

Council Meeting of May 25, 2016

Agenda Item No. 7b

REQUEST FOR COUNCIL ACTION

SUBJECT:

Discussion and possible action regarding the formation of an ad hoc committee to discuss the pros and cons of the city's form of government, and to make a recommendation to the city council regarding changing the form of government to another form currently available under state law.

BACKGROUND DISCUSSION

Several citizens and members of the city council over the years have advocated for a change to the council-manager form of government that the city currently operates under (see Appendix A). Most often, the alternative proposed form of government has been the council-mayor form of government, similar to the form of government currently in place in Sandy and Salt Lake City, for example.

Proposed is the creation of an ad hoc committee comprised of seven to nine concerned West Jordan residents, up to three council members, with the city attorney as staff liaison, whose purpose would be to meet and discuss the various forms of government available to the city of West Jordan, including the current council-manager form, and then to make a recommendation to the city council on or before June 22 (See timeline, Appendix C).

The committee is to create a list of pros and cons for each of the various forms of municipal government available to the city under current state law (See Appendix B), and prepare a report in accordance with the opinion of the majority of the committee to submit to the city council. Any members of the committee disagreeing with the opinion of the majority are also invited to submit a dissenting opinion to the city council at the same time, and the committee is instructed to submit all reports to the council together.

Appendix A

10-3-1223. Council-manager form-Election and powers and duties of mayor.

In a municipality organized under the council-manager form of government, a mayor shall be elected at large for a four-year term. The mayor shall preside at all meetings of the council and shall have a vote in all council proceedings. All bonds, notes, contracts, and written obligations of the municipality shall be executed on its behalf by the mayor or, in the event of his inability to act, by the councilman that the council shall designate to act as mayor during his absence or disability. He shall be chief ceremonial officer of the municipality and shall represent the municipality in all its external relationships. The powers and duties of the mayor shall be only those conferred upon him by this part.

10-3-1224. Council-manager form-Appointment of municipal manager.

In a municipality organized under the council-manager form of government, the municipal council, by a two-thirds vote of its full membership, shall appoint a municipal manager, who shall be the chief executive officer of the municipality. The manager shall be appointed solely on the basis of his abilities, integrity, and prior experience relating to the duties of the office, including but not limited to, abilities in public administration and executive leadership, and shall possess such managerial capabilities as in the opinion of the council befit him to provide professional direction to the executive department of the municipality.

Utah Laws 1977 Chapter 48, 10-3-1223, 1224, 1277.

10-3-1227. Municipal administrative code in council-manager form.

It also shall be the duty of the first manager appointed under the provisions of this part to draft and submit to the council within six months after assuming office, a proposed ordinance providing for the division of the administrative service of the municipality into departments, divisions, and bureaus, and defining the functions and duties of each. Subsequent to the adoption of this ordinance, upon recommendation of the manager, the council by ordinance may create, consolidate, or abolish departments, divisions, and bureaus and define or alter the functions and duties of each. The compilation of these ordinances shall be known as the "municipal administrative code." Each officer shall have the power to prescribe rules and regulations, not inconsistent with general law, the municipal administrative code, and the merit plan. Prior to the adoption of the municipal administrative code, the manager shall have power to establish temporary rules and regulations to ensure efficiency and effectiveness in the divisions of the municipal government.

(<http://digitallibrary.utah.gov/awweb/main.jsp?flag=browse&smd=1&awdid=2>)

Appendix B – Utah League of Cities and Towns Summary of forms of municipal government in Utah

MUNICIPAL FORMS OF GOVERNMENT IN UTAH

There are five forms of government currently in use in Utah cities and towns. They are the “Council-Mayor Form of Government”; “Five-Member Council Form of Government”; “Six-member Council Form of Government”; “Council-Manager Form of Government”; and “Charter Form of Government”.

COUNCIL–MAYOR FORM OF GOVERNMENT

The Laws of Utah 1977, Chapter 48, created the Council-Mayor Form of municipal government. This form of government may not be adopted by a city or town without voter approval. A city or town does not have this form of government unless it has held an election at some time to choose this form. This form has two separate, independent, and equal branches of municipal government consisting of a legislative branch—a council composed of five or seven members; and an executive branch--the mayor and, under the mayor's supervision, any executive or administrative departments, divisions, and offices and any executive or administrative officers provided for by statute or municipal ordinance.

The mayor in a city or town operating under the council-mayor form of government is the chief executive and administrative officer. He or she exercises the executive and administrative powers and performs of the municipality. The mayor has the responsibility to execute the policies adopted by the council. The Mayor appoints, with the council's advice and consent, qualified persons to the city or town's officers and positions including such things as recorder and treasurer.

The mayor may veto an ordinance, tax levy, or appropriation passed by the council subject to the council's power to override the veto.

While not a member of the council, or its chair, the mayor may attend each council meeting, take part in council meeting discussions, and freely give advice to the council.

The council in a municipality operating under a council-mayor form of government: is the legislative body of the city or town and by ordinance or resolution determines the broad policy for the city or town and some specific policies such as the manner in which municipal property is bought, sold, traded, encumbered, or otherwise transferred; and a subdivision or annexation is approved, disapproved, or otherwise regulated.

The council enacts laws, appropriates funds, and reviews municipal administration. The council elects one of its members to be the chair of the council.

The council may make suggestions or recommendations to mayor or mayor's subordinates and investigate any an officer, department, or agency of the city or town municipality, but it may not direct or request, other than in writing, the appointment of a

person to or the removal of a person from an executive municipal office; interfere in any way with an executive officer's performance of the officer's duties; or publicly or privately give orders to a subordinate of the mayor.

SIX MEMBER COUNCIL FORM OF GOVERNMENT

The powers of municipal government in a municipality operating under the six member council form of government are vested in a council consisting of six members, one of which is a mayor.

The mayor in a municipality operating under a six-member council form of municipal government is, except in limited circumstances a nonvoting member of the council. The mayor votes as a voting member of the council on each matter for which there is a tie vote of the other council members present at a council meeting; or when the council is voting on whether to appoint or dismiss a municipal manager; or on an ordinance that enlarges or restricts the mayor's powers, duties, or functions

The mayor is the chair of the council and presides at all council meetings. The mayor exercises ceremonial functions for the municipality such as ribbon cuttings and municipal appearances. The mayor may not veto an ordinance, tax levy, or appropriation passed by the council.

