



REPORT TO COUNCIL 19

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www. CityofSacramento.org

Staff Report

Date: February 17, 2009

**Honorable Mayor and
Members of the City Council**

Title: Sacramento Charter Review Committee

Location/Council District: Citywide

Recommendation: Review the City Attorney's recommendations for the formation of a Charter Review Committee and after review, either: (1) adopt a **Resolution** approving the formation of the 2009 Sacramento Charter Review Committee; or (2) direct the City Attorney to return on February 24, 2009, with a revised Resolution consistent with Council's direction.

Contact: Eileen Teichert, City Attorney

Matthew Ruyak, Supervising Deputy City Attorney, 808-3546

Presenters: Eileen Teichert

Department: City Attorney's Office, Org. # 09300

Division: N/A

Department ID: 09300

Description/Analysis

Issue:

On February 3, 2009, the Council directed the City Attorney's Office to report back to Council with options and recommendations for establishing a body to review the City's Charter. This report addresses four specific issues raised by the Councilmembers: (1) options for creating a committee; (2) method for selecting committee members; (3) timelines; and (4) the committee's scope and charge. The attached resolution is consistent with the recommendations set forth in the Background, below. Should Council wish a different approach, or a change in language, the City Attorney's Office can return in one week with a new Resolution consistent with Council's direction.

Policy Considerations: The proposed committee would address an issue fundamental to all City policies: the structure and function of City government. Creation of a citizen-based committee serves the City's policies of inclusion, diversity, and community involvement.

California Environmental Quality Act (CEQA): This action does not constitute a "project" as defined in section 15378 of the CEQA Guidelines, and is otherwise exempt pursuant to section 15061(b)(3) (no significant effect on the environment) of the CEQA Guidelines.

Sustainability: Not applicable.

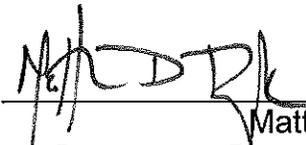
Commission/Committee Action: Not Applicable.

Rationale for Recommendation: The recommendations set forth herein are based upon a survey and synthesis of charter review practices from various California cities, as well as the Councilmember comments at the February 3, 2009, Council meeting.

Financial Considerations: The proposed committee will have the usual committee operating costs, in an amount, and from a funding source, as yet undetermined. Committee members would not be compensated. The proposed committee likely will incur costs if it requires or requests testimony, materials, etc.

Emerging Small Business Development (ESBD): Not Applicable.

Respectfully Submitted by:


Matthew D. Ruyak,
Supervising Deputy City Attorney

Approved by:


Eileen M. Teichert, City Attorney

Recommendation Approved:


Ray Kerridge
City Manager

Table of Contents:

Report	pg. 1
Attachments	
1 Background	pg. 3
2 Resolution	pg. 11

Attachment 1**Background**

At the January 6, 2009, City Council meeting, Councilmember McCarty requested a workshop and report to aid the Councilmembers in formulating their assessments of the proposed Strong Mayor Initiative and in recommending the legal means for making any needed revisions to the current Sacramento City Charter. On February 3, 2009, the City Attorney's Office and the City Clerk's Office presented to Council an overview analysis of the proposed Strong Mayor Initiative and brief Sacramento City Charter history, respectively. The City Clerk's presentation demonstrated the following: the City's Council-Manager governance structure dates from 1921; since 1990, there has been no Charter Review Commission created by the Council; and the last Charter amendment was in 2002, establishing the Mayor as a full-time position. In sum, absent the City-County merger proposition in the late 1980's, there has been little comprehensive review of the Sacramento City Charter in decades.

After staff's presentations, approximately a dozen citizens addressed the Council. The prevailing request of these citizens was for community input and involvement, whether they were for, against, or undecided as to the merits of the proposed Strong Mayor Initiative. Mr. Thomas Hiltachk, proponent of the pending Strong Mayor Initiative, also spoke. Council then engaged in a discussion of some policy and procedural aspects of charter reform.

