



REPORT TO MAYOR AND COUNCIL

NO: 06-234

July 18, 2006

[Continued from 5-30-06 and 6-13-06]

SUBJECT: SELECTION OF CHARTER REVIEW COMMITTEE MEMBERS
AND DIRECTION TO CHARTER REVIEW COMMITTEE

REPORT IN BRIEF

The City Attorney presented on April 4, 2006, a study session on City Charter Review Committee Options. The study session included review of the Charter's legal basis, procedures for Charter amendments, and options for Charter review committees. On June 13, 2006, the Council considered and took action on a Report expanding on the April 6, 2006, study session and providing discussion of the City's Charter, procedures for making changes to the Charter, possible Charter revisions, and options for the selection and operation of a Charter Review Committee. The Council voted to create a 2006-07 *Ad Hoc* Charter Review Committee, established the membership at fifteen (12 registered voters and 3 registered voters or residents), provided for the selection of members and the Charter committee chair and vice-chairs, and established procedures for the selection of Committee members and officers, and guidelines for Committee operations.

Tonight's Report is brought to the Council for the identification of the two Charter Review Committee members selected by each Councilmember, the approval of the fifteenth member selected by the Mayor, the initial selection of Charter issues by the Council for the Committee to review, and budget modifications as necessary for support of the Charter Review Committee..

BACKGROUND

Cities in California are either "general law" or "charter" cities. General law cities have only those powers granted by state statute to cities. Article XI of the California Constitution authorizes the adoption of a city charter by the majority vote of a city's electorate. If adopted, the charter serves as the city's constitution and a blueprint for city government and ordinances. A city charter includes guidelines for the city's form of government, city council terms and districts, election and campaign procedures, and city departments.

The City of Sunnyvale adopted its City Charter in 1949, and it has been amended fourteen times since its adoption. The voters last amended the Sunnyvale City Charter in 2005, and modified the terms for Board and

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Commission members and clarified the authority of the Heritage Preservation Commission. Charter amendments are usually to make changes to the structure of city government or to make "housekeeping" changes to update the charter to conform to changes in state law or experience in administering the charter provisions.

One method for Charter amendments is for the Sunnyvale City Council, by a majority vote, to put proposed Sunnyvale City Charter changes on the ballot for voter approval. This was the method used for the 2005 Charter amendments. The City Council can appoint an *Ad Hoc* Charter Review Committee to assist the Council in reviewing the Charter and to make recommendations to the Council on what Charter amendments to place on the ballot. On June 13, 2006, the City Council took the following actions regarding the 2006-07 *Ad Hoc* Charter Review Committee:

1. Established a fifteen-member Charter Review Committee with each Councilmember nominating two individuals, and the Mayor nominating the fifteenth member, subject to Council approval.
2. A minimum of twelve members of the Charter Review Committee must be registered Sunnyvale voters. The additional three members may be either Sunnyvale registered voters or Sunnyvale residents not registered to vote.
3. The Chair and two Vice-Chairs of the Committee will be selected by the Committee.
4. Current Councilmember's family members within the second degree (parents, grandparents, children sisters or brothers, nieces and nephews, uncles and aunts, and members of their household) are excluded from nomination to the Charter Review Committee.
5. The authority of the Charter Review Committee is limited to the Charter and the Charter Review Committee has the discretion to identify, review and make recommendations on any Charter provisions subject to these priorities and restrictions:
 - i. The Committee should give highest priority to any Charter issue selected by a majority of the Councilmembers.
 - ii. The Committee should give second-highest priority to any Charter issue selected by an individual Councilmember.

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- iii. The Committee must provide for public notice and opportunity for comment by the public, Councilmembers and Board and Commission members before making any recommendation.
 - iv. The Committee should look first at those Charter issues identified by the Council; if time allows the Committee may look at any additional Charter issue it determines needs review and a recommendation.
 - v. The Committee should attempt to review relevant research and expert testimony on any Charter issue where such research is reasonably available from the League of Cities, or other similar organization.
6. Move review and study of the election of Councilmembers by seat from City Attorney Study Issue to the Charter Review Committee (subject to replacement as part of the study issue if the Charter Review Committee is not directed to review this issue).

DISCUSSION

Council Nominations For Charter Committee Membership

The Mayor, Vice-Mayor and Councilmembers have named the following individuals as their appointments to the Charter Review Committee:

Mayor Ron Swegles:	Dianna McKenna Richard Napier (Third appointment to be announced)
Vice-Mayor Otto Lee:	Laura Babcock Larry Klein
Councilmember Chu:	David Simons Daisy Nishigawa
Councilmember Howe:	Pat Castillo Mark O'Connor
Councilmember Hamilton:	Andy Maloney Geoff Ainscow

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Councilmember Moylan: Larry Stone
Virginia Shea

Councilmember Spitaleri: Bob Lawson
Howard Chuck

Additional Council Direction to Committee

At the June 13 meeting, the Council deferred to July 18, the selection of specific Charter provisions or issues it wants to prioritize for the Charter Committee to review and make recommendations on. The Council needs to discuss and select any Charter issues it wants to direct the Charter Review Committee to make first priority.

