenda and the entire agenda packet, including staff reports, referenced documents, resolutions and ordinances are posted on the City of Talent website (www.cityoftalent.org) in advance of each meeting.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact TTY phone number 1-800-735-2900 for English and for Spanish please contact TTY phone number 1-800-735-3896.

July 20, 2016

I, Teresa Cooke, resign my position as Talent City Councilor #4, to be effective at the end of council meeting on July 20, 2016.

Teresa Cooke

SPECIAL SPRING ISSUE: Garden for Wildlife™

NATIONAL

National Wildlife Federation®

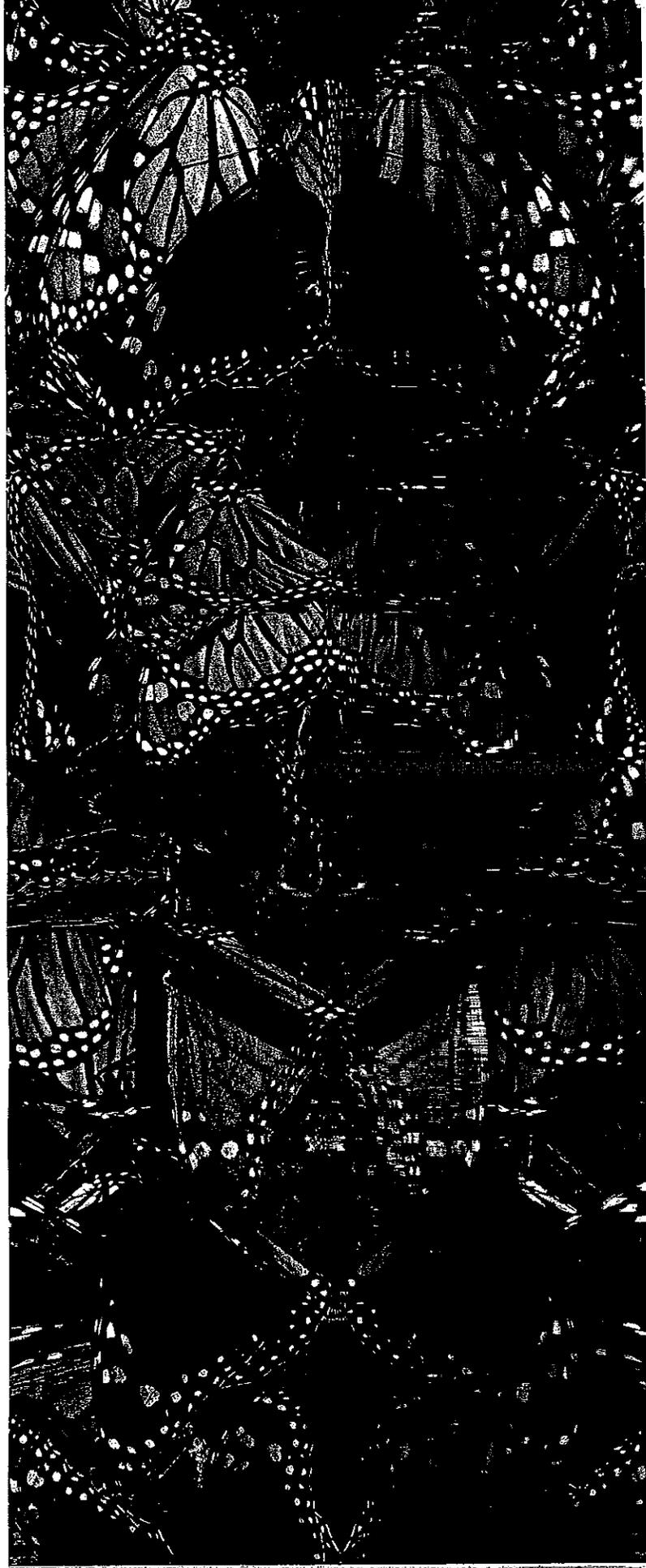
APRIL/MAY 2015 WWW.NWF.ORG WORLD EDITION

WILDLIFE®



SAVING MIGRATORY MONARCHS
Enlisting Gardeners in the Battle for Butterflies

"BRAIN POWER" OF PLANTS • RESPECT FOR OPOSSUMS • CURB APPEAL OF NATIVES



Battle for Butterflies

The fight to bring back North America's dwindling migratory monarchs

By LAURA TANGLEY

Mastering to migrate north to spring and summer breeding grounds, monarchs gather by a puddle in the Sierra Chichuca, one of a handful of sites in Mexico where the butterflies overwinter. Their numbers have dropped more than 80 percent in the past two decades.

After passing the winter hunkered down on evergreens in central Mexico or coastal California, monarch butterflies are on the move again this spring. Flitting 25 to 30 miles a day, the insects are headed north and east toward breeding grounds that by mid-summer will stretch from coast to coast across the United States and as far north as southern Canada.

