

CHARTER REVIEW COMMITTEE
MONDAY, FEBRUARY 10, 2020, 5 P.M.
MAYOR'S CEREMONIAL ROOM

MINUTES

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

ABSENT: Members Irving and Mabon

STAFF PRESENT: Eva Arseo, Elliot Min, Colleen Nicol, Susan Wilson, and Ariceli Ruiz

Chair Clarke convened the meeting at 5 p.m.

ORAL COMMUNICATIONS FROM THE AUDIENCE

There were no oral comments.

INTERVIEW WITH COUNCILWOMAN PLASCENCIA

Councilwoman Plascencia thanked the Committee for their service. She asked if the Committee had considered a rotating Mayor.

Member Barnhart stated that in Pasadena a Mayor elected by district resulted in unequal representation. On controversial issues, only the staff spoke for the entire City. The subsequent adding of a Citywide elected Mayor worked well for the City as a citywide perspective makes a difference.

Councilwoman Plascencia stated she aims to operate from a citywide perspective.

Member Miller asked for her thoughts on an elected vs appointed City auditor. Councilwoman Plascencia stated she will respond with her thoughts later in the meeting.

Chair Clarke asked for Councilwoman Plascencia to further explain her earlier written statement that granting the Mayor a vote would potentially confuse constituents and undermine the Councilmember for the Ward. Councilwoman Plascencia responded that if the Mayor's opinion differed from the Councilmember, they would be working in an opposite manner. Member Webb expressed appreciation for the Councilwoman's stated Citywide approach and stated that having a Citywide elected representative is a positive thing.

Chair Clarke stated that he changed his opinion on granting the Mayor a vote as a result of the Charter Review process noting a growing willingness of administration to ignore the only Citywide elected official. Providing a vote makes the Mayor part of the conversation. He stated that a mature City Council will be required to achieve compromise with an even number of voting members.

Alternate McKeith asked Councilwoman Plascencia if a supermajority vote should be required for certain topics such as pension obligation bonds and collective bargaining agreements. Councilwoman Plascencia stated she is open to that idea. Alternate McKeith stated the supermajority presents a higher burden.

Member Riemer asked for the Councilwoman's thoughts on replacing the word "citizen" with "community member". Councilwoman Plascencia responded that although citizens have a vested interest, "citizen" is problematic as it refers to status.

Member Bristow asked for the Councilwoman's thoughts on granting the Mayor a vote rather than the veto power. Councilwoman Plascencia responded she saw the Mayor's role as more symbolic and in the past was unaware that the Mayor had veto power.

Member Evans stated that although former Mayor Loveridge saw the veto as troublemaking, he believes a vote holds the Mayor at a higher level of accountability. Councilwoman Plascencia responded that acceptance of accountability depends on the person holding the position of Mayor.

Member Evans stated that the City Council is under no obligation to accept the Charter Review Committee's recommendations and place them on the ballot and asked the Councilwoman if she was willing to place measures on the ballot even if she does not support them. Councilwoman Plascencia stated she would be open to the idea and she does not want the Committee to feel like a rubber stamp. She stated it is the community's responsibility to be informed and make the decisions.

Alternate McKeith stated that the Committee considered an Inspector General and ultimately supported an annual report. Alternate McKeith further commented on requiring review of the Charter every four years, rather than the current eight-year requirement. Councilwoman Plascencia supported the four-year review.

Member Teichert shared research on California's 482 cities. 121 are Charter cities of which 5 have a strong Mayor form of government. The remaining cities use the council/manager form of government with only Riverside having a weak Mayor.

It takes years to develop important state and national relationships and it is beneficial for Riverside to have one person that can develop those relationships and bring back best practices, as former Mayor Loveridge accomplished during his tenure. Councilwoman Plascencia noted those were good points.

At this time, Councilwoman Plascencia responded to Member Miller's earlier question and expressed support for an elected City auditor. A conflict could arise with the City Manager appointing the City auditor if the City Manager Department needed changing.

Member Bristow noted that in consideration of actions that occurred with the prior City Manager, there was concern on the Committee if the Charter had adequate checks and balances; with a City Auditor any proposal could be construed as a check or balance, ultimately on the power of the City Council; and checks and balances support healthy organizations.

