REPORT TO COUNCIL 8
City of Sacramento

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Staff Report
December 1, 2009

Honorable Mayor and
Members of the City Council

Title: Sacramento Charter Review Committee Supplemental Report No. 1

Location/Council District: Citywide

Recommendation: This report transmits Supplemental Report No. 1 of the Sacramento Charter Review Committee, as required by Council Resolution R2009-559.

Contact/Presenter: William H. Edgar, Chair, Charter Review Committee, (916) 392-4909

Attachment
1 Supplemental Report No. 1

2009 Sacramento Charter Review Committee

William Edgar, Chair
JoAnn Fuller, Vice Chair
Cecily Hastings
Grantland Johnson
Alan LoFaso
Robert (Bob) Murphy
Chester A. (Chet) Newland
Chris Tapio
John Taylor
Tina Thomas
Jay Wisham

Supplemental Report No. 1

Full-Time Mayor/Full-Time City Council

December 2009

BACKGROUND

The Sacramento Charter Review Committee transmitted its Final Report to the City Council on November 3, 2009. Pursuant to Resolution R2009-559, the Committee is responsible for issuing two supplemental reports. The following represents Supplemental Report No. 1.

CHARTER REVIEW COMMITTEE (CRC) RECOMMENDATIONS

Responsibilities and Outside Incomes of the Mayor and Council Members

Respectfully, the CRC herewith makes three recommendations for the period following 2012 elections concerning responsibilities and outside incomes of Sacramento's mayor and council members:

1. Responsibilities of the Mayor should continue to be identified as full-time, and outside income of the Mayor should not be barred.

   Vote: Yes—11; No—0.

2. Responsibilities of City Council Members should be identified as full-time, and existing provisions for outside income should remain unchanged.

   Vote: Yes—10; No—1; Abstain—0.

   [One minority report submitted by Member Hastings is included below]

3. Authority of the Compensation Commission should remain unchanged.

   Vote: Yes—11; No—0.

These recommendations embrace two fundamental principles: (1) Duties of Sacramento's elected officials—both the mayor and council members—are inescapably full-time responsibilities, and (2) any citizen who is elected as mayor or a member of the city council should not be compelled, as a condition of service to the city, to be only a full-time politician, foregoing continued involvement in responsible activities with earned income not otherwise prohibited by existing law. These official positions are analogous to the full-time duties of military service and the 24/7 responsibilities of parents, which are not inconsistent with performance of other activities, including other 24/7 roles. These are not wage-hour jobs to be sought for payroll benefits.

A Minority Report is included following this Majority Report.

Responsibilities and Outside Income of a Mayor

The city's charter provides that the mayor's responsibilities are full-time, and the committee supports this provision. The committee also recommends that, to encourage the broadest array of highly talented potential candidates for mayor, responsible outside income should not be barred.

The city's interests are best served when the people have more choices of potential mayors. This recommendation seeks to remove barriers to serving in office for those who come from many fields, including

teaching, medicine, the performing arts, law, and non-profit and business enterprise.

Many potential mayoral candidates bring skills and relationships from their fields of endeavor to their candidacy for city service. Some potentially exemplary candidates are not able to completely divorce themselves of these prior pursuits to serve as mayor, as is now required to comply with a complete ban on outside, earned income. For example, not all candidates can be expected to treat no patients, teach no students, perform on no stage, represent no clients, or offer no management of a family business during their entire tenure in public office. Moreover, these skills, relationships, ongoing contacts with non-governmental activities, and other benefits from candidates' other vocations are of potential advantage to the city. Sacramento should not limit itself outright from considering the merits of candidates with responsible backgrounds who do not choose to be exclusively full-time politicians.

With the exception of judges, state law does not generally bar public officials from receiving additional, earned income, consistent with stringent legal restrictions. Banning earned income does not, of itself, address any considerations not already covered under existing law: state statute and the doctrine of incompatible offices already bar a mayor from holding another incompatible public office; disclosure laws require the nature of outside income, whether earned from labor or capital, to be made public; and all public officials are barred from engaging in decisions in which they have a potential financial conflict, regardless of the nature of the financial interest. Lastly, this recommendation does not seek to contradict the Compensation Commission's decision to capture payments from the mayor's duties related to non-city boards as part of the mayor's overall city compensation package.

Any mayoral candidate's potential conflicts, either from earned or unearned sources of income, should properly be disclosed. Consistent with the law's purpose, this disclosure should inform the voters of any issues associated with a mayoral candidate's employment or investment relationships. Moreover, a mayoral candidate's vocation—and its significance to a candidate's ability to fully devote herself/himself to the job—is a proper subject for discussion in any political campaign. This recommendation seeks to bring the widest array of qualified candidates before the public. The decision to choose any of those candidates to serve in public office should be left to the voters.

Finally, as emphasized above, this recommendation should only be operative following the election (or re-election) of a mayor in 2012, so as not to alter the terms under which the voters choose the existing mayor.

Responsibilities and Outside Incomes of Council Members

Sacramento's current charter does not explicitly designate the time a city council member is expected to devote to his or her office. The committee recommends that the charter should explicitly recognize that responsibilities of these offices are inescapably full-time, while activities realistically vary.

As elected officials serving in local government—the level of government closest to the public—city council members are expected to be knowledgeable and active in a wide array of governmental and public service activities. Council member service requires substantial time to attend community functions; meet with officials of surrounding local agencies; maintain contacts with state and federal elected officials; and be accessible to city staff, concerned residents, and responsible stakeholders in their city hall offices. On any given day, a council member can easily be expected to attend meetings and functions beginning before breakfast and ending well after the dinner hour. In fact, the time devoted to these activities is the measure many voters use to rate the quality of their own elected official's service.