Conservationists hope gardeners will spot more of the beloved orange-and-black butterflies in their yards this year than last. As this issue went to

press in February, Mexican researchers had just announced results of their annual survey of monarchs roosting in the country's high-elevation, oyamel fir forests—the winter home to 99 percent of North America's monarch population. The scientists estimate that in the winter of 2014 to 2015, these forests housed 56.6 million monarchs—up 69 percent from the previous year's survey, when the insects' numbers fell to historic lows.

While the news from Mexico was welcome, the increase "does not mean the monarch butterfly has

recovered," says Chip Taylor, director of the nonprofit Monarch Watch and a biologist at the University of Kansas. The latest count remains one of the lowest ever recorded, he notes, "and even if its numbers doubled or tripled, North America's monarch population remains very small and very vulnerable."

According to scientists, the continent's monarch population has declined by more than 80 percent from its average during the past two decades—and by more than 90 percent from its peak of nearly one billion

MONARCH BUTTERFLIES (PICTURES)

butterflies in the mid-1990s. With modest numbers of non-migratory monarchs ranging south to Peru, and small, introduced populations established in locations around the world, the species *Danaus plexippus* most likely will survive. But "we very well may lose the spectacular phenomena of monarch migration and overwintering," says Lincoln Brower, a Sweet Briar College biologist who has studied the butterflies since the 1950s.

Migratory Marvels

North America's monarch migration—up to 3,000 miles round-trip—and large winter aggregations make up one of the greatest natural history spectacles on Earth. While many bird species undertake longer seasonal movements, monarchs are different because their migration takes place over several generations. Butterflies flying to Mexico in fall are the grandchildren of insects that departed the previous spring. These individuals have never seen their winter habitat—and how they find their way remains largely a mystery.

Scientists have known for several years that monarchs use a sun compass, with receptors located in their antennae, to orient southward in fall. Last summer, researchers from the University of Massachusetts Medical School reported in *Nature Communications* that the insects also possess a magnetic compass, explaining how they can still travel south on overcast days. "But none of this tells us how monarchs that have never been to Mexico navigate to the same grove of trees—sometimes the same trees—their ancestors did generations before," Brower says. If and when that mystery is solved, he adds, "It will be a great scientific discovery."

Whether bound for Mexico (most butterflies east of the Rocky Mountains) or California (most to the west), monarchs must winter in habitats that are warm enough to prevent

freezing but not so warm they begin to reproduce and burn up fat reserves needed to migrate in spring.

Brower discovered just how picky the butterflies are in the early 2000s when he and his colleagues conducted a series of aerial searches for Mexican monarch colonies that had not yet been identified. Though the researchers surveyed more than 135 square miles of forest that appeared to be suitable habitat (based on elevation and tree cover), they found no sign of the butterflies outside a small number of sites scientists discovered in the 1970s. "The extraordinary site fidelity and extreme localization of colonies within such a small portion of available habitat underscore the utter urgency of protecting the forests," they wrote in *American Entomologist*.

Conservationists concerned about monarchs focused initially on protect-

ing these Mexican forests, where large-scale, illegal logging was destroying or degrading vast expanses of habitat. Thanks to such efforts, "the Mexican authorities began effectively enforcing regulations to protect monarch reserves about seven years ago," says Scott Hoffman Black, executive director of the Xerces Society for Invertebrate Conservation and co-chair of the Monarch Joint Venture, a partnership of more than 20 U.S. federal and state agencies, universities and nongovernmental organizations, including the National Wildlife Federation. "Enforcement, along with economic support for local people, has mostly curtailed large-scale logging." Small-scale tree removal—which can alter the microclimate monarchs need—remains a

problem, he adds.

Transborder Threats

Now a more formidable threat has emerged on the U.S. side of the border: the destruction of habitat across the butterflies' breeding range, particularly milkweed loss in the Midwest. Host plants for monarchs, milkweeds are the only plants the butterflies' caterpillars can eat. Moreover, "the majority of the world's monarchs are produced by milkweeds in the Corn Belt," says University of Minnesota biologist Karen Oberhauser, co-chair of the Monarch Joint Venture. She and Iowa State University biologist John Pleasants estimated that more than 60 percent of the region's milkweeds were lost between 1999 and 2012. During the same period, Oberhauser says, the Midwest produced 88 percent fewer monarch butterflies than it did before 1999.

Milkweeds—along with the nectar plants monarchs need to fuel migration—have fallen prey to changes in midwestern farming practices. The most detrimental has been development and increased planting of corn and soybeans genetically engineered



NWF Priority

Push for Pollinators

As part of a larger effort to protect pollinators, NWF and the U.S. Fish and Wildlife Service signed an agreement in February calling on citizens to help monarchs by cultivating milkweed and native nectar plants. Unlike with many environmental crises, "we don't have to wait for someone else to take action," says NWF President Collin O'Mara. Adds Mary Phillips of the Federation's Garden for Wildlife program: "With some 400,000 participants, we offer tremendous potential to create new monarch habitat nationwide." To find out more—and to learn how NWF affiliates are helping pollinators—visit www.nwf.org/pollinators.



