

Item No. 20

“To Be Delivered” Material

For

City of Sacramento

City Council

Financing Authority

Housing Authority

Redevelopment Agency

Agenda Packet

Submitted: July 31, 2009

For the Meeting of: Thursday, August 6, 2009

The attached materials were not available at the time the Agenda Packet was prepared.

Title: Independent Budget Analyst Ordinance Initiative and Strong Mayor Charter Amendment Initiative Options

Contact Information: **Matthew D. Ruyak, Supervising Deputy City Attorney**
Telephone: 808-5346

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REPORT TO COUNCIL 20

City of Sacramento

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

Staff Report
August 6, 2009

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

**Title: Independent Budget Analyst Ordinance Initiative and Strong Mayor Charter
Amendment Initiative Options**

Location/Council District: Citywide

Recommendation: 1) Discuss options and provide staff direction as to adoption of the Independent Budget Analyst Ordinance or placement of the ordinance initiative on the June 8, 2010, ballot; and 2) Discuss submission of the Strong Mayor Charter Amendment Initiative to the voters at a date to be determined by the City Council.

Contact: Matthew Ruyak, Supervising Deputy City Attorney, 808-5346

Presenters: Matthew Ruyak

Department: City Attorney's Office

Division: N/A

Organization No: 03001011

Description/Analysis

Issue: Now that the Sacramento County Registrar of Voters has certified the sufficiency of signatures on the Independent Budget Analyst Ordinance and Strong Mayor Charter Amendment initiative petitions, the City Council must take action on the initiatives. The legal options available to the City Council as to the actions it must take are presented in the background section of this report.

Policy Considerations: None.

Environmental Considerations: None

Commission/Committee Action: None

Rationale for Recommendation: The City's receipt of the certificates of sufficiency of the initiative petitions' signatures creates mandatory obligations of the City Council to take action on the initiatives. City Council's options as to actions to be taken on the petitions are set forth in the background section for the City Council's consideration.

Financial Considerations: The costs for establishing a separate Office of the Independent Budget Analyst are not known at this time. The estimated costs for placing these initiatives on the ballot will vary depending on the type and timing of the election, as follows: special municipal election called for initiative(s) alone -- \$1,200,000; primary or general municipal election -- \$175,000 (first initiative) and \$25,000 (second additional initiative); or other Elections Code section 1000 election date -- \$1,200,000.

Emerging Small Business Development (ESBD): Not applicable.

Respectfully Submitted:


Matthew Ruyak,
Supervising Deputy City Attorney

Approved:


Eileen Teichert
City Attorney

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ATTACHMENT 1

Background:

Two initiative petitions circulated by proponent Thomas W. Hiltachk have been certified by the County Registrar of Voters as having sufficient signatures to qualify for placement on a City of Sacramento ballot. The first initiative petition, described as the "Independent Budget Analyst Act of 2009," would amend the Sacramento City Code, creating a new Office of the Independent Budget Analyst. The office's function would be to assist the City Council in conducting budgetary inquiries and making budgetary decisions. The second initiative petition, described as the "Government Accountability and Charter Reform Measure of 2009" (Strong Mayor Charter Amendment Initiative), would amend the Sacramento City Charter to replace the current "Council-Manager" form of government with a "Mayor-Council" form also known as the "Strong Mayor" form of government.

The Sacramento County Registrar of Voters submitted Certificates of Sufficiency to the City Clerk on July 28, 2009, and the City Clerk submitted those Certificates to the City Council on August 6, 2009, immediately prior to this report.

The City Council's receipt of these Certificates of Sufficiency triggers certain obligations of the City Council. Those obligations, and options for fulfilling those obligations, differ for the two initiatives because the Independent Budget Analyst Ordinance Initiative proposes amendments to the City Code and the Strong Mayor Charter Amendment Initiative proposes amendments to the City Charter. Laws governing ordinance initiatives differ greatly from those governing city charter amendment initiatives. The legal options available to the City Council for each of the initiatives are set out below.

Independent Budget Analyst Act of 2009 (Ordinance Initiative)

Under the City Charter, this Ordinance Initiative petition needed at least 21,622 (10%) valid signatures of duly qualified electors of the City to qualify for a regular election; or 32,433 (15%) to qualify for a special election. The County Registrar of Voters' Office has verified that the petition did contain valid signatures of at least 10% of the electorate, but not more than 15%.

Under City Charter section 161(b) the Council has the following options:

1. Adopt the ordinance, without alteration; or
2. Submit the ordinance, without alteration, to the voters no later than the City's next regular election of June 8, 2010.

**Title: Independent Budget Analyst Ordinance Initiative
and Strong Mayor Charter Amendment Initiative Options**

August 6, 2009

While the City Charter provides the City Council these two options, it does not require the Council to exercise either of these options immediately. However, it is recommended the City Council select one of the two options within a reasonable time. The City Council must decide no less than 88 days prior to the June 8, 2010, election date.