Member Clymer expressed support for Member Bristow's statements and for an elected auditor.

Councilwoman Plascencia requested the Committee during their review to explore how the City can be more inclusive in their policies, which she sees as lacking. She requested the Committee to review the process for board and commission reappointments and the ability to serve on more than one board/commission. Councilwoman Plascencia supports more community members having access to board/commission service.

Kevin Dawson spoke in support of the ability for members of the public to remove items from the City Council Consent Calendar for separate discussion.

Member Bristow noted the Committee's prior discussions of limiting the number of proposals to avoid voter fatigue which results in some issues not being addressed; and having unaddressed issues supports the argument for review every four years.

APPROVAL OF MINUTES

Following discussion, it was moved by Member Clymer and seconded by Member Webb to approve the minutes of the meeting of January 13, 2020, as presented. Motion carried unanimously.

EXCUSAL OF ABSENCES

Following discussion, it was moved by Member Teichert and seconded by Member Bristow to approve the absence of Chani Beeman from the meeting of December 9, 2019, and Monrow Mabon from the meeting of January 13, 2020. Motion carried unanimously.

WATER SALE AGREEMENTS

Chair Clarke called for discussion of the research prepared by staff as to restrictions on the City Council's power to enter into water sale agreements. Alternate McKeith stated that the transfer of water is a complicated issue that deserves more public vetting. She reported water being sold to the City of Norco for less than Tier 3 customer rates. With water becoming increasingly scarce, she supports a supermajority vote for water sale agreements.

Motion was made by Member Barnhart and seconded by Member Webb to receive and file the report.

Member Barnhart noted water issues are complicated. If unused, the City will lose the water in five years. Agreement termination clauses allow the City to terminate at any time. Member Barnhart does not support this type of regulation being included in the Charter. The City is making money from water the City is not using. Member Webb stated that water transfers are good for Riverside.

Alternate McKeith noted there is no public policy related to economical use of water or use for climate change or sustainability. She recommends City priorities be examined before any further sales, rather than selling below market value.

Subsequently, the motion carried unanimously.

ANNUAL REPORT OF INTERNAL INVESTIGATIONS OF COMPLAINTS OF FRAUD, WASTE, ABUSE, OR OTHER CRIMINAL CONDUCT

Chair Clarke called for discussion on draft language conceptually approved at a prior meeting to require annual publication of a report specifying the nature of any material written complaints from community members, written claims, whistleblower complaints alleging fraud, waste, abuse, or other criminal conduct, audits and/or investigation undertaken by the City, its staff or outside consultants, the outcome of those investigations, and the annual budget expended to undertake the investigations.

Kevin Dawson expressed support of an inspector general position rather than the current proposal. He stated there is a culture in local governments of not respecting the rule of law.

Member Clymer reported that the subcommittee did not perceive enough support for an elected position, however, some Councilmembers have since stated supported for an elected position.

It was moved by Member Clymer and seconded by Member Miller to recommend an elected auditor, watchdog, or inspector general to the City

Council for placement on the ballot as a new Charter Section separate from Section 1113.

Member Riemer requested more information on the job duties of the proposed position. Member Clymer suggested beginning with the duties in the current process, although all positions in that Division are vacant.

Chair Clarke noted that if the motion carries, consideration of formal language will be included on the next agenda.

Member McKeith stated that publication of an annual report and creation of an inspector general position were two separate issues. Member Beeman stated that the annual report only was a step back from the subcommittee's original proposal. The auditor proposal from the prior Charter review was defeated. She supports revisiting an elected inspector general. An elected inspector general could utilize the existing internal audit unit.

Member Barnhart expressed opposition to the motion stating that an elected inspector general's budget would be subject to City Council approval. The City Council is elected and in charge of the City with checks and balances already in place. Member Barnhart stated that having an elected auditor will create problems.

Chair Clarke expressed support for Member Barnhart's comments, in part. Member Bristow stated the weaker measure will not achieve a check and balance on the City Council. Member Bristow supports amending Section 1113 to provide for an elected auditor. Member Beeman stated there is no clear way for community members to bring forward concerns if they do not have support from the City Council.