The City Attorney's Office was given direction to report back to Council with options and recommendations for establishing a body to review the City's Charter. This report addresses four specific issues raised by the Councilmembers: (1) options for creating a committee; (2) method for selecting committee members; (3) timelines; and (4) the committee's scope and charge.

In preparing this report, the City Attorney's Office considered the models used (or being used) by other California cities in the last 15 years or so, including Los Angeles, San Diego, San Francisco, Fresno, Long Beach, Oakland, Anaheim, Santa Monica, Chula Vista, Chico, Modesto, Huntington Beach, Riverside, San Bernardino, Vallejo, Folsom, Roseville, Burbank, and Culver City. Several out-of-state jurisdictions were also researched for general principles. Finally, the City Attorney's Office considered Sacramento's own models and practices.

1. Options for Creating a Charter Review Committee

As presented to Council on February 3, there are three methods for proposing Charter amendments to the voters: (1) a statutory charter commission may propose amendments; (2) the City Council itself can propose amendments; or (3) through the initiative process. The City Council would have no ability to modify amendments proposed by either a

statutory charter commission or the initiative process. In order to provide the City Council with input into any proposed Charter amendments, this report provides recommendations for the City Council to proceed with the second of those methods through the use of a Council established Charter Review Committee.

Council has several ways for utilizing a committee to review the Charter. It could direct the Law and Legislation Committee to be the body responsible for developing recommendations. Council's discussion, and the Mayor's direction to this office at the conclusion of the February 3 meeting, indicates that this is not the preferred option for the Council. The Council could create an Ad Hoc Committee of Councilmembers to do the same thing; again, however, the February 3 discussion indicates this is not a preferred option. Additionally, the foregoing options would likely not engender the level of community participation and input Council appears to favor. The Council could have staff return on a regular basis to make periodic recommendations, but that likely would prove cumbersome and not responsive to the demand for maximum community input. The Council could call for an election of a charter review commission; however, that option has several drawbacks, the most salient being timing and cost. Or it could appoint a citizen-based body – committee – to undertake a Charter review for the purpose of making recommendations to Council.

Based upon the comments of Council at the February 3, 2009, City Council meeting; the public comments at that meeting; the typical practice of municipalities in California; the recognized importance of community input; and the procedural and logistical aspects of the charter review process, the Council-appointed citizen-based committee appears best suited to undertake this task.

Alternatively, the Council could choose to take no action to facilitate charter review, and simply perform its duty to place the proposed Strong Mayor Initiative on the ballot, should that initiative qualify.

Based upon the Council's discussion and the processes used by other jurisdictions, it is recommended that the Council approve and establish a charter review committee: the "2009 Sacramento Charter Review Committee" ("SCRC"). The SCRC – its composition, schedule, and charge to be more fully discussed below – would represent the community, hold public hearings, and report back to Council. The Council would then debate the SCRC's recommendations and decide which, if any, recommendations to submit to the voters. This course would allow community participation and input. It also would provide the City Council flexibility and discretion.

2. Method for Selecting Committee Members

a. Practices in Other Cities

As a general proposition, California cities appointing charter review committees allot 1 or 2 appointments per councilmember; 1 is more common. Many of the cities (Oakland,

San Bernardino, Riverside, Long Beach, San Diego, Los Angeles) provided the mayor more appointments than the other councilmembers. Many cities (e.g., Anaheim, Folsom, Fresno, Roseville, Oakland, Huntington Beach) provided for “at-large” members, selected by the council as a whole. The committee sizes ranged from 9 (Fresno) to 21 (Los Angeles), the number depending in large part upon the size of the council. The most common number was 11.

Other noteworthy methods include allowing a third party to select a member – for example, in Oakland (2003), one member was chosen by the League of Women Voters/Common Cause; and in Huntington Beach one is to be selected by the Chamber of Commerce. Also, Huntington Beach recently approved a committee with 3 at-large members to be appointed pursuant to an application and interview process.

