



REPORT TO COUNCIL City of Sacramento

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STAFF REPORT
June 22, 2010

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

Title: Report Back on Proposed 2010 Strong Mayor Plan

Location/Council District: City-wide

Recommendation: Receive and file.

Contact: Eileen M. Teichert, City Attorney (916) 808-5346
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Presenters: Matthew D. Ruyak, Supervising Deputy City Attorney (916) 808-5346

Department: City Attorney's Office, Org # 09300

Division: N/A

Organization No: 09300

Description/Analysis

Issue: On May 25, 2010, Mayor Kevin Johnson requested the City Attorney report back with a comparison of his proposed Sacramento City Charter changes with the charter provisions in other enumerated executive ("strong") mayor cities. This report responds to that request, as well as the concurrent requests of other council members for information about charter changes in those cities.

Policy Considerations: This report concerns the city's charter and city government structure.

Environmental Considerations: This report has no environmental impact.

California Environmental Quality Act (CEQA): N/A.

Sustainability Considerations: N/A

Other: N/A

Commission/Committee Action: N/A

Rationale for Recommendation: N/A

Financial Considerations: This report requests no action and therefore has no fiscal impact.

Emerging Small Business Development (ESBD): N/A

Respectfully Submitted by:


Matthew D. Ruyak
Supervising Deputy City Attorney

Report Approved:

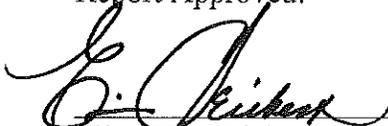

Eileen M. Teichert
City Attorney

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Attachment 1

BACKGROUND

At the May 25, 2010, City Council meeting several members of the City Council asked the City Attorney to report back on charter change issues. The requests were as follows:

- Mayor Johnson asked the City Attorney to compare the points of his proposed charter revision that he denominates the “Accountability Plan of 2010: Detailed Conceptual Draft,” with the charters of seven other cities – the five “strong mayor” cities in California, plus Denver and Seattle.
- Council member Sheedy requested this report include a discussion of the differences between the law of California (with respect to city governance) and the laws of Colorado and Washington.
- Council member Sheedy requested information on how many California cities changed their form of government to a strong mayor system during the mayor’s term.
- Council member McCarty requested the comparison include information on the implementation timeline for charters that changed to a strong mayor system.

The attached document, entitled “2010 Strong Mayor Plan: A Comparison With Selected Cities,” is prepared in response to those requests. This report does not answer the question whether Sacramento needs a strong mayor form of governance, or how conceptual ideas are best embodied in charter language. Rather, it is intended to facilitate discussion about the proposed Strong Mayor Plan.

For the City Council’s information, attachment 2 to this report is a March 30, 2010, memorandum from the City’s elections official, the City Clerk, setting forth the deadlines and action dates for November 2, 2010, ballot measures. In sum, it reveals that mid-July is the deadline for Council action to have any charter change measure placed on the November ballot. Accordingly, if the City Council desires to place a charter change measure before the voters on November 2, 2010, the strong mayor plan proposal needs to be transformed into charter language to give effect to each of the terms of the plan, and the Council needs to approve the final charter change language no later than July 13, 2010,

Attachment 2

**November 2, 2010 Election
Action Dates for Ballot Measures**

Date	Action
05/21/10	Recommended last day for Initiative petitions to be filed with City Clerk.
07/13/10	Council adopts resolution certifying June 8 th election results and calling run-off election for offices (if applicable)
07/13/10	Council approves "certificate of sufficiency" for Initiative petitions; and motions to adopt or place on ballot.
07/13/10	Council approves reports containing FINAL text and ballot question for council initiated ballot measures.
07/20/10	Council approves Clerk's report and resolution <u>calling</u> measures to ballot
07/20/10	Council approves Clerk's report directing City Attorney to prepare an impartial analysis
07/20/10	Council approves Clerk's report establishing priority of argument authors
07/26/10	Deadline to file certified resolutions with Clerk of the Board and County Elections Office for August 3 rd agenda of the Board of Supervisors.
07/26/10	Publication of Notice of Measures for November 2010 ballot.
07/30/10	Deadline for primary arguments to be filed with City Clerk.
07/30/10	Deadline for impartial analysis to be filed with City Clerk.
08/09/10	Deadline for rebuttal arguments to be filed with City Clerk.
11/02/10	Election Day

**2010 STRONG MAYOR PLAN:
A COMPARISON WITH SELECTED CITIES**

By: Eileen Teichert, City Attorney
Matthew Ruyak, Supervising Deputy City Attorney

June 22, 2010



**2010 STRONG MAYOR PLAN:
A COMPARISON WITH SELECTED CITIES**

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INTRODUCTION

At the May 25, 2010, City Council meeting Mayor Johnson advised that he would soon be distributing his proposed plan to change the City charter and requested that the City Attorney report back to the City Council June 15, 2010¹, with a comparison of the proposed charter provisions to the charters of seven other strong mayor cities. Several members of the City Council requested the City Attorney include related charter change issues in the report back. The requests were as follows:

- Mayor Johnson asked the City Attorney to compare the points of the Mayor's proposed Strong Mayor Plan² with the charters of seven other cities selected by the mayor – the five “strong mayor” cities in California, plus “strong mayor” cities Denver and Seattle (collectively referred to as “selected cities” or “comparison cities”).
- Council member Sheedy requested this report include a discussion of the differences between the law of California (with respect to city governance and government structure) and the laws of Colorado and Washington.
- Council member Sheedy also requested information on how many California cities changed their form of government to a strong mayor system during the sitting mayor's term.
- Council member McCarty requested the comparison include information on the implementation timeline for charters that changed to a strong mayor system.

This report, entitled “2010 Strong Mayor Plan: A Comparison With Selected Cities,” is prepared in response to those requests. This report does not answer the question whether a strong mayor form of governance or this Strong Mayor Plan is best for Sacramento, or how conceptual ideas in the Strong Mayor Plan are best embodied in charter language. Rather, it is intended to facilitate discussion about the proposed Strong Mayor Plan.

For ease of reading this report, an Executive Summary generally responds to the four requests recited above, and describes key facts and conclusions.

Chapter One provides an overview of the governance structures used by the selected cities. It also describes, briefly, some differences (and similarities) between California law and the laws of Colorado and Washington, with respect to city

¹ At the June 10, 2010 Council meeting, the Mayor requested that the discussion of the Strong Mayor Plan and this report back be continued from June 15 to the June 22, 2010 City Council meeting.

² On May 27, 2010, the Mayor provided the City Attorney with a document entitled “Accountability Plan of 2010: Detailed Conceptual Draft (Updated 5.25.2010),” a copy of which is attached to this report as Appendix A, and is referred to in this report as “Strong Mayor Plan” or “Mayor's Plan.”

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organizational structure and governance.

Chapter Two compares the provisions of the proposed Strong Mayor Plan to the charters of the selected cities. The organization of Chapter Two follows the outline of the Strong Mayor Plan: Chapter Two, Section A (“Executive Duties”) matches the first category listed in Appendix A (“Executive Duties”), with three comparison tables matching the three sub-issues for that category in Appendix A; Chapter Two, Section B (“Council Meetings”) matches the second category listed in Appendix A (“Council Meetings”), with five comparison tables with questions corresponding to the five sub-issues listed in Appendix A; and so forth. Tables are used liberally in this Chapter to graphically explain the similarities and differences. Special note: if the Strong Mayor Plan provides that the current charter provisions are to remain the same, no comparison table is provided, with a few exceptions.

Chapter Three details and discusses the timing and processes used by the selected cities to consider, adopt, or revise a strong mayor form of governance through charter change.

The entirety of this report was authored by the City Attorney’s Office. Consistent with Council’s request, the City Manager’s Office has prepared a separate report regarding options for pursuing a formal ethics program for the City. Accordingly, the “ethics program” referenced in the Strong Mayor Plan is addressed only briefly in this report

The reader is advised that this report is a limited response to specific requests from the Mayor and Council. It has been drafted with the non-legal reader in mind. It is not intended to be a complete and final comparison and analysis with full references or citations. It does not, for example, describe the variegated language used in other cities’ charters, nor does it suggest how language in the Sacramento City Charter should be crafted to achieve the proposed Strong Mayor Plan’s objectives. Additionally, not all of the comparison cities’ charters address all of the points within the proposed Strong Mayor Plan. Thus, this report must be read with a knowledge that strict and faithful comparison is, to some degree, unobtainable.