A monarch caterpillar (top) feasts on common milkweed in a Wisconsin backyard. As the larva grows, it will shed its skin, or molt, five times over about two weeks before forming a chrysalis. The butterfly emerges from its chrysalis (above) after another 10 to 14 days.



A monarch sips nectar from a purple coneflower in a Maryland garden. Conservationists are calling on gardeners nationwide to plant more such native nectar sources, along with milkweeds for larvae, to help replace tens of millions of acres of lost monarch habitat.

to survive applications of the herbicide glyphosate, or Roundup. The near ubiquitous use of Roundup Ready crops today allows farmers to apply the herbicide widely, killing off milkweed and other native plants that once thrived between crop rows and along the edges of millions of acres of agricultural land.

Milkweed losses also have been driven by the massive conversion of grasslands, rangelands and former conservation reserves to monocultures of corn and soybeans—a change propelled in large part by federal pressure to develop ethanol as

an alternative fuel. Taylor reports that since 2007, farmers have plowed under more than 24 million acres of new cropland, an area about the size of Indiana. "In much of the Corn Belt, farming is now from road to road, with little habitat for any form of wildlife remaining," he says.

As monarch populations plummet, "other threats are becoming proportionally more significant," Oberhauser says. Site cites disease, predation in the butterflies' winter roosts, insecticide use and invasion by nonnative plants related to milkweeds. Monarchs lay eggs on these

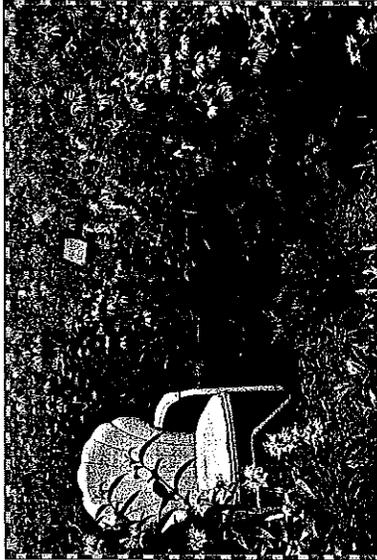
plants, called swallow-worts, but their caterpillars cannot eat the leaves and die.

Monarchs also have been hit hard in recent years by extreme weather such as droughts, storms, heat waves and unusually cold or wet springs that delay reproduction—events likely to become more frequent with climate change. Some studies suggest that by the end of this century, global warming may actually eliminate forests within the insects' Mexican reserves. Even without such losses, overwintering butterflies are constantly at risk from bad weather. A single

storm in 2002 killed an estimated 500 million monarchs—eight times more butterflies than survive in North America today.

Butterfly Heroes

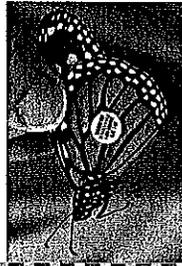
Known to most Americans since grade-school biology, monarchs are iconic insects whose popularity may help save them. Indeed, an unprecedented effort to bring back the butterfly began in February 2014, when President Barack Obama met with Mexico's President Enrique Peña Nieto and Canada's Prime Minister Stephen Harper in Toluca, Mexico.



How You Can Help Monarch Butterflies

Purple coneflowers, black-eyed Susans and bee balm in an Iowa yard (above) offer a feast of nectar for monarch butterflies. "As monarchs lose more and more habitat on agricultural lands, backyards have become increasingly important," says Xerces Society Endangered Species Program Director Sarina Jepsen. Here's how gardeners can help in a new, nationwide monarch-recovery effort.

