

CHARTER REVIEW COMMITTEE  
MONDAY, OCTOBER 21, 2019, 5 P.M.  
MAYOR'S CEREMONIAL ROOM

MINUTES

PRESENT: Chair Clarke, Vice-Chair McQuern, and Members Barnhart, Beeman, Clymer, Evans, Irving, MacKinney, Miller, Riemer, Zaragoza, Angel, Webb, Bristow, Teichert (arrived at approximately 5:15 p.m.), and Alternate Mabon

ABSENT: Alternate McKeith

STAFF PRESENT: Colleen Nicol, Susan Wilson, Elliot Min, Nancy Aguilar-Crunk, Eva Arseo, Edward Enriquez, and Adolfo Cruz

Chair Clarke convened the meeting at 5 p.m.

ORAL COMMUNICATIONS FROM THE AUDIENCE

There was no one present wishing to address the Committee at this time.

APPROVAL OF MINUTES

Following discussion, it was moved by Member Clymer and seconded by Vice-Chair McQuern to approve the minutes of the meeting of September 9, 2019, as presented. Motion carried with Member Angel abstaining.

EXCUSAL OF ABSENCES

Following discussion, it was moved by Member Clymer and seconded by Member Beeman to excuse the absences of Members Angel and Teichert from the meeting of September 9, 2019. Motion carried unanimously.

Member Teichert arrived during the following discussion.

APPOINTMENTS TO AND ELECTIONS TO FILL VACANCIES IN ELECTED OFFICE

City Clerk Nicol presented the draft Charter amendment language as requested by the Committee substantially implementing the proposal by the League of Women Voters to provide appointment by the City Council to fill vacancies in elected office with up to one year remaining on the term, calling of a special election to fill vacancies in excess of one year, providing for election by majority of all votes cast without a run-off election when filling vacancies, and prohibition of appointed officials from referencing "incumbent", "member of the city council", or other designation indicating incumbency in a future election for the same seat.

Following discussion, it was moved by Member Barnhart and seconded by Member Evans approving the draft language to amend Section 404 Vacancies, as presented.

Lengthy discussion ensued including election consolidation and the Mayor's veto power, replacement of "conviction of a crime of moral turpitude" with "a crime related to duties of performing the office", use of "shall" or "may" for appointment to fill a vacancy, election by plurality rather than run-off, the cost of run-off elections, and proposed language clarifications.

Following further discussion, Member Barnhart amended his motion to provide that the City Council shall declare a vacancy within fourteen days and that an election shall be called for vacancies in elected office with more than one year remaining on the term.

Member Evans recommended a further amendment to provide that a runoff election be scheduled within 90 days. Member Barnhart did not support the requested amendment.

The second was withdrawn and the motion died for lack of a second.

With respect to replacing the language referencing a crime of moral turpitude with "unreasonably interferes with the duties of the office", Chair Clarke questioned how reasonable interference could be determined. Assistant City Attorney Wilson shared concerns with the proposed language and recommended further discussion at a future meeting.

Following further discussion, it was moved by Member Evans and seconded by Member Clymer to amend Section 404 Vacancies, to read,"

*If a member of the City Council or the Mayor is absent from three consecutive regular meetings of the City Council, unless by permission of the City Council expressed in its official minutes, or is convicted of a crime involving moral turpitude, the office of such person shall become vacant.*

*Within fourteen days, the City Council shall declare the existence of any vacancy in elected office, from whatever cause arising, except in the event of a successful recall.*

*For vacancies in elected office with up to and including one year remaining on the term from declaration of the vacancy, the City Council shall appoint to fill the vacancy for the remaining term within sixty days after such office shall have been declared vacant. In the event the City Council fails to fill such vacancy by appointment within sixty days after such office shall have been so*

*declared vacant, it shall cause an election to be held within one hundred twenty days to fill such vacancy.*