Member Webb expressed support for Member Barnhart's comments, in part. He stated that even if there was poor management in the past, an elected independent auditor will not solve the problem.

Member Teichert also expressed support for Member Barnhart's comments, in part. She stated that adding another elected official will add greatly to the cost of government without additional benefit. Member Teichert stated she does not oppose an additional Charter officer serving as an inspector general. She noted that Section 1113 requires a financial auditor, different from an inspector general. Member Teichert predicts publication of the recommended annual report will be at least .5 FTE and may be weaponized against City staff and elected officials.

Member Riemer stated that an annual report does not provide the requested avenue for persons to voice their concerns.

Member Evans requested the motion be amended to provide for a new Section 1115 for purposes of the required annual report.

Subsequently, the original motion failed with Members Beeman, Clymer, Miller, and Zaragoza voting aye and Members Bristow, McQuern, Riemer, Webb, Clarke, Teichert, Barnhart, MacKinney, and Evans voting no.

Following further discussion, it was moved by Member Evans and seconded by Member Clymer to approve the draft language adding a new Section 1115 to read, "The City Council shall on an annual basis publish a comprehensive annual report specifying the nature of any material written complaints from community members, written claims, whistle blower complaints alleging fraud, waste, abuse, or other criminal conduct, audits and/or investigation (collective investigations) undertaken by the City, its staff or outside consultants; the outcome of those investigations; and the annual budget (including internal costs) expended to undertake the investigations."

Upon inquiry by Member Bristow, Member Teichert noted that the issue of a Charter officer is separate from the proposed report which would disclose the nature of complaints that are not substantiated and include any type of complaint that is material which would be harmful and a waste of City resources. Member Teichert stated that the public should know of settlements paid. Member Webb stated that reporting on "substantiated complaints" will involve cost.

Alternate McKeith left the meeting at this time.

Following discussion, the motion was amended to read, "The City Council shall on an annual basis publish a comprehensive report specifying the nature of any complaints alleging fraud, waste, abuse, or other criminal conduct, audits and/or investigation (collective investigations) undertaken by the City, its staff or outside consultants; the outcome of those investigations; and the annual budget (including internal costs) expended to undertake the investigations."

The motion carried with Member Teichert voting no.

MAYOR VETO CLARIFICATION

Chair Clarke announced the proposal to amend the Charter to state that the Mayor's veto includes the right to veto contracts, and the right to veto the budget, including line item veto.

Member Webb stated this proposal will create voter confusion with respect to the measure to grant the Mayor a vote and recommended this proposal not move forward. Member Beeman noted that if the measure to grant the Mayor a vote

fails, the Charter would remain ambiguous. Member Bristow agreed the current language is ambiguous.

Members Evans and Barnhart recommended forwarding firm convictions in the Committee's recommendations to the City Council and to move forward without this additional proposal.

Member Riemer stated support for approving the clarification measure as an alternative option for the City Council. She stated that eight votes is a step backwards in terms of transparency as four Councilmembers would be able to convene outside of a public meeting per the Brown Act.

Member Clymer stated that the current Charter language is clear with respect to the veto and supports adding the budget veto and noted that the City Council may not place granting the Mayor a vote on the ballot.

Following discussion, it was moved by Member Webb and seconded by Member Evans to decline the recommended clarification of the Mayor veto powers to the City Council.

Chair Clarke noted his displeasure at the possibility of the City Council not placing all Charter Review Committee recommendations on the ballot after eighteen months of Committee work.

The motion carried with Members Clarke, McQuern, Barnhart, Bristow, Evans, Miller, Teichert, and Webb voting aye and Members Beeman, Clymer, MacKinney, Riemer, and Zaragoza voting no.

TRANSPARENCY, USE OF TERM "CITIZEN", LEGAL PUBLICATIONS, CONVENING OF CHARTER REVIEW COMMITTEE FREQUENCY

Chair Clarke summarized the four proposals before the Committee to (1) amend the Charter Preamble to add a reference to "transparency"; (2) amend Charter Section 411 to replace the word "citizen" with "community member"; (3) amend Charter Section 414 to add a local newspaper resource such as "The Voice" and online and social media platforms; and (4) amend Charter Section 1403 to require the City Council to appoint a Charter Review Committee every four years instead of eight, and to require a standing Charter Review Committee to meet on occasions when required.

