

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.

A threshold consideration of the committee was whether the existing single entity structure, often referred to as a unified system, should be retained or whether it should be replaced with a system which divides the legislative and executive functions. Since the progressive era, the single entity governing body is the traditional form of local government in the U.S. Under this structure, the all elected policy makers are combined into a single entity, usually referred to as a city council, with the mayor serving as chair. This system has been in existence in Sacramento since 1921. In contrast, separation of powers – with the executive function being separated from the legislative function – is a deeply entrenched notion in the U.S. at the federal and state levels, although not at the local level.

The decision of the committee was that the existing system should be retained. Several critical factors lead to that conclusion:

1. Accountability. At the local level, the existing unified system is more accountable than would be a divided system. Under a divided system, residents often have a difficulty knowing who is actually responsible for a particular decision or policy. This point is well illustrated by the federal system, wherein presidents have often blamed Congress while the Congress blames the White House. With a single body being responsible it is clear that the city council, of which the mayor is a voting participant,

ultimately is solely responsible for the city's policymaking decisions. Put simply, under a unified system, there is no place to "pass the buck" since all power and responsibility rests with the city council.

2. Representative and Inclusive. In contrast to the federal and state governments, the decisions of local governing bodies, such as land use and direct public services, affect the daily lives of city residents in a more direct, immediate way. A unified governing body tends to incorporate the most diverse range of opinion, and is therefore more representative of the views of community as a whole. In contrast, a divided government structure is more likely to result in policy decisions with "winners" and "losers". In the words of the International City-County Management Association (ICMA), this form of local government "encourages neighborhood input into the political process, diffuses the power of special interests, and eliminates partisan politics from municipal hiring, firing, and contracting decisions." The committee believes the current structure best serves Sacramento's neighborhood-oriented political culture.

2. Community Consensus. The testimony the committee received indicated that divided government systems tend to polarize a city's policymakers. In contrast, a unified governing body tends to forge a consensus-oriented environment among the mayor and council members. More specifically, the interaction of the mayor with the council members results in the emergence of decisions and policies which are reflective of a blending of community interests and not just reflective of a particular area or segment of the community. In a city as diverse as Sacramento, this factor is extremely important because it promotes decisions and policies which are broad based and reflective of the community as a whole. The absence broad-based support often undermines the

legitimacy of rendered decisions and results in those interests which were not included becoming alienated. This is neither desirable nor healthy for a community and represents the antithesis of the inclusivity which characterizes Sacramento's political culture.

3. Community Accessibility to the Mayor. Under a divided system, the executive often tends to become a remote and isolated figure who may not be particularly accessible to the public. This is less likely to occur where a mayor sits as part of a city council, meeting in public on a regular and ongoing basis. Under a unified system, the mayor can be approached on the same basis as any other member of the city council by a citizen simply attending a council meeting and voicing a view. When a mayor is removed from this process, there is far less public access to the mayor. Greater accessibility is likely to result in the mayor being more in tune with the needs and desires of the community.

4. Direct Interaction by Mayor with City Council. It requires the interplay of a variety of interests to determine the best decision or policy for our city. Direct interaction between the council members, who represent the interests of their districts, with the mayor, who is elected at-large is crucial. Having the mayor be part of the city council allows for the interaction – and reconciliation – by these sometimes different and competing interests. This situation is more likely to promote unity and acceptance of decisions within the community. Open dialogue and feedback in a public forum between various council members and the mayor should be encouraged for open effective governance. In fact, mayors serving in cities that transitioned from a unified council system to a divided executive system reflected on this issue in their testimony to the committee. At least two expressed regret that as executive mayors they no longer

experienced the same degree of interaction and comradery with members of the city council.