Finally, readers who seek additional information are encouraged to read the City Attorney’s February 3, 2009, report, “Strong Mayor Initiative: A Comparison and Analysis,” which was presented as agenda item 16 at the City Council’s February 3, 2009, meeting, located online at http://sacramento.granicus.com/GeneratedAgendaViewer.php?view_id=8&clip_id=1801. Also, City staff prepared some excellent reference materials on strong mayor governance for the 2009 Sacramento Charter Review Committee. These materials can be found at http://sacramento.granicus.com/ViewPublisher.php?view_id=24.

2010 STRONG MAYOR PLAN: A COMPARISON WITH SELECTED CITIES

EXECUTIVE SUMMARY

1. Comparison to Selected Cities

The bulk of this report compares and contrasts the proposed Strong Mayor Plan with the provisions in the existing Charter of the City of Sacramento and the charters of five California cities, as well as Denver, Colorado and Seattle, Washington. The comparison cities have Mayor-Council (also known as strong mayor) forms of governance. The comparison with these cities' charters is based on the points listed in the Strong Mayor Plan.

A. Similarities With Strong Mayor City Charters

Although some details are uncertain, the structure of government and basic mayoral powers that would be established by the Strong Mayor Plan are generally similar to those of the strong mayor cities' charters reviewed, and most similar to city charters with the strongest mayoral powers. That structure and establishment of basic mayoral powers include:

1. Mayor's position as the chief executive officer of the City.
2. Mayor's power to prepare and present the budget to the City Council.
3. Mayor's power to appoint the City Manager subject to City Council concurrence.
4. Creation of a Council President position.
5. Mayoral veto.
6. Possible term limits.

B. Dissimilarities

The proposed plan may be similar to a selected city on one issue, but dissimilar on another. The proposed plan is different than most other cities' charters on the following issues:

1. Scope of the mayor's veto (the mayor would not veto resolutions).
2. Effective date of charter revision after the election (shorter).
3. Lead time on the mayor's proposed budget submission to council (longer).

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C. Unknowns

Some additional questions that would need to be answered for a more complete comparison and analysis include, but are not limited to:

1. Term and election timing for the new ninth district.
2. Existence and scope of term limits.
3. Nature of the required ethics ordinance.
4. Whether the budget veto power extends to resolutions that include budget modifications. For example, it is a frequent occurrence that city departments receive large grants during a fiscal year; the resolution authorizing grant acceptance typically includes a provision for modification of the department's budget to account for the grant.
5. Charter language. If a majority of the City Council agrees in principle to one or more of the Strong Mayor Plan concepts, the next step is to consider charter language. Should the language for a particular issue be similar to or different than that of another city's charter? If so, which other city charter should be used for a guide?

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2. Differences in State Law

Two of the comparison cities – Denver and Seattle – are in other states. Just as no two city charters are alike, no two state constitutions are alike. Nor are different states' statutory schemes for local governments alike.

Colorado's constitution makes express an intention to provide all the state's municipalities the full right of self-government through adoption of "home rule" charters. Many cities in Colorado have home rule charters, but like California the strong mayor system is rare in Colorado.

Washington, on the other hand, has a much more complicated state statutory scheme for municipal governments. Cities can use the mayor-council, council-manager, or commission plans. Also, cities that fully operate pursuant to the Revised Codes of Washington – so-called "optional code cities" – have the fullest scope of local flexibility and power. In Washington, although over 80% of municipalities use the mayor-council form of government as described by statute, only 10 first class cities (i.e., population over 10,000) have charters.

3. Change of Government Structure During Sitting Mayor's Term

In both Los Angeles and Oakland, mayors who ran for office during Council-Manager structures later assumed strong mayor powers. In Los Angeles, after much wrangling between the elected charter commission, the appointed charter commission, the mayor, and the city council, a compromise was reached: Mayor Riordan would get strong mayor powers for the last year of his second term. In Oakland, Jerry Brown won the mayoral election in June 1998, when Oakland had a Council-Manager government. Immediately after the election – but before his term began – Brown submitted sufficient petition signatures for a strong mayor ballot measure. In November 1998, the voters approved Measure X, which established Oakland's current strong mayor system. So when Brown took the oath of office on January 7, 1999, he began his mayoralty as a strong mayor.

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4. Implementation Timelines for Charter Changes in Comparison Cities

Changing the form of local government is not an easy process. Approval of a ballot measure is not the final step. What must follow is a transition for the institutional system, its personnel, and the public. Perhaps that is why in four of the five current California strong mayor cities, the effective dates for charter change came long after the dispositive election dates:

- Los Angeles became a strong mayor city almost 13 months after the election.
- San Diego became a strong mayor city 14 months after the election.
- Fresno became a strong mayor city 45 months after the election.
- When San Francisco granted its mayor more authority over the City Administrator, that change took effect 8 months after the election.
- Oakland was the exception. Its November 1998 election led to changes by January 1999.

See Table 23 in this report for specific dates.

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CHAPTER ONE: FRAMES OF REFERENCE

A. FORMS OF GOVERNANCE

At the request of the Mayor, this report compares the City of Sacramento's current charter and the proposed Strong Mayor Plan with five California cities – Los Angeles, San Diego, San Francisco, Fresno, and Oakland – as well as Denver and Seattle. Those cities – the “Comparison Cities”—and their populations are set out in Table 1.

Each of the Comparison Cities has a unique charter, with a unique history. Each is a function of local values, local politics, and historical forces. Although no two charters in the Comparison Cities are exactly alike, it can be stated as a general proposition that a true Mayor-Council system grants its mayor budgetary powers, appointment and removal powers, ultimate executive control over day-to-day city affairs, power to propose legislation, and veto power. Yet the details of these and other mayoral powers vary among the cities.

The government structures of the seven Comparison Cities are often described as Mayor-Council – i.e., “strong mayor” – systems. But that would be an oversimplification. It would be more accurate, for example, to categorize the City of Los Angeles as its City Clerk does: a Mayor-Council-Commission form of governance. That is, there are numerous commissions that have semi-autonomous authority; some commissions' actions are subject to review and veto by the City Council, others (e.g., Ethics Commission) are not. Oakland has occasionally been described as having a “weak strong mayor,” in part because the mayor has no veto and is the “chief elective officer” rather than a “chief executive officer.” . And both San Francisco and Denver are non-traditional cities; they are instead consolidated city-county governments and therefore afford the mayor powers over the panoply of issues subject to the jurisdiction of cities and counties.

The City of Sacramento, on the other hand, has operated under a Council-Manager form of government since 1921, when the Progressive movement supported by former City of Sacramento Corporation Counsel Hiram Johnson, was sweeping the nation and the state in response to political corruption. In 2002, the charter was amended to make the mayor's job full-time. The Strong Mayor Plan proposes to change the City of Sacramento's form of government to Mayor-Council by revising the City Charter.

B. CALIFORNIA, COLORADO, AND WASHINGTON LAW

It would be beyond the purpose of this report, and beyond current expertise of the City Attorney's Office, to give a complete overview of local government organization and authority in sister states. Below, however, is a thumbnail sketch of three states' approaches to local government.

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In brief, California and Colorado may be considered “home rule” states. That is, their constitutions expressly afford cities home rule power through the adoption of city charters, which generally means greater autonomy. Washington is more like a “Dillon’s rule” state. Dillon’s rule narrowly defines the powers of local government: a city has only those powers that are expressly granted, necessarily implied, or indispensable. Although the Washington constitution grants certain cities the ability to adopt a charter, only a county (or consolidated city-county) can adopt a true “home rule” charter.³

1. California

Article XI, Section 3 of the California Constitution affords cities the authority to adopt a charter. A charter is a written document, approved by the electorate that operates as a “constitution” for the adopting city. A city charter represents the supreme law of a city, subject only to conflicting provisions in the state or federal constitutions and preemptive state law on matters of statewide concern. It has the force and effect of state law within the city. And it acts as an instrument of limitation on the broad power of charter cities over municipal affairs.

