

EXHIBIT Q

**CHARTER REVIEW COMMITTEE
City of Riverside
March 25, 2004, 5 p.m.
Mayor's Ceremonial Room
3900 Main Street**

MINUTES

PRESENT: Chair Eric Haley and Members Barry Johnson, Marjorie von Pohle, Gar Brewton, Damon Castillo, Dale McNair, Ray Higgins, Rusty Bailey, Marcia McQuern, Rose Mayes, Dorothy Bailey, Connie Leach, and Mike Teer

ABSENT: Stan Stosel, Art Garcia (excused), Sharon Tyrrell (excused), and Ben Johnson (excused)

STAFF PRESENT: Colleen Nicol, Gregory Priamos, Susan Wilson, Tricia Ruiz, and Sherry Morton, and Cheryl Balz

ALSO PRESENT: Phyllis Purcell, Barbara Purvis, Mel Opotowsky, Bonnie Opotowsky, Tim Connacher, B. Earl Daniels, Sylvia Martin-James, Grace Slocum, Katie Greene, and others

Chair Haley convened the Charter Review Committee meeting at 5:00 p.m.

The Pledge of Allegiance was given to the Flag.

ORAL COMMUNICATIONS FROM THE AUDIENCE

Phyllis Purcell spoke regarding Committee processes discussed at the last meeting in regards to keeping citizens informed. Ms. Purcell also had concerns regarding County contracts and the Mayor and City Councilmember's salary and asked that the Committee explain the rationale, pros, and cons of these issues and any other issues dealing with the Charter to the citizens.

Chair Haley stated that the Committee can only deal with deliberations that the City has jurisdiction over and the Mayor and City Councilmembers salary process will be discussed as a single topic at the April 22, 2004, Charter Review Committee meeting. Chair Haley also stated in terms of contracts there was discussion, however, no action was taken.

MINUTES

Following discussion, it was moved by Member Mayes and seconded by Member Bailey to approve the Minutes of March 11, 2004, as presented. Motion carried unanimously.

OPEN GOVERNMENT

Chair Haley introduced Mel Opatowsky as a prominent journalist who was in an editor's role at the Press Enterprise for a number of years and also with California Newspapers Publisher's Association in several capacities one of them being open government and the Brown Act.

Mel Opatowsky thanked the Committee for allowing him to speak about the proposal. He spoke regarding Ruth Anderson Wilson's presentation on the history of the City Charter, which was initiated because of the way the City was being run. He spoke of councilmembers who would meet in the backroom of a downtown paint store, decide on an issue, and then go to council meeting to act out the results. He indicated how the people rebelled and rejected that type of governance. The people did not want secrecy, they wanted to take part in government. The right to information from the government is as fundamental as the right to vote. He proposes a basic and logical step to ensure the principles would be clearly enshrined in the Charter.

Mr. Opatowsky proposed a clear statement of principles and values of citizen's access rights to be placed at the beginning of the City Charter and some lesser changes. He explained that the need for transparency in the City is so basic it should be a stated principal in the City's basic document. It should not be taken for granted. By placing this in the Charter, the important value of openness can be clearly stated without being argued at the height of some crisis. The guiding document would give citizens recourse and remind a wayward bureaucracy of basic values. He noted that the two basic State laws governing access to local government, Brown Act, and the California Public Records Act, were written as floors not ceilings. Both encourage local governments to go further in access for the public. Several local governments have taken similar steps, e.g., San Francisco, Contra Costa, Oakland, and Richmond.

He spoke about the Tyisha Miller shooting and how officials froze, rumors flew, and police distributed erroneous information. Stony silence caused the public to assume there was something to hide. He also spoke about the City of Corona's refusal to release information regarding dispatcher's use of City computers to visit pornographic sites and the official's refusal to make discipline actions public. The courts found that they were wrong and ordered the release of the information. He also spoke about Riverside and the severe budget crunch when Departments were asked to cut back and make plans for the cuts, however, the City refused to provide the public records saying it was premature. This reflected a complete distrust of public by trying to control what the people should know and when they should be told. Mr. Opatowsky stated that principles of openness must be in our governing document. It is not a redundancy of State law.

Mr. Opatowsky spoke of community support of the concept from Retired Associate Justice of the Court of Appeals John Gabert, Retired Judge Victor Micelli, SEIU Board Claude Prescott, and Executive Director Rebecca Miller, Retired County Agriculture Commissioner Leon Spadey, and Jack Clark, Jr. Mr. Opatowsky read a letter from Jack Clark, Jr., encouraging inclusion of the sunshine provision.

Member McQuern asked if this would be implemented by ordinance or placed directly in the Charter. If a matter of national security or other general exemptions occurred, there would be cause to meet in closed session.

Mr. Opotowsky favors amendment to the Charter. He noted that his proposal requires open ad hoc meetings. The Brown Act requires standing committees to be open, however, not ad hoc committees. The provisions of the Brown Act would continue to prevail in cases of real estate, labor, employees, etc.

Member Castillo stated he understood that Mr. Opotowsky would be talking about modifying the existing preamble, however, this is a separate sunshine provision defining the concept of open government. Mr. Opotowsky directed the Committee to his suggested language in the packet.

Member McNair asked if Mr. Opotowsky could see any opposition. Mr. Opotowsky responded that he did not, however, he thought there may be some opposition from public employees who are concerned about their privacy rights. He was pleased with the vigorous support from SEIU.

Member Von Pohle asked if Mr. Opotowsky was speaking of mainly the press getting this information for citizens. She stated we have the Brown Act now and people misuse it. There needs to be some kind of restriction to prevent misuse.

Chair Haley summarized recent State Law that requires City officials to facilitate and assist members of the public to examine and copy public records. He favors a sense of reasonableness and subjective evaluation that staff can use to determine what is appropriate. Mr. Opotowsky sees the provision as bringing the Charter into compliance with the Public Records Act.