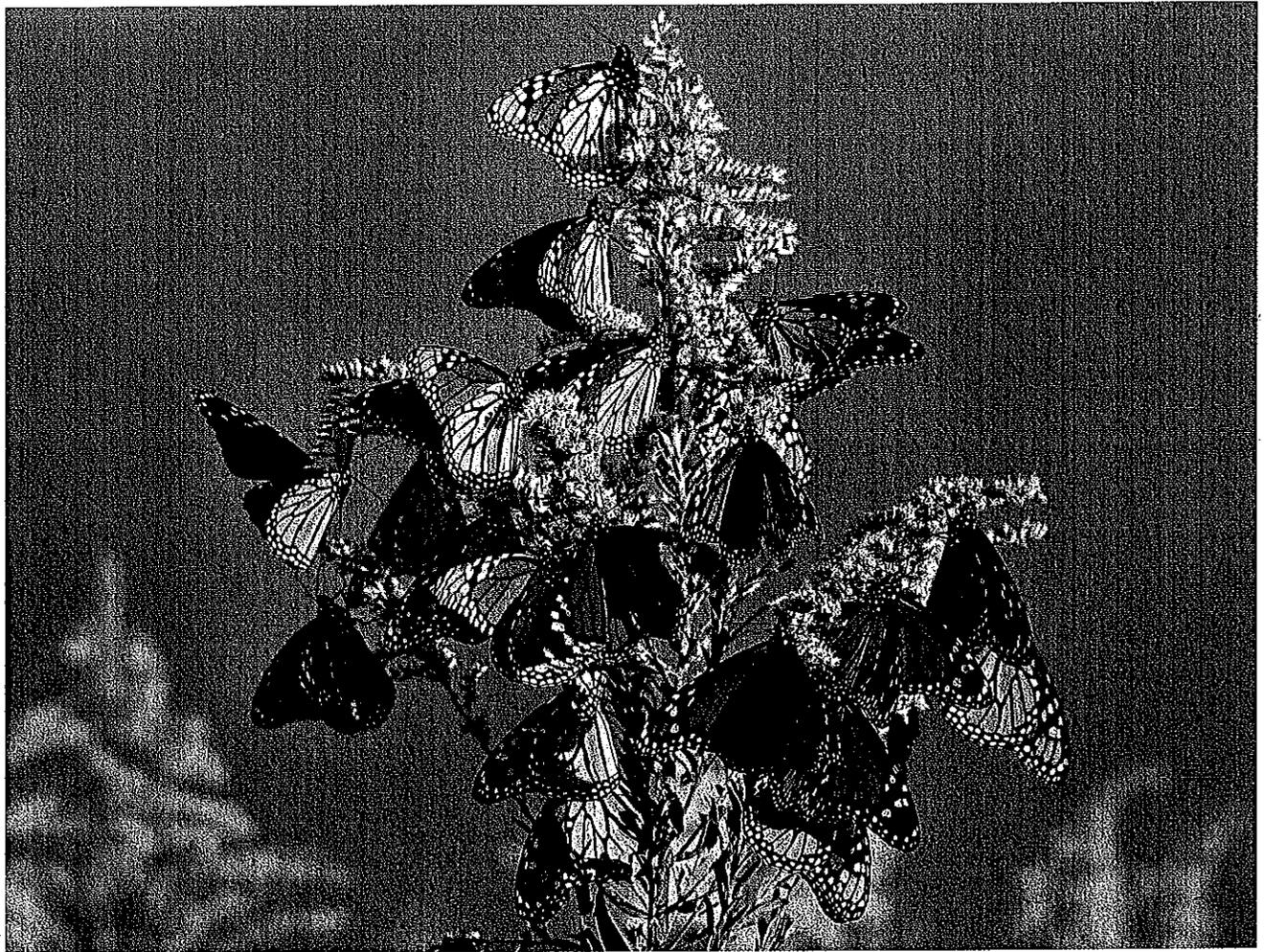
Plant milkweeds native to your region. Because they coevolved with your region's wildlife, native milkweeds are best. Recent research shows that one popular nonnative—tropical milkweed—may even harm monarchs in the Southeast. That's because, unlike indigenous species, tropical milkweed foliage does not die back in areas that stay warm during winter, encouraging nonmigratory monarchs to breed year-round and causing the buildup of a debilitating parasite, called OE, that caterpillars ingest when eating the leaves. Sources of native milkweeds include Monarch Watch's Milkweed Market and the Xerces Society's Milkweed Seed Finder.



Cultivate native nectar plants. Nectar sources are especially important during spring and fall when monarchs migrate and need to fuel their flights, which can reach 2,000 miles during fall. Sources for native nectar plants include the Lady Bird Johnson Wildflower Center's Native Plant Database and regional planting guides published by the Pollinator Partnership.

Avoid pesticides. In particular, steer clear of systemic insecticides such as neonicotinoids. These are taken up by plants' vascular systems, leaving caterpillars and butterflies that feed on leaves, nectar and pollen exposed to the poison long after it has been applied.

Participate in citizen science. Biologists need volunteers to help study monarchs. Monarch Watch participants tag migrating butterflies (above), in the Monarch Larva Monitoring Project, you can check milkweed for eggs and larvae. With Journey North, volunteers report monarch sightings, and Monarch Health participants test butterflies for OE parasites. Broad participation in these continent-wide programs reflects public support that "has really given me hope," says University of Minnesota biologist and Monarch Larva Monitoring Project founder Karen Oberhauser.



To fuel their journey south, monarchs in Texas feed on native goldenrod in late fall. The great-grandchildren of insects that left Mexico the previous spring, these butterflies have never been to their winter habitat, and how they find their way remains mysterious.

One result of their “Three Amigos” summit was creation of a three-nation working group on monarch butterflies. Two months later, the White House convened a meeting of scientists and conservationists to discuss declining pollinators, focusing on bees and monarchs. “I never expected that a President of the United States would draw attention to this problem,” says Sarina Jepsen, endangered species program director for the Xerces Society, one of 60 groups represented at the meeting.

Last June, the White House went one step further, issuing a memorandum that calls for creation of a federal strategy to protect pollinators. Specifically, the president directed the heads of more than a dozen government agencies to take action on behalf of

bees, monarchs and other pollinators—moves with considerable conservation potential given that the government owns hundreds of millions of acres ranging from national parks, forests and wildlife refuges to rights-of-way along federal highways, pipelines and power lines.