The California Constitution expressly identifies several charter city powers: creation and regulation of a police force; subgovernment in all or part of the city; conduct of city elections; and plenary authority over the manner, times, terms, compensation, and removal of officers and employees.

In California, the 481 incorporated cities have only two forms of city government: Mayor-Council (i.e., strong mayor) and Council-Manager. The 369 cities without charters – known as general law cities – use the Council-Manager form. Of the approximately 118 charter cities in California, five use the true strong mayor form, although there are a few charter cities that give their mayors some additional powers.

All cities in California are required to adopt balanced budgets.

2. Colorado

Like California, Colorado affords cities, if the voters so choose, to become “home rule” cities by adopting a charter. Article XX of the Colorado Constitution sets forth the authority for charter adoption and specifies dozens of powers a city may exercise. Additionally, article XX long ago effectuated a consolidation of the city of Denver with a portion of Arapahoe County. Of the 271 municipalities in Colorado, 96 are home rule.

There are five types of municipalities in Colorado: (1) consolidated city-county (e.g., Denver); (2) home rule city; (3) statutory city; (4) statutory town; and (5) territorial charter municipality (only one exists).

³ Compare Washington Constitution, art. XI, sections 4, 10, and 16.

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The Colorado Constitution is somewhat different than the California Constitution with respect to state law preemption. In California, a city “may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws.”⁴ In Colorado, it is stated differently: “Such charter [as a city adopts] and the ordinances made pursuant thereto in [municipal] matters shall supersede . . . any law of the state in conflict therewith. . . . The statutes of the state of Colorado, so far as applicable, shall continue to apply to such cities and towns, except in so far as superseded by the charters of such cities and towns or by ordinance passed pursuant to such charters.”⁵ Thus, a city’s charter and ordinances may supersede conflicting statutes on local and municipal matters, but in matters of statewide concern, state statutes will supersede a conflicting charter or ordinance.

3. Washington

Washington’s system of local government organization is complex. Only the fundamentals are addressed here.

There are four classes of municipal government in Washington:

- (1) first class cities, which have populations over 10,000 and operate under a charter;
- (2) second class cities, which have populations over 1,500 and operate without a charter;
- (3) towns, which are not authorized to have a charter; and
- (4) “optional municipal code cities.”

The first three classes described above may perform any function specifically granted to them under the Revised Codes of Washington. Optional municipal code cities are afforded the most local control – they can take any action on matters of local concern so long as it is not prohibited by the state constitution nor in conflict with the general law. Most Washington cities are such “code” cities.

While all cities and towns possess the same basic authority to perform general governmental functions, there are differences depending both upon the size of the city and its classification. For example, competitive bidding requirements differ depending upon a city’s population and classification. State law provides that the form of the organization and the manner and mode in which first class cities (e.g., Seattle) exercise the powers, functions, and duties conferred upon them by state law, are to be as provided in their charters.⁶

Washington cities are organized under three principal types of government:

- (1) “mayor-council,” which is the predominant form – noncharter cities may use this form;

⁴ Cal. Const., art. XI, § 7.

⁵ Colo. Const., art. XX, § 6.

⁶ Revised Codes of Washington (“RCW”) 35.22.020.

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(2) “council-manager,” under which the councilmembers are the only elective officials and the appointed city manager is responsible to the council for the proper administration of all city affairs;⁷

(3) “commission,” in which the legislative powers and duties are exercised by a commission of three, consisting of a mayor, a commissioner of finance and accounting, and a commissioner of streets and public improvements, and in which the executive and administrative powers and duties are distributed among the three departments.⁸

Washington state law requires cities with populations greater than 300,000, such as Seattle, to adopt balanced budgets by December 2 of each year for the fiscal year beginning January 1. Washington state law also allows cities to adopt biennial budgets.

⁷ RCW 35.18.010. This is for cities or towns having a population less than 30,000.

⁸ RCW 35.17.010. Only one small city – Shelton – has this form.

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C. COMPARISON CITY POPULATIONS

Table 1

COMPARISON CITY POPULATIONS

<u>City</u>	<u>Population</u>
Los Angeles	4,094,764*
San Diego	1,376,173*
San Francisco	856,095*
Fresno	502,303*
Sacramento	486,189*
Oakland	430,666*
Denver, CO	598,707**
Seattle, WA	598,541**

*California Department of Finance Estimates, January 1, 2010

**U.S. Census Bureau Estimates, July 1, 2008

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CHAPTER TWO: STRONG MAYOR PLAN COMPARISON WITH SELECTED CITIES

A. EXECUTIVE DUTIES

1. Current City Charter

- The City Manager is identified as the City’s “chief executive officer.”
- The City Manager is responsible for the effective administration of city government, i.e., the day-to-day operations.
- The City Council retains contracting authority, except as delegated to the City Manager pursuant to Council-adopted ordinances.
- The City Manager has a duty to keep the City Council informed, and the Mayor may inform the city of changes in policy or programs, but neither is required to present a formal public “State of the City” address.

2. Strong Mayor Plan

- The Mayor becomes the City’s “chief executive officer.”
- The Mayor would be required to present publicly an annual “State of the City” address, by March 1.
- The contracting authority would not change.

3. Comparison Cities

All Comparison Cities except Oakland identify the mayor as the city’s “chief executive officer.” The Oakland mayor is identified as the “chief elective officer.”

Only Los Angeles and San Diego (through the assumption of the city manager’s executive duties) describe any authority of the mayor to execute contracts.

The mayor is required to present “State of the City” information in some cities, although described in varying ways, and usually addressed to the legislative body. For example, in Los Angeles the mayor has the duty to “publicly address the Council on the state of the City, annually prior to the submission of the proposed budget.” In Seattle the mayor has the annual duty “at the third regular meeting of the City Council in February, to communicate by message to the Council a statement of the conditions and affairs of the City, and to recommend the adoption of such measures as he or she may deem

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expedient and proper.” San Diego’s charter provision is similar. In Oakland the mayor shall “at the time of the submission of the budget, submit a general statement of the conditions of the affairs of the City, the goals of the administration, and recommendations of such measures as he may deem expedient and proper to accomplish such goals.” The Denver charter is the least specific, in that the mayor shall “from time to time give to Council information on the condition of the City and County and recommend such measures as he or she may deem expedient.”

These obligations are somewhat similar to the President’s obligations under Article II, Section 3 of the United States Constitution [“He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient”] Under the Oakland and Denver charters, a *written* statement appears to be contemplated; that was the practice for the U.S. Presidents’ State of the Union addresses throughout the 19th century and on many occasions during the 20th century.

In two cities that do not require a formal “State of the City” (San Francisco and Fresno) the mayor does, however, have the power and duty to make policy and priority statements to the legislative body.

Table 2

CHIEF EXECUTIVE OFFICER

Is the Mayor identified as the city’s “chief executive officer?”

City	Yes	No
Los Angeles	X	
San Diego	X	
San Francisco	X	
Fresno	X	
Oakland		X
Denver	X	
Seattle	X	
Sacramento – Current		X
Sacramento – Proposed	X	

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Table 3

STATE OF THE CITY ADDRESS

Is mayor required to present a periodic statement regarding the “State of the City?”

City	Yes	No
Los Angeles	X	
San Diego	X	
San Francisco		X
Fresno		X
Oakland	X	
Denver	X	
Seattle	X	
Sacramento – Current		X
Sacramento – Proposed	X	

Table 4

CONTRACTING AUTHORITY

Does mayor have express authority to execute contracts?

City	Yes	No
Los Angeles	X	
San Diego	X	
San Francisco		X
Fresno		X
Oakland		X
Denver	X	
Seattle		X
Sacramento – Current		X
Sacramento – Proposed		X

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B. COUNCIL MEETINGS

1. Current City Charter

- Mayor is presiding officer of the City Council.
- Annually the City Council elects one of its members as Vice Mayor, who serves as acting mayor if the mayor is absent or incapacitated, or if there is a vacancy in the office of the mayor.
- Mayor is full member of City Council, with right to participate and vote on Council matters.
- City Manager has right to participate, but not vote, at City Council meetings.

