

**CHARTER REVIEW COMMITTEE MINUTES
MUNICIPAL LIBRARY, COMMUNITY ROOM, 2ND FLOOR
41 WEST THURMAN AVENUE
OCTOBER 9, 2013, 5:30 P.M.**

Called to Order at 5:32 p.m.

Roll Call: Member Bush, Member Cortez, Member Green, Member Irish, Member Salazar, Vice Chair Giraudi, Chair Bailey

Absent: Member Hardin, Member Stowe

ORAL COMMUNICATIONS

None

WRITTEN COMMUNICATIONS

The Deputy City Clerk distributed written communications from Law Offices of Melo and Sarsfield, LLP, dated October 7th, 2013, and received October 9th, 2013, to the committee. In the letter, Mr. Sarsfield urged the committee to recommend adoption of elections to the council by district. He asserted that at large elections are unfair to minority voters, suppresses minority voter turnout, and violate both state and federal law.

SCHEDULED MATTERS

1. Minutes of October 2, 2013

Chair Bailey introduced the item and welcomed a motion or any amendments. Committee Members Irish and Green indicated that they had questions. Member Irish's questions would be raised during consideration of Item No. 2; and in response to Member Green's inquiry, City Attorney Law stated that the Council could move forward on pension reform without recommendation from the committee.

COMMITTEE ACTION: MOVED by Vice Chair Giraudi, SECONDED by Member Irish that the Charter Review Committee approve the minutes of October 2, 2013, as presented.

AYES: Irish, Green, Salazar, Bush, Giraudi, Bailey,
Cortez

NOES: None

ABSTAIN: None

ABSENT: Hardin, Stowe

Documentation: M.O. 01-100913

Disposition: Approved, as presented.

2. Consideration of Modifications to Charter Section 12, Pertaining to Publication Requirements

Chair Bailey introduced the item. In response to comments made at the last meeting, City Attorney Law advised that the City could adopt its own procedures with regard to adopting ordinances, including publication requirements. A discussion followed

regarding the use of the internet, cost savings, indirect costs, and legal/judicial noticing requirements.

Without objection, Chair Bailey welcomed comments from Mr. Rick Elkins from the Porterville Recorder.

- Mr. Elkins, spoke of benefits of the printed word, and recommended publishing a summary versus the ordinance in its entirety.
- John Duran, agreed with comments made by Mr. Elkins, and added that he often has difficulty finding information on the City's website.

Committee Member Irish identified the publication of a summary as an acceptable recommendation, and City Attorney Lew cited language from the City of Riverside as an example. Chair Bailey suggested including wording to allow publication of the entire ordinance or a summary, which various members of the committee supported. City Attorney Lew pointed out that the City of Riverside language spoke of noticing after final adoption, where as the City currently notices prior to final adoption. The committee agreed that the current noticing of 3 days prior to final adoption by the Council was preferred.

Staff addressed concerns raised by Chair Bailey regarding changing of ordinance language subsequent to Council approval.

COMMITTEE ACTION: MOVED by Member Salazar, SECONDED by Member Irish that the Charter Review Committee authorize the City Attorney to draft language requiring the publishing of ordinance or summary at least 3 days prior to second reading, to include notification to the public that the ordinance in its entirety is available for viewing on the City's website and at the Clerk's office.

AYES: Irish, Green, Salazar, Bush, Giraudi, Bailey, Cortez
NOES: None
ABSTAIN: None
ABSENT: Hardin, Stowe

Documentation: M.O. 02-100913
Disposition: Approved drafting of language.

3. Consideration of Modifications to Charter Section 68, Pertaining to Leases

Chair Bailey introduced the item, and welcomed questions or comments from the committee regarding the draft language provided by the City Attorney.

City Attorney Lew addressed questions regarding month-to-month leases, and the proposed noticing periods. She then advised the committee to consider a minimum 30-day

noticing period for short-term leases. Vice Chair Giraudi spoke of the importance of flexibility and warned against the imposition of too many rules and regulations. Ms. Lew recommended the addition of language to read, "...either 30 days or a maximum of 5% of the total lease term period." She also noted that she would research language in the Charter pertaining to the empowerment of a Tulare County superior court judge to appoint a third appraiser, and would notify the committee should said language require modifications.

Member Irish expressed an interest in obtaining information regarding the City's current leases, to include: the number of total leases, parties, location of properties, terms, and extension options; which prompted discussion regarding the total period of the lease in instances where options are available.

The committee directed City Attorney Lew to draft language as discussed, and bring back to the committee for consideration.

Disposition: Direction given.

4. Consideration of Modifications to Charter Section 9, Pertaining to Council Reorganization

Chair Bailey introduced the item, and welcomed questions or comments from the committee.

Member Irish noted that the committee had yet to consider the timing of municipal elections, which would affect Charter Section 9. City Attorney Lew noted that the proposed changes pertained to reorganization as directed by the committee. It was noted that additional modifications could be considered at a later time.

Member Irish requested, as a housekeeping item, that use of the word "their" be changed to "its" in paragraph 6.