It is very common to have a legal professional chairing the committee. For example, Los Angeles’ 1997 elected Charter Reform Commission was chaired by legal scholar and dean of University of California Irvine School of Law, Erwin Chemerinsky, while the appointed charter commission was chaired by George Kieffer, a partner with Manatt, Phelps & Phillips and a former Regent of the University of California. San Diego’s 2007 appointed Charter Review Committee was chaired by John G. Davies, a former Judicial Appointments Secretary to California Governors Pete Wilson and Arnold Schwarzenegger. The 2006-2007 Modesto Charter Review Committee was chaired by a partner at a local law firm. On the other hand, the 2003 Chico committee was chaired by a former city manager, and in Riverside the committee was chaired by the executive director of the Riverside County Transportation Commission.

Chula Vista, by ordinance, makes the City Manager and City Attorney (or their representatives) ex officio – i.e., non-voting – members of its advisory body.

It is preferable, and customary practice, to have an odd number of voting members. All but 2 of the California cities researched had an odd number. Obviously, having an odd number helps avoid tie votes.

b. City Selection Examples

At the February 3, 2009, City Council meeting, more than one Councilmember suggested using other City commissions as potential comparison models for selection of charter review committee members. Two were specifically mentioned: the Community Racial Profiling Commission (“CRPC”), and the Campaign Reform Committee.

The CRPC began in 2001 as a 26-member advisory committee. It was made formal by ordinance in 2004. City Code section 2.110.050 provides for member selection as follows:

“The commission’s membership shall be broadly constituted to reflect the diversity of the residents of the city. The commission shall be composed of

fifteen (15) members appointed by the mayor with the approval of the city council, subject to the following requirements:

A. One member shall be a deputy chief of the Sacramento Police Department;

B. One member shall be a representative of the Office of Police Accountability;

C. One member shall be a representative of the Sacramento Police Officers' Association;

D. Four members shall be individuals or representatives of organizations that are qualified by interest or experience to address matters pertaining to racially biased policing.

E. Eight members shall represent the public at large. The members appointed pursuant to this subsection shall reside in the city of Sacramento, and there shall be one at-large member from each of the eight city council districts."

The Sacramento Campaign Reform Committee was created by ordinance in 1999. City Code section 2.108.030 provides simply: "The committee shall consist of nine members, who shall be appointed in the manner specified in the charter and who shall serve a term of one year."

Other City committees have membership specifically tied to a community member's background or experience relevant to the committee's work. For example, the Animal Care Services Citizens Advisory Committee (City Code Chapter 2.86) has animal care professionals and members of animal welfare organizations, as well as at large members; the membership of the General Plan Advisory Committee (Resolution No. 2004-079) was described as "one nomination from each council district including but not limited to Planning Academy graduates, City Manager Academy graduates, Planning Commission, Design Review Board, community and neighborhood groups, educational institutions, industry and business groups, civic and community organizations, non-governmental organizations, religious communities and other planning organizations."

c. Recommendation

Based upon the foregoing, this office recommends a committee of 13 voting members, all of whom would be City voters, as follows:

- (1) Each Councilmember (except Mayor) gets 1 appointment
- (2) Mayor gets 2 appointments
- (3) 3 at-large appointments, to proceed through an application and interview process; the P&PE Committee would be responsible for making selections and recommendations to the full Council

Conventional wisdom suggests the inclusion of certain professions on the committee. However, to hedge against overinclusion of one group to the exclusion of those who may bring other skills, insights, and perspectives, it is recommended that the Council identify

only the 3 at-large members as meeting professional qualifications. Given the nature of the proposed SCRC's purpose, it is recommended that the at-large members by education, experience or training come from the fields of the law, academia, or public administration/policy.

The SCRC will need assistance in many respects – with information gathering, legal questions and interpretations, procedural issues, etc. Therefore, it is further recommended that the SCRC be staffed by City personnel, including representatives of the City Clerk, City Attorney, and City Manager, all of whom may see a need to devote more than one staff person to assist.

