



City of Sacramento

2009 Charter Review Committee

# Final Report

November 2009  
(DRAFT as of 9/16/2009)

## COVER LETTER

To The Honorable Mayor, Council Members, and Citizens of Sacramento,

[RESERVED]

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## EXECUTIVE SUMMARY

[Reserved]

## 1. BACKGROUND

The Sacramento City Charter is the foundational document for City governance. The Charter establishes the basic rules for the City government and is the source of the City's system of checks and balances that prescribe the relationship between elected officials and staff. Among other things, the Charter establishes the number of officials who are elected to serve the public, the number of districts from which they are elected, and how much authority elected officials may exercise. The Charter also determines how City elections shall be conducted, including the process for redistricting. The Charter may only be amended or repealed by a majority vote of the City's voters.

Since 1921, Sacramento has operated under a Council-Manager form of government where the executive and legislative functions are combined, similar to a parliamentary model. In such a system, the Mayor and City Council meet, deliberate and vote as one body. This elected body establishes policy direction and appoints a professionally trained City Manager to oversee the daily operations of the City and implement its policies. While there have been numerous amendments to the City Charter during the ensuing years, no comprehensive review has occurred in decades.

In early 2009, a proposed Charter amendment initiative to change the City's governance structure, from Council-Manager to Mayor-Council, was pending submittal to the City Clerk from Mr. Thomas Hiltachk (Initiative Measure). A Mayor-Council form of government separates the executive and legislative functions similar to the state and federal models. In such a system at the local level, the executive (Mayor) is responsible for administration of the City and typically does not sit with, deliberate or vote with the legislative body (City Council). However, the Mayor is generally provided some form of veto power over the legislative body and enhanced appointment power given his/her City administrative responsibilities.

At the January 6, 2009 City Council meeting, several Council members indicated they had received numerous constituent inquiries related to the merits of the Mayor-Council proposal. In addition to related requests by Council members, Council Member Kevin McCarty requested a workshop and report to aid the Council in formulating their assessment of the Initiative Measure.

The City Council reviewed a report by the City Attorney comparing and analyzing the Initiative Measure on February 3, 2009. The report included the following:

- A comparison of the proposed Initiative Measure and the charters of the ten most populous California cities;
- The legal process by which the ten most populous California cities revised and adopted their charters and charter amendments; and
- The legal process by which the City of Sacramento may revise and adopt Charter amendments.

The City Council subsequently directed City staff to provide a report on options and recommendations for establishing an advisory body to review the City's Charter. This report was presented to the Mayor and Council on February 17, 2009. At this meeting, the Mayor and Council

voted unanimously to create the 2009 Sacramento Charter Review Committee with the adoption of Resolution R2009-095 (see Appendix A).

Resolution R2009-095 created a Committee composed of eleven (11) members subject to the following requirements:

- Two members to be appointed at large by the City Council through an application and interview process (recommendations to be provided by the Personnel and Public Employees Committee). At large members were required, by education, experience or training, to come from the fields of the law, academia, or public administration/policy.
- The next nine members to be appointed individually by the Mayor and each of the eight (8) Council members.
- Confirmation of each member by a majority of the City Council.

The Committee's twice-monthly meeting schedule began on April 2, 2009.

## 2. CHARGE OF THE MAYOR AND CITY COUNCIL

Resolution R2009-095 charged the Committee with meeting at least twice per month and reviewing the Charter in its entirety, with openness to input from all citizens. The City Council required the following issues be given particular consideration and be addressed in the final report:

- The City's governance structure: Mayor-Council versus Council-Manager, and the issues related thereto;
- The delegation and/or reservation of City powers;
- Appointment and removal of City officers and employees;
- The City budget process;
- Green waste disposal;
- Full-time status for Council members and issues related to full-time status for Mayor and Council;
- Term limits;
- Ethics Commission;
- Timing of City general run-off elections, and instant run-off or alternative runoff procedures for City elections.
- Other issues as indicated by the City Council.

The Resolution required Committee progress reports to the City Council in the months of June, August and October 2009. Additionally, the Resolution required a preliminary set of recommendations be presented to the City Council by December 15, 2009 and a final report by January 26, 2010.