Acknowledgement of the extensive requirements to serve as a city council member honors the work of the elected official. At the same time, this recognition serves as a benchmark to the public to evaluate officials' work and to hold their representatives accountable. How a particular city council member manages these responsibilities is a matter of that individual council member's talents, style, and management skills. Each individual council member's manner of performing her or his duties is properly a subject of that member's ongoing relationships with her or his constituents. Nevertheless, it is important to recognize the depth and range of responsibilities each council member performs—or should be expected to perform.

Consistent with the recommendation above, the committee recommends that Sacramento's present provisions for responsible outside, earned income of council members should be continued. These officials should not be compelled to be exclusively full-time politicians. Such a bar would limit the range of potential candidates for city council to those seeking election to be on the city's payroll. A bar on earned income is neither required nor necessary in light of existing conflict of interest, disclosure, and other legal requirements. Sources of income, time devoted, and other considerations related to all outside income (earned or unearned) should be properly disclosed as a consideration for the voters to evaluate each individual candidate.

Authority of the Compensation Commission Should Continue Unchanged

The CRC defers to the Compensation Commission as to implementation of the principles enunciated in these recommendations. That commission's analysis of comparable pay of similarly situated local government officials, the pay commensurate with the duties of the office, and other considerations have already been addressed by the voters' adoption of a compensation commission in 2002. This committee makes no further recommendations in this regard.

In short, the issue in these CRC recommendations is how to attract highly accomplished individuals of sustained integrity to serve as council members and mayors—not for official pay but for responsible leadership via Sacramento City service.

MINORITY REPORT

Opposing Full-Time City Council Positions
Submitted by Cecily Hastings

I voted no on this Committee's recommendation that the City Council positions be made full-time. I did so for several reasons:

1. We have not had time to research all the issues in order to make a business-like decision.
2. There is no evidence that more money will make a Councilmember more effective.
3. The person who runs for office is completely aware of the salary, the job and the benefits. They shouldn't apply for the job if the money does not meet their needs.
4. I don't want to encourage inefficient or disorganized candidates to run or incumbents similarly encumbered, to stay.
5. No Councilmember to my knowledge has ever resigned because the pay was inadequate.
6. The City Council seat should not be a path to retirement in the job.
7. Just because some Council Member's work a full-time schedule is no reason to change their status in the City's Charter.
8. I cannot imagine a more inappropriate time to be considering a pay increase for our politicians. Many of our citizens don't have a job - full or part-time.

Data including the following needs to be studied and compared to cities similar in size:

1. Sacramento's population increased by 100,000 citizens between 1990 and 2009 to 460,000 in 2009 (about a 28% increase.)
2. An average district is now comprised of about 57,500 citizens.
3. In 1990-91, Mayoral and Council staffs were 15 Full-Time Equivalents (FTE). By 2009 FTE staffs had been increased to 23 (about a 54% increase.)
4. Discretionary accounts for each Council Member are now $55,000. Cell tower revenues add another $8,193 to $102,042 per district. These funds can be used to hire additional staff, including interns and part-time staff. (Intern salary and parking costs have ranged from $3,945/$120 for Sandy Sheedy in 2009 to $33,918/$4,370 for Steve Cohn in 2008.)
5. Total budgeted city staff in 1990-91 was 4,174 FTE. In 2007-08 budgeted staff was 5,305 FTE, about half the increase of Mayor/Council FTE.
6. Technological advances have increased efficiencies of communications with city staff and constituents.

7. Sacramento is currently wedded to the District Council Member model. Perhaps a different organizational model would be more effective and would reduce the volume of minutia and the time demands that confront our Council Members.

Before making a decision about full-time Council and full-time pay, we need to compare our City with other benchmark cities in key areas. It would have been helpful to have studied these cities in more depth.

Consider these examples of Council-Manager cities including:

A. Austin, TX with six at-large part-time seats serving a population of 700,000 city residents. (An average responsibility of 116,600 citizens, double the Sacramento model.)

B. El Paso, TX with eight part-time district seats with a population of 606,000 city residents. (An average responsibility of 75,700 residents about 17% more than the Sacramento model.)

C. Long Beach, CA with eight at-large part-time seats with a population of 492,000 city residents. (An average responsibility of 61,500 about 7% less than the Sacramento model.)

Some of these differences are significant and need to be studied in more depth.

Additionally, our analysis should include interviews with some of the current and past City Council Members and declared candidates for the June 2010 City Council races to properly evaluate work time realities and expectations.

A better approach would be to not specify either part-time or full-time status within the City's Charter for Council seats. Instead let it be up to the elected holder of the office to decide. Their work schedule could be based on their own energy levels, effectiveness in using their staff, use of technology, all combined with their outside work obligations. Declaring the position full-time may effectively limit the number of potential candidates who choose to run. We need diversity in ideas to allow our City to prosper.

It is my firmly held belief that any eventual decision to recommend that the City Council positions be made full-time be coupled with non-lifetime term limits. A Sacramento State University survey from March 2009 reported that 51% of those surveyed favor term limits for the Council and Mayor. Roughly 25% disagree, with 25% undecided. (Please refer to my minority report on term limits in the Mayoral recommendations.)

I encourage the entire Council to vote against full-time status and the resulting pay for the Council until such time as a revamp of the City's Charter – including reviewing the district only model – is complete.