3. Timelines

Mr. Hiltachk, the Strong Mayor Initiative proponent, has stated he currently has 37,000 petition signatures for his proposal. To be valid, the Strong Mayor Initiative petition signatures must be submitted by late June 2009. Mr. Hiltachk told Council on February 3 that he will be filing the signatures. If the petition signatures are found sufficient (i.e., 15% of the qualified voters of the City), the City Clerk must certify the results at the next regular City Council meeting. The Council must then place the initiative on the ballot for election. The City Council, however, retains discretion about when to place the initiative measure on the ballot. Assuming sufficient signatures could be verified by July 2009, placement on the June 2010 ballot is legally possible. However, it is important to note that even November 2010 is likely within the Council's discretion, with the further possibility of dates in 2011 or 2012.

At the February 3 meeting, multiple Councilmembers expressed concern over timeliness. This has a two-fold aspect: ensuring enough time for a thorough review; but simultaneously ensuring the process is not unnecessarily drawn out.

A survey of cities reveals that the durations of appointed committees range from as little as 2 ½ months (Chico) to over 2 years (Los Angeles). In Chico (2004), the committee was not looking at major structural changes. In Los Angeles (1996-1999), on the other hand, the appointed commission worked simultaneously to an elected charter review commission and worked a major overhaul of the charter. In Oakland (2003) and San Diego (2007) review related to their strong mayor charter amendments took 3 months and 7 months, respectively. For those with "full review" as the order of business, duration of the committee tended to be approximately 6-12 months.

Finally, frequency of meetings varied. For example, in San Diego (2007), the committee met more than once per week; in Modesto the committees have historically met about once per week; in Riverside (2003-2004), the committee met twice per month.

Thus, there are two major factors influencing committee timelines: (1) the date a Charter amendment measure would be placed on the ballot; (2) and the potential scope of the committee's work, i.e., a full review or a review focused on specific issues. The following proposed timeline attempts to address the two major factors, while making

assumptions about Council's desire to pursue this matter diligently and thoughtfully, with the maximum amount of public input, as well as Council involvement.

However, it is critical to remember that the proposed timeline assumes a June 2010 election date for Charter-related ballot measures. The June 2010 date is simply a point of reference. As discussed above, the City Council retains significant and broad discretion regarding the timing of charter amendment measures, including a qualified initiative measure. The decision to place charter amendment measures on a ballot after June 2010 would create substantial additional time for the proposed SCRC to operate. For reference, additional dates after June 2010 are provided at the end of the timeline.

Adoption of the following timeline, which is flexible and subject to change, does not commit the Council to a June 2010 election date for any Charter amendment initiative or measure.

Suggested Timeline

February 17, 2009: Council approves creation of 2009 SCRC, and gives direction to City Attorney to incorporate its preferences into a Resolution; Councilmembers begin selection process, including solicitations for at-large member applications

February 24, 2009: City Attorney's Office returns to Council with a Resolution detailing the SCRC composition, timelines, charge, and reporting requirements

February – March: SCRC member selection process

March 3 and/or 17, 2009: P&PE selects recommended at-large members

March 17 or 24, 2009: Council confirms (SCRC) member appointments

April 1, 2009: SCRC convenes

April – November: SCRC holds regular meetings

June, August, October: SCRC reports to Council for updates, guidance, and input

December 15, 2009: SCRC presents Preliminary Report of Recommendations to full Council; Council workshop to discuss Preliminary Report, give comments, suggestions, further direction to SCRC

December 2009 – January 2010: SCRC holds additional meetings, if necessary

January 26, 2010 – SCRC presents Final Report of Recommendations to Council

February 2010 – Council considers Final Report; takes action on recommendations

March 9, 2010 – Last regular Council meeting date for taking action to place measures on June 2010 ballot

June 8, 2010: Statewide and Local Primaries

August 3, 2010: Last regular Council meeting date for taking action to place measures on November 2010 ballot

November 2, 2010: Statewide and Local General Election

The above schedule, with intermediate actions, is, of course, a recommendation, with plenty of room for adjustment. However, it is intended to foster: (1) limited delay in commencement; (2) thorough and considered review of all issues, with maximum opportunity for public participation; (3) steady progress; (4) regular interaction with Council for information sharing and feedback; (5) opportunity for sufficient Council review and comment; (6) opportunity for incorporation of Council suggestions and fine-tuning; and (7) adequate time for public participation prior to Council's approval of recommendations, if any.