Resolution R2009-095 also provided direction regarding the process for reaching decisions. Final recommendations required at least seven (7) member votes. The Resolution authorized members to prepare a minority report to be included with the Committee's written reports to the City Council if desired.

On August 6, 2009, the City Clerk presented a report to the Mayor and City Council indicating the Initiative Measure submitted by Mr. Hiltachk received a sufficient number of signatures to be considered by the voters. The Mayor and City Council subsequently voted to place the Initiative Measure on the June 7, 2010 ballot.

The Council's decision prompted a discussion of whether to accelerate the Committee's time table. Considerations for an accelerated Committee time table included:

- Ensuring adequate time to receive the Committee's report and discuss its recommendations with each other and the community.
- Providing the City Attorney's Office adequate time to draft an alternate measure(s) for the June 8, 2010 ballot if so desired.

On August 25, 2009, the City Council unanimously adopted R2009-559 (see Appendix B). Resolution R009-559 revised the Committee's charge and accelerated the final report's submittal

date to no later than November 3, 2009. The Committee's refined charge included only the following issues:

- The City's governance structure: Mayor-Council versus Council-Manager, and the issues related thereto;
- The delegation and/or reservation of City powers;
- Appointment and removal of City officers and employees;
- The City budget process;
- Full-time status for Council members and issues related to full-time status for Mayor and Council;
- Term limits;
- Ethics Commission;
- Timing of City general run-off elections, and instant run-off or alternative runoff procedures for City elections.

The new Resolution also required the Committee to provide two Supplemental Reports. Supplemental Report No. 1, due by December 1, 2009, will focus on Committee recommendations related to Ethics Commission and full-time status of Mayor and Council Members. Supplemental Report No. 2, due by January 19, 2010, will focus on Committee recommendations related to Primary/General Election Scheduling and Instant Runoff elections.

Given the Council's accelerated timeline for governance and budget related recommendations, the Committee appreciated the time granted to complete its study of the Supplemental Report issues.

### 3. THE CHARTER REVIEW PROCESS

The Committee met for the first time on April 2, 2009. An independent communications consultant (Michelle McCormick, Executive Vice President, CirclePoint) facilitated the Committee's discussions before the formal selection of the Committee's Chair and Vice Chair occurred during the Committee's meeting on April 20, 2009.

The Committee's first two meetings focused on orientation and planning issues, including a review of the Ralph M. Brown Act, parliamentary procedure, the City's Charter and governance structure, and the Initiative Measure (now certified for the June 8, 2010 ballot). By the Committee's third meeting on May 7, 2009, the Committee created a phased work plan to facilitate its efforts to develop recommendations. The work plan consisted of five distinct phases:

- Organization Phase
- Information Gathering Phase
- Outreach Phase
- Tentative Decision Making Phase
- Final Decision Making/Report Writing Phase

To assist in information gathering, the Committee selected 12 benchmark cities to study and contrast with Sacramento's governance structure (see Appendix C). Committee staff created a matrix reference document (see Appendix D) identifying data about each benchmark city's governance structure and the characteristics of the certified initiative.

Beginning in May, 2009, the Committee convened presentations and panels of academics, practitioners and representatives of organizations to discuss governance structure, election processes, and related issues. The Committee directed staff to assemble speakers with a wide variety of perspectives and experience on the various issues. The Committee's practice of assembling panel discussions and individual testimony continued through the Committee's meeting on August 3, 2009. In total, the Committee received approximately eleven hours of testimony from sixteen individuals. Materials received by the Committee are included in Appendix E.

Committee staff created a website for the Committee ([www.cityofsacramento.org/charter](http://www.cityofsacramento.org/charter)) to organize the Committee's activities. Meeting agendas and materials were available via a link on the website. Archived video of the meetings and a bibliography of materials compiled by the Committee were archived on the website. The website also provided additional resources for the public and Committee members including the following:

- Governing Resolution
- Committee Member biographies
- Committee Progress Reports
- Frequently Asked Questions document (see Appendix F)
- Brown Act information
- Links to the charters of the benchmark cities
- Background information on the Brown Act

#### 4. PUBLIC OUTREACH

The Committee's governing resolution emphasized openness to input from all citizens and the Committee utilized several strategies to meet the Mayor and Council's expectations.

