

CHARTER REVIEW COMMITTEE
MONDAY, DECEMBER 9, 2019, 6 P.M.
HUNT PARK, RENCK COMMUNITY CENTER
4015 JACKSON STREET, RIVERSIDE, CA

MINUTES

PRESENT: Chair Clarke, Vice-Chair McQuern, and Members Barnhart, Beeman, Bristow, Clymer, Evans, MacKinney, Miller, Riemer, Teichert, Webb, and Zaragoza and Alternates Mabon and McKeith

ABSENT: Members Beeman and Irving

STAFF PRESENT: Eva Arseo, Elliot Min, Colleen Nicol, Carlie Myers, and Edward Enriquez

Chair Clarke convened the meeting at 6 p.m. followed by self-introductions.

ORAL COMMUNICATIONS FROM THE AUDIENCE

Aurora Chavez spoke regarding citizen comment and rebuttal at City Council meetings.

CHARTER, COMMITTEE SCOPE OF WORK AND TIMELINE, COMMUNITY MEETING PURPOSE, AND BROWN ACT

Deputy City Attorney Min presented information to the Committee and public on the Charter, the Charter Review Committee's scope of work and timeline, the community meeting purpose, and the Ralph M. Brown Act. No formal action was required or taken.

COMMUNITY INPUT ON CITY CHARTER AND POTENTIAL AMENDMENTS

Kevin Dawson spoke regarding City Council agenda items approved prior to seating of the new City Councilmembers, limitation on length of time the City Council can bind future City Councils such as lease terms, an oath of office for Charter Officers, and annual renewal of oaths of office administered by a local judge.

APPROVAL OF MINUTES

Following discussion, it was moved by Member Miller and seconded by Member MacKinney to approve the minutes of the meeting of November 18, 2019, as presented and amended to (1) record Member MacKinney voting no to grant the Mayor a vote and remove the veto power; and (2) amend the first sentence under Items for Future Committee Consideration to read, "Member Riemer requested that clarification of the Mayor's right to veto Charter Officer

employment agreements be brought forward for discussion at a future meeting ~~in the event the voters do not grant the Mayor a vote.~~" Motion carried unanimously.

MAYOR VOTE, VETO, AND OTHER POWERS

Chair Clarke summarized the Committee's work and preliminary vote to grant the Mayor a vote, change the definition of "City Council" to include seven councilmembers and the Mayor, remove the veto and tie-vote, and increase the number of votes required for fixing City Council compensation by ordinance, adopting ordinances and resolutions, including emergency ordinances and resolutions, and waiving competitive bidding requirements for certain public works contracts. The Committee discussed the draft Charter language to implement the changes.

Chair Clarke noted the City Attorney's request to approve the proposed Measure amended Charter language. Member Evans stated there was no need to take any further action until the final vote on recommendations to the City Council. Member Teichert agreed with that understanding and noted she had language clean-up proposals. Member Barnhart stated his respect of Councilmember Conder's written comments opposing granting the Mayor a vote, however, he feels holding the Mayor accountable has merit.

Following discussion, it was moved by Member Barnhart and seconded by Member McQuern to approve the proposed measure as written and Charter amendment language as presented by the City Attorney.

Member Clymer noted Councilmember Conder's suggestion that if the Mayor is granted a vote, that further a Charter amendment be made to rotate presiding at City Council meetings among all Councilmembers.

Member Teichert suggested language changes including removing "Mayor and" where it occurs in Section 403 and throughout the Charter as the definition of "City Council" would now include the Mayor and cleanup of Section 405, paragraph two, which states that the Mayor Pro Tem votes as a member of the City Council when presiding in the Mayor's absence.

Deputy City Attorney Min noted that the reason for distinction of "Mayor" in Section 403 is because the Mayor's compensation differs from City Councilmembers. Chair Clarke requested the City Attorney to report back on the issues raised on the draft language for a report back to the Committee.

The Committee discussed proposed votes required to take certain actions and supermajorities vs. two-thirds of those present and voting. The City Attorney will research all the points made.

Aurora Chavez supports the Mayor having the ability to removing an item from the agenda for discussion behind closed doors. Kevin Dawson suggested the ability for members of the City Council to appoint Standby Officers be included in the Charter rather than the Municipal Code.

Subsequently, the motion carried with Members Clymer, Riemer, and Zaragoza voting no.

Member Riemer requested discussion of the proposed language to clarify the Mayor's veto authority.

WILLIAM R. ("RUSTY" BAILEY, III, MARCIA MCQUERN, AND THOMAS MULLEN V. CITY OF RIVERSIDE UPDATE

Deputy City Attorney Min updated the Committee on the status of the court proceedings which were continued to January 2020.