2. Strong Mayor Plan

- Mayor is no longer a member of the City Council; the City Council elects a Council President.
- Council President assumes Mayor's role in case of mayoral vacancy.
- Mayor may not participate or vote at City Council meetings.
- Mayor would participate but would not vote during "closed sessions."
- City Manager's role at City Council meetings remains the same.

3. Comparison Cities

The Strong Mayor Plan is consistent with the practice of the Comparison Cities regarding Council meetings. When the mayor does not preside over council (i.e., in strong mayor cities), city charters provide for the council to select a presiding council officer from among the council members. Under the current charter, the Sacramento City Council selects a Vice Mayor, who only presides at Council meetings if the Mayor is absent.

The council president (or, in Oakland and currently in Sacramento, the council-selected vice mayor) assumes the mayor's duties if the mayor's office becomes vacant. All of the Comparison Cities (as well as Sacramento at present) provide for an election to

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fill the office of the mayor if the vacancy will last a lengthy period – usually one year (Denver is six months; Seattle is variable, to coincide with an upcoming election).

In Tables 7 and 8 below, “participation” at council meetings or at closed sessions means the right to speak as an equal. Notably, in Seattle and Denver, even though the mayor does not have the express right to participate at council meetings, the mayor has the power to call a special meeting of the council.

Table 5

COUNCIL MEETINGS

Does a council select a presiding officer (e.g., Council President, Vice Mayor)?⁹

City	Yes	No
Los Angeles	X	
San Diego	X	
San Francisco	X	
Fresno	X	
Oakland	X	
Denver	X	
Seattle	X	
Sacramento – Current		X
Sacramento – Proposed	X	

⁹ Selection is annual, except for biennial selection in San Francisco and Seattle.

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Table 6

SUCCESSION OF POWER

Does the council presiding officer become acting mayor if the mayor's office becomes vacant?

City	Yes	No
Los Angeles	X ¹⁰	
San Diego		X ¹¹
San Francisco	X ¹²	
Fresno	X	
Oakland	X	
Denver		X ¹³
Seattle	X	
Sacramento – Current	X	
Sacramento – Proposed	X	

Table 7

MAYOR'S PARTICIPATION AT COUNCIL MEETINGS

Does the mayor have the right to participate at council meetings?

City	Yes	No
Los Angeles		X
San Diego	X	
San Francisco	X	
Fresno		X
Oakland		X
Denver		X
Seattle		X
Sacramento – Current	X ¹⁴	
Sacramento – Proposed		X

¹⁰ Pending appointment and qualification of successor. Vacancy can be filled by either appointment or special election.

¹¹ Vacancy is filled by Council appointment. The charter describes the Council President's interim assumed authority as "limited."

¹² President serves until Board appoints a successor.

¹³ Vacancy is filled by Deputy Mayor, who is a designated member of the Mayor's appointed cabinet.

¹⁴ Includes the right to vote.

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Table 8

MAYOR'S PARTICIPATION IN CLOSED SESSIONS

Does the mayor have the right to participate in closed sessions?

City	Yes	No
Los Angeles		X
San Diego	X	
San Francisco	X	
Fresno		X
Oakland		X
Denver		X
Seattle		X
Sacramento – Current	X ¹⁵	
Sacramento – Proposed	X	

Table 9

CITY MANAGER PARTICIPATION AT COUNCIL MEETINGS

Does the city manager have the right to participate at council meetings?

City	Yes	No
Los Angeles	--	--
San Diego	X	
San Francisco		X
Fresno	X	
Oakland	X	
Denver	--	--
Seattle	--	--
Sacramento – Current	X	
Sacramento – Proposed	X	

¹⁵ Includes the right to vote.

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C. APPOINTMENT & REMOVAL POWERS

1. Current City Charter

- City Council appoints the City Manager, City Clerk, City Treasurer and City Attorney, and other officers it so designates (e.g., City Auditor, Independent Budget Analyst).
- All such officers are appointed by a majority vote of the City Council.
- City Clerk, City Treasurer, and City Attorney serve and are removed at the pleasure of the City Council (5 votes).
- City Manager is removed by six votes of the City Council.
- City Manager appoints and removes subordinate officers and department heads, after endeavoring to advise the Council of intention to do so.
- City employees are appointed and removed by their respective appointing authorities.
- Board and commission members are appointed by Mayor, with concurrence of City Council, and can be removed by City Council.

2. Strong Mayor Plan

- Mayor appoints the City Manager with concurrence of a majority of City Council.
- City Manager serves at the pleasure of the Mayor.
- Mayor appoints Assistant City Managers and department heads.
- All other appointment and removal powers remain the same as in the current Charter.

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3. Comparison Cities

a. City Manager

The hallmark of a strong mayor form of governance is the mayor's authority to appoint and remove the City Manager, sometimes referred to as City Administrator or Chief Administrative Officer. Not surprisingly, all strong mayor cities provide such authority to the mayor, except Los Angeles. Under Los Angeles' complicated and diffuse Mayor-Council-Commission form of government, there is no one "city manager" or "city administrator." Neither Denver nor Seattle has a true city manager or city administrator. Denver is a consolidated city-county; its core administrative power is wielded by the mayor and the mayor's appointed "cabinet," which is comprised of ten department heads. Seattle also has a diffusion of power among the mayor, the president of the council, and department heads identified by the charter.

Except for Fresno, all city manager appointments by the mayor require council confirmation. In San Francisco, the city administrator's term of office is five years, but he or she may be removed by the mayor subject to approval of the Board of Supervisors.

The proposed Strong Mayor Plan's provisions on selection and removal of the City Manager are generally consistent with the charter structures of Mayor-Council cities in the Comparison Cities. However, one difference is the express power of the mayor to appoint and remove assistant city managers, a concept not expressly stated in the Comparison Cities' charters.

b. Department Heads

Other cities offer a mixed bag for mayoral appointment and removal authority down the chain of administrative command. The mayors in Los Angeles and San Diego have full appointment power for department heads ("chief administrative officers" in Los Angeles). In Seattle, the council must confirm the mayor's appointments, while in San Francisco the mayor confirms the City Administrator's appointments of department heads. In Los Angeles, however, department heads enjoy a level of protection not often found in high-level city management: the right to appeal to the city council if the mayor seeks to remove them.

Arguably, Denver's mayor has the strongest control over department heads. The mayor appoints his or her own "cabinet" of ten department heads, including the city attorney. The mayor even designates one to be deputy mayor, who becomes acting mayor if the mayor's office becomes vacant. On the other hand, the mayors in Fresno and Oakland do not appoint department heads.

The proposed Strong Mayor Plan would be on the high end of the department head appointment and removal power continuum, with San Diego and Denver.

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Table 10

APPOINTMENT OF CITY MANAGER

Does mayor appoint the city manager?

City	Yes	No
Los Angeles	--	--
San Diego	X	
San Francisco	X	
Fresno	X	
Oakland	X	
Denver	--	--
Seattle	--	--
Sacramento – Current		X
Sacramento – Proposed	X	

Table 11

REMOVAL OF CITY MANAGER

Does mayor have unilateral authority to remove the city manager?

City	Yes	No
Los Angeles	--	--
San Diego	X	
San Francisco		X ¹⁶
Fresno	X	
Oakland	X	
Denver	--	--
Seattle	--	--
Sacramento – Current		X
Sacramento – Proposed	X	

¹⁶ Removal is subject to approval of Board of Supervisors.

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Table 12

APPOINTMENT/REMOVAL OF DEPARTMENT HEADS

Does mayor appoint/remove department heads?