As a matter of law, all Committee meetings were open to the public and publicly noticed in accordance with the Ralph M. Brown Act. Meetings were also video streamed live on the Internet (via the City's website) and archived for viewing at later dates. The Committee conducted meetings twice per month between April 2009 and January 2010. Each meeting allocated time for public comments.

Initial Committee outreach efforts focused on education and information. During July 2009, Committee members presented at four (4) neighborhood area group community meetings located in different geographical areas of the City. The Committee's July presentations discussed the Committee's charge and timeline, the City's Charter, and ways to become actively involved in the Committee's activities. Approximately 200 people representing neighborhood groups and associations attended the July meetings. Attendees learned the Committee's website featured a "Share Your Comments" tool to allow members of the public to provide comments to Committee members. All comments were included in the correspondence materials Committee members received before each meeting. Meeting attendees also received an informational brochure explaining the Charter Review Committee.

In September and October 2009, the Committee held a Town Hall Meeting Series on the City's Charter. Nine (9) Town Hall Meetings were conducted in locations throughout the City and in all City Council districts. Attendees learned about the Committee's Draft Report and provided public comments on its recommendations. Approximately \_\_\_\_ people attended the Town Hall Meeting Series.

The Committee also utilized an email sign-up service (via [www.GovDelivery.com](http://www.GovDelivery.com)) for members of the public interested in receiving periodic email updates on the Committee. Approximately 100 subscribers received periodic email updates by the conclusion of the Committee's charge.

## 5. RECOMMENDATIONS (TENTATIVE)

The Committee's governing resolution required final recommendations to be approved by an affirmative vote of at least seven (7) Committee members. Members who did not approve a recommendation were authorized to prepare a minority report (see Chapter 6) to be included in the Committee's report to the Mayor and City Council.

To facilitate its ability to develop recommendations, the Committee agreed to develop tentative decisions before conducting its nine-meeting Town Hall Meeting Series on the City Charter. The Town Hall Meetings provided an opportunity for the public to learn the Committee's perspective on various issues. More importantly, however, the meetings provided an opportunity for the community to provide the Committee with specific feedback on the Committee's tentative decisions.

The Committee developed its framework for reaching tentative decisions at its July 20, 2009 meeting. The framework consisted of a two-meeting decision making process. During the first meeting, the Committee discussed a list of threshold items/questions for an issue. If there was consensus, the Committee directed staff to draft a tentative decision to be voted on at the second meeting. During the second meeting, the Committee and deliberated each issue and voted.

The following Committee tentative decisions on governance structure issues were reached by the Committee during their deliberations in August and September 2009. Each recommendation requires seven (7) affirmative votes to be considered in the Committee's Final Report.

### **Unified Legislative and Executive Policy Functions**

Tentative Recommendation: Legislative and executive policy functions remain unified. Mayor remains a member of the City Council; Mayor continues to chair the City Council meetings and deliberate and vote with the City Council. Mayor has no veto power.

Committee members supporting this recommendation indicated, "The separation of an Executive Mayor tends to diminish the authority that is very clear in the City Council and the unified accountability in a parliamentary system (unified executive and legislative branches) is highly desirable. Accountability is one of the things we are trying to promote in Sacramento. Having the Mayor sit with and vote with the City Council creates accountability. When our founding fathers created the systems of checks and balances and divided government, they were intended to slow government down, not speed it up. The system was designed for a remote government they did not trust. When a government gets bigger and more distant from the people, the people become interested in checks and balances. If we think there is still enough public engagement through our community associations and other activities, then the Council-Manager form of government or unified Council supports that kind of community engagement. Sacramento regardless of its size still has that kind of culture today and doesn't need a divided government form at this time."

Tentative Vote: | Yes – 9 | No – 1 | Abstain – 0 | Absent – 1 |

### **Appointment / Removal of City Manager**

Tentative Recommendation: Mayor appoints the City Manager with a majority confirmation of the City Council (excluding the Mayor's vote). City Manager may be removed by the Mayor with a majority vote excluding the Mayor. Council may remove the City Manager for cause with a majority vote (excluding the Mayor's vote).