The mayor is the chief executive officer. This means that all employees of the municipality report to him or her. The mayor, among other things, is required to keep the peace; enforce the laws of the municipality; and ensure that all applicable statutes and municipal ordinances and resolutions are faithfully executed and observed. The mayor, with the council's advice and consent, can assign or appoint a member of the council to administer one or more departments of the municipality; and appoint a person to fill a municipal office.

The powers and duties of the mayor in a six member council form of government can be taken from the mayor and given to either the council or such as a city manager or a city administrator by the adoption of an ordinance by the council. The vote on this ordinance must either be by the unanimous vote of the council or the ordinance must have the vote of a majority of the council and the mayor.

In the six-member council form of government the council is the legislative body of the city or town and exercises the legislative powers and performs the legislative duties and functions of the municipality. This is done by either ordinance or resolution as may be appropriate.

The council in a municipality operating under a six-member council form of government: can exercise executive or administrative power that has not been given to the mayor under state law, or has been given to the mayor under state law, but has been delegated to the council by the mayor. In addition the council can remove from the mayor, by an appropriately passed ordinance, the mayor's executive and administrative power and give

it to itself or to an appointed manager or administrator. The council may not remove any of the mayor's legislative or judicial powers or ceremonial functions, the mayor's position as chair of the council; or any ex officio position that the mayor holds.

An ordinance removing from or reinstating to the mayor a power, duty, or function requires the affirmative vote of the mayor and a majority of all other council members; or all council members except the mayor.

FIVE MEMBER COUNCIL FORM OF GOVERNMENT

The powers of municipal government in a municipality operating under the five member council form of municipal government are vested in a council consisting of five members, one of which is a mayor.

The mayor in a municipality operating under a five-member council form of municipal government is a regular and voting member of the council. The mayor is the chair of the council and presides at all council meetings. The mayor exercises ceremonial functions for the municipality. The mayor may not veto any ordinance, tax levy, or appropriation passed by the council.

The mayor is the chief executive officer. This means that all employees of the municipality report to him or her. The mayor, among other things, is required to keep the peace; enforce the laws of the municipality; and ensure that all applicable statutes and municipal ordinances and resolutions are faithfully executed and observed. The mayor with the council's advice and consent: can assign or appoint a member of the council to administer one or more departments of the municipality; and appoint a person to fill a municipal office.

The powers and duties of the mayor in a five-member council form of government can be taken from the mayor and given to either the council or hired administrators such as city managers or city administrators by vote of the council. The vote must either be unanimous or the ordinance must have the consent of the mayor.

In the five-member council form of government the council is the legislative body of the city or town and exercises the legislative powers and performs the legislative duties and functions of the municipality; and may adopt rules and regulations for the efficient administration, organization, operation, conduct, and business of the municipality. This is done by either ordinance or resolution as may be appropriate.

The council in a municipality operating under a five-member council form of government: can exercise executive or administrative power that has not been given to the mayor under state law, or has been given to the mayor under state law, but has been delegated to the council by the mayor. In addition the council can remove from the mayor, by an appropriately passed ordinance, the mayor's executive and administrative power and give it to itself or to an appointed manager or administrator. The council may

not remove any of the mayor's legislative or judicial powers or ceremonial functions, the mayor's position as chair of the council; or any ex officio position that the mayor holds. An ordinance removing from or reinstating to the mayor a power, duty, or function requires the affirmative vote of the mayor and a majority of all other council members; or all council members except the mayor.

COUNCIL-MANAGER FORM OF GOVERNMENT

The Council-Manager form of government is a form of municipal government that was created by Laws of Utah 1977, Chapter 48. It could not have been adopted without voter approval. This form of government has been removed from state law and is no longer an option for Utah cities and towns. A municipality operating on May 4, 2008 under the council-manager form of government continues to operate under the council-manager form of government according to the applicable provisions of Laws of Utah 1977, Chapter 48.

In this form of government a city manager is the chief executive officer of the city or town and has the following powers and duties prescribed by the state law, including the power to appoint individuals to municipal offices and positions. The city manager runs the day-to-day operations of the city and all employees report to this individual.

The mayor in this form of government is a ceremonial mayor only. The mayor chairs the council and votes on all issues as a full voting member of the council. The council is the legislative policy making body of the city or town. The manager is hired and can be fired by the council. Council members may not have any administrative or executive functions in the city or town.

CHARTER FORM OF GOVERNMENT

The Utah Constitution provides that the voters of any communities can, within some limits, create their own form of city or town government. This is called a charter and is similar to having an individualized municipal code for that city or town. In order to have a charter a process of petition, public hearing, and election must take place. This process is set out in Article XI Section 5 of the Utah Constitution.

Utah Code 10-3b Forms of Municipal Government

Chapter 3b **Forms of Municipal Government**

Part 1 **General Provisions**

10-3b-101 Title.

This chapter is known as “Forms of Municipal Government.”

Enacted by Chapter 19, 2008 General Session

10-3b-102 Definitions.

As used in this chapter:

- (1) “Council-mayor form of government” means the form of municipal government that:
 - (a)
 - (i) is provided for in Laws of Utah 1977, Chapter 48;

- (ii) may not be adopted without voter approval; and
- (iii) consists of two separate, independent, and equal branches of municipal government; and
- (b) on and after May 5, 2008, is described in Part 2, Council-Mayor Form of Municipal Government.
- (2) "Five-member council form of government" means the form of municipal government described in Part Five-Member Council Form of Municipal Government.
- (3) "Metro township" means the same as that term is defined in Section 10-2a-403.
- (4) "Metro township council form of government" means the form of metro township government described in Part 5, Metro Township Council Form of Municipal Government.
- (5) "Six-member council form of government" means the form of municipal government described in Part Six-Member Council Form of Municipal Government.

□ Amended by Chapter 352, 2015 General Session □

10-3b-103 Forms of municipal government -- Form of government for towns -- Former council-man form.