Timetable For Charter Amendments On The 2007 Ballot

The City of Sunnyvale is required to transmit a request for a ballot measure with the proposed language for the Charter amendment to the County Registrar of voters at least 88 days before the election date. The proposed timetable focuses on the November 2007 election, which will provide the Committee adequate time to complete its recommendations by March, 2007. The Council will then review and decide what Charter amendments, if any, it wants to place on the November 2007 ballot. The Council may want to set a due date for all Committee recommendations to be received by the Council to allow time to adopt a resolution and ballot measure before July 9, 2007; a suggested due date for Committee recommendation is no later than March 30, 2007.

Staffing of Ad Hoc Charter Review Committee

The Council established an *Ad Hoc* Charter Review Committee in its June 13 action. The Committee will require staff assistance to do its work. Anticipated staff support will include legal, administrative, city clerk and secretarial. These staffing needs may be met either through the assignment of current City staff to the Committee or the utilization of outside staff, including legal consulting and clerical.

It is instructive that for the 1990/91 fiscal year, internal staffing costs for the 1991 *Ad Hoc* Charter Review Committee were \$16,004. This included 290 hours of administrative time, 35 hours of city clerk recording time, and 47 hours of legal staff time. As these are 1991 dollars, the same time would be more expensive in 2006. Council should also note that the 1991 Committee had a prescribed scope of work from the Council and were not permitted to look at or review issues other than those specifically asked by the Council. If

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the *Ad Hoc* Charter Review Committee is given multiple Charter provisions to review and discretion as to what Charter issues it can discuss and make recommendations on, the costs may be higher based on the number and complexity of issues the Committee looks at.

Although the City Attorney's Office will make every effort to support the *Ad Hoc* Charter Review Committee, it should be noted that the City Attorney's Office currently has 4 attorneys, down from 5.5 attorneys in May, 2005. The City Attorney's Office has also acquired the Claims and Risk Management Program from Human Resources starting in January, 2006, and is currently managing that program in addition to its pre-existing work without adding legal staff. Consequently, the Office of the City Attorney has minimal capacity at this time to undertake the additional work and support required by an *Ad Hoc* Charter Review Committee and has not budgeted this work for 2006-07. Council options would include providing supplemental funding to allow the Office of the City Attorney to hire outside legal staff on an as-needed basis to support the Committee, or adding a part-time legal position to the City Attorney's Office to provide assistance with this and other special projects.

FISCAL IMPACT

The fiscal impact will depend on the scope of the Charter review authority. The costs from the 1991 Charter Review Committee, which was limited to the review of a directly-elected Mayor were \$16,004. This is approximately \$24,000 after adjustment for inflation. Additional costs for outside consultants and counsel could add another \$20,000 to the cost of the Committee, so an estimated cost range for the *Ad Hoc* Charter Review Committee is from \$25,000 to \$45,000.

CONCLUSION

The Council established a 2006-07 *Ad Hoc* Charter Review committee on June 13, 2006, with guidelines for the selection of Committee members, election of officers, and rules for prioritizing review of Charter provisions.

Today's required Council action is to receive the names of the members selected for the Committee, confirm the 15th member of the Committee nominated by the Mayor, select any Council-identified Charter provisions and/or issues for review, set a date for the council to receive the Committee's report and recommendations, and to identify and allocate funding for staff support of the *Ad Hoc* Charter Review Committee.

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PUBLIC CONTACT

Public contact was made through posting of the Council agenda on the City's official notice bulletin board, posting of the agenda and report on the City's web page, and the availability of the report in the Library and City Clerk's Office.

ALTERNATIVES

1. Council receives the appointments to the Charter Review Committee of all Councilmembers and confirms the Mayor's appointment of _____ as the 15th member of the Committee.
2. Council identifies and selects the following Charter provisions and/or Charter issues to be given priority by the Committee for review and recommendations. (Council to select one or more issues for Committee review)
 - a. _____
 - b. _____
 - c. _____
 - d. _____
 - e. _____
3. Additional funds in an amount not to exceed \$35,000 are allocated by the Council to fund the *Ad Hoc* Charter Review Committee.
4. Council does not identify and select Charter provisions and/or Charter issues to be given priority by the Committee for review and recommendations.

RECOMMENDATION

Staff recommends Alternatives 1, 2 and 3.

Prepared by:



David E. Kahn, City Attorney