*For vacancies in elected office with more than one year remaining on the term, the City Council shall call a special election for the purpose of filling the vacancy for the remainder of the term. Such special election shall be held within one hundred twenty days after such office shall have been so declared vacant. If there is a local or statewide election scheduled within one hundred eighty days after such office shall have been declared vacant, the City Council shall consolidate the special election with such local or statewide election.*

*If in a special election to fill a vacancy for a member of the City Council for any ward, or for the office of Mayor, no candidate receives a majority of the votes cast for the office, the City Council shall immediately upon the determination of that fact, call a special runoff election to be held within ninety days. The two candidates receiving the highest number of votes in the special election to fill the vacancy shall be declared the candidates for the special runoff election.*

*Appointed officials shall not be permitted to reference "incumbent", "member of the City Council", or other designation indicating incumbency in the subsequent election for the same seat.*

Motion carried with Members McQuern, Beeman, and Irving voting no.

#### MAYORAL AUTHORITY INCLUDING VOTE AND VETO

Assistant City Attorney Wilson provided an overview of the history of Mayoral authority in the City of Riverside from 1953 to present. At the request of Chair Clarke, Ms. Wilson reported that in the litigation filed in support of the Mayor's veto authority over the City Manager's contract, that the court denied the Mayor's request for summary adjudication and questioned the Mayor's standing. A hearing is scheduled for November 20, 2019. No decision has been rendered in this case. Chair Clarke suggested the Committee respect the legal proceeding of interpretation of the Charter and avoid motions that could be used as an argument by one party or another in the litigation.

Chair Clarke framed the discussion before the Committee to consider if the current Charter language setting forth the Mayor's powers of veto and vote should be amended, avoiding the issue of what the current veto power includes.

Member Clymer noted that the report lacks the fifty years of context prior to 1953. The change to a Council-Manager form of government was noted as trendy and popular. At that same time, the police review power was removed later to be restored with the Community Police Review Commission. Member Clymer supports the Mayor having a visioning role and noted that the Mayor's ability to

veto the budget was removed in 1953. He suggests that veto power of the budget be restored which holds greater accountability than granting a vote.

Member Webb feels the Mayor should be able to weigh in on decisions, either with a vote or veto. Member Evans noted that the person holding the office of Mayor is expected to use the tools they have. He believes the Mayor should have a vote, not a veto. Member Beeman supports granting the Mayor a vote, rather than a veto. A tie vote is the same check as a veto as the matter does not move forward.

Member Barnhart supports the citywide elected Mayor having a voice in City business. He believes the veto is underrated, however, a citywide elected official can impact issues through negotiation and development of solutions. Member Barnhart supports increasing the Mayor's ability to be heard through service as the designated representative on state, regional, and national boards, or his/her designee.

Member Irving feels the current system of Mayoral veto works well. Vice-Chair McQuern noted that former Mayor Loveridge's threats of veto carried impact.

Following discussion, it was moved by Vice-Chair McQuern and seconded by Member Beeman to recommend that the Mayor be granted a vote and the veto power be removed.

Member Clymer feels the veto equates to five votes and that threat of a veto can be constructive. Member Angel questions if changes in the power of the Mayor will result in a City run by the Mayor. Member Beeman noted that if the current motion fails, the Committee should clarify the current language concerning use of the veto. Member Zaragoza does not support change from the current Charter and feels that the veto is the stronger voice of the Mayor. Member Clymer noted he does not propose changing the form of government to a strong Mayor but suggests allowing the Mayor to veto the Budget.

Chair Clarke noted that under the current Charter timelines, the veto prevents gridlock. He reviewed the duties of the Mayor as set forth in the Charter including ceremonial duties and interpretation of City policy. The current veto power gives the Mayor the ability to slow down the process. Granting the Mayor a vote would not change the form of government, only change a majority vote to five. The City of Pasadena has eight voting elected officials. Chair Clarke supports granting the Mayor a vote.

Member Bristow noted Mr. Loveridge's comment that Riverside is the only city in California with this form of government. Mr. Loveridge also advocates expansion of the Mayor's power to appoint committees. The Riverside Mayor has no power

of appointments and no Budget line item veto. Our forbearers discarded the strong Mayor form of government. Member Bristow agrees with comments to grant the Mayor a vote.

