

**From:** Lysia Bowling

**Sent:** Wednesday, April 12, 2017 2:08 PM

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**Subject:** Legal Opinion on Mayoral Override Vote by City Council/Agenda Placement

Dear Council President Spencer and Members of City Council:

Attached please find my clarification and recommendation regarding the action by City Council to override the Mayoral veto and agenda placement.

Respectfully,

Lysia H. Bowling

City Attorney

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OFFICE of the CITY ATTORNEY

TO: City Council President Brian Spencer and Members of City Council  
FROM: Lysia H. Bowling, City Attorney <sup>2/10/3</sup>  
DATE: April 12, 2017  
RE: Legal Opinion on Mayoral Override Vote by City Council/Agenda Placement

City Council met on Monday, April 10, 2017 in a Special City Council meeting and voted to override the Mayor's veto of City Council's March 9, 2017 action to begin the process of hiring a Budget Analyst. City Council members discussed City Charter Section 4.03(d) which provides the time frame for the City Council vote to override a Mayoral veto.

Section 4.03(d) of the City Charter states:

“The City Council may, by an affirmative vote of at least a majority plus one (1) of the City Council Members, override the Mayor's veto of an ordinance or resolution at any time prior to midnight on the fifth (5<sup>th</sup>) business day after the day the Mayor exercises the veto or prior to midnight on the day of the next City Council meeting after the exercise of the Mayoral veto, whichever last occurs.”

Under that authority, the City Council vote to override a Mayoral veto is required to occur, either:

(1) At any time prior to midnight on the fifth (5<sup>th</sup>) business day after the day the Mayor exercises the veto;

OR

(2) Prior to midnight on the day of the next City Council meeting, whichever last occurs.

I believe it would be helpful for me to clarify the basis for the recommendation I made at the Special City Council meeting on Monday, to-wit: that the vote to override the Mayoral veto must occur at the regularly scheduled City Council meeting on Thursday, April 13, 2017.

As indicated above, Section 4.03(d) of the City Charter provides City Council with two options, “whichever occurs last.” Clearly, the time frame for the first option has expired. The second option remains available, albeit, to expire prior to midnight at the regularly scheduled City Council meeting on Thursday, April 13, 2017.

It is my opinion that the City Council vote to override the Mayoral veto must take place at either: (1) a regularly scheduled City Council meeting or a special City Council meeting of City Council at any time prior to midnight on the fifth (5<sup>th</sup>) business day after the day the Mayor exercises the veto; or alternatively, (2) prior to midnight on the day of the next regularly scheduled City Council meeting, whichever occurs last. In this case, as City Council did not vote to override the Mayoral veto "at any time prior to midnight on the fifth (5<sup>th</sup>) business day after the day the Mayor exercised the veto," to-wit: March 21, 2017, in accordance with the time frame set forth in Section 4.03(d). Therefore, the only option remaining is prior to midnight on April 13, 2017, being the next regularly scheduled City Council meeting.

The legislative item to override the veto has been placed on the Consent Agenda for the April 13, 2017 City Council meeting. It is my opinion, the item meets the criteria for placement on the Consent Agenda under Section 2.07, City Council Rules and Procedures.

Furthermore, to conform with the requirements of the Charter, the legislative action item to override the Mayor's veto will require an affirmative vote of at least a majority plus one (1) of City Council Members. Accordingly, the Consent Agenda in its entirety must be approved in this manner.