City	Yes	No
Los Angeles	X ¹⁷	
San Diego	X	
San Francisco		X ¹⁸
Fresno		X
Oakland		X
Denver	X	
Seattle	X ¹⁹	
Sacramento – Current		X
Sacramento – Proposed	X	

D. BUDGET

1. Current City Charter

- The City Manager is responsible for preparation and presentation of budget recommendations for the next fiscal year to the City Council no later than 60 days prior to the start of the fiscal year.
- After a public hearing the City Council, of which the Mayor is one member, adopts a budget resolution with proposed expenditures and appropriations for the next fiscal year.
- If the City Council fails to adopt a budget, the appropriations for current operations of the last fiscal year will be deemed effective until budget and appropriations for the current fiscal year are adopted.
- The budget may be amended according to the procedure established by the City Council.

¹⁷ Department heads (known as “chief administrative officers”) may appeal removal to the city council, which may reinstate that person by a two-thirds vote.

¹⁸ Department heads are appointed by the city manager with the concurrence of the mayor.

¹⁹ With confirmation. Mayor does not directly appoint the City Librarian (a department head).

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2. Strong Mayor Plan

A true strong mayor system grants its mayor some budgetary powers. The proposed plan presents the following budget process.

- The Mayor is responsible for preparation and presentation of budget recommendations to the City Council no later than 90 days prior to the start of the fiscal year.
- The City Council adopts the budget.
- The City Council must hold at least two public hearings on the budget, the first within 15 days of the Mayor's proposal.
- The City Council must return the budget (either as presented or as modified by Council) to the Mayor no later than 30 days prior to the start of the next fiscal year.
- Mayor can veto the budget within 10 days. Veto power includes line item veto.
- Council can override veto with 6 votes; override must occur within 10 days of veto.
- If a final budget is not adopted timely, the appropriations for current operations of the last fiscal year will be deemed effective until budget and appropriations for the current fiscal year are adopted.
- The budget may be amended following the same process as for adoption.

3. Comparison Cities

Budgetary power is potentially the most important tool a mayor can use to gain agreement with the mayoral agenda. All strong mayor cities provide their mayors power to prepare the initial budget, in which their mayors lay out their own priorities and set the agenda for discussion, except Oakland, where the mayor-appointed City Administrator is responsible. In Council-Manager cities approval of the budget lies solely in the hands of the City Council. As expected in Mayor-Council cities (except Oakland), mayors are given veto power in whole or by line item over the City Council adopted budget.

As for the budget process, most charters require the mayor to present the proposed budget at a defined time. Fresno's is the latest – only 30 days before the upcoming fiscal year. In Los Angeles it is much earlier – 71 days before the fiscal year begins. Both the San Francisco and Oakland charters defer the process details to formal council action,

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i.e., ordinance or resolution. San Francisco’s current ordinance requires the mayor to submit some department budgets by May 1, with the remainder by the first workday in June.

Additionally, some cities specify a time when the city council must act on (even if it does not pass) the proposed budget. The cities are split on the number of public hearings required. San Diego’s charter specifies two; Oakland’s charter does not specify the number, but uses the plural “hearings.” Others, including the current Sacramento charter, only mandate one.

The Strong Mayor Plan suggests a proposed budget presentation earlier than the Comparison Cities; a quicker first response from the City Council; and an increase in the number of mandated public budget hearings.

Table 13

BUDGET PROPOSAL

Does mayor propose the budget?

City	Yes	No
Los Angeles	X	
San Diego	X	
San Francisco	X	
Fresno	X	
Oakland		X ²⁰
Denver	X	
Seattle	X	
Sacramento – Current		X
Sacramento – Proposed	X	

²⁰ The mayor is responsible for presenting the budget to council, but the budget is prepared by the City Administrator “under the direction of the Mayor and Council.”

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Table 14

BUDGET TIMELINE AND HEARINGS²¹

What is the deadline for presentation of the proposed budget; council’s initial action on mayor’s proposed budget; and how many public hearings must the council hold?

City	Mayor	Council	Min. Hearings
Los Angeles	April 20	June 1	1
San Diego	1 st May meeting	June 15	2
San Francisco	Per ordinance	Per ordinance	Per ordinance
Fresno	June 1	--	1
Oakland	Per resolution	--	2
Denver	3 rd Mon. in Oct.	1 st Mon. in Nov.	1
Seattle ²²	--	--	--
Sacramento – Current	May 2	--	1
Sacramento – Proposed	April 2	May 31	2

E. VETO AND OVERRIDE

1. Current City Charter

- The Mayor is a member of the City Council with the same voting rights as other members, with no veto power. On most matters five votes are required to pass a motion and adopt resolutions and ordinances.

2. Strong Mayor Plan

- Mayor has veto power, including line item veto power, over budget. (See Section D, above.)
- Mayor can veto ordinances.
- Mayor cannot veto emergency ordinances, ordinances required by state law, election-related ordinances, zoning ordinances, development agreements, land use decisions or actions, the Council’s budget, or any matters under the exclusive purview of the Council.

²¹ All of the California cities commence the fiscal year on July 1. Denver’s and Seattle’s fiscal years begin January 1.

²² Seattle’s process is not in its charter; state law governs. (See Chapter 1, *supra*.)

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- Mayoral veto must be exercised within ten days. Failure to veto within ten days amounts to approval.
- For ordinances, Council has 30 days to override mayor's veto. For the budget, Council has ten days to override the mayor's veto.
- Six (6) votes are required for override.

3. Comparison Cities

The mayors in strong mayor cities have powers to veto but not vote, except in Oakland, where the mayor has no veto but may vote if the council is evenly divided. Only in Denver and Los Angeles does the mayor's vote not extend to resolutions. In this regard, the Strong Mayor Plan proposes a veto power not as broad as most other Comparison Cities. One issue that may need clarification, however, is the veto authority over resolutions directly impacting the budget. For example, it is a frequent occurrence that city departments receive large grants during a fiscal year; the resolution authorizing grant acceptance typically includes a provision for modification of the department's budget to account for the grant.

In terms of override, San Diego, Fresno, and Denver specify the number of votes, rather than the usual "two-thirds" ratio. Such would be the case with the Strong Mayor Plan, which would require six votes to override a veto. (In any case, to meet a two-thirds threshold would require six votes on either an eight or nine person council.) Typically, if a more-than-majority vote was required in the first instance, the override threshold is at least as high, or higher, than the first vote. For example, in Los Angeles, if the ordinance required a two-thirds vote to pass, the override must be a three-fourths vote.

The most common time period for a mayor's veto is ten days. Days are measured from delivery to mayor. For the mayor's veto, San Diego's charter specifies ten "business days," while council's ordinance/resolution 30-day veto override is specified as "calendar" days. Thirty days is the most common time period for ordinance veto override. For budget veto override, the period is usually shorter – potentially as short as three days in Denver. The Strong Mayor Plan suggests similar ten-day/30-day time periods for vetoes and overrides, respectively, except for a ten-day override for the budget.

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Table 15

VETO

What is the scope of mayor's veto?

City	Ordinances	Resolutions	Budget ²³
Los Angeles	X	--	X
San Diego	X	X	X
San Francisco	X	X	X
Fresno	X	X	X
Oakland	--	--	--
Denver	X	--	X
Seattle ²⁴	X	X	X
Sacramento – Current	--	--	--
Sacramento – Proposed	X	--	X

Table 16

MAYOR'S VETO TIMELINE

How many days does mayor have to exercise veto?

City	Days to veto
Los Angeles	10
San Diego	10
San Francisco	10
Fresno	10
Oakland	--
Denver	5 ²⁵
Seattle	10
Sacramento – Current	--
Sacramento – Proposed	10

²³ Includes line item veto.

²⁴ In Seattle, “[e]very legislative act of said City shall be by ordinance.” (Seattle City Charter, Art. IV, § 7.)

²⁵ Variable but potentially 4 days for the budget.

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Table 17

COUNCIL'S OVERRIDE TIMELINE -- ORDINANCES

How many days does council have to override ordinance veto?

City	Days to override
Los Angeles	45 ²⁶
San Diego	30
San Francisco	30
Fresno	30
Oakland	--
Denver	Not specified
Seattle	30
Sacramento – Current	--
Sacramento – Proposed	30

Table 18

COUNCIL'S OVERRIDE TIMELINE -- BUDGET

How many days does council have to override budget veto?