Committee members supporting this recommendation indicated, "The Mayor is elected citywide and should be able to select the City Manager. This will ensure the City Manager will be someone the Mayor can work with. It's a key position in terms of designing and executing policy."

Tentative Vote: | Yes – 6 | No – 3 | Abstain – 1 | Absent – 1 |

### **Appointment / Removal of Charter Officers (City Clerk, City Treasurer, City Attorney)**

Tentative Recommendation: Appointment and removal made by a majority of the City Council including the Mayor.

Committee members supporting this recommendation indicated, "These offices represent the Mayor, the Council and the City's government; they need to be above politics and absolutely independent. Each position also provides unique technical and specialty functions for the City as a whole. For example, in addition to other duties, the City Clerk is the custodian of City records and is responsible for municipal elections. Likewise, the City Treasurer serves as the City's Chief Investment Officer and is responsible for the City's banking transactions. These positions are not related to a policy related executive function like the City Manager's position and therefore, the appointment and removal of these positions should remain with the Mayor and Council."

Tentative Vote: | Yes – 7 | No – 3 | Abstain – 0 | Absent – 1 |

### **Appointment / Removal of Department Directors and Exempt Management Appointments**

Tentative Recommendation: Department Directors and Exempt Management appointments to remain as is - appointed and removed by the City Manager.

Committee members supporting this recommendation indicated, "The City needs professional trained staff with the expertise and experience to carry out their duties without political influence. A City Manager with a confirmation by a City Council should be able to hire the staff necessary to carry out the administrative responsibilities of the City."

Tentative Vote: | Yes – 6 | No – 3 | Abstain – 1 | Absent – 1 |

## Budget Authority

Tentative Recommendation: Mayor shall issue an annual statement of policy priorities each January. City Council shall review, modify and/or approve the Mayor's statement of policy priorities and transmit to the City Manager for the purpose of preparing a budget based upon the adopted statement of policy priorities.

Committee members supporting this recommendation indicated, "We desire the Mayor's role to be invested more than it is today in the City's budget preparation process and developing its corresponding policies. Formalizing the Mayor's role in the development of an annual statement of policy priorities and explaining them will add consistency to and a clearer articulation of the Mayor's priorities. This will also provide more prominence to Mayor's role in shaping citywide policy because it requires others to react to the proposal."

Tentative Vote: | Yes – 9 | No – 1 | Abstain – 0 | Absent – 1 |

## Effective Date for Proposed Charter Changes

Tentative Recommendation: Effective date for proposed Charter changes should be concurrent with the Mayor's swearing in following the November 2012 election.

Tentative Vote: | Yes – 9 | No – 1 | Abstain – 0 | Absent – 1 |

Committee members supporting this recommendation indicated, "This will allow an adequate transition time to ensure a smooth implementation of Charter changes. Most cities studied by the Committee provided for a transition or trial period for forthcoming Charter changes ranging from approximately 7 months to 4 years. We note that Charter effective dates in other cities were often designed to coincide with the next Mayoral election."

## Term Limits

Recommendation: The Committee does not recommend term limits for the Mayor or City Council members.

Committee members supporting this recommendation indicated, "Voters should be able to select the elected officials they wish to represent them."

Tentative Vote: | Yes – 9 | No – 1 | Abstain – 0 | Absent – 1 |

## 6. MINORITY REPORT

[Reserved]

## 7. CONCLUSION

[Reserved]

## ACKNOWLEDGEMENTS

[Reserved]

## COMMITTEE MEMBER BIOGRAPHIES

**Bill Edgar.** Bill Edgar's career in local government service spans more than 40 years, with particular emphasis in trouble shooting, program development, local government finance and intergovernmental collaboration. He served as both City Manager and Assistant City Manager for the cities of Sacramento and Pleasanton. In addition, he developed a successful record of inter-agency cooperation as the executive directors for the Sacramento Housing and Redevelopment Agency, the Sacramento Transit Development Agency, the Sacramento City/County Office of Metropolitan Water Planning and the Sacramento Area Flood Control Agency. Bill served as a member and officer of the State Reclamation Board. He and his wife Karen opened their tax practice in 1999 when Bill retired from the City of Sacramento. Bill's contributions to the community have been honored by the American Society of Public Administration, the League of California Cities, the League of Women Voters and the Modern Transit Society of Sacramento.