Monarch Task Force

One task force, led by U.S. Fish and Wildlife Service Director Dan Ashe, focuses on monarchs, and the service is reviewing a petition to list the butterfly as threatened under the U.S. Endangered Species Act. Meanwhile, dozens of nongovernmental groups—including NWF (see box on page 25)—are mobilizing members and partners nationwide to

restore milkweed and native nectar-plant habitat for monarchs.

Will such efforts be enough? “The scale of habitat loss is so great that we’ve only just begun,” Jepsen admits. According to Taylor, one million acres of milkweed must be planted annually simply to keep pace with new losses. Creating all the habitat monarchs need, he adds, “requires the largest habitat-restoration program ever attempted in the world.” Still, he and other scientists believe it is doable—with sufficient will, collaboration and long-term financial commitment. “There is no reason to lose the monarch migration,” Taylor says. ❖

Senior Editor Laura Tangley is a butterfly-friendly wildlife gardener.

Report of the Talent City Charter Ad-Hoc Committee

[LGLG comments in **bold red** to make them easier to see.]

Honorable Mayor Stricker and Members of the City Council,

The members of the Talent City Charter Ad-Hoc Committee hereby submit our report to you. We were appointed and charged with the task of reviewing the Talent City Charter and for proposing recommended changes and improvements. Any such recommendations must be approved by the City Council and submitted to the voters for final approval. The Committee is under a deadline of January 2016 to submit a final report on our review, in order to allow time for submission of issues to the voters. The Committee met monthly, reviewed each and every provision of the current Talent City Charter. The Committee also reviewed the Model Charter issued by the League of Oregon Cities and the City Charters of other selected Oregon cities for guidance and comparison. After having evaluating the City Charter and having discussed proposed changes, this Report constitutes the recommendations of the Committee and the reasons therefore. The recommendations relate to each Charter provision affected and are presented in numerical order of the affected Charter provisions.

Proposed Recommendations

1. Issue: Include reference to Home Rule in Preamble of the City Charter.

The current Charter Preamble does not reference “Home Rule”. The Model Charter issued by the League of Oregon Cities does include reference as a Home Rule Charter in the Preamble. The Model Charter also notes by footnote, that the reference “...makes clear the intent to use all the home rule power.” The Model Charter Appendix A explains that the Oregon Constitution home rule amendments of 1906 empowered legal voters of every city the power to enact and amend their municipal charter and to exercise powers of initiative and referendum. The Committee issued a question to the League of Oregon Cities about the necessity of including the Home Rule reference and took into account the League’s response that “...Home Rule is usually inserted within the Charter...”. The Committee does not have a clear legal direction on this issue, but the consensus was to recommend inclusion (as underlined below) of Home Rule in the Talent City Charter Preamble as follows:

Preamble

We, the people of the City of Talent, Oregon, in order to avail ourselves of self-determination in municipal affairs to the fullest extent now or hereafter possible under the constitutions and laws of the United States and the State of Oregon, through this charter confer upon the city the following powers, subject it to the following restrictions, prescribe for it the following

procedures and government structure and repeal all previous charter provisions of the city ((.))
and enact this Home Rule Charter.

I agree that it is a good idea to specifically declare in the Preamble that this is a Home Rule Charter. However, I suggest using language that is slightly different than the language recommended by the Committee. My suggested changes to the Preamble are as follows:

Preamble

We, the people of the City of Talent, Oregon, in order to avail ourselves of self-determination in municipal affairs to the fullest extent now or hereafter possible under the constitutions and laws of the United States and the State of Oregon, through this Home Rule (c) Charter confer upon the city the following powers, subject it to the following restrictions, prescribe for it the following procedures and government structure and repeal all previous charter provisions of the city.

2. Issue: Mayor’s Right to Vote – On all issues or only in the case of a tie?

The current Charter provision only allows the Mayor to vote in the case of a tie vote.

Chapter IV Council Section 16. Mayor’s Functions at Council Meetings, Subsection 2.

“...(2) The Mayor or Chair may not vote on any matter of City business unless there is a tie vote. In this situation, the Mayor or Chair, must vote to resolve the tie, and may not abstain.”

Some Committee members felt that the voters should be presented with the option of allowing the Mayor to vote on all matters on which the City Council votes. Other members felt that the provision should remain as is. This is the only issue on which the members of the Committee were not in consensus. The Committee did agree that the issue was important enough that members supporting each side of the issue should submit a separate report on the issue, to explain their own reasons for each position. These two reports are attached as Appendix A and Appendix B.

I did not receive Appendices A and B, so I cannot comment on the Committee’s arguments. I will say that this is really a policy issue for the Council and the voters. Some cities allow their Mayors to vote all the time and in others the Mayor only votes in the case of a tie. If the Council wants to refer a Charter that would allow the Mayor to vote all the time, I recommend amending Section 7 to provide that the Council consists of “six City councilors and a Mayor nominated and elected...” and delete Section 16(2), which provides that the Mayor may only vote in the case of a tie. Note: If the Council makes these changes, Issue 4 below (relating to vacancy in the office of Mayor) becomes moot, because the Mayor would be a full member of the Council and the vacancy provisions in Section 19 apply to all members of the Council.