5. Mayor Can Act as Leader of the Community and Council. Under the unified system the mayor is both the political leader of the community and the city council. The skills required for a mayor to lead and govern successfully in a unified council system are those qualities necessary for successful leadership generally. These include political acumen, diplomacy, consensus-building, community support, and communication. In reality, a mayor must work with the community and the council to build support for the direction in which he or she wishes to lead the community. In fact, effective leadership requires a mayor to develop a consensus to support a particular direction. Sometimes this process is difficult, frustrating, and challenging to all involved. But doing so leads to decisions which reflect democratic principles and inclusiveness. In contrast, the mechanics of divided government with legislative actions passing between the council and the executive for signature, veto, and signature often adds time-consuming steps to the policy making process while potentially losing the benefits of consensus-building or communication.

6. Experience of Other Cities. The notion that a transformation to a divided government is simply the byproduct of growth and increasing size of population is not necessarily sound or true. In fact, those other cities which presented their experiences to us clearly indicated that every community must examine its own individual goals, desires, circumstances and community culture when deciding which form of government is appropriate. The clear indication was that “no one size fits all” and that a community must choose that model which serves its own needs. The data support this conclusion.

While many large cities have decided to move to a divided executive mayor system, many other cities larger than Sacramento retain a unified system, and some have even returned to a unified system after experimenting with a divided system.

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). The 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).

The Sacramento City Charter currently provides that the city council and mayor, acting as a whole, hire the city manager, selecting among the various candidates. A two-thirds (6 of 9) majority vote now determines who is hired. This means that a city manager may be hired or retained without the support of the mayor. Experience, however, indicates that both the mayor and city council must be able to work closely with the city manager. For this reason, we recommend amending the charter to allow the mayor to appoint the city manager with confirmation by the majority of the city council, excluding the mayor's vote (5 members). That would result in 6 of the 9 city council members having to support the hiring of a particular city manager and, most importantly, that the mayor would be allowed to choose the candidate. Removal could be initiated by the mayor for any reason with confirmation by a majority vote by the city council, excluding the mayor's vote. Alternatively, or city council itself would be authorized to propose removal of the city manager for cause with a majority vote, again excluding the

vote of the mayor. In either case, with the mayor's vote excluded, 5 votes of 8 would be required to terminate a city manager.

We recommend this specific increase in mayoral authority based upon the reality that the city manager and the mayor need to work closely as a team. This change helps to ensure that the city manager is supported by and responsive to the mayor, and at least a majority of the city council. By selecting the candidate, the mayor is guaranteed a candidate that is compatible with his governing vision. And, by their confirmation the council is assured the city manager is also responsive to their individual and collective needs. This solution helps strike a balance between the ability of the mayor to work with the city manager, while simultaneously assuring support of the balance of the city council.

The recommended removal process for a city manager provides a similarly balanced process. The mayor gains the right to initiate termination allowing that to occur only with majority city council approval. A mayor can also initiate dismissal of a city manager, with whom he or she is unable to work effectively for any reason. If the mayor is satisfied with the city manager who is intolerable to the city council, the city council can proceed with termination for a specified cause. Should that occur, however, any new candidate would be appointed by the mayor, thereby maintaining the mayor's pre-eminent role in choosing a satisfactory successor.

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.

Under the existing charter, three charter officers – city clerk, city treasurer and city attorney – are appointed and subject to removal by the city council, including the mayor. We recommend this practice be continued because these offices must remain independent and in a position to exercise their judgment divorced from political pressure. More specifically, all three positions require a high degree of professional experience and judgment. The city clerk, for instance, is the keeper of the city’s official records and the city’s election official while the Treasurer manages the city’s funds and investments. It is incumbent upon the city attorney to provide objective legal advice to the mayor and city council. Subjecting any of these functions to political pressure potentially jeopardizes professional judgment and could lead to disastrous results for the city, ranging from the possibility of making imprudent investments to unnecessary legal exposure. Independence is necessary and our recommendation is intended to retain that independence.

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.

The current charter provides that the city manager appoints and can remove department directors and exempt management appointments, thereby giving the city

manager management authority over the professional staff to implement the policy decisions of the mayor and city council. The committee recommends this provision of the charter be retained for the following reasons:

1. Professional Management. It assures professional management for the city which is immune from political influence and pressure.

2. Clear Accountability. The city manager is accountable to the mayor and city council and, if there is dissatisfaction with those whom he hires, he may be held responsible. Our current charter provides a sound professional administrative structure with a proper chain of accountability.