**JoAnn Fuller.** Ms. Fuller is the Associate Director of California Common Cause, a nonpartisan, nonprofit citizen lobby focused on making democracy work for all and holding government accountable. She has been with Common Cause for ten years. In Sacramento, Common Cause has worked on the issues of campaign financing, ethics and lobbyist disclosure. JoAnn lives in the Spanish Tract area near Sacramento City College. She appreciates the diversity of Sacramento and looks forward to involving everyone she can in the process of figuring out what is and isn't working in our city government and what might fix our problems. Ms. Fuller participated in the Selma, Alabama 1965 voting rights march, which inspired her to be an active participant in public interest efforts, while encouraging others to take effective action for themselves on important issues of the day.

**Cecily Hastings.** Cecily Hastings is the founder and publisher of Inside Publications. They produce three neighborhood newsmagazines - Inside East Sacramento, Inside The City and Inside Arden - that are direct-mailed for free to more than 50,000 homes each month. Hastings also co-founded the McKinley East Sac Neighborhood Association in 1992 and the East Sac Chamber of Commerce in 1996. She served on the boards of each for more than a decade and spearheaded numerous fund-raising efforts for neighborhood beautification, safety and schools. She has been a resident of Sacramento for 20 years.

**Grantland Johnson.** Grantland Johnson, a native of Sacramento, has an extensive record of public service. In addition, he has worked for a number of not-for-profit non-governmental organizations. Since, May, 2007, he has served as a Senior Advisor for Strategic Policy, with Community Housing Opportunities Corporation, Inc. (CHOC). CHOC is a twenty-five year old Davis, California based non-profit developer of fordable housing. Grantland served as the Director of Community & Economic Development, for the Sacramento Central Labor Council, AFL-CIO. Grantland was appointed by former California Governor Gray Davis to the cabinet-level position of Secretary, Health & human Services Agency. He served in that position from January, 1999, until November, 2003. Mr. Johnson was appointed by President Clinton to the position of Region IX Director, within the U.S. Department of Health & Human Services. Grantland served ten years as a local elected official. From January, 1987-November, 1993, he served a member of the Sacramento County Board of Supervisors. And, he served as a member of the Sacramento City

Council from November, 1983-December, 1986. Grantland served a combined fourteen years on the Sacramento Regional Transit District Board of Directors, from October, 1976 through November, 1993. He was appointed by the Sacramento City Council in January, 1970, as a charter member of the Del Paso Heights Project Area Committee; the first neighborhood redevelopment project in the City of Sacramento. Most recently, he co-chaired the "Yes on Measure B" Committee that led the successful campaign to form the Twin Rivers Unified School District. Grantland received an Associate of Arts Degree from American River Community College, and a Bachelors-of-Arts Degree, from California State University, Sacramento.

**Alan LoFaso.** Alan LoFaso has over 20 years of policy making experience in California state government. Also a member of the State Bar, Mr. LoFaso currently serves as Chief Deputy to Board of Equalization Chairwoman Betty T. Yee. Prior to that position, Mr. LoFaso served as Chief of Staff to state Senator Carole Migden and Governmental Affairs Director for the California Public Utilities Commission. Mr. LoFaso has developed major legislative enactments in the areas of health care, energy, taxation, and civil rights. Mr. LoFaso graduated with honors from the University of Pacific, McGeorge School of Law. Mr. LoFaso is also a member of the California Democratic State Central Committee and serves as Parliamentarian of the Democratic Party of Sacramento County and Political Action Chair of the Stonewall Democratic Club of Greater Sacramento.