For cities without charter provisions like City Charter section 161, the Elections Code applies. The Elections Code permits a city council to order preparation of a report to assist it in its decision-making whether to adopt a qualified initiative ordinance or place it on the ballot. The report would study a number of factors including the fiscal impact and any other matters the city council requests to be in the report. Under the Elections Code, the report back must be made within thirty days and within ten days thereafter the city council must either adopt the ordinance or set it for placement on the ballot.

It would be prudent for the City Council to follow a similar process if the City Council requires additional time to select between the two options.

Recommendation

- It is recommended the City Council either: 1) take action on options 1 or 2 immediately; or 2) order a report back studying the financial impact of the initiative and take action no later than September 15, 2009, to adopt the ordinance or place it on the June 8, 2010, ballot.

Government Accountability and Charter Reform Measure of 2009 (Strong Mayor Charter Amendment Initiative)

The Elections Code provides that this petition needed at least 32,433 (15%) valid signatures of duly qualified electors of the City to qualify for placement on the ballot. The County Registrar of Voters' Office has verified that the petition did contain at least that many valid signatures.

Timing of the Election

The law neither requires the City Council to select the earliest election date nor does it specify the latest election date the City Council may select for placement of a charter amendment initiative on the ballot. However, the ballot date selected must be consistent with the charter amendment's effective date. That is, the Council may not set a date so far in the future that it serves as a de facto veto of the initiative by the Council. Because the Strong Mayor Charter Amendment Initiative has no express effective date, the entire initiative was reviewed to determine if there is an implied effective date.

The only provision in the Strong Mayor Charter Amendment Initiative ostensibly addressing dates relates to the creation of the ninth council district. Upon the adoption of the charter amendment the City is immediately divided into nine council districts. The boundaries for the nine districts are not established until after redistricting in accordance with the next United States census. Based upon the timing of City redistricting during the last two decades, the earliest date for redistricting after the decennial census of 2010 would be

October 2011. If the charter amendment initiative is not approved by the voters until after October 2011, the redistricting of the ninth district would not occur until after a subsequent regular United States census.

Related to the creation of the ninth district is the issue of the term of office for the ninth district council member. Upon redistricting and establishment of the ninth council district boundaries a vacancy on the City Council would be created. Under the charter's existing provisions, City Council vacancies are filled either by Council appointment or by special election depending on the balance left on the term for that council district seat. A City Council vacancy is filled by special election unless the vacancy occurs within one year of the next general election at which such office would normally be filled, in which case the vacancy is filled by Council appointment.

In order to determine if special election or appointment is appropriate, the date of the next general election at which the ninth district council seat is filled must be known. The existing charter states that elections for council districts one, three, five, and seven shall be held in 1994 and every four years thereafter (i.e., 2010, 2014, etc.), and elections for council districts two, four, six, eight and the mayor shall be held in 1992 and every four years thereafter (i.e., 2012, 2016, etc.).

Unfortunately, the Strong Mayor Charter Amendment Initiative failed to amend the "Elections" section of the charter and does not provide for an election term for the ninth district council seat. The existing charter does not include a mechanism for establishing the election term for new districts. While the existing charter does allow the City Council to establish by ordinance "procedures" governing city elections, substantive changes to the terms of office for City Council members may be made only by charter amendment. In order to fill this ninth district council seat a further charter amendment would be necessary to correct this omission.

This leaves the effective date for filling the ninth district council member seat indefinite. Accordingly, no maximum time limits for setting the Strong Mayor Charter Amendment election date could be ascertained. Staff continues to research the legal issues concerning the initiative's failure to provide for election of the ninth district council member.

As provided in the Elections Code, and assuming the legal validity of the Strong Mayor Charter Amendment Initiative, the Council's options are to submit the Strong Mayor Charter Amendment to the voters at:

1. A special election called for that purpose; or
2. The next established municipal election date; or
3. Any established election date under Elections Code section 1000.

Option 1.

Under option 1, the Council may call a special election to be held no sooner than 88 days after the order of election:

- November 2, 2009, and thereafter

Option 2.

Under option 2, the Council may set this charter amendment on the ballot of the next established municipal election date:

- June 8, 2010

Option 3.

Under option 3, the available election dates established under Elections Code section 1000, through the year 2012, are as follows:

- November 3, 2009 (if Council acts by August 7)
- April 13, 2010
- November 2, 2010
- March 8, 2011
- June 7, 2011
- November 8, 2011
- April 10, 2012
- February 7, 2012
- June 5, 2012
- November 6, 2012

Recommendation:

- It is recommended the City Council either 1) set the date for the Strong Mayor Charter Amendment Initiative to be on the ballot in accordance with options 1, 2 or 3; or 2) request further information from staff to assist in determining the optimal ballot date and set a report back date to deliberate as soon as reasonably possible with the additional information in hand.

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and Strong Mayor Charter Amendment Initiative Options**

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ATTACHMENT 2

Independent Budget Analyst Ordinance Initiative

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO VOTERS

To the Honorable Clerk of the City of Sacramento:

We, the undersigned, registered, qualified voters of California, residents of the City of Sacramento, hereby propose an ordinance relating to the Office of Independent Budget Analyst and Department of Finance, and petition you to immediately submit this initiative to the City Council for submission to the voters of the City of Sacramento at a special election pursuant to Elections Code section 9214, or the next regular municipal election for which it qualifies.