COMMITTEE ACTION: MOVED by Member Bush, SECONDED by Member Salazar that the Charter Review Committee authorize the City Attorney incorporate the additional changes, and bring back final language as a Consent Calendar item for committee consideration.

AYES: Irish, Green, Salazar, Bush, Giraudi, Bailey, Cortez

NOES: None

ABSTAIN: None

ABSENT: Hardin, Stowe

Documentation: M.O. 03-100913

Disposition: Approved incorporation of additional changes.

The committee took a ten minute break at 6:52 p.m.

5. Consideration of Modifications to Charter Section 67, Pertaining to Council Manic Interference

Chair Bailey introduced the item, and welcomed questions or comments from the committee.

City Attorney Lew indicated that the proposed language mirrored that from Santa Clara as directed by the committee, with the addition of "and powers" to account for the powers granted to the City Manager.

Member Irish requested clarification with regard to Section 67.1. City Attorney Lew agreed that the language was vague and requested additional time to remedy.

COMMITTEE ACTION: MOVED by Member Salazar, SECONDED by Member Irish that the Charter Review Committee approve the proposed modifications to Charter Section 67, as presented; and direct that Charter Section 67.1 be brought back.

- AYES: Irish, Green, Salazar, Bush, Giraudi, Bailey, Cortez
- NOES: None
- ABSTAIN: None
- ABSENT: Hardin, Stowe

Documentation: M.O. 04-100913
Disposition: Approved proposed Section 67.

6. Consideration of New City Charter Section 74 – General Penalty

Chair Bailey introduced the item, and welcomed questions or comments from the committee regarding the draft language.

Member Irish suggested that language be added pertaining to recovery of expenditures including attorney's fees for bringing civil or other actions. Chair Bailey spoke of the likelihood of a demur, which is an assertion by the defendant that the plaintiff is not entitled to legal relief. Attorney Lew advised that inclusion of the language could increase the chances of prevailing on a demur. In response to discussion between Chair Bailey and Attorney Lew, Vice Chair Giraudi requested that they be mindful of others in the room that may not be familiar with legal terminology. Both Mr. Bailey and Ms. Lew provided clarification as requested.

Member Cortez inquired about the absence of language pertaining to specific penalties. City Attorney Lew advised that she refrained from including specific language to avoid having to amend due to changes in State law. In response to concerns raised by Member Green with regard to procedures, Ms. Lew indicated that language could be added which would allow for the Council to address via ordinances.

The committee directed that the City Attorney bring back draft language for consideration, to include: additional language granting authority to adopt ordinances to effect the section; language to account for the City's ability to recover costs, including attorney's fees to the full extent of the law; and clarification with regard to potential penalties for misdemeanors if possible.

Disposition: Direction given.

7. Consideration of Committee Member Items of Interest

Chair Bailey introduced the item, and noted that Vice Chair Giraudi had an item of interest. Vice Chair Giraudi spoke of concern in the community regarding the recent Council reorganization, and expressed an interest in considering a directly elected mayor.

A discussion followed regarding the role of mayor, during which various members of the committee indicated that they too had heard the same concerns raised by members of the community. The committee agreed that the item be scheduled on the next agenda.

Member Irish requested that Section 67.1, council compensation (Section 9), and mayoral proclamations be considered.

Chair Bailey indicated that he had been approached by staff with regard to term limits for commission/committee appointments.

Member Green expressed an interest in the formation of a sanctioned citizens watch dog committee.

The committee supported the addition of the above named items for future consideration.

Member Salazar spoke of time restraints, and suggested that the committee act to approve the previously discussed modifications to Item Nos. 2, 3, and 4, which were minor language changes. A discussion then ensued regarding the committee's consideration of the same items week after week, and their desire to move forward.

COMMITTEE ACTION: MOVED by Member Salazar, SECONDED by Member Green that the Charter Review Committee approve modifications to Item Nos. 2, 3, and 4, as discussed.

AYES: Irish, Green, Salazar, Bush, Giraudi, Bailey, Cortez

NOES: None

ABSTAIN: None

ABSENT: Hardin, Stowe

Documentation: M.O. 05-100913

Disposition: Approved Item Nos. 2, 3, and 4, as amended.

8. Scheduling of Future Meetings

Chair Bailey introduced the item and asked if there was any interested to change the day, time and/or frequency of the meetings. Vice Chair Giraudi spoke in favor of the established Wednesdays at 5:30 p.m. meeting time.

The committee considered whether they wished to change facilities to allow for longer meetings, but decided against it when waning productivity was raised as a concern.

The timeline provided by staff was reviewed, and discussion ensued regarding the frequency of meetings and the number of items on the agenda. A discussion ensued regarding the importance of meeting preparation and of the availability of staff for questions.


There was consensus reached that the next meeting would take place on October 23, 2013.

OTHER MATTERS

None

ADJOURNMENT

The committee adjourned at 8:13 p.m. to the meeting of October 23, 2013.


Luisa M. Zavala, Deputy City Clerk


Allan Bailey, Chair