**Robert (Bob) Murphy.** After graduating from McClatchy High School, Bob attended U C Davis and thereafter received his J D. from UC Berkeley Boalt Hall in 1967. After military service, Bob joined Kronick, Moskovitz, Tiedemann & Girard, where he has practiced since 1969 and is now a senior shareholder. Bob is a public agency, land use, development and finance attorney. Bob currently serves as a city attorney in another jurisdiction and acts as special counsel to several cities, districts and schools. His experience includes all matters of municipal law, public and private finance, land use and redevelopment. Bob counsels private clients in the areas of finance and development law, negotiating complex transactions and ensuring regulatory compliance. Bob is a former Regent of the University of California and currently serves as the Chair of the UC Davis Chancellor's Club and on the UC Davis Foundation Board. Bob previously served as the chair of the boards of United Way Sacramento and KVIE Channel 6 and as an adjunct professor of law at Mc George Law School on Local Government.

**Chester A. (Chet) Newland.** Chester A. (Chet) Newland is a teacher at the University of Southern California, where he is the Duggan Distinguished Professor of Public Administration. He has been at USC's State Capital Center in Sacramento since 1984. He was a Sacramento Discovery Museum Trustee, 1993-1995. He has been an honorary member of the International City/County Management Association (ICMA) since 1980, following earlier involvement in local government affairs since the 1950s. He now serves on the Association's Credentialing Advisory Board, and he is also a member of the Cal-ICMA Board, 2003-2009. Dr. Newland was the initial director of the Lyndon B. Johnson Presidential Library, first working at the White House and then in Austin to establish that institution. He served twice as director of the Federal Executive Institute (FEI), the U.S. Government's training and development center for top executives. He managed the Labor-Management Relations work of the U.S. Civil Service Reform Act (Title VII) of 1978, which continues as today's framework. He has worked extensively internationally. Since 1975, he has been a Fellow of the Congressionally Chartered National Academy of Public Administration (NAPA).

**Chris Tapio.** Chris Tapio is a lifelong student of government and politics. He earned a degree in Political Science from UC Davis and has worked in the field for the last sixteen years. He is currently the president of a public policy and campaign consulting firm located in downtown Sacramento. Chris and his family live in the Pocket area, where he enjoys walking his two children to school each morning.

**John Taylor.** John Taylor is a land use lawyer who appears before local planning bodies throughout the Sacramento Region. He has been a Sacramento City resident since 1981. For ten years he taught land use law at McGeorge School of Law and prior to moving to Sacramento was a political science professor at San Diego State University. Mr. Taylor is a graduate of Chico State (B.A., Political Science) and the University of Arizona (M.A., Ph.D., Political Science, J.D.). He is the father of two college sons (University of San Diego and Chico State) and twin daughters who are high school seniors. His wife was formerly a land use planner for Sacramento County and is now an art student at Sacramento City College.

**Tina Thomas.** Tina is a founding partner at Remy, Thomas, Moose and Manley, LLP where she served as the managing partner for 28 years and is currently of counsel to the firm. She and late law partner Michael Remy founded the practice in 1982. The Sacramento County Bar Association named Tina "Distinguished Attorney" in 2005. Along with her former partners, Tina co-authored the "Guide to the California Environmental Quality Act" which is in its 11th edition (2006). Tina's clients include governmental agencies and developers and her practice focuses on the environmental and entitlement process in both administrative and judicial forums. Tina serves on a number of nonprofit boards – including Sacramento Food Bank Services and Valley Vision – and provides pro-bono representation to social-service organizations such as Francis House, Works in New Directions (WIND Center for Homeless Teens), Loaves & Fishes, WEAVE, Union Gospel Mission and The Moral Values Program. Tina received her BA from Stephens College and her law degree from the University of San Diego.

**Jay Wisham.** Jay Wisham is a firefighter with the City of Sacramento. Over the last fifteen years, he has worked in fire stations in several areas of the City, including four years in Del Paso Heights, 5 years downtown, 2 years Oak Park, and most recently at station 10 at Fruitridge and 66th. Although he was raised in the Pocket area of Sacramento, working in each of these fire stations has educated Mr. Wisham about the needs of many of the City's neighborhoods. Growing up, his father was the Assistant City Manager for the City of Sacramento, and his mother was a communications professor at Sacramento State University. Jay's wife is an attorney with Legal Services of Northern California, the legal aid program for Sacramento. They have two children and have lived in Curtis Park for ten years.

## APPENDICES

[To be attached]