Be it enacted by the People of the City of Sacramento:

SECTION 1. TITLE

This initiative measure may be known and referred to as the "Independent Budget Analyst Act of 2009."

SECTION 2. FINDINGS AND DECLARATION OF PURPOSE

- A. The City of Sacramento is facing one of the worst budget crises in its history. Traditional sources of revenue to the City are experiencing a dramatic downturn, while the cost of providing and the demand for City services are increasing.
- B. At the state level, the Legislative branch has benefitted from obtaining objective and unbiased advice from the Office of the Legislative Analyst. That office provides the state Legislature with fiscal analyses of policy proposals, critiques of the Governor's budget proposals and suggests long-term fiscal reforms. Other cities have created similar positions for the benefit of their city council.
- C. The City Council and the taxpayers of the City of Sacramento will benefit from the same clear, objective, and unbiased analysis and advice regarding all legislative items bearing financial impacts to the City. Therefore, the People hereby enact the Independent Budget Analyst Act of 2009.

SECTION 3. ESTABLISHMENT OF OFFICE OF INDEPENDENT BUDGET ANALYST

Chapter 2.33 shall be added to Title 2 of the Sacramento City Code, as follows:

2.33.010 Office of Independent Budget Analyst

There is hereby created the Office of Independent Budget Analyst, a city department whose designated function is to assist the city council in the conduct of budgetary inquiries and in the making of budgetary decisions.

2.33.020 Independent Budget Analyst

- (a) The Independent Budget Analyst is the administrative head of the department and shall be appointed by majority vote of the city council.
- (b) The city council may remove the Independent Budget Analyst from office by a majority vote of the members of the city council at any time, with or without cause.

2.33.030 Qualifications of the Independent Budget Analyst

Appointees serving as Independent Budget Analyst shall have the professional qualifications of a college degree in finance, economics, business, or other relevant field of study or a relevant professional certification. In addition, such appointees shall have experience in the area of municipal finance or substantially similar equivalent experience. No person shall be eligible to serve as the Independent Budget Analyst or a member of the staff of the Independent Budget Analyst who, during the previous eight years, has served on the staff of a city chief executive officer or city councilmember, or has been a registered lobbyist with the city.

2.33.040 Duties of the Independent Budget Analyst

The duties of the Independent Budget Analyst shall include:

- (a) providing a formal, comprehensive review and analysis of the proposed annual budget;
- (b) gathering, organizing, and analyzing data and information relative to budgetary issues;
- (c) providing comparative studies of other cities as they relate to municipal finance;
- (d) engaging in fiscal forecasting and planning, including developing means of financing long-range capital improvement programs;
- (e) analyzing the city's past, current, and proposed revenues and expenditures;
- (f) reviewing existing and potential tax revenues;
- (g) analyzing federal, state, and local programs to determine sources of funding and appropriate expenditure options;
- (h) reviewing the economic effects of proposed legislation;
- (i) constructing economic models and indices as directed by the city council;
- (j) preparing fiscal and economic project analysis as directed by the city council;
- (k) providing policy research and fiscal analysis on proposed legislation;
- (l) preparing such other reports relating to budgetary and legislative policy concerns as directed by the city council; and
- (m) making recommendations to the city council in connection with the analysis, studies, and reports described herein.

2.33.050 Budget

The city shall appropriate a reasonable budget for the Office of Independent Budget Analyst.

2.33.060 Conflict of Interest Code

A conflict of interest code shall be adopted for the Independent Budget Analyst and staff of the Independent Budget Analyst, subject to city council approval. The Independent Budget Analyst and members of the staff of the Independent Budget Analyst shall be required to complete and file statements of economic interests in accordance with the conflict of interest code.

SECTION 4. DEPARTMENT OF FINANCE

Chapter 2.32 of Title 2 of the Sacramento City Code shall be amended, as follows (deletions of existing language are denoted by ~~strike-out type~~ and additions of new language are denoted in underline type):

2.32.010 Department of Finance

The department of finance shall be responsible to the chief executive officer ~~city manager~~ for the financial affairs of the city.

2.32.020 Director of Finance

The director of finance shall have direct supervision over the department of finance and the administration of the financial affairs of the city and shall carry out any duties imposed by the city charter and the chief executive officer ~~on the controller~~. For purposes of this title, the director of finance shall mean the director or his or her designee.

SECTION 5. AMENDMENT

(a) Notwithstanding Elections Code section 9217, the city council may amend this Act to further its purposes without submission to the voters.

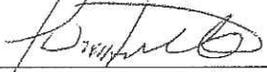
(b) After nine years, but not later than ten years after the effective date of this Chapter, the city council shall assess the overall cost to operate the Office of Independent Budget Analyst, and the cost savings attributable to recommendations of the Office of Independent Budget Analyst.