3. Issues Relating to Council Vacancies

A. Issue: determining an incumbent’s vacancy when the person is convicted of a crime.

Under the current Charter in Chapter IV, Section 19, incumbent vacancies are automatic under some circumstances and under other circumstances, the City Council determines if a vacancy has occurred. Under subsection 2 (e), a criminal conviction is one of the circumstances which is subject to declaration of vacancy by the City Council.

Chapter IV Council Section 19 Vacancies Subsection 2, (e):

“...(2) Upon declaration by the Council of the vacancy in the case of the incumbent’s:

...(e) Conviction of a public offense punishable by loss of liberty,”

This section of the Chapter invokes City Council discretion in determining when an incumbent’s vacancy occurs under the specific subsections of Section 19 (2). As for subsection (e), the Committee analyzed what is meant by “loss of liberty” and concluded that the language would apply to situations where the incumbent could be subject to incarceration even if the sentence does not order this and applies to both misdemeanor and felony convictions. The Committee also evaluated whether the Council should be in the position of determining these matters which result in the possible removal of a Council member or whether these situations should be left to the voters, who can invoke the recall process concerning Council members. Another alternative is to have this circumstance included in the “automatic” vacancy provisions of Section 19 Subsection 1. After much discussion, the Committee consensus and recommendation to the City Council is twofold: either remove the provision and leave it to the voters to actively move for removal of a Council member by the recall process or keep the provision but change the language so that the provision applies only in the case of conviction of a felony and move the provision to subsection 1 --- which takes the “vacancy” determination away from the City Council and which requires incumbent’s vacancy automatically, upon conviction of a felony.

The Council could choose to refer either of the Committee’s recommendations here. This is a policy call for the Council.

B. Issue: Amending the Charter to move some vacancy provisions under Subsection 2 (subsections c,d,f) to the automatic vacancy provisions under Subsection 1.

The current City Charter provisions under the City Council vacancy authority of Section 19 (2) include the following:

“...c. Ceasing to reside in the city,...

...d. Ceasing to be a qualified elector under state law,...

...f. Resignation from the office...”

The Committee agrees that all of the above provisions should be under the “automatic” vacancy provisions under Section 19 (1) and should not be subject to the City Council vacancy determination procedure. The Committee therefore recommends that Section 19 Subsection 2 (c),(d),(f) be moved to Section 19 (1) and redesignated subsections d,e,f.

All of these reasons for a vacancy in office could require some determination by the Council, which is likely why the current Talent charter and the League of Oregon Cities’

Model Charter require a Council declaration of vacancy. For example, it is not always perfectly clear whether someone “resides” in the City. I have seen situations where an elected official owns property in the city and property elsewhere. What if the person has houses in both Talent and Portland and splits their time equally between the two? The Council may need to make a determination about whether a councilor still resides in the City. If the Council finds that the answer is yes, then the Council can declare that person’s seat vacant. Similarly, the Council will likely need to make a determination that a councilor is no longer a qualified elector under state law. In the case of a resignation, it makes sense to me that the Council would accept the resignation and declare the seat vacant. For all those reasons I recommend against these proposed changes to Section 19(2) of the Charter.

C. Issue: Amending Section 19 (2) (a) and (b), to contain the same time lines.

The current Charter in Section 19 Subsection 2 (a) and (b), provide that the following two circumstances will be subject to the City Council declaration of an incumbent’s vacancy.

- “(2) Upon declaration by the Council of the vacancy in the case of the incumbent’s:
- a. Failure, following election or appointment to the office, to qualify for the office within ten days after the time for his or her term of office to begin,
 - b. unexplained absence from all meetings of the Council within a 30-day period,...

The Committee recommends that in the case of Section 19 subsection 2 (a) and (b), both provisions should contain the same time line of 30 days, in the interests of consistency and reasonability.

Thirty days seems like a long time for someone to be elected but potentially unqualified to hold the office of Councilor. Do Councilors take office at the first meeting in January following the election? If yes, then more than 30 days will elapse before an elected councilor takes office anyway, so the proposed change has no practical effect (other than a potentially longer period of limbo while an elected councilor tries to become eligible to hold office). On the other hand, if councilors take office less than 30 days from the election, it could affect the ability to call a quorum of the Council for that first meeting.

4. Issue relating to vacancy in the Office of the Mayor.

The current City Charter does not have any provisions to address a vacancy in the position of the Mayor. The Committee felt that this issue should be addressed in the Charter rather than having the Council President act as Mayor until an election can replace the Mayor. The recommended provisions would be included under Chapter IV of the Charter, entitled **Council**. Because the Committee is recommending provisions relating to the Mayor and actually this

Chapter has existing provisions relating to the Mayor, the title of Chapter IV should be amended, entitled:

Chapter IV
Council and Mayor

The Committee recommends that the vacancy provisions of Chapter IV of the Charter relating to “automatic” vacancy, should include the Mayor as follows:

Section 19. Vacancies. The office of a member of the Council or the Mayor becomes vacant:

- (1) Upon the incumbent’s:
 - a. Death,
 - b. Adjudicated incompetence, or
 - c. Recall from office

I have no concerns about the Committee’s recommended changes to the title of Chapter IV and subsection (1) of Section 19.