Chair Haley commented that some ad hoc committees last for extended periods which sometimes leads to denying the public appropriate review and reaction. Chair Haley thanked Mr. Opotowsky for his presentation. Chair Haley suggested two options: (1) endorse this proposal; or (2) endorse in concept and refer the matter to the City Attorney for any comments he may want to provide the Committee for action at the next meeting. Chair Haley stated that in listening to the Committee's questions there is a high level of support for the declarations.

Motion was made by Member Castillo and seconded by Member McQuern to endorse in concept the principle and take a look secondarily at the particular language to be developed. City Attorney Priamos stated the language has been reviewed and does not feel there is a need for any further review. The proposed language would add Chapter 201 and amend Chapters 408, 411, and 703. If recommended by this Charter Review Committee and approved by the City Council it would be lawful. It is a question of policy for this Committee, the City Council, and ultimately the voters.

Member Leach stated her concerns regarding Chapter 703 and asked that the language be rewritten. Mr. Opotowsky and City Attorney Priamos clarified the provisions for Member Leach.

Member Brewton asked if the City Attorney recommends these amendments. City Attorney Priamos stated that the City Attorney's role is to advise the Committee on lawfulness and not to make recommendations, which is the work of the Committee.

Member Higgins commented on the LA Times article regarding "Supervisors Decisions Made Mostly Behind Closed Doors". He stated we do have problems we could face in the future with a new governing body because there are no checks and balances, and it's intolerable that decisions are made in back rooms. Member Higgins also stated that the Sunshine provision is extremely important to the governing of the City. Member Higgins recommended that closed

sessions be video and audio taped with quarterly review by a Master Judge for compliance with the law.

Chair Haley stated that the Committee could agendize a future amplification of this, and it could be part of the series of recommendations that would be forwarded to the City Council.

The motion carried unanimously.

DISCUSSION AND DELIBERATION

Preamble

Chair Haley opened the floor for deliberation and provisional positions on issues.

Member Leach requested expanding the preamble to explain the intent of the Charter and the uniqueness of the City. Member Castillo supported the expansion and thought it would be appropriate to include language to reflect the diversity of the City. Member McQuern supports a revision and requested specific language to review. Member Brewton requested the discussion be tabled for another meeting to allow review of the draft language. Chair Haley suggested a small group be created to draft the language. Member Leach proposed a review of the Model Charter for an explanation of what a preamble could be and concurred with creation of an ad hoc committee to draft the language. Member von Pohle stated it should be brief and to the point.

Chair Haley asked for three volunteers to serve on an ad hoc committee. Members Higgins, Bailey, Castillo, and Leach volunteered. He suggested the issue be brought back to the Charter Review Committee in 30 days with the proposed language. Member Castillo requested models of preamble language from other organizations and asked that the draft language be distributed prior to the meeting where it would be considered.

Fiscal Management

Chair Haley briefly discussed errors on pages 7-23 through 7-25 regarding (1) Section 1110 - Cash management - The first word of the second sentence should be plural, change "Transfer" to "Transfers"; and (2) Section 1111 - Capital projects funds - Under subparagraph (a) the capital letters therein, "B." and "C." should be changed to the lower case and enclosed in brackets, i.e. "(b)" and "(c)". Without formal motion, the Committee unanimously supported these changes.

Independent Audit

The Committee reviewed the minor change recommended to the Charter for clarification to Section 1113 - Independent audit. The word "and" in the second sentence, in the series of words "audit and report" should be deleted.

Member Higgins is uncertain that the proposed internal auditor would be as successful as an independent auditor. He suggested continued usage of an outside firm with a change in the auditing firm every three years.

City Attorney Priamos clarified that to date discussions have not raised the issue of changing the auditor every three years. The Charter requires that the City Council employ a Certified Public Accountant each fiscal year to complete an audit report.

Following discussion, the Committee unanimously approved the typographical errors and continued discussion of changing auditors every three years to a future meeting.

Public Works Contracts - Design/Build

Member Haley spoke about a previous discussion of design build and Public Utility Department commentary. He has seen some conflicts between certain professions and some risks were involved. The goal is to speed up development in major projects and limit costs.

Member McQuern stated that elected officials should decide the matter on a case-by-case basis. Design/build should not be precluded.

Member Brewton spoke about his work as a consultant in engineering development. His experience with design/build has shown that there needs to be separation of the professions. Consultants are under constant pressure to cut costs to enhance profits for contractors. The goal is to accomplish a cost effective engineered project. He suggested that separation of the professions is the best approach.

Member Haley feels taking action at this time would be premature. It would be helpful to invite contractors, architects, and specific interested parties in order to have a detailed dialogue.

Deputy City Attorney Wilson clarified that the current language would give the City the flexibility to use design/build under certain conditions set by ordinance of the City Council. The City cannot currently use design/build.

Following discussion, and without formal motion, the design/build discussion was continued and staff was requested to invite affected parties. Motion carried unanimously.

Motion was made by Member Brewton and seconded by Member McQuern to adjourn the meeting. Motion carried unanimously.

The Committee adjourned at 6:15 p.m.

Respectfully submitted,


CHERYL BALZ
Deputy City Clerk

ACCOMPLISHMENTS

1. Continued policy deliberations and formulating positions

TO DO:

1. Continue discussion regarding the Board of Public Utilities' recommendation for local preference to Riverside-based companies for construction contracts
2. Continue discussion regarding Charter Amendments with the Public Utilities' Director regarding (1) Board of Public Utilities customer-requested work; and (2) Board of Utilities authority to enter into long-term contracts
3. Continue deliberations and take positions on remaining matrix issues