

Office of
City Attorney

City of
Pensacola



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September 24, 2012

CITY ATTORNEY STATEMENT ON THE POWER OF
THE MAYOR TO VETO AND THE POWER OF THE
CITY COUNCIL TO ADOPT A CITY BUDGET

This statement is made in order to assure the citizens of Pensacola that the Charter is the supreme expression of the will of the voters of the City of Pensacola as to the relationship between the Mayor and Council.

Let's start with the identification of some key points that will help us understand the process:

(1) The adoption of the City budget is a continual process that begins and ends with a balanced budget;

(2) The budget remains balanced throughout the process;

(3) The appropriations identified in the budget remain as originally appropriated until approval and adoption by the Council;

(4) The budgetary process begins when the Mayor performs his duty to propose a balanced budget to the City Council;

(5) It ends when the Council performs its duty to approve and adopt a final budget;

(6) After the Mayor proposes his budget the Council has the power to propose changes in the budget;

(7) The changes that Council propose are an expression of their intent that the Mayor alter his budget pursuant to their proposed changes;

(8) The proposed changes by Council do not cause the appropriations to move in the budget;

(9) Appropriations do not move around in the budget for two reasons;

- a. Section 4.01(a)(10) of the Charter grants the Mayor the power to veto any "line item" in a budget within five days of adoption by Council, and**
- b. Section 4.03(d) of the Charter provides that the expression of intent by Council to alter the budget has no effect if the mayor exercises his veto power;**

(10) Since Council's actions have no effect in the face of the exercise of the Mayor's veto power, the actions cannot effectuate the movement of appropriations in the budget;

(11) The key to understanding when any action by the City Council effectuates a change in the budget is the determination of when, if ever, Council's actions are effective;

(12) Upon the exercise of the mayoral veto, the budget process continues;

(13) The budget returns to Council again in the exact same form it came to Council at the commencement of the process;

(14) Council now has an opportunity to make their proposed alterations to the budget effective;

(15) Council makes their proposed changes effective by an affirmative vote of six (6) Council Members to override the Mayoral veto;

(16) Regardless of the outcome of the vote, the process is now completed, the budget becomes final, funds are appropriated and the City has a budget.

This budget process is designed to preserve both the integrity of the Mayoral veto power and the power of the Council to approve and adopt the budget as set forth in the Charter. It effectively balances the power of each branch of government. The Charter grants the City Council final authority over the adoption of the budget if Council can exercise their political will through the affirmative vote of six (6) Council Members. On the other hand, it preserves the Mayoral power to veto so that the Mayor has the appropriations in hand to fulfill his Charter duty to operate the City.

My legal position as City Attorney is clear. I do not want to create any conflict of interest claim through discussion that would bar my office from filing a brief with the circuit court on behalf of the citizens of Pensacola that supports the Charter in the event that either the Mayor's office or City Council choose to challenge my opinion.