(c) After the assessment required by subdivision (b) of this Section is complete, the city council may by majority vote abolish the Office of Independent Budget Analyst if the assessment demonstrates that the Office of Independent Budget Analyst is not providing a net cost savings to the city.

Notice of Intent to Circulate Petition

Notice is hereby given by the person whose name appears hereon of his intention to circulate the petition within the City of Sacramento for the purpose of establishing the Office of Independent Budget Analyst. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

The City of Sacramento is the seventh largest city in California, but its City government currently functions as that of a much smaller city. Sacramento is facing serious budgetary challenges, and Sacramento's elected officials require more sophisticated expertise and guidance on budgetary matters. The establishment of an Independent Budget Analyst to provide clear, objective and unbiased analysis and advice to the City Council will greatly assist the City Council and the taxpayers of Sacramento.


Thomas W. Hiltachk

**Title: Independent Budget Analyst Ordinance Initiative
and Strong Mayor Charter Amendment Initiative Options**

August 6, 2009

Attachment 3

Strong Mayor Charter Amendment Initiative

**PETITION FOR SUBMISSION TO VOTERS OF PROPOSED AMENDMENT TO THE
CHARTER OF THE CITY OF SACRAMENTO**

To the Honorable Clerk of the City of Sacramento:

We, the undersigned, registered and qualified voters of the State of California, residents of the City of Sacramento, pursuant to Section 3 of Article XI of the California Constitution and Chapter 2 (commencing with Section 34450) of Part 1 of Division 2 of Title 4 of the Government Code, present to the City Council of the City of Sacramento this petition and request that the following proposed amendment to the charter of the City be submitted to the registered and qualified voters of the City for their adoption or rejection at an election on a date to be determined by the City Council.

The proposed charter amendment reads as follows:

SECTION 1. TITLE

This initiative measure may be known and referred to as the "Government Accountability and Charter Reform Measure of 2009."

SECTION 2. FINDINGS AND DECLARATION OF PURPOSE

A. The City of Sacramento has been governed by a "Council-Manager" form of government since 1920.

B. In 2002, the Charter was amended by the voters to make the elective office of mayor a full-time job, with full-time pay. However, the powers and duties of the mayor were not changed and are largely the same as the part-time members of the city council.

C. While the public is entitled to believe that the elected mayor and council representatives are accountable for the day-to-day management of the city, including all city services, the reality is that the city is managed by an unelected city manager and bureaucrats that report only to the city manager.

D. Most other major cities in California have changed their charters to a more traditional representative form of government in which the elected mayor serves as the city executive, much like the governor or president. The city council serves as the legislative branch of government. The city manager serves the city under the direction and supervision of the mayor. These cities include San Diego, Los Angeles, Fresno, San Francisco, and Oakland.

E. A more representative form of city government will lead to a more effective and accountable government where the elected city officials are truly responsible for the day-to-day management and affairs of the city. If city services are inadequate, citizens should be able to hold their elected representatives responsible for such failures.

F. Sacramento deserves and needs reform of its government to meet the challenges of the 21st century. Therefore, the People hereby enact the Government Accountability and Charter Reform Measure of 2009.

SECTION 3. CHARTER AMENDMENT

Be it enacted by the People of the City of Sacramento:

Articles III, IV, V, VII, and IX of the Charter of the City of Sacramento are amended to read as indicated below. Deletions of existing language are denoted by ~~strike-out type~~ and additions of new language are denoted in underline type. Sections of each Article that are not affected by this Amendment are not duplicated below.

Article III The City Council

§ 20 Powers.

All legislative and quasi-judicial powers of the city shall be vested in the city council except as otherwise provided in this Charter.

§ 21 Composition.

The legislative body of the city shall be a city council of nine members, ~~consisting of the mayor and eight other members~~. Each council member ~~other than the mayor~~ shall be nominated and elected by the electors of the district in which such person resides as provided in Article X.

§ 22 Districts.

The city is hereby divided into ~~eight~~ nine council districts, designated First through ~~Eighth~~ Ninth Districts, respectively. Council districts in existence upon the effective date of this charter amendment shall continue to exist until altered as provided in Section 24. The Title of the office of each member of the council ~~other than the mayor~~ shall bear the number accorded the district of such member.

§ 26 Terms of office.

Each member of the city council ~~other than the mayor~~ shall serve for a term of four years and until a successor qualifies.

§ 27 Qualifications of members.

Each member of the council or candidate therefore, and the mayor or candidate therefore, ~~other than for the office of mayor~~, at the date of candidacy and election or appointment, shall be an elector and a resident in such member's district for not less than 30 days preceding the date of candidacy and election or appointment, as the case may be, and must continue to reside in such district during the term of office, except that no boundary change under Section 24 or 25 shall disqualify a member from serving the remainder of the term. The term "elector" means a person who qualifies to vote at either a state election or federal election held in the State of California. "Date of candidacy" shall mean the date of filing nominating papers or equivalent declaration or candidacy.

§ 28 Vacancies.

