

CITY CHARTER UPDATE AND MODERNIZATION

Charter Review Committee Meeting
March 2, 2022

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Outline of Presentation

- District Elections
- Council Vacancy Procedures
- Frequency of Charter Amendments
- Modernization -- Revisions for Flexibility
- Clarification of Key Ambiguities

District Elections

- In 2017, City faced legal challenge to at-large election of Council members
- At-large election of Council members will violate California Voting Rights Act if City experiences racially polarized voting (Elections Code §14028(a))
- California Voting Rights Act is matter of statewide concern and preempts local city charters

District Elections

- City found substantial evidence of racially polarized voting in City elections
- Under California Voting Rights Act, existence of racially polarized voting precludes at-large Council elections
- California Voting Rights Act preempted City Charter provisions for at-large elections
- City's transition to district-based election of Council members cured violation

District Elections

- Charter Section 4 provides for at-large election of Council members
- Revisions needed to align with state law
 - District-based election of Council members
 - City divided into seven Council districts
 - District boundaries to be established by ordinance
 - If at-large Mayor proposal moves forward, include language to address number of districts

District Elections

- Decision points:
 - Revision is required
 - Any adjustments recommended?
 - Separate ballot measure?

Council Vacancy Procedures

- **Section 31: Council Vacancy**
 - In the event of a Council vacancy, section currently authorizes Council to either appoint replacement or call special election
 - If appointed, appointee serves temporarily until election is held, either in a special election called by Council or the next regularly scheduled municipal election
 - Appointee must be resident of the District

Retain Option for Council Appointment?

- Pros:
 - Often the quickest and least expensive means of filling vacancy
 - Temporary, as appointee serves only until next election
 - Ensures District has representation on the Council when important decisions are being made
 - Avoids six-member Council and resulting risk of dead-locks

Retain Option for Council Appointment?

- Cons:
 - Results in appointment of a District representative by six individuals that do not reside in the District
 - Gives appointee advantage of running for election as an incumbent

Selection Process in Charter?

- If option for appointment is retained, should selection process be set forth in Charter?
 - Currently, selection process is set forth in Council policy
 - Policy adopted by resolution and can be modified by resolution
 - Historically, the selection process has been smooth
 - Recently, the process has been awkward

Selection Process in Charter?

- Current policy provides for a process of elimination, with multiple rounds of voting, each round eliminating applicants with one vote or less
- Many alternative voting processes possible
- Strongly recommend keeping selection process in Council policy, so as to allow for adjustments as needed

Council Vacancy Procedures

- Decision points:
 - Retain or delete option for appointment by Council
 - If appointment option retained, set forth voting process in Charter or keep in Council policy
 - If procedure to be set forth in Charter, what procedure is recommended
 - If kept in Council policy, does Committee want to make a recommendation to Council

Frequency of Charter Revisions

- Section 12. Charter Review
 - Provides that the Charter “shall be reviewed in the year 2002 and not less than every ten years thereafter . . .”
- Two elements to clarify:
 - Is Section 12 a minimum or a maximum? (that is, is comprehensive review *limited to* every ten years, or is it required *at least* every ten years)
 - Allowance for interim amendments

Frequency of Comprehensive Review

- Timing of comprehensive review
 - Options:
 - Every ten years
 - No more frequently than every ten years
 - This is current understanding
 - “At least” every ten years
 - Would allow more frequent review, if desired

Frequency of Comprehensive Review

- Allowance for more frequent review?
 - Pros:
 - Gives Council authority to call for comprehensive review in face of changing circumstances – trust the Council to decide appropriate timing
 - Given the time and resources required for comprehensive review, Council will not trigger review lightly
 - Council will be sensitive to potential for voter fatigue
 - Cons:
 - Charter is City's "constitution" and should provide for stability
 - Time and expense of more frequent comprehensive review
 - Confusion if frequent amendments are made
 - Potential voter fatigue