Member Webb noted that as Mr. Loveridge pointed out, use of the veto carries a negative connotation. As a matter of style, the veto hasn't been exercised. Member Webb suggested granting the Mayor a vote on the Budget and appointment of the City Manager.

Member Teichert agrees that Riverside's form of government is unique in California and known as a weak Mayor form. Riverside has influence in the State and should have a Mayor that has a vote with no veto power. Member Teichert also supports the Mayor serving on regional and statewide organizations, noting that some have stipends.

Member Angel sees the Mayor veto as a check and balance serving as a last defense of something that could go extremely wrong. He supports retention of the veto without adding voting powers.

The motion carried with Members Angel, Clymer, Irving, Reimer, and Zaragoza voting no.

At the request of Member Barnhart, Chair Clark requested staff to report to the Committee at a future meeting on other powers of the Mayor including appointment to regional bodies, City Council Standing Committees, and boards/commissions; and submittal of the Budget through the Mayor to the City Council.

CITY MANAGER PRIORITIZED RECOMMENDATIONS - URBAN FOREST MANAGEMENT  
Chief Financial Officer/Treasurer Enriquez presented the City Manager's prioritization of requested amendments as outlined in the written staff report and withdrawal of the urban forestry proposed amendments.

Vice-Chair McQuern expressed concern with changing financial reporting to the City Council from monthly to quarterly. CFO Enriquez advised that any abnormalities between quarterly reports would be brought to the attention of the City Council. In response to Member Beeman's question as to consequences for not making the proposed financial changes, Mr. Enriquez responded that the City currently has a two-year budget and presents a mid-cycle update.

There was further discussion around the meaning of proposals regarding capital projects, availability of the Budget in libraries, and appointment of a manager pro tempore.

Chair Clarke requested Committee members to be prepared at the next meeting to approve all or some of the City Manager's recommendations while keeping voter fatigue in mind.

#### FISCAL IMPACT DISCLOSURE IN BALLOT MEASURE IMPARTIAL ANALYSIS

Assistant City Attorney Wilson presented an informational summary of current State law surrounding City Attorney preparation of an impartial analysis for ballot measures showing the effect of the measure on existing law and the operation of the measure. California law does not require the City Attorney to analyze the fiscal impact of ballot measures and the Charter is silent as to the content of the impartial analysis. No formal action was required or taken.

#### INFORMATIONAL AND RESEARCH MATERIALS

Assistant City Attorney Wilson commented on the informational materials provided including the Charter amendment ideas log from members of the public and ideas log from Committee Members, Mayor and Members of the City Council, and City employees. No formal action was required or taken.

#### ORAL COMMUNICATIONS FROM THE AUDIENCE

There was no one present wishing to address the Committee.

#### ITEMS FOR FUTURE COMMITTEE CONSIDERATION AS REQUESTED BY CHARTER REVIEW COMMITTEE MEMBERS

Chair Clarke noted that the City Manager's recommendations will be included in the next agenda. Member Clymer asked what materials were needed for discussion of the Mayor's veto/vote and appointments' process. Member Evans requested discussion of inclusion of Charter Officers as being subject to the Code of Ethics and citizen right of action at the next meeting. Chair Clarke confirmed that the subcommittee will be prepared with their reports.

Chair Clarke requested that any materials from Committee members to be included in the next agenda packet, including subcommittee reports, be provided to the City Clerk fifteen days in advance.

Member Webb withdrew the prior request to discuss a supermajority vote of the Committee for recommendations to the City Council.

Chair Clarke confirmed that all tentative votes will be revisited at the end of the work plan for final action. He hopes to complete the Committee's work a few months early allowing time to disperse into the community to discuss the Committee's recommendations and encourage participation at the City Council discussion.

The meeting adjourned at 7:07 p.m.

Respectfully submitted,



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COLLEEN J. NICOL  
City Clerk