Following discussion, it was moved by Member Riemer and seconded by Member Zaragoza to approve the draft language as presented to clarify the Mayor's veto authority.

The Committee discussed the need to clarify the veto power, the focus of the courts on the current Charter, the potential for competing ballot measures, the possibility the City Council will not place a measure to grant the Mayor a vote on the ballot, and the possible need for an additional Council Ward.

Aurora Chavez stated that Mayor Bailey was trying to protect Riverside by vetoing the former City Manager's contract.

Alternate Mabon requested to hear from the newly installed Councilmembers. Member Zaragoza and Clymer concurred with the request.

Subsequently, the motion failed for lack of a majority vote with Members Bristow, McQuern, Webb, Clarke, Teichert, Barnhart, Clymer, Evans, and Miller voting no.

Following further discussion, it was moved by Member Clymer and seconded by Member Riemer to approve the draft language as presented to clarify the Mayor's veto authority and include authority to veto the Budget.

Member Bristow reminded the Committee of former Mayor Loveridge's characterization of the Riverside Mayor as a weak form of government. He feels that Budget veto authority will significantly increase Mayoral power. Member Zaragoza noted former Mayor Loveridge was well known in the State and influential in the community. Member Barnhart desires a future government

where a citywide elected official is listened to and held accountable for every vote.

Subsequently, the motion failed for lack of a majority vote with Members McQuern, Webb, Clarke, Teichert, Barnhart, Evans, and Miller voting no.

Aurora Chavez stated the City Attorney's change to the contract signature page was unprofessional. Jason Hunter noted potential confusion if the new City Council supports the Mayor's veto of the former City Manager's contract.

Deputy City Attorney Min reported that the case was continued to January 30, 2020, without any movement in the case. Alternate McKeith stated that the contract will be valid unless the court decides otherwise.

GENERAL FUND TRANSFER

Chair Clarke introduced the topic of the General Fund Transfer and called for public comment.

Carl Pongs stated the court ruled in favor of the City regarding the General Fund Transfer based on a technicality and that a levy or exaction is exempt if it doesn't exceed the reasonable cost. Increased utility rates directly affect the General Fund Transfer. Kevin Dawson noted that *Moreno v City of Riverside* was not mentioned in the report from the City Attorney. The case settled out of court with the City agreeing to repay the public utility \$10 million and place the General Fund Transfer on the ballot. Jason Hunter distributed proposed language to define "gross operating revenue". He stated that wholesale transactions should not be included as "gross operating revenue".

Deputy City Attorney Min noted that the version of Mr. Hunter's amendment in the agenda materials including the hand written notes of Assistant City Attorney Wilson were published inadvertently.

Alternate McKeith noted the incentive to raise rates to increase the General Fund Transfer. She asked if the General Fund Transfer can be capped at the current revenue.

Chief Financial Officer Enriquez reported the annual transfer from the Electric Fund of \$41 million and Water Fund transfer of approximately \$6 to \$7 million.

Member Clymer also noted the incentive and does not oppose a Charter amendment to cap General Fund Transfer revenue. Member Evans noted the Charter maximum General Fund Transfer of 11.5% with City Council ability to reduce the percentage as part of Budget deliberations. Member Webb does not support a General Fund Transfer cap in the Charter.

Following discussion, it was moved by Member Webb and seconded by Member Bristow to receive and file the report on the General Fund Transfer.

Member McKeith stated that the most controversial issues will not be placed on the ballot. She reminded the Committee that the last Charter Review Committee recommendations receiving a supermajority vote were placed on the ballot by the City Council.

Member Barnhart stated that information on impacts to City Departments is needed for a full analysis. He added that the utility does not pay franchise fees or taxes.

The motion carried with Members Clymer and Zaragoza voting no.

CITY MANAGER RECOMMENDATIONS

Deputy City Manager Myers expressed willingness to answer any questions from the Committee on the City Manager's proposals regarding the Budget cycle, manager pro tempore appointments, urban forest management, and enforcement of ordinances and resolutions.

Chair Clarke communicated the Committee's concern of voter fatigue and asked if there were two or three recommendations in the report that are important to the function of the City. Deputy City Manager Myers noted the City Manager's report was prepared in response to a request for Charter amendment proposals. The City is in compliance with the Charter Budget requirements and no changes are needed.

Member Evans agrees that the Budget proposals are not a compelling need at this time. He noted that although the management of streets as proposed by the City Manager was rejected twice by the voters, he is concerned that the City is operating in violation of the Charter. Member Barnhart noted staff's frustration with both Public Works and Park and Recreation both managing City trees and suggested a proposal to reassure the public that City trees will be acquired and managed in accordance with modern urban forestry practices and protocols. He stated this type of provision is unusual for inclusion in a Charter. Member Clymer agrees with Member Evans that the City must operate in compliance with the Charter.