Following discussion, it was moved by Member Webb and seconded by Member Barnhart to recommend to the City Council amending the Charter Preamble to add a reference to "transparency" as drafted by the City Attorney. Motion carried unanimously.

Following further discussion, it was moved by Member Webb and seconded by Member Zaragoza to amend Charter Section 411 to replace the word "citizen" with "person".

Member Teichert confirmed that "person" was congruent with the Brown Act. Member Beeman stated that "community member" is more inclusive. Member Clymer noted that "community member" is closer to the original Charter language. Member Bristow stated that "community member" was too vague and expressed support for "person". Member Riemer stated that "community member" also excludes some persons.

Subsequently, the motion carried with Member Beeman voting no.

Following further discussion, it was moved by Member Beeman and seconded by Chair Clarke to amend Charter Section 414 to add reference to "City social media platforms".

Assistant City Attorney Wilson asked what was intended by the suggested language of "local newspaper resource" and noted that "The Voice" may eventually go out of business. Chair Clarke expressed concern regarding reference to publications of underrepresented constituents as not all may be publications the City should affiliate with. Member Bristow noted that "newspaper of record" is a legal term and that The Voice is a publication of general circulation.

Member Teichert noted that Section 414 is specific to publication of ordinances and that adding language to require publication in other local resources, the City's website, or other social media platforms where the City posts information may jeopardize validity of ordinances if not published on all media platforms. Member Beeman noted that not all persons read the newspaper of record.

Chair Clarke stated the core question of whether this language is appropriate in the Charter or handled by staff. Member Bristow stated that the issue is legitimate but cannot be solved in the Charter.

Subsequently, the motion failed with Members Beeman and Clymer voting aye and Members Clarke, Bristow, McQuern, Riemer, Webb, Teichert, Barnhart, Mackinney, Zaragoza, Evans, and Miller voting no.

Following further discussion, it was moved by Member Miller and seconded by Member Beeman to amend Charter Section 1403 to require the City Council to appoint a Charter Review Committee in 2023 and every four years thereafter and adding paragraph (d) to read, "Meet on a periodic basis when required to review

a Charter amendment proposed by the City Council and provide a report to the City Council with its recommendation."

Member Webb stated that every four years is too frequent. He stated support for convening of a Charter Review Committee when the City Council proposes an amendment. Assistant City Attorney Wilson clarified that the intent of paragraph (d) is that a Charter Review Committee remain seated to review any City Council proposals until the next four-year Committee is appointed.

Member Beeman expressed support for the four-year review as change happens rapidly. Member Miller also expressed support for the four-year cycle allowing items not addressed on the ballot to be considered in four years. Member Bristow noted after a Charter Review Committee completes its initial review, they would remain on standby until a new Committee is constituted in four years. Chair Clarke stated this proposal moves the Charter towards being an ordinance.

Subsequently, the motion carried with Members Barnhart, Beeman, Bristow, MacKinney, Miller, Teichert, Riemer, and Zaragoza voting aye and Members McQuern, Clymer, Webb, and Clarke voting no.

SUPERMAJORITY VOTES

Chair Clarke summarized the proposal before the Committee regarding requiring a supermajority vote of the City Council, and the Board of Public Utilities when applicable, for contracts with collective bargaining units, contracts with the three Charter Officers (City Clerk, City Manager, and City Attorney), contracts to issue debt, and contracts with terms over ten years.

Kevin Dawson stated that contracts can be used for a wide variety of issues including the letter agreement between the City and BF Goodrich regarding the Agricultural Park site. He reported missing contracts for outside legal counsel services.

- Following discussion, it was moved by Member Evans and seconded by Member Clymer to approve the proposal to add a new Section 1115 to read, "All contracts for a term of ten years or more, issuance of debt, and collective bargaining agreements will require a two-thirds majority of the City Council for approval. This also applies to the Board of Public Utilities under its contracting authority."