- (1) A municipality operating on May 4, 2008, under the council-mayor form of government:
 - (a) shall, on and after May 5, 2008:
 - (i) operate under a council-mayor form of government, as defined in Section 10-3b-102; and
 - (ii) be subject to:
 - (A) this part;
 - (B) Part 2, Council-mayor Form of Municipal Government;
 - (C) Part 6, Changing to Another Form of Municipal Government; and
 - (D) except as provided in Subsection (1)(b), other applicable provisions of this title; and
 - (b) is not subject to:
 - (i) Part 3, Six-member Council Form of Municipal Government;
 - (ii) Part 4, Five-member Council Form of Municipal Government; or
 - (iii) Part 5, Metro Township Council Form of Municipal Government.
- (2) A municipality operating on May 4, 2008 under a form of government known under the law then in effect as the six-member council form:
 - (a) shall, on and after May 5, 2008, and whether or not the council has adopted an ordinance appointing a manager for the municipality:
 - (i) operate under a six-member council form of government, as defined in Section 10-3b-102;
 - (ii) be subject to:
 - (A) this part;
 - (B) Part 3, Six-member Council Form of Municipal Government;
 - (C) Part 6, Changing to Another Form of Municipal Government; and
 - (D) except as provided in Subsection (2)(b), other applicable provisions of this title; and
 - (b) is not subject to:
 - (i) Part 2, Council-mayor Form of Municipal Government;
 - (ii) Part 4, Five-member Council Form of Municipal Government; or
 - (iii) Part 5, Metro Township Council Form of Municipal Government.
- (3) A municipality operating on May 4, 2008, under a form of government known under the law then in effect as the five-member council form:
 - (a) shall, on and after May 5, 2008:
 - (i) operate under a five-member council form of government, as defined in Section 10-3b-102;
 - (ii) be subject to:
 - (A) this part;
 - (B) Part 4, Five-member Council Form of Municipal Government;

- (C)Part 6, Changing to Another Form of Municipal Government; and
 - (D) except as provided in Subsection (3)(b), other applicable provisions of this title; and
- (b) is not subject to:
- (i)Part 2, Council-mayor Form of Municipal Government;
 - (ii)Part 3, Six-member Council Form of Municipal Government; or
 - (iii)Part 5, Metro Township Council Form of Municipal Government.
- (4) Subject to Subsection (5), each municipality other than a metro township incorporated on or after May 2008, shall operate under:
- (a) the council-mayor form of government, with a five-member council;
 - (b) the council-mayor form of government, with a seven-member council;
 - (c) the six-member council form of government; or
 - (d) the five-member council form of government.
- (5) Each town shall operate under a five-member council form of government unless:
- (a) before May 5, 2008, the town has changed to another form of municipal government; or
 - (b) on or after May 5, 2008, the town changes its form of government as provided in Part 6, Changing to Another Form of Municipal Government.
- (6) Each metro township:
- (a) shall operate under a metro township council form of government;
 - (b) is subject to:
 - (i) this part;
 - (ii)Part 5, Metro Township Council Form of Municipal Government; and
 - (iii) except as provided in Subsection (6)(c), other applicable provisions of this title; and
 - (c) is not subject to:
 - (i)Part 2, Council-mayor Form of Municipal Government;
 - (ii)Part 3, Six-member Council Form of Municipal Government; or
 - (iii)Part 4, Five-Member Council Form of Municipal Government.
- (7)
- (a) As used in this Subsection (7), “council-manager form of government” means the form of municipal government:
 - (i) provided for in Laws of Utah 1977, Chapter 48;
 - (ii) that cannot be adopted without voter approval; and
 - (iii) that provides for, subject to Subsections (8) and (9), an appointed manager with duties and responsibilities established in Laws of Utah 1977, Chapter 48.
 - (b) A municipality operating on May 4, 2008, under the council-manager form of government:
 - (i) shall:
 - (A) continue to operate, on and after May 5, 2008, under the council-manager form of government according to the applicable provisions of Laws of Utah 1977, Chapter 48; and
 - (B) be subject to:
 - (I) this Subsection (7) and other applicable provisions of this part;
 - (II)Part 6, Changing to Another Form of Municipal Government; and
 - (III) except as provided in Subsection (7)(b)(ii), other applicable provisions of this title; and
 - (ii) is not subject to:
 - (A)Part 2, Council-mayor Form of Municipal Government;
 - (B)Part 3, Six-member Council Form of Municipal Government;
 - (C)Part 4, Five-member Council Form of Municipal Government; or
 - (D)Part 5, Metro Township Council Form of Municipal Government.

- (8)
- (a) As used in this Subsection (8), “interim vacancy period” means the period of time that:
 - (i) begins on the day on which a municipal general election described in Section 10-3-201 is held to elect a council member; and
 - (ii) ends on the day on which the council member-elect begins the council member’s term.
 - (b)
 - (i) The council may not appoint a manager during an interim vacancy period.
 - (ii) Notwithstanding Subsection (8)(b)(i):
 - (A) the council may appoint an interim manager during an interim vacancy period; and
 - (B) the interim manager’s term shall expire once a new manager is appointed by the new administrator after the interim vacancy period has ended.
 - (c) Subsection (8)(b) does not apply if all the council members who held office on the day of the municipal general election whose term of office was vacant for the election are re-elected to the council for the following term.
- (9) A council that appoints a manager in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the manager.
- (10) Nothing in this section may be construed to prevent or limit a municipality operating under any form of municipal government from changing to another form of government as provided in Part 6, Changing to Another Form of Municipal Government.

□ Amended by Chapter 352, 2015 General Session □

10-3b-104 Powers and duties of mayor in six-member council and five-member council forms of government.