The foregoing schedule provides for approximately 8 months of work prior to the initial presentation to the full Council, with about 5 weeks of additional work. Under that timeline, it is likely the SCRC would need to meet 2, 3, or sometimes more, per month. If the Council's direction to the SCRC is to focus on limited issues, the meeting schedule could remain at a lower number. In either case, it should be recognized that this will be a substantial dedication of time and effort by the appointed SCRC members. It is therefore recommended that the Council direct the SCRC, upon commencing its work, to set for itself a meeting schedule, subject to the SCRC's modification as needed, but with a minimum of two meetings per month. This will help ensure adequate review, but allow the SCRC flexibility to meet the needs of the committee, its individual members, the public, and staff.

4. Scope and Charge

Most often, cities give their charter review committees direction to review the entire charter and make recommendations to Council. Several cities (e.g., Riverside, Modesto, Chula Vista) have existing charter provisions or municipal code sections that mandate periodic charter review, and those are broad directives not limited to any particular charter issue. On the other hand, when Santa Monica created a Charter Review Commission in the 1990's, the enacting ordinance specifically instructed the commission to address 13 identified issues, plus "such other matters as the City Council by motion may refer to the commission."

The ordinance creating the City's Campaign Reform Committee charged the committee "[t]o provide recommendations to the city council on the following [six specified] issues related to campaign reform legislation . . ." (Sacramento City Code section 2.108.020(A).)

The ordinance also set forth a specific time (180 days) for the committee to return to the City Council with recommendations.

While this report was precipitated by the proposed Strong Mayor Initiative, it was also noted at the February 3, 2009, City Council meeting that a Charter review would provide the opportunity to address other Charter and City issues. For example, Councilmember Hammond would like green waste to be within the committee's purview. Additionally, as there has not been any formal Charter review in decades, it would seem prudent to provide the proposed SCRC a broad charge.

Therefore, it is recommended that the SCRC be charged to review the Charter and make recommendations to the Council for changes that would best serve the citizens, but that that SCRC be requested to give special consideration to the City's governance structure (i.e., Mayor-Council versus Council-Manager; delegation/reservation of certain powers; Charter Officers; budget process), green waste, and other issues that Council may choose at a later date.

To ensure timely and diligent effort, the SCRC should be directed to return to Council as generally indicated in the timeline above, but subject to further Council revision. The SCRC should have a minimum meeting schedule, and a stated work product – a written report to Council. The Council also may wish to suggest the SCRC avail itself of City staff, e.g., department heads, and outside resources as needed to provide information, reports, and testimony.

RESOLUTION NO.

Adopted by the Sacramento City Council

Approving the 2009 Sacramento Charter Review Committee

BACKGROUND

- A. The Sacramento City Charter is the foundational document for City governance.
- B. The City's current charter dates from 1921. Although it has been amended numerous times, there has been no comprehensive review of the Sacramento City Charter in decades.
- C. There is currently pending a proposed Charter amendment initiative to change the City's governance structure, from Council-Manager to Mayor-Council. If the elections official verifies a legally sufficient number of initiative petition signatures, the City is obligated to place that measure before the voters.
- D. A city government should reflect the needs, aspirations, and values of its citizenry, and it works best when it taps the diverse resources of its citizens.
- E. The City Council desires to have representatives of its citizenry review the Sacramento City Charter and make recommendations to the Council regarding Charter changes needed.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. Establishing the Committee

The 2009 Sacramento Charter Review Committee ("SCRC") is hereby established.