The Committee recommends that the Mayor not be subject to the vacancy provisions upon declaration by the Council in Section 19, subsection 2.

Note that unless the Mayor is subject to the vacancy provisions of Section 19(2) I do not see any requirement that the Mayor reside in the City during his or her term of office. Section 24 requires that the candidates for elected office be qualified electors and reside and be registered to vote in the City *immediately before* submitting a petition for, or being appointed to elected office. However, there is no explicit requirement that the Mayor continue to reside in the City during the term of his or her office. Section 19(2) implicitly requires Councilors to continue to reside in the City during their term of office because if they do not, the Council can declare their position vacant, but unless the Mayor is included in Section 19(2) there is no similar requirement for the Mayor. If residency of the Mayor in the City is important to the Council, the Council may want to consider either including the Mayor in Section 19(2) or referring a new charter provision that explicitly requires residency from the Mayor.

Regarding the filling of the vacancy in the position of Mayor, the Committee recommends that the Mayor should be included in Section 20. Filling Vacancies as follows:

Section 20. Filling Vacancies: A vacancy in the council or in the office of the Mayor shall be filled by appointment by a majority of the Council. The appointee’s term of office runs from the time of qualifying for the office until either

- (1) the expiration of the term of the predecessor who left the office vacant or
- (2) the next election at which councilors and the Mayor are elected. If an election comes first, the position shall be subject to election for the original term of the vacated position.

I have no concerns about the Committee’s recommended changes to Section 20.

5. **Issue relating to control by the City Manager.**

The City Charter prohibits control of certain persons by the City Manager.

Chapter V Powers and Duties of Officers Section 22 City Manager, subsection 7:

“(7). The Manager may not control:

- a. The Council;
- b. The Municipal Judge in the judge’s judicial functions; or
- c. Except as the Council authorizes, appointive personnel of the City whom the Manager does not appoint.”

The Committee discussed this provision, in particular subsections a and c. Regarding subsection a, it was agreed that this provision should include both the Mayor and the Council. Regarding subsection c, the Committee concluded it might be construed as to allow the City Manager to control persons appointed by the City Council. Therefore, the Committee recommended that subsection c should be re-written to make the meaning clear. The Committee’s recommended changes are as follows:

Chapter V **Powers and Duties of Officers** Section 22 City Manager, subsection 7:

(7) The Manager may not control:

- a. The Mayor or ((T)) the Council;
- b. The Municipal Judge in the judge’s judicial functions; or,
- c. ((Except as the Council authorizes, appointive personnel of the City whom the Manager does not appoint.)) Any appointee of the Mayor and of the Council.

I have no concerns about the Committee’s recommended changes to Section 22(7)(a). Regarding the Committee’s recommended changes to Section 22(7)(b), I recommend keeping the phrase “except as the Council authorizes.” While I agree that most of the time the City Manager should not control Council appointees, there may be a circumstance where it makes sense for the Council to delegate that authority to the City Manager. If the Council retains the “except as the Council authorizes,” language, the City Manager cannot control a Council appointee unless that authority is explicitly delegated by the Council, and the Council *may* but is *not required* to delegate that authority. Under the Committee’s proposed language, the Council *would be prohibited from* delegating the authority to control a Council appointee to the City Manager. I propose the following changes to the Committee’s recommended language:

(7) The Manager may not control:

- a. The Mayor or (T) the Council;
- b. The Municipal Judge in the judge's judicial functions; or,
- c. Except as the Council authorizes, ((appointive personnel of the City whom the Manager does not appoint.)) any appointee of the Mayor and of the Council.

6. **Issue: Qualifications and Elections Requirements for Elected Officers.**

The City Charter contains the requirements imposed on elected officials and also has requirements for their election to office, including the "resign to run" provision.

Chapter VI Personnel Section 24 Qualifications subsection 6:

"(6) If an elected officer intends to become a candidate for a different elected office within the City and their current term of office does not expire at the same time as the term of office to which they aspire they deliver their resignation from the currently held office

- a. in writing to the City Manager
- b. no later than the first day ballot petitions become available to candidates for the office they are vacating."

The Committee discussed this "resign to run" provision. The Committee notes that the intent of the current provision was to have the resignation effective such that the electorate could vote on the vacancy. It is a rare circumstance that occurred only once in the past 9 years. Due to the timing of petition filings, the vacancy appointment and the resignation provision, the current provision caused more problems than it resolved and does not work well due to timing issues. For these reasons, the consensus of the Committee is to recommend that subsection 6 should be removed in its entirety.