- (1) Except as provided in Subsection (2), the mayor in a municipality operating under a six-member council form of government or a five-member council form of government:
- (a) is the chief executive officer of the municipality to whom all employees of the municipality report;
 - (b) shall:
 - (i) keep the peace and enforce the laws of the municipality;
 - (ii) ensure that all applicable statutes and municipal ordinances and resolutions are faithfully executed and observed;
 - (iii) if the mayor remits a fine or forfeiture under Subsection (1)(c)(ii), report the remittance to the council at the council’s next meeting after the remittance;
 - (iv) perform all duties prescribed by statute or municipal ordinance or resolution;
 - (v) report to the council the condition and needs of the municipality; and
 - (vi) report to the council any release granted under Subsection (1)(c)(iv); and
 - (c) may:
 - (i) recommend for council consideration any measure that the mayor considers to be in the best interests of the municipality;
 - (ii) remit fines and forfeitures;
 - (iii) if necessary, call on residents of the municipality over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality;
 - (iv) release a person imprisoned for a violation of a municipal ordinance;
 - (v) with the council’s advice and consent:
 - (A) assign or appoint a member of the council to administer one or more departments of the municipality; and
 - (B) appoint a person to fill:
 - (I) a municipal office; or

- (II) a vacancy on a commission or committee of the municipality; and
- (vi) at any reasonable time, examine and inspect the official books, papers, records, or documents of:
 - (A) the municipality; or
 - (B) any officer, employee, or agency of the municipality.
- (2) The powers and duties in Subsection (1) are subject to:
 - (a) municipal ordinances in effect on May 4, 2008 modifying the powers and duties of the mayor; and
 - (b) the council's authority to limit or expand the mayor's powers and duties under:
 - (i) Subsection 10-3b-303(2)(a), for a municipality operating under the six-member council form of government; and
 - (ii) Subsection 10-3b-403(2)(a), for a municipality operating under the five-member council form of government.

☐ Enacted by Chapter 19, 2008 General Session ☐

10-3b-105 Municipal council in six-member council and five-member council forms of government.

In a municipality operating under a six-member council form of government or a five-member council form of government, the council:

- (1) is the legislative body of the municipality and exercises the legislative powers and performs the legislative duties and functions of the municipality; and
- (2) may:
 - (a) adopt rules and regulations, not inconsistent with statute, for the efficient administration, organization, operation, conduct, and business of the municipality;
 - (b) prescribe by resolution additional duties, powers, and responsibilities for any elected or appointed municipal official, unless prohibited by statute;
 - (c) require by ordinance that any or all appointed officers reside in the municipality;
 - (d) create any office that the council considers necessary for the government of the municipality;
 - (e) provide for filling a vacancy in an elective or appointive office;
 - (f) take any action allowed under Section 10-8-84; and
 - (g) perform any function specifically provided for by statute or necessarily implied by law.

☐ Enacted by Chapter 19, 2008 General Session ☐

☐ **Part 2** ☐ **Council-Mayor Form of Municipal Government**

☐ **10-3b-201 Separate branches of government under a council-mayor form of government.**

The powers of municipal government in a municipality operating under the council-mayor form of government are vested in two separate, independent, and equal branches of municipal government consisting of:

- (1) a council composed of five or seven members; and
- (2) a mayor and, under the mayor's supervision, any executive or administrative departments, divisions, and offices and any executive or administrative officers provided for by statute or municipal ordinance.

☐ Enacted by Chapter 19, 2008 General Session ☐

10-3b-202 Mayor in council-mayor form of government.

- (1) The mayor in a municipality operating under the council-mayor form of government:
 - (a) is the chief executive and administrative officer of the municipality;
 - (b) exercises the executive and administrative powers and performs or supervises the performance of the executive and administrative duties and functions of the municipality;
 - (c) shall:
 - (i) keep the peace and enforce the laws of the municipality;
 - (ii) execute the policies adopted by the council;
 - (iii) appoint, with the council's advice and consent, a qualified person for each of the following positions:
 - (A) subject to Subsection (3), chief administrative officer, if required under the resolution or petition;

- under Subsection 10-3b-603(1)(a) that proposed the change to a council-mayor form of government;
- (B) recorder;
- (C) treasurer;
- (D) engineer; and
- (E) attorney;
- (iv) provide to the council, at intervals provided by ordinance, a written report to the council setting forth:
 - (A) the amount of budget appropriations;
 - (B) total disbursements from the appropriations;
 - (C) the amount of indebtedness incurred or contracted against each appropriation, including disbursements and indebtedness incurred and not paid; and
 - (D) the percentage of the appropriations encumbered;
- (v) report to the council the condition and needs of the municipality;
- (vi) report to the council any release granted under Subsection (1)(d)(xiii);
- (vii) if the mayor remits a fine or forfeiture under Subsection (1)(d)(xi), report the remittance to the council at the council's next meeting after the remittance;
- (viii) perform each other duty:
 - (A) prescribed by statute; or
 - (B) required by a municipal ordinance that is not inconsistent with statute;
- (d) may:
 - (i) subject to budget constraints:
 - (A) appoint:
 - (I) subject to Subsections (3)(b) and (4), a chief administrative officer; and
 - (II) one or more deputies or administrative assistants to the mayor; and
 - (B)
 - (I) create any other administrative office that the mayor considers necessary for good government of the municipality; and
 - (II) appoint a person to the office;
 - (ii) with the council's advice and consent and except as otherwise specifically limited by statute, appoint:
 - (A) each department head of the municipality;
 - (B) each statutory officer of the municipality; and
 - (C) each member of a statutory commission, board, or committee of the municipality;
 - (iii) dismiss any person appointed by the mayor;
 - (iv) as provided in Section 10-3b-204, veto an ordinance, tax levy, or appropriation passed by the council;
 - (v) exercise control of and supervise each executive or administrative department, division, or office of the municipality;
 - (vi) within the general provisions of statute and ordinance, regulate and prescribe the powers and duties of each other executive or administrative officer or employee of the municipality;
 - (vii) attend each council meeting, take part in council meeting discussions, and freely give advice to the council;
 - (viii) appoint a budget officer to serve in place of the mayor to comply with and fulfill in all other respects the requirements of, as the case may be:
 - (A) Chapter 5, Uniform Fiscal Procedures Act for Utah Towns; or
 - (B) Chapter 6, Uniform Fiscal Procedures Act for Utah Cities;
 - (ix) execute an agreement on behalf of the municipality, or delegate, by written executive order, the authority to execute an agreement on behalf of the municipality:
 - (A) if the obligation under the agreement is within certified budget appropriations; and