Section 2. Purpose of the Committee

The SCRC shall be an advisory body to the City Council. The SCRC is established for the purpose of reviewing the City's current Charter and making recommendations to the City Council for amendments thereto.

Section 3. Scope, Charge and Timetable of the Committee

The SCRC is charged as follows:

- (a) To review the Sacramento City Charter and to consider whether the Charter meets the current needs of the City and whether the Charter should be amended to meet the City's needs into the future.
- (b) To hold public meetings pursuant to the Ralph M. Brown Act to achieve its purposes. The SCRC shall adopt its own meeting schedule as necessary to achieve its purposes; provided, however, that it shall meet a minimum of twice per month.
- (c) To make regular progress reports to the City Council during its operation, but no less than one report in each of the months of June, August, and October 2009.
- (d) To provide a written report of preliminary recommendations to the City Council on or before December 15, 2009.
- (e) To present a written report of final recommendations to the City Council on or before January 26, 2010.
- (f) To perform such other duties as the City Council directs by motion or resolution.

Section 4. Appointment and Composition of SCRC

The SCRC shall be organized as follows:

- (a) The SCRC's membership shall be broadly constituted to reflect the diversity of the residents of the City. All voting members of the SCRC must be qualified electors of the City.
- (b) The commission shall be composed of thirteen (13) members, each of whom shall be approved by City Council, subject to the following requirements:
 - (1) Each councilmember (except the Mayor) shall appoint one member;
 - (2) The Mayor shall appoint two members;
 - (3) Three members shall be appointed at large by the City Council, through an application and interview process. The Personnel & Public Employees Committee shall be responsible for making the at large recommendations to the City Council. The at large members shall, by education, experience or training, come from the fields of the law, academia, or public administration/policy.
- (c) The City Council shall complete their appointments to the SCRC no later than March 24, 2009.
- (d) The SCRC shall select from among its voting members a Chair and a Vice-Chair.
- (e) A vacancy shall be filled in the same manner as the original appointment.

- (f) Any member may be removed by the City Council without cause.
- (g) A quorum of the SCRC shall be 7 voting members.
- (h) The SCRC shall be staffed by no less than three City employees – the City Attorney, the City Manager, and the City Clerk, or their respective representatives. These City offices may provide additional support as they deem necessary and appropriate.

Section 5. General Provisions

- (a) City employees, including Charter Officers and department heads, are encouraged to assist the SCRC when so requested, including presenting testimony.
- (b) The Sacramento City Charter should be reviewed in its entirety, with openness to input from all citizens. However, the following issues should be given particular consideration and shall be addressed in the final report to City Council:
 - (1) The City's governance structure: Mayor-Council versus Council-Manager, and the issues related thereto;
 - (2) The delegation and/or reservation of City powers;
 - (3) Appointment and removal of City officers and employees;
 - (4) The City budget process;
 - (5) Green waste disposal;
 - (6) Full-time status for Council members and issues related to full-time status for Mayor and Council;
 - (7) Term limits;
 - (8) Ethics commission; and
 - (9) Other issues as indicated by the City Council.
- (c) Each final recommendation in the SCRC's written report to the City Council shall be approved by an affirmative vote of at least 8 members. All other actions of the SCRC shall be by majority vote of the members.
- (d) Members who do not approve a recommendation shall be entitled to prepare a minority report to be included with the SCRC's written reports to City Council.
- (e) The charge to the SCRC is to develop policy recommendations, and not to craft proposed Charter language.
- (f) Each SCRC member shall file a Statement of Economic Interest as would be required for filers under Government Code section 87200, within 30 days of their appointment. A member who fails to so file shall not participate as a member of the SCRC until the Statement of Economic Interest is filed.

Section 6. Commencement

The SCRC shall begin its work as soon as practical after the City Council approves member appointments equal to a quorum of the SCRC, but in any event no later than April 3, 2009.

Section 7. Sunset

The sunset date of the SCRC shall be the earlier of the date of the City Council meeting when the City Council receives the SCRC's final written report, or January 26, 2010.

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