A vacancy on the city council ~~other than the office of the mayor~~ shall be filled by special election to be called by the council as provided in Section 154 of this Charter, unless such vacancy occurs within one year of the next general election at which such office would normally be filled, in which case the vacancy shall be filled by appointment by a majority of the remaining members of the council. A person elected or appointed to fill a vacancy shall hold office for the unexpired term of the former incumbent. Absence from five consecutive regular meetings of the city council, unless excused by resolution of the council, shall operate to vacate the seat of the ~~mayor~~ ~~or~~ council member so absent.

§ 29 Compensation.

There shall be established a compensation commission whose function shall be to establish the compensation for the mayor, members of the city council, and public members of city boards and commissions. The commission shall be comprised of five members selected ~~pursuant to Section 230 of Article XV of this Charter~~ by the city council for staggered four-year terms. The chair of the commission shall be a retired judicial officer and all members shall be residents of the City of Sacramento. The commission shall meet at least once a year and shall serve without compensation. The city shall fund the expenses of the commission. Within one hundred eighty (180) days of passage of this measure, the commission shall set the compensation for the mayor and members of the city council. Compensation shall be reasonable and consistent with other cities similar in size and structure.

§ 30 Rules, quorum and voting.

(a) The city council shall determine its rules of procedure according to rules which it shall adopt. Meetings of the city council shall be presided over by a member chosen to serve as the Council President under rules adopted by the city council. The Council President shall serve for a term of one-year and may be re-appointed by the city council to successive terms.

(b) A majority of the members of the council then in office shall constitute a quorum, except that a lesser number may adjourn from time to time and may compel attendance or absent members in a manner provided by ordinance or resolution.

(c) The city council shall act only by ordinance, resolution or motion. Except as otherwise provided in this Charter, the affirmative vote of five council members ~~or the council~~ shall be necessary to pass any ordinance, resolution or motion. The council shall be a continuing body and no measure pending before such body shall abate or be discontinued by reason of the expiration of the term of office or removal of the members of said body or any of them. Until such time as a ninth council district is created as required by this Charter amendment, the mayor may vote on all matters pending before the council, including ordinances, resolutions, or any other legislative, administrative, or quasi-judicial matter.

§ 32 Ordinances.

(a) Every proposed ordinance shall be introduced in writing. The enacting clause of each ordinance enacted by the council shall be "Be it Enacted by the Council of the City of Sacramento." The enacting clause of each ordinance enacted by the initiative or referendum process shall be "Be it Enacted by the People of the City of Sacramento." Each ordinance shall contain a title which shall state in general terms the subject or subjects contained in the ordinance.

(b) Except as otherwise provided elsewhere in this Charter, and with the exception or ordinances which take effect immediately upon adoption, ordinances shall be adopted in compliance with either the procedure set forth in Subsection (c) or Subsection (d) of this section.

(c) The ordinance shall be first passed by the council for publication of title. At least six days shall elapse between the date the ordinance was passed for publication of title and the date it is adopted by the council. The title of the ordinance shall be published by printing said title in a newspaper of general circulation published within the City designated by the council as the official newspaper of the City, no later than the third day immediately preceding the date of the adoption of the ordinance. No part of any ordinance, or proposed ordinance, other than its title, need be published.

(d) In lieu of the procedure set forth in Subsection (c) of this section, ordinances shall be published in the official newspaper of the City within ten days after adoption by the council.

(e) Ordinances which take effect immediately upon adoption, may be adopted without compliance with Subsections (b), (c) or (d) of this section.

(f) Except as otherwise provided in this Charter, each adopted ordinance shall become effective at the expiration of thirty (30) days after adoption and approval by the mayor or the override of a mayoral veto pursuant to this Charter, or at any later date specified therein.

(1) Except as otherwise provided in this Charter, an ordinance adopted by the city council shall be transmitted to the mayor within 48 hours by the City Clerk for the mayor's approval or veto.

(2) The mayor shall have 15 days from the date of transmittal by the City Clerk to approve or veto an ordinance. If the mayor fails to act within such period, the ordinance shall be deemed approved.

(3) If the mayor vetoes an ordinance, the mayor shall state the reasons for such veto which shall be transmitted to the city council by the City Clerk within 48 hours. The city council shall have 15 days from the date of transmittal by the City Clerk to reconsider the ordinance. If after such reconsideration, at least six council members vote in favor of passage of the ordinance, that ordinance shall become effective notwithstanding the mayor's veto. If the vetoed ordinance does not receive six affirmative votes after reconsideration, the ordinance shall not be approved or enacted and shall have no legal effect.

(g) The following ordinances shall take effect immediately upon adoption by the city council without approval by the mayor, or at such later dates, of less than thirty (30) days after adoption, as may be specified in the ordinances:

(1) An ordinance calling for or otherwise relating to an election;

(2) An ordinance adopted as and declared by the city council to be an emergency measure, containing a statement of the facts constituting such emergency, if adopted by the affirmative votes of at least six members of the council; provided, that no measure making a grant, renewal or extension of a franchise or other special privilege or regulating the rate to be charged for its service by a public utility, other than one operated by the city, may be so enacted; and

(3) An ordinance adopted pursuant to a state law by virtue of which such ordinance shall be effective immediately.