- (B) subject to Section 10-6-138;
 - (x) at any reasonable time, examine and inspect the official books, papers, records, or documents of:
 - (A) the municipality; or
 - (B) any officer, employee, or agent of the municipality;
 - (xi) remit fines and forfeitures;
 - (xii) if necessary, call on residents of the municipality over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality; and
 - (xiii) release a person imprisoned for a violation of a municipal ordinance; and
 - (e) may not vote on any matter before the council.
- (2)
- (a) The first mayor elected under a newly established mayor-council form of government shall, within six months after taking office, draft and submit to the council a proposed ordinance:
 - (i) providing for the division of the municipality's administrative service into departments, divisions, bureaus; and
 - (ii) defining the functions and duties of each department, division, and bureau.
 - (b) Before the council adopts an ordinance on the municipality's administrative service, the mayor may establish temporary rules and regulations to ensure efficiency and effectiveness in the divisions of the municipal government.
- (3)
- (a) As used in this Subsection (3), "interim vacancy period" means the period of time that:
 - (i) begins on the day on which a municipal general election described in Section 10-3-201 is held to elect a mayor; and
 - (ii) ends on the day on which the mayor-elect begins the mayor's term.
 - (b) Each person appointed as chief administrative officer under Subsection (1)(c)(iii)(A) shall be appointed on the basis of:
 - (i) the person's ability and prior experience in the field of public administration; and
 - (ii) any other qualification prescribed by ordinance.
 - (c)
 - (i) The mayor may not appoint a chief administrative officer during an interim vacancy period.
 - (ii) Notwithstanding Subsection (3)(c)(i):
 - (A) the mayor may appoint an interim chief administrative officer during an interim vacancy period;
 - (B) the interim chief administrative officer's term shall expire once a new chief administrative officer is appointed by the new mayor after the interim vacancy period has ended.
 - (d) Subsection (3)(c) does not apply if the mayor who holds office on the day of the municipal general election is re-elected to the mayor's office for the following term.
- (4) A mayor who appoints a chief administrative officer in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the chief administrative officer.

□ Amended by Chapter 352, 2015 General Session □

10-3b-203 Council in a council-mayor form of government.

- (1) The council in a municipality operating under a council-mayor form of government:
 - (a) shall:
 - (i) by ordinance, provide for the manner in which:
 - (A) municipal property is bought, sold, traded, encumbered, or otherwise transferred; and
 - (B) a subdivision or annexation is approved, disapproved, or otherwise regulated;
 - (ii) pass ordinances, appropriate funds, and review municipal administration;

- (iii) perform all duties that the law imposes on the council; and
- (iv) elect one of its members to be the chair of the council;
- (b) may:
 - (i) adopt an ordinance, to be known as the municipal administrative code:
 - (A) dividing the municipality's administrative service into departments, divisions, and bureaus; and
 - (B) defining the functions and duties of each department, division, and bureau;
 - (ii) adopt an ordinance:
 - (A) creating, consolidating, or abolishing departments, divisions, and bureaus; and
 - (B) defining or altering the functions and duties of each department, division, and bureau;
 - (iii) notwithstanding Subsection (1)(c)(iii), make suggestions or recommendations to a subordinate of mayor;
 - (iv)
 - (A) notwithstanding Subsection (1)(c), appoint a committee of council members or citizens to conduct an investigation into:
 - (I) an officer, department, or agency of the municipality; or
 - (II) any other matter relating to the welfare of the municipality; and
 - (B) delegate to an appointed committee powers of inquiry that the council considers necessary;
 - (v) make and enforce any additional rule or regulation for the government of the council, the preservation of order, and the transaction of the council's business that the council considers necessary; and
 - (vi) take any action allowed under Section 10-8-84; and
- (c) may not:
 - (i) direct or request, other than in writing, the appointment of a person to or the removal of a person from an executive municipal office;
 - (ii) interfere in any way with an executive officer's performance of the officer's duties; or
 - (iii) publicly or privately give orders to a subordinate of the mayor.

(2) A member of a council in a municipality operating under the council-mayor form of government may not have any other compensated employment with the municipality.

□ Enacted by Chapter 19, 2008 General Session □

10-3b-204 Presenting council action to mayor -- Veto -- Reconsideration -- When ordinance, tax levy appropriation takes effect.

(1) The council in each municipality operating under a council-mayor form of municipal government shall present to the mayor each ordinance, tax levy, and appropriation passed by the council.

(2) (a) The mayor in a municipality operating under a council-mayor form of municipal government may veto an ordinance or tax levy or all or any part of an appropriation passed by the council.

(b) If a mayor vetoes an ordinance or tax levy or all or any part of an appropriation, the mayor shall return the ordinance, tax levy, or appropriation to the council within 15 days after the council presents the ordinance, tax levy, or appropriation to the mayor, with a statement explaining the mayor's objections.

(3) At its next meeting following a mayor's veto under Subsection (2), the council shall reconsider the vetoed ordinance, tax levy, or appropriation.

(4) An ordinance, tax levy, or appropriation passed by the council takes effect upon recording as provided in Chapter 3, Part 7, Municipal Ordinances, Resolutions, and Procedure, if:

- (a) the mayor signs the ordinance, tax levy, or appropriation;
- (b) the mayor fails to sign the ordinance, tax levy, or appropriation within 15 days after the council presents the ordinance, tax levy, or appropriation to the mayor; or
- (c) following a veto, the council reconsiders the ordinance, tax levy, or appropriation and passes it by a

of at least two-thirds of all council members.

Enacted by Chapter 19, 2008 General Session

10-3b-205 Rules and regulations by municipal officers.

A municipal officer in a municipality operating under a council-mayor form of government may pre rules and regulations, not inconsistent with statute, municipal ordinance, or the merit plan.

Enacted by Chapter 19, 2008 General Session

Part 3 Six-Member Council Form of Municipal Government

10-3b-301 Municipal government powers vested in a six-member council.

The powers of municipal government in a municipality operating under the six-member council form government are vested in a council consisting of six members, one of which is a mayor.

Enacted by Chapter 19, 2008 General Session

10-3b-302 Mayor in six-member council form of government -- Mayor pro tempore.

(1) The mayor in a municipality operating under a six-member council form of municipal government:

- (a) is, except as provided in Subsection (1)(b), a nonvoting member of the council;
- (b) votes as a voting member of the council:
 - (i) on each matter for which there is a tie vote of the other council members present at a council meet or
 - (ii) when the council is voting on:
 - (A) whether to appoint or dismiss a municipal manager; or
 - (B) an ordinance that enlarges or restricts the mayor's powers, duties, or functions;
- (c) is the chair of the council and presides at all council meetings;
- (d) exercises ceremonial functions for the municipality;
- (e) may not veto an ordinance, tax levy, or appropriation passed by the council;
- (f) except as modified by ordinance under Subsection 10-3b-303(2), has the powers and duties described Section 10-3b-104; and
- (g) may, within budget constraints, appoint one or more administrative assistants to the mayor.