City	Days to override
Los Angeles	5 (excl. Sat., Sun., & holidays)
San Diego	5 business days
San Francisco	10
Fresno	30
Oakland	--
Denver	Variable, potentially 3 ²⁷
Seattle	5-30
Sacramento – Current	--
Sacramento – Proposed	10

²⁶ Forty-five days after first post-veto council meeting, when mayor's disapproval is presented.

²⁷ That is, at the second regular meeting in November, which potentially follows the mayor's noon Friday veto deadline from the previous week.

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Table 19

COUNCIL VOTES TO OVERRIDE

How many votes are required to override a mayoral veto of an ordinance?

City	# of Council members	Override votes
Los Angeles	15	10
San Diego	9	6
San Francisco	11	8
Fresno	7	5
Oakland	--	--
Denver	13	9
Seattle	9	6
Sacramento – Current	--	--
Sacramento – Proposed	9 (8 for 2 years)	6

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F. TERM LIMITS

1. Current City Charter

- No term limits.

2. Strong Mayor Plan

- The proposed plan suggests three major options, two of which have sub-options:
 - No term limits.
 - Limit on “successive” terms
 - 2 full terms
 - 3 full terms
 - Limit on lifetime terms:
 - 2 full terms
 - 3 full terms
- Council terms would not count against mayoral terms, and vice versa.
- Term limits would only affect terms commencing after the effective date of the Charter change.
- A “full term” would include any term equal to or greater than 2 years.

3. Comparison Cities

All of the Comparison Cities, except Seattle, have term limits. The term of office in all Comparison Cities is 4 years. As a general rule (Fresno’s charter is silent), partial terms in excess of two years are considered full terms for purposes of determining term limits. Notably, only Los Angeles does not specify the limitation on terms as relating to “consecutive” or “successive” terms. When limits are for “successive” terms, a person can serve again after an intervening period. In San Francisco, Fresno, and Denver the intervening period is 4 years. Without such a qualifier, the limit is a lifetime limit.

Strong mayors generally are capped at two terms. Only Denver allows three consecutive terms for mayor. Los Angeles joins Denver in allowing three terms for council members.

Although the proposed plan does not yet select between the number of terms or successive/lifetime limits, its other term limit aspects are consistent with the Comparison Cities’ rules: mayor and council member terms do not count against each other; “full

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terms” are those equal to or exceeding half the normal term; and term limits only effect terms commencing after the effective date of the charter change.

Table 20

TERM LIMITS -- MAYOR

How many terms may mayor serve? Does charter state limit as “consecutive” (or “successive”)?

City	# of Terms	Consecutive?
Los Angeles	2	N
San Diego	2	Y
San Francisco	2	Y
Fresno	2	Y
Oakland	2	Y
Denver	3	Y
Seattle	Unlimited	--
Sacramento – Current	Unlimited	--
Sacramento – Proposed	?	?

Table 21

TERM LIMITS -- COUNCIL

How many terms may council member serve? Does charter state limit as “consecutive” (or “successive”)?

City	# of Terms	Consecutive?
Los Angeles	3	N
San Diego	2	Y
San Francisco	2	Y
Fresno	2	Y
Oakland	Unlimited	--
Denver	3	Y
Seattle	Unlimited	--
Sacramento – Current	Unlimited	--
Sacramento – Proposed	?	?

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G. ETHICS PROGRAM

1. Current City Charter

- No ethics commission or ordinance required.²⁸

2. Strong Mayor Plan

- The proposed plan would require the City Council to adopt an ethics ordinance.

3. Comparison Cities

The Comparison Cities span a spectrum of approaches to ethics programs. Los Angeles has the most detailed provisions, spanning over six pages of the charter and covering such things as duties, regulations, issuance of opinions, investigations and enforcement, and even appointment of a special prosecutor. San Francisco's charter is nearly as detailed, while Oakland's is leaner, leaving the commission's function, duties, and powers to a council-adopted ordinance. The San Diego City Charter does not create a commission or require an ordinance, but formally recognizes the existence of an Ethics Commission that is established by ordinance. And in Denver the charter requires the council to adopt a Code of Ethics by ordinance that also establishes a Board of Ethics with specified functions.

The proposed plan does not indicate what type of ordinance would be required. Of the Comparison Cities, the proposed plan appears to aspire to the provision in Denver's charter, but it is unknown whether a Board of Ethics would be created by the ordinance, or what level of detail the charter would provide for the ordinance's scope.

²⁸ Nonetheless, the Sacramento City Code does have several chapters addressing ethics issues, including Chapter 2.13 (campaign contributions), Chapter 2.15 (lobbyist registration), and Chapter 2.16 (conflicts of interest); and annually adopts a Conflict of Interest Code by resolution pursuant to state law mandate.

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Table 22

ETHICS PROGRAM

Does charter establish an ethics commission, require an ethics ordinance, or is it silent?

City	Commission	Ordinance	Silent/Other
Los Angeles	X		
San Diego			X ²⁹
San Francisco	X		
Fresno			X
Oakland	X		
Denver		X ³⁰	
Seattle			X
Sacramento – Current			X
Sacramento – Proposed		X	

H. EFFECTIVE DATE AND REAPPROVAL

1. Effective Date

The Mayor has expressed his intention to have the Strong Mayor Plan placed before Sacramento voters on November 2, 2010, with its effective date (if passed) 30 days later – December 2, 2010.

It is questionable whether the charter changes, if passed by the voters on November 2, could actually become effective by December 2. The City consolidates its elections with the County of Sacramento. For consolidated elections, the City Clerk receives the results of the election from the County Registrar of Voters, who has 28 days to canvass the election returns. Then the City Clerk must certify the results to the City Council at its next regularly scheduled meeting (or a special meeting called for that purpose) and the City Council must adopt a resolution reciting the results. In other words, if the County takes the full 28 days to canvass the returns, the City Council will be unable to declare the November 2, 2010, election results until at least early December.

Indeed, as recently as the last mayoral election, that timeline proved problematic for installation of an elected official under the City Charter, which provides that elected

²⁹ The San Diego City Charter does not create a commission or require an ordinance, but formally recognizes the existence of an Ethics Commission that is established by ordinance.

³⁰ The mandated ordinance (“Code of Ethics”) must establish a Board of Ethics.

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officials’ terms commence “the fourth Tuesday following the first Monday in the month of November,” because the City Council did not declare the results until December 2, 2008.

Finally, charter changes are not effective until filed with the California Secretary of State. Using history and common sense as a guide, the post-election process likely will continue past December 2, 2010.

Table 23

EFFECTIVE DATE OF CHANGE

For the changes affecting mayoral power, what was the effective date of the new charter provisions?

City	Election	Effective Date
Los Angeles	June 8, 1999	July 1, 2000
San Diego	November 2, 2004	January 1, 2006
San Francisco	November 7, 1995	July 1, 1996
Fresno	April 27, 1993	January 7, 1997
Oakland	November 3, 1998	January 1999
Denver	--	--
Seattle	--	--
Sacramento – Current	--	--
Sacramento – Proposed	November 2, 2010	December 2, 2010

2. Timeline for Reapproval

Only two of the Comparison Cities – San Diego and Oakland – have offered the voters a chance to vote on extending the strong mayor system.

In March 2004 – five and one-half years after the charter was changed – the voters of Oakland approved the permanency of the strong mayor system. San Diego voters had four and one-half years under the strong mayor system before going to the polls for a permanency vote on June 8, 2010. It is interesting to note that in both cases the vote occurred before the last allowable date. In Oakland, the vote was to occur on or before November, 2004; in San Diego the original timeframe was November, 2010 or sooner. Voters in Oakland and San Diego passed their respective reapproval measures.

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Although no sunset date is specified, the proposed Strong Mayor Plan for Sacramento would have the reapproval submitted to the voters between November, 2018 and November, 2020.

Table 24

REAPPROVAL REQUIREMENT

If a date for voter reapproval was stated in the measure, what was the latest date for that vote?