(h) Nothing contained in this section shall be deemed to require an ordinance when an ordinance is not otherwise required.

§ 34 Investigations.

The city council or any duly appointed committee of the members of the council may make investigations and audits into the affairs of the city government and the conduct of any

department, office, agency, officer or employee thereof, and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails to obey a lawful order issued in the exercise of these powers by the city council or a committee of the council shall be guilty of a misdemeanor and punishable by fine or imprisonment, or both, in such amount and for such time as prescribed by state law for misdemeanors.

§ 36 Mayoral Appointments

The city council shall give its advice and consent to appointments made by the mayor pursuant to Section 70 and may make recommendations of candidates for such positions in the council's discretion. If the city council fails to take action on an appointment within 30 days of such appointment, the appointment shall be deemed confirmed.

§ 37 Council Appointments

The city council shall appoint such members of the council's staff, exempt from the civil service system, as may be provided by resolution. The compensation paid to such staff members shall be fixed by resolution of the city council and may not be vetoed by the mayor pursuant to this Charter. The council's staff shall serve at the pleasure of the council.

Article IV Mayor

§ 40 Mayor—Functions.

- (a) The ~~presiding~~ chief executive officer of the city shall be the mayor.
- (b) The mayor:
 - (1) Shall be recognized as the official head of the city for the performance of all duties lawfully delegated to the mayor by this Charter, by action of the council or by other laws.
 - (2) Shall provide leadership within the community in the sense that the mayor shall have the ~~primary, but not exclusive,~~ responsibility of interpreting the policies, programs and needs of city government to the people, and shall annually address the people as to the state of the City as the occasion requires, may inform the people of any change in policy or program;
 - (3) Shall have the right ~~but not the exclusive~~ and power to make recommendations to the city council on matters of policy and program that require council decisions;
 - (4) ~~Shall be a member of the city council and shall be entitled to make and second motions on matters before the city council and vote on city council actions, but shall possess no veto power over actions of the city council~~ Shall have veto power over all ordinances passed by the council except as provided for in section 32(g). The mayor shall have no veto power over matters that are the exclusive purview of the council such as selection of the Council President and rules and procedures for the conduct of council meetings; matters where the council has acted as a quasi-judicial body and where a public hearing was required by law implicating the due process rights of individuals affected by the decision and where the council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; or salary ordinances for the city council or mayor;
 - (5) Shall exercise the authority, power, and duties formerly conferred upon the City Manager as that term is be included within the terms "council" and "city council" used in this Charter unless otherwise expressly provided;
 - (6) May propose ordinances and resolutions which shall be considered by the city council;

- (7) Shall appoint and may remove members of the boards and commissions and advisory agencies in accordance with Article XV except as otherwise provided in this Charter;
- (8) Shall have and exercise such other powers and duties as provided in this Charter, the laws of the state, and ordinances and resolutions of the city.
- (9) Except as otherwise provided in this Charter, shall appoint all heads or directors of departments of the city, and all subordinate officers and employees with power to discipline and remove any officer or employee so appointed, subject to the civil service provisions of this Charter; provided, further, that all officers and employees of the city appointed by the mayor who are exempt from the rules and regulations of the civil service board pursuant to Charter Section 83 may be suspended or removed at the pleasure of the mayor.

§ 44 Mayor—Compensation and expenses for full-time service.
The mayor shall serve the City full-time and shall receive compensation as established by the compensation commission pursuant to Section 29 of Article III of this Charter. The mayor shall devote his or her full time and attention to the duties of the office.

§ 45 ~~Succession Vice Mayor; Mayor Pro Tem.~~

~~At the first council meeting in January of each year, the city council shall elect one of its members, other than the mayor, to serve as vice mayor during the ensuing calendar year. During any absence of the mayor from the city or a meeting of the city council, the vice mayor shall be the acting mayor until the mayor returns. In addition, if if the mayor becomes incapable of acting as mayor and incapable of delegating duties, or if a vacancy exists in the office of mayor, the Council President vice mayor shall become the acting mayor. In the event of the absence, vacancy in office or inability of both the mayor and vice mayor to perform their duties, the council may appoint one of its members to serve as mayor pro tem. The mayor pro tem shall temporarily act in the capacity of an acting mayor. Any person serving as an acting mayor under this section shall continue to hold office as a member of the city council. An acting mayor shall possess all powers of the office of mayor and shall be subject to all prescribed duties for such office.~~

§ 46 Mayor—Vacancy.

A vacancy in the office of the mayor shall be filled by special election to be called by the city council as provided in Section 154 of this Charter, unless such vacancy occurs within one year of the next general election at which the office of mayor would normally be filled, in which case the vacancy shall be filled by the Council President appointment by a majority or the members or the city council then in office. A person elected or appointed to fill a vacancy in the office of mayor shall hold office for the unexpired term of the former incumbent.

Article V City Manager

§ 60 City Manager—Appointment, qualifications and removal.