Chair Clarke reviewed the priorities of proposals as presented by the City Manager.

Following discussion, it was moved by Member Bristow and seconded by Member Webb to receive and order filed the City Manager's report on Charter amendment proposals. The motion carried unanimously.

SUBCOMMITTEE REPORT - CITIZEN PRIVATE RIGHT OF ACTION TO ENFORCE CHARTER - INSPECTOR GENERAL

Aurora Chavez supports an Inspector General position to enforce the Charter. Kevin Dawson stated that although violation of the City Charter is a misdemeanor, the District Attorney said they do not enforce the City Charter and recommended retaining an attorney to sue the City. Mr. Dawson believes another method is needed to hold elected officials and City staff accountable. Jason Hunter supports an elected Inspector General with funding already available in the City Budget. Carl Pongs noted that the public bears the burden of poor fiscal policy and a measure is needed to hold City officials accountable.

Alternate McKeith stated there is confusion about the process whereby several types of investigations take place, i.e., fiscal audits are performed internally, investigations for fraud and abuse are outsourced, and there is a 311 whistleblower hotline. She stated there isn't a clear mechanism where one independent party reviews all of these investigations. She suggested a compromise recommendation that the City Council shall after public hearings develop an enforceable independent process with one independent Charter Officer reporting to the City Council. Although the subcommittee recommended creation of an "office" she does not oppose creation of a Charter Officer position.

Member Clymer reported that some subcommittee members favored an elected officer for this purpose.

Member Evans stated that a Charter Officer would be a better approach and clarifying that the City Manager does not have any authority over the position or his/her employees. The prior Charter amendment proposing an Internal Auditor was defeated.

Member Riemer asked if creating a whole new process is the best solution when the court process already exists. If the District Attorney is not being responsive, the voters should encourage him.

Alternate McKeith acknowledged the internal processes but noted that the individual citizens cannot investigate what's going on inside City Hall or subpoena documents. This proposal creates a public process with an Inspector General issuance of annual reports.

Member Teichert thanked the Committee for their work and asked if there were examples of an Inspector General position in California. Alternate McKeith

responded that the only examples are police agencies, school districts, and the County of Los Angeles, without many municipal examples.

Member Bristow left the meeting at 8:23 p.m.

Member Teichert expressed concerns for the costs and noted other areas of government are already dedicated to dealing with conflict of interest, etc. Alternate McKeith requested clarification from staff in January on costs.

Deputy City Manager Myers described the policies and procedures currently in place related to fraud, whistleblowers, and internal auditor. An auditing program will be presented to the City Council in late January.

Following discussion, it was moved by Member Webb and seconded by Member Evans to continue further discussion on this matter to the January 13, 2020, meeting.

Chair Clarke requested an estimate of costs from the City Manager, what would be needed to make an Inspector General Office effective, and costs for what is currently in place.

Motion carried unanimously.

INFORMATIONAL AND RESEARCH MATERIALS

Deputy City Attorney Min reviewed the ideas log of the Committee members, elected officials, and City employees, the ideas log of the public, and the Committee work plan. No formal action was required or taken.

ORAL COMMUNICATIONS FROM THE AUDIENCE

Kevin Dawson stated that the elected auditor position failure was due to voter fatigue and expressed support for creation of an Inspector General position.

Jason Hunter spoke regarding street trees and noted that the Inspector General is similar to the appointed auditor proposal that was defeated by voters. He supports an elected Inspector General. Mr. Hunter proposed Charter amendments to (a) define "gross operating revenue" and "services" in Section 1206; (b) provide that all employees are required to report known violations of the City Charter, ordinances, resolutions, or policy; and (c) to provide that all obligations of the City within the term of five to ten years shall require a two-thirds vote of the City Council and all obligations of the City beyond ten years shall require affirmative votes of two-thirds of the electors voting on such proposition at any election at which the question is submitted to the voters.

Carl Pongs requested consideration of an amendment to require the City keep its water within the City limits. Mr. Pongs also asked if resolutions are binding.

Kevin Dawson spoke regarding a gift of funds to the Mission Inn and fiscal responsibility.

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

Alternate McKeith requested research on what fiscal constraints are being used in other cities to prevent debt obligations beyond a certain period of time. She noted that the sale of water can be approved by a simple majority vote of the City Council. She asked if there should be constraints on that sale.

Member Clymer noted that the sale of water is on the work plan for consideration at this meeting. Chair Clarke directed the matter be agendaized for the next meeting.

Member Clymer requested future discussion on a popular vote for long term leases.

Alternate McKeith requested staff research what is being done in other cities on indebtedness over ten years.

The meeting adjourned at 8:55 p.m.

Respectfully submitted,



COLLEEN J. NICOL
City Clerk