Amendments in Interim Period

- Proposal: Amendments may be placed on the ballot by voter initiative or Council ordinance at other times as deemed necessary.
- Pros:
 - Gives Council and voters themselves authority to place proposed amendments on the ballot when deemed necessary
 - Allows for fine-tuning of timing
 - Given the time and resources required to place measures on the ballot, neither the Council nor the voters will act without due consideration

Amendments in Interim Period

- Proposal: Amendments may be placed on the ballot by voter initiative or Council ordinance at other times as deemed necessary.
- Cons:
 - Charter is City's "constitution" and should provide for stability
 - Time and expense of more frequent amendments
 - Potential voter fatigue

Frequency of Charter Revisions

- Decision points:
 - Ten-year comprehensive review – minimum or maximum?
 - Allowance for additional amendments placed on ballot by Council ordinance or voter initiative at other times as deemed necessary?

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Added Flexibility -- Utilities

- **Section 25: Board of Public Utilities**
 - Currently primarily addresses water and sewer utilities
 - Clarify scope of responsibility to include “dry” utilities, including electricity, broadband and others
 - Also include flexibility in the assignments to BPU, allowing Council discretion as it addresses emerging opportunities and technologies

Added Flexibility -- Utilities

- Propose expanded role for Board of Public Utilities
 - Pros:
 - Gives City increased ability to efficiently address potential municipal electric service, broadband and other “dry” utilities
 - Utilizes existing, well-performing administrative structure
 - Retains Council discretion for alternative arrangements
 - Cons:
 - Unknown

Added Flexibility -- Budget

- Section 28: **Budget**
 - Includes detailed outline for annual budget
 - By January 1st, publish current year's adopted budget
 - By March 31st, hold public hearing for input on budget priorities
 - City Manager to submit proposed budget
 - Publish summary of budget
 - Public hearing on proposed budget
 - By June 30th, Council adoption

Added Flexibility -- Budget

- Proposal to revise section to allow for two-year budget
 - May retain current schedule for public hearings, publications and decision making
 - Allow proposed budget to encompass two years
 - Second year process is reaffirmation and adjustment

Added Flexibility -- Budget

- Two-year budget
 - Pros:
 - Conducive to long-term planning and strategy
 - Savings in cost and time in budget preparation
 - Stronger focus on results of budget rather than process
 - Enhances predictability
 - Promotes more orderly spending patterns
 - Cons:
 - Improvements to outcomes difficult to measure
 - Requires greater discipline

Added Flexibility -- Budget

- Decision Points
 - Add option for two-year budget
 - Who decides
 - City Manager
 - Chief Financial Officer
 - Council
 - What flexibility for alternatives

Added Flexibility - Procurement

- Section 44: **Contract Procurement**
 - Revise to allow for flexibility and innovation in contracting for public works, equipment and supplies
 - Detailed proposals to follow

Key Clarifications - Emergency Response

- Revise Charter to avoid ambiguity as to leadership during emergency response
 - **Section 15. Mayor:** Delete sentence in second paragraph that grants Mayor authority and responsibility “to assume general control of the City’s government and all its branches” in the case of “riot, insurrection or extraordinary emergencies”
 - **Section 21. Chief of Police:** Delete third sentence stating, “It shall be the duty of the Chief of Police to preserve the public peace and to suppress riots, tumults and disturbances.”
 - **Section 22. Fire Chief:** Confirm Fire Chief’s full authority over territory immediately involved in or threatened by a fire

Key Clarifications - Emergency Response

- City Code designates City Manager as Director of Emergency Services
- Professional Emergency Manager coordinates and oversees all emergency response, including coordination with first responders and all City departments
- Recommend retaining these provisions in City Code to ensure stability and expertise in emergency response

Key Clarifications – CAB Appointments

- Section 10: **Community Advisory Board**
 - Clarify that if CAB includes 14 members, Council members may each appoint one member from district, one at-large
 - Note: CAB district boundaries do not currently match Council district boundaries. Boundaries are set by Council resolution and may be revised by Council resolution.
 - Any interest in further adjustments to CAB?

Gender Neutral Language

- Revise Charter throughout as needed to ensure gender neutral language

Next Steps

- Committee to provide direction to staff
- Staff will prepare final proposed ballot language

Questions?