(2)

- (a) If the mayor is absent or unable or refuses to act, the council may elect a member of the council as r pro tempore, to:
 - (i) preside at a council meeting; and
 - (ii) perform, during the mayor's absence, disability, or refusal to act, the duties and functions of may
- (b) The municipal clerk or recorder shall enter in the minutes of the council meeting the election of a co member as mayor pro tempore under Subsection (2)(a).

Enacted by Chapter 19, 2008 General Session

10-3b-303 Council in six-member council form of government.

(1) The council in a municipality operating under a six-member council form of government:

- (a) exercises any executive or administrative power and performs or supervises the performance of any executive or administrative duty or function that:
 - (i) has not been given to the mayor under Section 10-3b-104; or
 - (ii) has been given to the mayor under Section 10-3b-104 but is removed from the mayor under Subse (1)(b)(i)(A);
- (b) may:
 - (i) subject to Subsections (1)(c) and (2), adopt an ordinance:
 - (A) removing from the mayor any power, duty, or function of the mayor under Section 10-3b-104;
 - (B) reinstating to the mayor any power, duty, or function previously removed under Subsection (1)(b)(i)(A);

- (ii) adopt an ordinance delegating to the mayor any executive or administrative power, duty, or function that the council has under Subsection (1)(a);
- (iii) subject to Subsection 10-3b-302(1)(b)(ii)(A):
 - (A) appoint, subject to Subsections (3) and (4), a manager to perform executive and administrative duties or functions that the council by ordinance delegates to the manager, subject to Subsection (1) and
 - (B) dismiss a manager appointed under Subsection (1)(b)(iii)(A); and
- (iv) assign any or all council members, including the mayor, to supervise one or more administrative departments of the municipality; and
- (c) may not remove from the mayor or delegate to a manager appointed by the council:
 - (i) any of the mayor's legislative or judicial powers or ceremonial functions;
 - (ii) the mayor's position as chair of the council; or
 - (iii) any ex officio position that the mayor holds.
- (2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to the mayor a power, duty, or function provided for in Section 10-3b-104 requires the affirmative vote of:
 - (a) the mayor and a majority of all other council members; or
 - (b) all council members except the mayor.
- (3)
 - (a) As used in this Subsection (3), "interim vacancy period" means the period of time that:
 - (i) begins on the day on which a municipal general election described in Section 10-3-201 is held to elect a council member; and
 - (ii) ends on the day on which the council member-elect begins the council member's term.
 - (b)
 - (i) The council may not appoint a manager during an interim vacancy period.
 - (ii) Notwithstanding Subsection (3)(b)(i):
 - (A) the council may appoint an interim manager during an interim vacancy period; and
 - (B) the interim manager's term shall expire once a new manager is appointed by the new administrator after the interim vacancy period has ended.
 - (c) Subsection (3)(b) does not apply if all the council members who held office on the day of the municipal general election whose term of office was vacant for the election are re-elected to the council for the following term.
- (4) A council that appoints a manager in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the manager.

□ Amended by Chapter 209, 2011 General Session □

□ **Part 4 □ Five-Member Council Form of Municipal Government**

□ **10-3b-401 Municipal government powers vested in a five-member council.**

The powers of municipal government in a municipality operating under the five-member council form of municipal government are vested in a council consisting of five members, one of which is a mayor. □

□ Enacted by Chapter 19, 2008 General Session □

10-3b-402 Mayor in a five-member council form of government.

- (1) The mayor in a municipality operating under a five-member council form of municipal government:
 - (a) is a regular and voting member of the council;
 - (b) is the chair of the council and presides at all council meetings;
 - (c) exercises ceremonial functions for the municipality;
 - (d) may not veto any ordinance, tax levy, or appropriation passed by the council; and
 - (e) except as modified by ordinance under Subsection 10-3b-403(2), has the powers and duties described in this section.

Section 10-3b-104.

(2)

(a) If the mayor is absent or unable or refuses to act, the council may elect a member of the council as *pro tempore*, to:

(i) preside at a council meeting; and

(ii) perform, during the mayor's absence, disability, or refusal to act, the duties and functions of mayor

(b) The municipal clerk or recorder shall enter in the minutes of the council meeting the election of a council member as mayor *pro tempore* under Subsection (2)(a).

□ Enacted by Chapter 19, 2008 General Session □

10-3b-403 Council in a five-member council form of government.

(1) The council in a municipality operating under a five-member council form of municipal government:

(a) exercises any executive or administrative power and performs or supervises the performance of any executive or administrative duty or function that:

(i) has not been given to the mayor under Section 10-3b-104; or

(ii) has been given to the mayor under Section 10-3b-104 but is removed from the mayor under Subsection (1)(b)(i)(A);

(b) may:

(i) subject to Subsections (1)(c) and (2), adopt an ordinance:

(A) removing from the mayor any power, duty, or function of the mayor under Section 10-3b-104;

(B) reinstating to the mayor any power, duty, or function previously removed under Subsection

(1)(b)(i)(A);

(ii) adopt an ordinance delegating to the mayor any executive or administrative power, duty, or function that the council has under Subsection (1)(a);

(iii) subject to Subsections (3) and (4), appoint a manager to perform executive and administrative duties or functions that the council by ordinance delegates to the manager, subject to Subsection (1)(c);

(iv) dismiss a manager appointed under Subsection (1)(b)(iii); and

(v) assign any or all council members, including the mayor, to supervise one or more administrative departments of the municipality; and

(c) may not remove from the mayor or delegate to a manager appointed by the council:

(i) any of the mayor's legislative or judicial powers or ceremonial functions;

(ii) the mayor's position as chair of the council; or

(iii) any *ex officio* position that the mayor holds.

(2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to the mayor a power, duty, or function provided for in Section 10-3b-104 requires the affirmative vote of:

(a) the mayor and a majority of all other council members; or

(b) all council members except the mayor.

(3)

(a) As used in this Subsection (3), "interim vacancy period" means the period of time that:

(i) begins on the day on which a municipal general election described in Section 10-3-201 is held to elect a council member; and

(ii) ends on the day on which the council member-elect begins the council member's term.