3. Clear Lines of Authority. It prevents a department head, or other employee, from bypassing his or her superior and appealing directly to those holding political office. Management authority and control should remain vested in those who are held accountable.

4. Stability for Workforce. It provides for stability for the city's workforce and thereby enhances the quality of those candidates seeking employment with the city. This practice by extension provides for a sense of steadiness and professionalism that extends in the professional staff's service to the city's residents.

5. Prevents Patronage. It protects city positions from becoming awarded on the basis of political patronage rather than professional expertise. Professional qualifications, not politics should be the principle criterion for job selection.

6. Helps Discourage Political Corruption. It eliminates the possibility for political corruption associated with employment being based upon political factors, as opposed to professional expertise.

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.

Consistent with the council-manager system, the city's budget is enacted by the entire council by majority vote and developed by working with the city's professional staff. As outlined by City Treasurer Russ Fehr in his presentation to the committee on June 15, the city's budget process is a year-round process beginning with council planning sessions in January and February which provide guidance to city staff to refine council priorities in anticipation of the city manager's formal preparation of the budget, due on May 1 of each year.

As city staff refines technical details of the budget in the last two years, the city has developed a practice of holding between 6 and 12 public workshops--generally occurring in March and April--to provide meaningful input from city residents and to inform the public of the state of the city's fiscal situation in anticipation of formal presentation of the budget. Public input continues in May and June as part of the council's formal budget writing sessions, which must be completed by July 1. The city manager and department directors continue to meet after the beginning of the fiscal year

to examine the impact of the economy and the state of city finances in preparation for the beginning of the next budget cycle the following January.

The committee recommends building on this practice by formalizing the mayor's role to set initial priorities, as some mayors have informally done in "state of the city" addresses. Once the mayor submits his annual statement of policy priorities, the council would continue its current role through the council planning sessions early in the year. The city council would be required to react to the mayor's priorities, and then the mayor and council would forward council-approved priorities to the city manager in anticipation of the manager's formal submission of the budget later in the year.

This recommendation would add prominence to the mayor's role in shaping citywide policy. The committee desires 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 and explanation of policy priorities 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 city-wide policy by allowing the mayor to focus the annual policy discussion occurring throughout the budget process.

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.

One of the most disturbing aspects of the Strong Mayor Certified Initiative with changes effective 45 days after certification of the June 10, 2010 election results is that it does not allow for adequate transition time before being adopted as city government structure.

Of the cities the committee studied, none implemented charter changes this extensive without at least a seven month transition. Most averaged two to four years. Fresno asked voters to approve dramatic changes to the mayor's job description when they elected the mayor for the 4 year term that preceded the changes. City officials said they started meeting the year that the change was voted in, and they continued until the election of their first executive mayor four years later.

The transition issue involves two separate issues.

The first is for the voters, who without an adequate transition time, are forced to make a choice among candidates not knowing the job description of the mayor being elected. In the case of the certified initiative, voters would be asked to make a decision on changes to the mayor's job to be conferred on a sitting mayor only 18 months into his four-year term. We cannot find a precedent in the cities we studied that changed the mayor's job description with a new set of sweeping powers on a sitting mayor.

The other transition issue is for the city charter officers, department heads and other 800+/- non-union city employees whose jobs will be almost immediately transitioned from being managed by a professional city management structure to being political appointees, serving at the pleasure of the mayor. This has the potential of not

only causing chaos within city hall after the transition, but also in the time leading up to the June 2010 vote as city employees prepare exit strategies if the initiative should pass. By extension this also has the potential to affect city residents who have come to expect a sense of consistency of city employees in performing their jobs.

Term Limits

Recommendation: The committee does not recommend term limits for the mayor. The basis for the Committee's recommendation that term limits not be implemented is as follows:

1. The electorate should be allowed when and when not an individual should be returned to office. Imposition of term limits inappropriately constrains the options of the electorate.
2. Experience is often useful and the public should not be precluded from re-electing experienced office holders through the imposition of term limits.