There shall be a city manager who shall be appointed by the mayor subject to the concurrence of a majority of the city council. The city manager shall be selected solely on the basis of executive and administrative qualifications. The city manager shall ~~be appointed by and shall serve at the pleasure of the mayor city council.~~

§ 61 Functions.

The city manager shall be the ~~chief executive~~ administrative officer of the city and shall be responsible for the effective administration of the city government. The city manager shall have the power and it shall be the city manager's duty:

- (a) To assist the mayor to insure see that all laws and ordinances are enforced;
- (b) To administer and exercise supervision and control over all offices, departments and services of the city government under the jurisdiction and control of the mayor ~~city manager~~;
- (c) To act in an advisory capacity to the city council with respect to officials not under the jurisdiction and control of the mayor ~~city manager~~;
- (d) To assist the mayor in the appointment and supervision of ~~Except as otherwise provided in this Charter, to appoint~~ all heads or directors of departments of the city and all subordinate officers and employees with power to discipline and remove any officer or employee so appointed, subject to the civil service provisions of this Charter; provided, further, that all officers and employees of the city appointed by the mayor ~~city manager~~ who are exempt from the rules and regulations of the civil service board pursuant to Charter Section 83 may be suspended or removed at the pleasure of the mayor ~~city manager~~.
- (e) To make such recommendations to the mayor and city council as the city manager shall deem appropriate concerning the operation, affairs and future needs of the city;
- (f) To attend all regular and special public meetings of the city council with the right to participate in the discussion of matters pending before the council but without the right to vote on such matters;
- (g) To see that all terms or conditions imposed in favor of the city or the people of the city in any contract franchise, lease or permit are faithfully kept and performed; and upon knowledge of any violation thereof to notify the city council of such violation;
- (h) When authorized to do so by the mayor, provisions of this Charter or by ordinance or resolution, to execute, on behalf of the city all contracts, franchises, lease or permits or any other document requiring the execution of which is required by an officer of the city;
- (i) To keep the mayor and city council fully advised as to the operations, financial conditions and needs of the city;
- (j) To assist the mayor to prepare the annual budget in accordance with Charter Section 111.
- (k) To perform such other duties consistent with this Charter as may be prescribed by the mayor ~~city council~~.

§ 62 Non-interference with City Manager.

No member of the city council shall directly or indirectly coerce or attempt to coerce the city manager relative to the appointment or removal of any city officer or employee which is made by the mayor ~~city manager~~, but prior to the making of any appointment or removal of any head or director of any department or division of the city, the city manager shall endeavor to advise the city council of his intention to do so.

The city council and its members shall deal solely and directly through the mayor or city manager, if so designated by the mayor, with respect to the part of city government under the direction and supervision of the mayor ~~city manager~~; provided, that nothing herein shall limit the power of the city council, or members thereof, to do the following:

- (a) to conduct investigations as provided in Section 34 of this Charter, or
- (b) to contact officers and employees of the city for the purpose of inquiry or obtaining information that is a public record, or

(c) to contact officers and employees designated by the mayor ~~city manager~~ for the purpose of advising said officers and employees or citizen complaints relating to the operation of city government.

§ 63 Removal of City Manager

~~The city manager cannot be removed from office except by a vote of six members of the city council. The city manager shall not be subject to removal from office within twelve months of the date that the city manager first assumes the duties of office except for incompetence, malfeasance, misfeasance or neglect of duty. If the removal is proposed within the first twelve months, the city manager may demand written charges and a public hearing before the city council prior to the date upon which his removal becomes effective; but the decision of the city council shall be final, conclusive and binding upon the city manager, and pending such hearing the council may suspend the city manager from duty without loss of normal compensation.~~

Article VI Other Appointive Officers

§ 70 Appointive officers.

The following other city officers shall be appointed by the mayor ~~subject to the concurrence of a majority of the city council~~:

- (a) City Clerk;
- (b) City Attorney;
- (c) City Treasurer; and
- (d) Such other officers and employees pursuant to Section 40(b)(9) of this Charter ~~its own body as it deems necessary.~~

§ 71 City Clerk.

~~The city council shall appoint a city clerk who shall have custody of and shall be responsible for the official seal and records of the city. The city clerk shall act as secretary of the city council and all other boards, commissions and agencies of the city. The city council shall prescribe the qualifications additional duties and compensation of the city clerk. The city clerk shall appoint subject to the civil service provisions of this Charter, such deputies and employees as the council may by resolution prescribe.~~

§ 72 City Attorney.

~~The city council shall appoint a city attorney and shall prescribe the qualifications, duties and compensation of the city attorney ~~such officer~~. The city attorney shall serve as legal counsel to the city government and all officers, departments, boards, commissions and agencies thereof and shall have such other powers and duties as may be prescribed by state law and by ordinance or resolution of the city council. In situations where the city attorney determines there is a conflict in representation by that office, the city council may authorize the retention or other legal counsel to represent one of the conflicting parties. The city attorney shall appoint all other members of the city attorney's office.~~

§ 73 City Treasurer.