(b)

(i) The council may not appoint a manager during an interim vacancy period.

(ii) Notwithstanding Subsection (3)(b)(i):

(A) the council may appoint an interim manager during an interim vacancy period; and

(B) the interim manager's term shall expire once a new manager is appointed by the new administrator.

after the interim vacancy period has ended.

(c) Subsection (3)(b) does not apply if all the council members who held office on the day of the municipal general election whose term of office was vacant for the election are re-elected to the council for the following term.

(4) A council that appoints a manager in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the manager.

□ Amended by Chapter 209, 2011 General Session □

□ **Part 5 □ Metro Township Council Form of Municipal Government**

□ **10-3b-501 Metro township government powers vested in a five-member council.**

The powers of municipal government in a metro township, as defined in Section 10-2a-403, are vested in a council consisting of five members, one of which is the chair.

□ Repealed and Re-enacted by Chapter 352, 2015 General Session □

□ **10-3b-502 Governance of metro townships that are not in a municipal services district.**

For a metro township in which the voters at an election held in accordance with Section 10-2a-404 choose a metro township with limited municipal powers that is included in a municipal services district:

(1)

(a) the council:

- (i) has the same powers, authority, and duties as a council described in Section 10-3b-403; and
- (ii) is not subject to Section 10-3b-504; and

(b) the chair:

- (i) has the same powers, authority, and duties as a mayor described in Section 10-3b-402; and
- (ii) is not subject to Section 10-3b-503.

□ Repealed and Re-enacted by Chapter 352, 2015 General Session □

□ **10-3b-503 Chair in a metro township included in a municipal services district.**

(1) The chair in a metro township that is included in a municipal services district:

- (a) is a regular and voting member of the council;
- (b) is elected by the members of the council from among the council members;
- (c) is the chair of the council and presides at all council meetings;
- (d) exercises ceremonial functions for the municipality;
- (e) may not veto any ordinance, resolution, tax levy passed, or any other action taken by the council;
- (f) represents the metro township on the board of a municipal services district; and
- (g) has other powers and duties described in this section and otherwise authorized by law except as modified by ordinance under Subsection 10-3b-504(2).

(2) Except as provided in Subsection (3), the chair in a metro township that is included in a municipal services district:

(a) shall:

- (i) keep the peace and enforce the laws of the metro township;
- (ii) ensure that all applicable statutes and metro township ordinances and resolutions are faithfully executed and observed;
- (iii) if the chair remits a fine or forfeiture under Subsection (2)(g)(ii), report the remittance to the council at the council's next meeting after the remittance;
- (iv) perform all duties prescribed by statute or metro township ordinance or resolution;
- (v) report to the council the condition and needs of the metro township;
- (vi) report to the council any release granted under Subsection (2)(b)(iv); and

(b) may:

- (i) recommend for council consideration any measure that the chair considers to be in the best interest

the municipality;

(ii) remit fines and forfeitures;

(iii) if necessary, call on residents of the municipality over the age of 21 years to assist in enforcing the laws of the state and ordinances of the municipality;

(iv) release a person imprisoned for a violation of a municipal ordinance;

(v) with the council's advice and consent appoint a person to fill a municipal office or a vacancy on a commission or committee of the municipality; and

(vi) at any reasonable time, examine and inspect the official books, papers, records, or documents of:

(A) the municipality; or

(B) any officer, employee, or agency of the municipality.

(3) The powers and duties in Subsection (1) are subject to the council's authority to limit or expand the chair's powers and duties under Subsection 10-3b-504(2).

(4)

(a) If the chair is absent, unable, or refuses to act, the council may elect a member of the council as chair pro tempore, to:

(i) preside at a council meeting; and

(ii) perform during the chair's absence, disability, or refusal to act, the duties and functions of chair.

(b) In accordance with Section 10-3c-203, the county clerk of the county in which the metro township is located shall enter in the minutes of the council meeting the election of a council member as chair under Subsection (1)(b) or chair pro tempore under Subsection (4)(a).

Repealed and Re-enacted by Chapter 352, 2015 General Session

10-3b-504 Council in a metro township that is included in a municipal services district.

(1) The council in a metro township that is included in a municipal services district:

(a) exercises any executive or administrative power and performs or supervises the performance of any executive or administrative power, duty, or function that has not been given to the chair under Section 10-3b-503 unless the council removes that power, duty, or function from the chair in accordance with Subsection (2);

(b) may:

(i) subject to Subsections (1)(c) and (2), adopt an ordinance:

(A) removing from the chair any power, duty, or function of the chair; and

(B) reinstating to the chair any power, duty, or function previously removed under Subsection (1)(b)(i)(A); and

(ii) adopt an ordinance delegating to the chair any executive or administrative power, duty, or function that the council has under Subsection (1)(a); and

(c) may not remove from the chair or delegate:

(i) any of the chair's legislative or judicial powers or ceremonial functions;

(ii) the chair's position as chair of the council; or

(iii) any ex officio position that the chair holds.

(2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to the chair a power, duty, or function provided for in Section 10-3b-503 requires the affirmative vote of:

(a) the chair and a majority of all other council members; or

(b) all council members except the chair.

(3) The metro township council of a metro township that is included in a municipal services district:

(a) shall:

(i) by ordinance, provide for the manner in which a subdivision is approved, disapproved, or otherwise regulated;

- (ii) review municipal administration, and, subject to Subsection (5), pass ordinances;
 - (iii) perform all duties that the law imposes on the council; and
 - (iv) elect one of its members to be chair of the metro township and the chair of the council;
- (b) may:

- (i)
 - (A) notwithstanding Subsection (3)(c), appoint a committee of council members or citizens to conduct an investigation into an officer, department, or agency of the municipality, or any other matter relating to the welfare of the municipality; and
 - (B) delegate to an appointed committee powers of inquiry that the council considers necessary;
- (ii) make and enforce any additional rule or regulation for the government of the council, the preservation of order, and the transaction of the council's business that the council considers necessary; and
- (iii) subject to the limitations provided in Subsection (5), take any action allowed under Section 10-8- that is reasonably related to the safety, health, morals, and welfare of the metro township inhabitants;

(c) may not:

- (i) direct or request, other than in writing, the appointment of a person to or the removal of a person from an executive municipal office;
- (ii) interfere in any way with an executive officer's performance of the officer's duties; or
- (iii) publicly or privately give orders to a subordinate of the chair.