City	Effective Date	Re-approval vote
Los Angeles	July 1, 2000	None
San Diego	January 1, 2006	November 2010 ³¹
San Francisco	July 1, 1996	None
Fresno	January 7, 1997	None
Oakland	January 1999	November 2004
Denver	--	--
Seattle	--	--
Sacramento – Current	--	--
Sacramento – Proposed	December 2, 2010	Nov. 2018-Nov. 2020

I. OTHER ISSUES

A. Residual Powers

Section 20 of the current City Charter states: “All powers of the city shall be vested in the city council except as otherwise provided in this Charter.” This is commonly referred to as the “residual powers” clause.

There are many instances in the Charter where specific powers and duties are explicitly conferred upon the Mayor, City Manager, City Treasurer, City Clerk, City Attorney, Police Chief, Fire Chief, Boards and Commissions and others. However, the Charter cannot and does not exhaustively detail all possible powers that could be exercised by the City. The powers not otherwise explicitly delegated in the Charter are the “residual powers” of the City.

³¹ Originally, the date was “November 2010 or sooner.” In June 2008, by ballot measure, the re-approval date was made June 2010. The June 2010 election vote made the changes permanent effective January 1, 2011. (San Diego City Charter, § 255(b),(c).)

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The Strong Mayor Plan proposes to leave Section 20 as is, leaving the City's residual powers with the City Council. Thus, if under the proposed revised Charter, there is a potential ambiguity about the powers distributed between the Council and the Mayor, the residual powers clause resolves the ambiguity in favor of the City Council.

B. Ninth Council District

The current Charter provides that the City shall be divided into eight council districts. Each of the eight council members (other than the mayor) are nominated and elected by the electors of the district in which such person resides. One half of the members are elected during even-numbered years.

The charter further provides that within 6 months of receiving the regular United States census population data the City Council shall, by ordinance, modify district boundaries. Districts must be as nearly as equal in population as required under the federal and state constitutions, and must be drawn with consideration of geography, compactness, community of interests, neighborhoods, and other factors as set forth in Charter section 23. As 2010 is a census year, the City Council will be passing a redistricting ordinance in mid to late 2011.

The proposed Strong Mayor Plan would add a ninth council district. If the charter revisions took effect by mid-2011, the upcoming redistricting ordinance would need to set boundaries for nine districts. In addition to changing Charter sections 21 (composition of council) and 22 (number of districts), the creation of a ninth district would also require a change to section 152 (elections) to place the ninth district election on the 2012 election cycle, which currently includes the even-numbered districts.

An elected official's term cannot be shortened during his or her term. If, for example, the reapproval vote were to happen in November 2020, but the ninth district councilmember won the seat at the June 2020 primary, and was seated before the charter change is filed with the Secretary of State and before the City redistricted back to eight districts in 2021, the council member may be unconstitutionally deprived of his or her seat. A vote in 2018 or 2019 would be preferable to a vote in 2020 under this scenario.

Alternatively, one of the terms could be a 2 year term to put the ninth district on par with the other odd-numbered districts (and to create an equal distribution of elected officials each two year period because the mayor is elected with the even-numbered districts), with the first term of the ninth district council member running from 2012 to 2014. In that instance, a reapproval in 2019 or 2020 would require a 2022 sunset, when the ninth district council member's second regular term expires; or, there could be a sunset in 2018, with an earlier reapproval election. That is just one possibility.

In sum, the details for the ninth district will need to be carefully considered, if and when proposed charter language is drafted.

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C. Votes to Pass an Item

The Strong Mayor Plan proposes no change to the number of votes required to pass a Council item. Generally, 5 votes are required, but there are exceptions. For example, under Charter section 32, emergency ordinances require six votes; and under Charter section 203, suspension of competitive bidding requires a two-thirds vote.

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CHAPTER THREE: CHARTER CHANGE HISTORIES FOR COMPARISON CITIES

1. Los Angeles

Although Los Angeles had a mayor-council form of government since its 1925 charter, transformation from a weak-mayor system to a strong mayor system came in June 8, 1999, when voters approved a New Charter by a margin of sixty percent to forty percent. The New Charter went into effect on July 1, 2000.

In the first year of his administration (1992) Mayor Riordan convened several meetings with prominent civic leaders to start charter reform. During this time, however, advisors to Riordan encouraged him to fulfill other campaign promises, such as improving public safety and increasing the number of LAPD officers, before initiating charter reform. After several unsuccessful efforts to get Council concurrence with the appointed charter commission's recommendations, in 1996 Riordan supported a petition-driven initiative to create a district-elected charter reform commission. The voters approved the initiative creating the charter commission in April 1997 while simultaneously electing the commission's members in the April primary and the June runoff elections. The elected commission consisted of ten members endorsed by organized labor, three by Riordan, one by both, and one independent and included elected Charter Reform Commission chairman Erwin Chemerinsky.

A council-appointed Charter Reform Commission operated concurrently but separately, with both commissions ultimately blending their respective recommendations for charter reform into one compromise proposal for submittal to the voters. One point of contention between the two commissions was the mayor's power to fire department heads (general managers). The compromise reached was the mayor could fire general managers and the Council could reinstate general managers by a two-thirds vote, but only if the general managers appealed their dismissals.

The mayor gained significant authority in the New Charter, receiving the power to grant pay raises to general managers within guidelines set by the Council. The mayor also gained the power to direct intergovernmental relations. The mayor also gained unilateral firing authority of appointed city commissioners without Council veto. Finally, the New Charter required the creation of a system of self-elected advisory neighborhood councils, and it prevented the Council from modifying decisions made by city commissions.

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2. San Diego

In November 2004, the voters approved strong mayor trial Proposition F (51.43% Yes; 48.57% No). The measure amended the charter to suspend certain provisions of the charter to create a Mayor-Council form of government for a five-year trial period. By the charter's own terms, the change to a Strong Mayor did not become effective until January 1, 2006—more than one year after passage of Proposition F. The strong mayor system became permanent by vote of the San Diego electors on June 8, 2010.

After Proposition F passed, two committees were established to address the details associated with the transition to a Mayor-Council form of government. The City Council Transition Committee was established by the city council on April 18, 2005, and was composed of all council members except the mayor. The committee met frequently to develop recommendations, regarding how the new role of the council would be implemented. The Citizens' Advisory Committee was created by the council on March 1, 2005, and included 11 members. Its purpose was to provide input and assistance to the council throughout the transition process.

In January 2007, Mayor Jerry Sanders called for the establishment of the San Diego Charter Review Committee, as he had noted a number of problems in the shift away from the Council-Manager form of government. After little more than a year of operating under the strong mayor trial form of governance, Mayor Sanders wrote:

“In the City’s first year operating under Article XV: Strong Mayor Trial Form of Governance it has become apparent there are a number of areas where clarification and fine-tuning would help achieve the original intent of this reform. . . I believe that we can all agree roles and responsibilities are unclear, the business of the public is not optimally served, and that a fresh review of this Charter section is a timely priority.”³²

At Mayor Sanders' request a 15-member 2007 Charter Review Committee was formed and presented its final report on October 4, 2007. The committee made 11 recommendations for the 2008 ballot; 3 recommendations for a later ballot; and identified 11 items for potential future study by a future committee. An altered version of one of its recommendations was placed on the ballot and approved at the June 2008 election as Proposition B. Proposition B modified the sunset provision in Proposition F by requiring the city council to place on the 2010 ballot a vote on permanency of the strong mayor charter structure. Also in June 2008, the voters passed Proposition A (exempting core public safety services from managed competition) and Proposition C (modifying certain charter officer responsibilities, and modifying the treasurer appointment process); both of those measures resulted from the 2007 Charter Review Committee's recommendations.

³² Memorandum from Mayor Jerry Sanders to City Council, dated January 22, 2007.

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3. San Francisco

In 1993 voters mandated through Proposition N a thorough review and revision of the 1930's drafted Charter. In 1994, the Charter Reform Advisory Task Force and Citizen's Advisory Committee on Charter Reform were established. However, the Board of Supervisors declined to place the measure developed by the task force and committee on the 1994 ballot.