The city treasurer shall be responsible for the deposit and investment of all funds of the city treasury not made subject to the control of others pursuant to this Charter. The city treasurer shall

keep the mayor and city council fully advised as to the deposit and investment of funds subject to his control. The city council shall prescribe the qualifications, additional duties, and compensation of the city treasurer. The city treasurer shall appoint, subject to the civil service provisions of this Charter, such deputies and employees as the council may by resolution prescribe.

§ 74 Mayor's staff.

The mayor shall appoint such members of the mayor's staff, exempt from the civil service system, as may be provided by the annual budget resolution. The compensation paid to such staff members shall be fixed by the annual budget resolution ~~of the council~~. The mayor's staff shall serve at the pleasure of the mayor.

§ 75 Method of suspension and removal of appointive officers and employees.

Every appointive officer appointed by the mayor ~~city council~~ as provided in Section 70 of this article may be suspended or removed at the pleasure of the mayor ~~city council~~.

§ 76 Duty to inform council.

Each appointive officer specified in Section 70 shall have the duty to promptly and fully inform the city council and mayor of any act of misfeasance or malfeasance know to said appointive officer to have been committed by any officer or employee of the city if such act might significantly and adversely affect the finances or operations of the city. The city council, by ordinance or resolution, may further define the procedures and provisions determined to be necessary to implement and operate under this section.

Article VII Civil Service

§ 81 Secretary.

~~The city manager shall appoint~~ a director of personnel ~~who~~ shall serve as secretary of the civil service board. The director of personnel shall act as chief examiner and supervise all examinations, subject to the direction of the board. The director of personnel shall also perform such other duties as are prescribed by this Charter, by the mayor ~~city manager~~, by the civil service board or by ordinance or resolution of the city council.

Article IX Fiscal Administration

§ 111 Budget.

(a) Each department, office and agency of the city shall provide in the form and at the time directed by the city manager all information required by the mayor ~~city manager~~ to develop a budget conforming to modern budget practices and procedures as well as specific information which may be prescribed by the council. Not later than ~~90~~ 60 days prior to the commencement of each fiscal year or such greater period as the council may prescribe, the mayor ~~city manager~~ shall prepare and present to the city council, in such form and manner as it may prescribe, budget recommendations for the next succeeding fiscal year. Following at least two public budget hearings, the city council shall adopt by resolution a budget of proposed expenditures and appropriations necessary therefore for the ensuing year, pursuant to subdivision (b). ~~failing which the appropriations for current operations of the last fiscal year shall be deemed effective~~

~~until the new budget and appropriation measures are adopted. The budget may be amended during the fiscal year in accordance with the procedure established by the council.~~

(b) If the council approves the budget resolution as proposed by the mayor, the budget shall become effective immediately. If the council modifies all or part of the budget proposed by the mayor, the budget resolution shall be transmitted to the mayor within 48 hours by the City Clerk. The mayor shall thereafter and within five business days of such transmittal either approve the budget as modified by council, veto, or modify any line item with such budget as modified by the council. If the mayor approves the budget as modified by council, the budget shall become effective immediately. If the mayor vetoes or modifies all or any line item within such budget modified by the council, the City Clerk shall transmit the vetoed budget to the council within 48 hours. The council shall thereafter and within five business days of such transmittal reconsider the mayor's vetoed or modified budget. If after such reconsideration, at least six council members vote to override any of the mayor's vetoed or modified budget, the budget shall become effective immediately notwithstanding the mayor's veto or modification. If after reconsideration, the council does not vote to override the mayor's veto or modification, the budget as modified by the mayor shall become effective immediately.

(c) If the city council fails to approve the budget as proposed by the mayor prior to the start of the fiscal year, the budget as proposed by the mayor shall be deemed to be approved as presented.

(d) The budget may be amended during the fiscal year upon the request of the mayor and the approval of a majority of the city council.

§ 117 Annual audit.

The ~~mayor city manager~~ upon approval of the city council shall engage each year an independent certified public accountant who shall examine and report to the council on the annual financial statement of the city. The accountant shall have free access to the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds, and of such other officers, employees, or departments as the city council may direct. The accountant shall submit an audit as soon as practicable after the closing of the books for the fiscal year for which he is engaged. Copies of such audit reports shall be filed with the city council, and shall be available for public inspection and review.

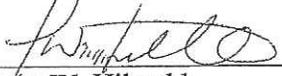
NOTICE OF INTENT TO CIRCULATE PETITION

Notice is hereby given by the person whose name appears hereon of his intention to circulate the petition within the City of Sacramento for the purpose of amending the City Charter. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

Most other major cities in California have changed their charters to a more traditional representative form of government in which the elected mayor serves as the city executive, much like the governor or president. The city council serves as the legislative branch of government. The city manager serves the city under the direction and supervision of the mayor. These cities include San Diego, Los Angeles, Fresno, San Francisco, and Oakland.

A more representative form of city government will lead to a more effective and accountable government where the elected city officials are truly responsible for the day-to-day

management and affairs of the city. If city services are inadequate, citizens should be able to hold their elected representatives responsible for such failures.



Thomas W. Hiltachk