I believe that this comes down to a policy call for the Council. I agree with the Committee that Section 24(6) is intended to ensure that a current elected office holder's resignation is submitted early enough that the voters can select someone to fill the open position rather than the Council appointing someone to fill the vacancy after the election. If the Council likes the policy behind subsection (6) but thinks that the resignation timing is awkward, subsection (6) could be amended to require a resignation on or before the date the candidate's elections paperwork is filed with the City, or on some other date. At the very least, if the Council decides Section 24(6) should be repealed, I recommend that the Council refer language that specifies that an elected city official must resign his or her current position before taking office in a new elected position. If the Council decides to retain all or a portion of Section 24(6), I recommend adding the word "must" so that the first portion of Section 24(6) reads:

"(6) If an elected officer intends to become a candidate for a different elected office within the City and their current term of office does not expire at the same time as the term of office to which they aspire they must deliver their resignation from the currently held office

- a. in writing to the City Manager

- b. no later than the first day ballot petitions become available to candidates for the office they are vacating.”

The Committee also agreed that all of Section 24 is in the wrong section of the Charter and this makes for ambiguity. Elected officials are not city “personnel”, which term commonly refers to persons employed by the City. The Committee recommends that the entire “Section 24. Qualifications” be moved to “Chapter III. Form of Government”, added as a new section, Section 12.

I have no concerns about the Committee’s recommendation to move Section 24 into Chapter III and renumber it as Section 12. Note that all the following sections and any internal references to the following sections will need to be renumbered as well.

Other Issues Considered by the Committee

1. Periodic Review of the Charter.

The Committee discussed the suggestion that the City Charter contain a provision for review of the Charter every 10 years. The consensus was that this is a matter to be included in the City Council Rules where it could be reviewed by a committee but which would not have the mandate of a City Charter provision. If included in the City Charter, it becomes a requirement for which liability can result if not complied with.

I agree with the Committee.

2. Review of City Council Rules every two years.

Again, the Committee agreed that this is a matter to be included in the City Council Rules and not in the City Charter. It is more appropriately addressed in those rules which allow flexibility under the circumstances. If included in the City Charter, it imposes a mandatory requirement on the City.

I agree with the Committee.

3. Formatting the City Charter provisions for voter consideration.

If the City Council does decide to send City Charter proposed amendments to the voters, the Committee discussed whether the items should be formatted to require voters to vote for each change or vote for all changes as a package. The Committee did not reach a consensus on this, as it may relate to legal ballot proposition requirements and matters beyond the knowledge of the Committee.

Both options are possible. If the Council presents the voters with a package, it may be less confusing, but the way a voter feels about one proposed change may affect his or her willingness to vote for the package. If the Council presents each change individually, the changes will rise or fall on their own merits, but dealing with each proposed change individually might be cumbersome and confusing for the voters. The Council may want to consider a middle of the road approach, where several of the less contentious changes are bundled together and the more contentious changes are offered individually. I believe that both the package presentation and the individual issue presentation will comply with State election laws and the single-subject rule in the Oregon Constitution.

4. Questions from the Committee to the League of Oregon Cities.

Prompted by discussions during the Committee's meetings, the Committee submitted three questions requesting a legal opinion. The questions were sent to the League of Oregon Cities.

Here are my answers to the questions submitted to the League:

- 1. Is it necessary to reference Home Rule in the City Charter? The current City Charter does not include this. The Model Charter does. I believe that the Talent Charter qualifies as a Home Rule Charter even without a specific reference to Home Rule. However, I like the idea of specifically identifying that this is a Home Rule Charter and I agree with the Committee's recommendation to include language referring to Home Rule in the Preamble.**
- 2. Regarding quorums as per City Charter provision Chapter IV, Section 14: is the quorum affected if a Council member leaves during the meeting. Yes. Also, should the issue of quorums be more appropriately addressed in the City Council Rules rather than in the City Charter? Quorum requirements are often addressed in the Charter because they are part of the bedrock of city decision making. I recommend that the issues of quorum and voting requirements be addressed in the Charter.**
- 3. Regarding structural, clerical, format issues in the City Charter: must these changes go to the voters or can the Committee recommend and the City Council make these changes directly? I agree with League counsel that all changes to the Charter should be approved by the people.**

The responses received by the Committee were as follows:

"Some general answers –
Most require Legal Review-

Home Rule is usually inserted within the Charter

The quorum can be set by Ordinance in the Council Rules for some specific details, although there are specific State Statutes that govern it. For instance you could not have a future Council say "We only want 2 people to be a quorum" and change the Ord to reflect that. In some places

the current Charter demands a majority of the full Council, other places a majority of the quorum.

Any changes of the Charter should really go to the people. A comma or change of minor language might result in a new meaning of the intended sentence. Would need specific question on this. Safest play is always make all changes and then go to a vote.”

The Committee considered the responses above in the recommendations made in this report. The answers did not provide very clear explanations, but the Committee has taken the League’s responses into account in the recommendations provided.

We remain available to the Mayor and City Council should you require additional information or analysis from the Committee.

Respectfully Submitted.

The Talent Ad Hoc Charter Committee