Member Beeman expressed support for the proposal and including requiring public discussion of these matters. Member Barnhart stated opposition to the proposal as a supermajority gives the sixth vote tremendous power which could stop good work of the City. He stated it is entirely appropriate that future generations pay for bonded projects.

Member Clymer expressed support for the motion requiring a supermajority vote for these matters. Member Evans stated that community members support this requirement.

Assistant City Attorney Wilson recommended use of a specific number such as the five affirmative vote requirement found elsewhere in the Charter, instead of reference to a two-thirds vote. Member MacKinney expressed support to add the term "long-term debt". Assistant City Attorney Wilson stated that long-term debt is not issued through a contract and if the Mayor is granted a vote, the two-thirds requirement would be equivalent to six affirmative votes.

Member Teichert asked the Committee if contract amendments would require a supermajority vote.

Subsequently, the motion failed with Members Clymer, Evans, MacKinney, Miller, and Zaragoza voting aye and Members McQuern, Barnhart, Beeman, Bristow, Riemer, Teichert, and Clarke voting no.

REVIEW OF DRAFT REPORT TO THE CITY COUNCIL

Assistant City Attorney Wilson presented the draft report and noted that she and Deputy City Attorney Min were careful not to impose their views in capturing the arguments for and against.

Member Teichert presented language explaining the Committee's rationale in recommending the proposal to grant the Mayor a vote. Chair Clarke requested staff to incorporate Member Teichert's language into the draft report for review at the next meeting. Member MacKinney noted there will be nine proposals for the Committee to prioritize at their next meeting. Chair Clarke requested staff to place the Mayor's vote as the first item in the draft report to the City Council.

Member Evans noted the Committee is submitting a package of recommendations without prioritization. Chair Clarke stated that the Mayor's vote would be the most ground-breaking change and the order of proposals is more for placement on the ballot. At the request of Member MacKinney, Assistant City Attorney Wilson stated she will check on the status of the Redondo Beach litigation.

Member Riemer suggested combining the two election proposals into one measure. Member Beeman reminded the Committee that a rubric was prepared as a tool when determining the final ballot measures. Chair Clarke requested Committee members to forward justification language to the City Clerk for inclusion in the draft report to the City Council. Member Barnhart expressed agreement with combining the two election issues and suggested the language begin by noting the update was in accordance with State law. Member Barnhart

also stated that item 4 requiring Charter Review Committee review prior to City Council placement of an amendment on the ballot was superseded by the action taken today. Member Barnhart recommended amending the proposal regarding filling of vacancies to read, "....and to prohibit such appointed officials from referencing 'incumbent,...'"

Member Bristow recommended proposals begin with the description of how the Charter will be amended noting the sections to be amended at the end of the measure language. Assistant City Attorney stated that titles for each proposal will be added. Member Bristow inquired about the word count limit for ballot arguments. The City Clerk stated a report with all argument regulations will be on the next agenda.

City Clerk Nicol provided information on election costs updated from the prior \$60,000 to \$80,000 per measure to \$145,000 for the first measure and \$110,000 for each subsequent measure.

CHARTER AMENDMENT CONCEPTUAL APPROVAL LIST AND IDEAS LOGS

Chair Clarke called for discussion of the Charter amendment conceptual approval list and ideas logs. Member Riemer asked if the Committee should discuss Councilwoman Plascencia's concern about reappointment of board and commission members. Member Evans stated that all those concerns are within the control of the City Council and that no Charter change is needed.

WORKPLAN AND MEETING SCHEDULE

The Committee reviewed the workplan and upcoming meeting schedule. Member MacKinney requested that the City Council presentation meeting be added. Chair Clarke requested staff to include brief biographies of Charter Review Committee members in the final report to the City Council.

ORAL COMMUNICATIONS FROM THE AUDIENCE

Kevin Dawson spoke regarding deferral of Measure Z projects to support the General Fund deficit, public safety, loss of public services, and loss of quality of life.

ITEMS FOR FUTURE COMMITTEE CONSIDERATION

There were no items requested for future meetings. The next meeting will be held at Riverside Municipal Airport.

The meeting adjourned at 8:12 p.m.

Respectfully submitted,



COLLEEN J. NICOL
City Clerk