(4) A member of a metro township council as described in this section may not have any other compensatory employment with the metro township.

(5) The council of a metro township that is included in a municipal services district may not adopt an ordinance or resolution that authorizes, provides, or otherwise governs a municipal service, as defined in Section 17B-1102, that is provided by a municipal services district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act.

Repealed and Re-enacted by Chapter 352, 2015 General Session

Part 6 **Changing to Another Form of Municipal Government**

10-3b-601 Authority to change to another form of municipal government.

(1) As provided in this part, a municipality may change from the form of government under which it operates to:

- (a) the council-mayor form of government with a five-member council;
- (b) the council-mayor form of government with a seven-member council;
- (c) the six-member council form of government; or
- (d) the five-member council form of government.

(2)

(a) A metro township that changes from the metro township council form of government to a form described in Subsection (1):

- (i) is no longer a metro township; and
- (ii) subject to Subsection (2)(b), is a city or town and operates as and has the authority of a city or town

(b) If a metro township with a population that qualifies as a town in accordance with Section 10-2-301 changes the metro township's form of government in accordance with this part, the metro township may change to the five-member council form of government.

(3) A municipality other than a metro township may not operate under the metro township council form of government.

Enacted by Chapter 352, 2015 General Session

10-3b-602 Voter approval required for a change in the form of government.

A municipality may not change its form of government under this part unless voters of the municipality

approve the change at an election held for that purpose.

Enacted by Chapter 352, 2015 General Session

10-3b-603 Resolution or petition proposing a change in the form of government.

(1) The process to change the form of government under which a municipality operates is initiated by:

(a) the council's adoption of a resolution proposing a change; or

(b) the filing of a petition, as provided in Title 20A, Chapter 7, Part 5, Local Initiatives - Procedures, proposing a change.

(2) Within 45 days after the adoption of a resolution under Subsection (1)(a) or the declaring of a petition under Subsection (1)(b) as sufficient under Section 20A-7-507, the council shall hold at least two public hearings on the proposed change.

(3)

(a) Except as provided in Subsection (3)(b), the council shall hold an election on the proposed change in form of government at the next municipal general election or regular general election that is more than 90 days after, as the case may be:

(i) a resolution under Subsection (1)(a) is adopted; or

(ii) a petition filed under Subsection (1)(b) is declared sufficient under Section 20A-7-507.

(b) Notwithstanding Subsection (3)(a), an election on a proposed change in the form of government may be held if:

(i) in the case of a proposed change initiated by the council's adoption of a resolution under Subsection (1)(a), the council rescinds the resolution within 60 days after adopting it; or

(ii) in the case of a proposed change initiated by a petition under Subsection (1)(b), enough signatures withdrawn from the petition within 60 days after the petition is declared sufficient under Section 20A-7-507 that the petition is no longer sufficient.

(4) Each resolution adopted under Subsection (1)(a) or petition filed under Subsection (1)(b) shall:

(a) state the method of election and initial terms of council members; and

(b) specify the boundaries of districts substantially equal in population, if some or all council members are to be elected by district.

(5) A resolution under Subsection (1)(a) or petition under Subsection (1)(b) proposing a change to a council-mayor form of government may require that, if the change is adopted, the mayor appoint, with the council's advice and consent and subject to Section 10-3b-202, a chief administrative officer, to exercise the administrative powers and perform the duties that the mayor prescribes.

Enacted by Chapter 352, 2015 General Session

10-3b-604 Limitations on adoption of a resolution and filing of a petition.

A resolution may not be adopted under Subsection 10-3b-603(1)(a) and a petition may not be filed under Subsection 10-3b-603(1)(b) within:

(1) four years after an election at which voters reject a proposal to change the municipality's form of government, if the resolution or petition proposes changing to the same form of government that voters rejected at the election; or

(2) four years after the effective date of a change in the form of municipal government or an incorporation of a municipality.

Enacted by Chapter 352, 2015 General Session

10-3b-605 Ballot form.

The ballot at an election on a proposal to change the municipality's form of government shall:

(1) state the ballot question substantially as follows: "Shall [state the municipality's name], Utah, change its form of government to the [state "council-mayor form, with a five-member council," "council-mayor form with a seven-member council," "six-member council form," or "five-member council form," as applicable]?"

(2) provide a space or method for the voter to vote “yes” or “no.”

Enacted by Chapter 352, 2015 General Session

10-3b-606 Election of officers after a change in the form of government.

(1) If voters approve a proposal to change the municipality’s form of government at an election held as provided in this part, an election of officers under the new form of government shall be held on the municipal general election date following the election at which voters approve the proposal.

(2) If a municipality changes its form of government under this part resulting in the elimination of an elected official’s position, the municipality shall continue to pay that official at the same rate until the date on which the official’s term would have expired, unless under the new form of government the official holds municipal office for which the official is regularly compensated.

(3) A council member whose term has not expired at the time the municipality changes its form of government under this part may, at the council member’s option, continue to serve as a council member under the new form of government for the remainder of the member’s term.

(4) The term of the mayor and each council member is four years or until a successor is qualified, except that approximately half of the initial council members, chosen by lot, shall serve a term of two years or until a successor is qualified.

Enacted by Chapter 352, 2015 General Session

10-3b-607 Effective date of change in the form of government.

A change in the form of government under this chapter takes effect at noon on the first Monday of January next following the election of officers under Section 10-3b-606.

Enacted by Chapter 352, 2015 General Session

Appendix C – Timeline

- May 25 Approve creation of the committee, assign councilmembers to the committee, open citizen application period
- June 1 Close application period, council members on the committee meet to select committee members.
- June 8-21 Committee appoints chair and meets as necessary to formulate the deliverables.
- June 22 Committee chair presents report to the city council.

**Application for Consideration of Appointment to Form of
Government Ad Hoc Committee**

Name _____

Address _____

Resident of West Jordan since: _____

Phone _____

Email _____

What form of government do you think is best suited for the city of West Jordan?

- Council-Manager (current form)
- Council-Mayor
- Six-member Council
- Five-Member Council
- Undecided

Why? _____