A new group was created by the Board of Supervisors in 1995, the Select Committee on Charter Reform. Like the 1994 proposal, the document proposed by the committee in 1995 was based on the 1980 proposed charter. Reform highlights included shortening the 370-page document to 88 pages; modernizing the charter by eliminating sexist language, guaranteeing diversity and inclusion in city government, and protecting civil rights; merging the recorder and assessor functions; increasing government accountability; and giving some of the chief administrative officer's (CAO) authority to the mayor while replacing the CAO with a city administrator. Proposition E passed on November 7, 1995, 58 percent to 42 percent, and the new charter became effective July 1, 1996.

4. Fresno

The "strong mayor" amendments approved by Fresno's voters were originally formulated by a Charter Review Committee. The committee consisted of 9 members – one from each council district, plus three at large. The formation of the committee was a result of the recommendations of the Little Hoover Commission. The committee met for the first time on July 15, 1992.

The Charter Review Committee formed several subcommittees – Academic/Research, Citizen Input, Official Input, and Finance. The full committee met regularly for three months. It met with a panel of academicians, elected city officials, citizens, citizen groups, and other local officials. It received materials from the city, the League of California Cities, and the Fresno League of Women Voters.

The committee presented its written recommendations to the Fresno City Council on November 3, 1992. The council thereafter placed the charter amendment measure on the ballot for 1993. Fresno voters approved the charter amendments creating the Mayor-Council form of government in April 1993. However, by the express terms of the charter amendment measure, the Mayor-Council form of government did not become operative until January 1997. (1997 was the year of the next city-wide mayoral election.)

5. Oakland

In both 1992 and 1996 (Measure F) Mayor Elihu Harris unsuccessfully attempted to get approval for broad charter changes establishing a strong mayor system in Oakland. Mayor Harris' efforts met with criticism in the press alleging Mayor Harris' inability or

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unwillingness to exercise leadership under the then existing Council-Manager form of government.

With the backing of mayoral candidate Jerry Brown, strong mayor charter reform Measure X met success at the polls in November, 1998 after the June, 1998 election in which Jerry Brown was elected mayor. Packaged with the strong mayor provisions in Measure X were a number of reforms characterized by analysts as electorally popular including: a two-term limit on the mayor, an elected city attorney, a requirement that all council pay raises be voter approved, and a sunset date on the strong mayor provisions. Measure X was placed on the ballot with the mayoral election via the petition initiative process.

On April 1, 2003, the city council established a Measure X Limited Charter Review Committee (15 members), to prepare for city council consideration proposed charter amendments related to eight specific aspects of Measure X. The committee held seven televised meetings, and reported back to council in September 2003. One of those recommendations (Measure P) went to the voters in March 2004. Passage of Measure P repealed the sunset provision of Measure X making permanent the strong mayor system.

6. Denver

Denver has been operating under a strong mayor charter since 1904, except for a brief spell from 1913 to 1916, when the voters tried a commission form of government. In 1916, they approved another charter amendment giving complete executive power back to the mayor. Since that time there have been many separate amendments to the charter, and a Charter Revisions Committee of the City Council meets regularly to look at potential changes and additions. Many of the amendments to the charter have slowly diminished the power of the mayor.

7. Seattle

Seattle has had four separate charters during its lengthy history. Each has been subject to both minor and major revisions and amendments. The first Charter (1869) was approved by an act of the Territorial Legislature. The three subsequent charters were Freeholder Charters (1890, 1896 and 1946). Freeholder Charters are written by citizens elected at special Freeholder elections and then submitted to the electorate for ratification. Two proposed Freeholders Charters submitted in 1914 and 1975 were rejected by the electorate. The last revision of the 1946 charter occurred on November 6, 2007. None of these revisions affected the form of government, but did affect ballot measure procedures.

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APPENDIX A: “ACCOUNTABILITY PLAN OF 2010: DETAILED CONCEPTUAL DRAFT (Updated 5.25.10)”

ACCOUNTABILITY PLAN OF 2010: DETAILED CONCEPTUAL DRAFT (Updated 5.25.2010)

Below is a summary of proposed changes to the City of Sacramento Charter. This document was prepared by the Office of the Mayor in partnership with the City Attorney’s Office. It is intended to advance public dialogue on key issues and options under discussion. Please note this is only a draft; exact terms and language will be determined by the Mayor and Council at a future City Council meeting.

	CURRENT CHARTER	PROPOSED PLAN
Executive duties		
Chief Executive Officer	City Manager	Mayor ¹
State of the City required?	No	Yes. Present annually to public by March 1
Contracting Authority	Council; City Manager per ordinance	Same as current
Council Meetings		
Runs council meetings	Mayor	Council President elected by Council. ²
Assumes role of Mayor in case of declared vacancy	Vice Mayor	Council President
Mayor’s role in open session	Participate ³ and vote	May not participate or vote.
Mayor’s role in closed session	Participate and vote	May participate, no vote.
City Manager’s role at Council Meeting	Participate, no vote	Same as current
Appointment Responsibilities		
City Manager	Appoint: Council (5 votes) Remove: Council (6 votes)	Appoint: Mayor w/Council concurrence (5 votes) Remove: Mayor
City Clerk, Treasurer, Attorney, Auditor and Independent Budget Analyst	Appoint: Council (5 votes) Remove: Council (5 votes)	Same as current
Assistant City Managers and Department Heads	Appoint: City Manager Remove: City Manager	Appoint: Mayor w/Council concurrence (5 votes) Remove: Mayor
Other city employees (unrepresented and represented)	Appointed/removed by appointing authority ⁴	Same as current
Boards & Commissions	Appoint: Mayor w/Council concurrence (5 votes) Remove: Council (5 votes)	Same as current
Budget		
Propose and present preliminary budget	City Manager 60 days before fiscal year	Mayor 90 days before fiscal year
Amend and adopt budget	Mayor and Council	Council
Required number of public hearings	One hearing	Two hearings - first within 15 days of proposal
Council deadline to return modified budget to Mayor	N/A	30 days prior to end of current fiscal year
Contingency if budget not adopted on time	Prior budget effective until new budget passed	Same as current
Budget amendments	Same process as for adoption	Same process as for adoption
Veto		
Scope of veto	N/A	Budget and Ordinances only ⁵
Mayoral veto timeline	N/A	Veto within 10 days or automatically approved
Council override timeline	N/A	Budget: Override (6 votes) within 10 days Ordinances: Override (6 votes) within 30 days
Term Limits⁶		
Maximum terms as Mayor	None	Option 1: None Option 2: 2-3 full terms in succession Option 3: 2-3 full terms in lifetime
Maximum terms as Council Member	None	Option 1: None Option 2: 2-3 full terms in succession Option 3: 2-3 full terms in lifetime
Ethics Program		
Charter requires Council to adopt ethics ordinance?	No	Yes
Voter Re-approval		
Effective Date	N/A	December 2, 2010 (30 days after Election Day)
Timeframe to place re-approval measure on ballot	N/A	Between November 2018 and November 2020
Other Issues		
Residual Powers	Council	Same as current
Ninth Council District	N/A	Election in 2012 after 2011 redistricting.
Minimum votes needed to pass Council item	5 votes	Same as current. ⁷

¹ City Manager will retain several specific administrative duties laid out in charter, such as sitting on specific boards and commissions.

² Council President will be elected by Council, similar to how the Vice Mayor is currently selected. The Council President may be re-elected to successive terms.

³ “Participate” in this sense means to speak alongside the Council from the dais. The Mayor, as with any other member of the public, would always be able to attend and speak as a citizen.

⁴ Currently, the Mayor, Council, City Clerk, City Treasurer, City Attorney, City Auditor and Independent Budget Analyst have appointing authority over their respective staffs.

⁵ Budget veto includes line items. Exceptions where Mayor may not veto include: emergency ordinances; ordinances required by state law; election-related ordinances; re-zoning; development agreements; land use decisions/actions; Council budget; and any other matters under the exclusive purview of the Council.

⁶ Term limits would impact terms that commence after effective date. Council terms would not count towards future Mayoral service (and vice versa). Full term: >2 years. Partial: ≤ 2 years

⁷ Before 9th council member added in 2012, 4-4 council votes will not pass, as in other cities.

