



Council Meeting: November 9, 2010

SUBJECT: Adoption of 2010-2011 Charter Review Committee, Including Scope and Appointment Procedures

REPORT IN BRIEF

On May 24, 2010, the City Council reviewed and discussed the study issue summarizing the history of Sunnyvale's consideration of a directly-elected Mayor and the advantages and disadvantages of having a directly-elected Mayor. The Council voted to move forward with considering a directly-elected Mayor.

On June 15, 2010, Council reviewed alternatives for a Charter amendment in the November 2010 special election, as well as the costs for a November 2010 ballot measure in contrast to the cost of a November 2011 ballot measure. Following discussion, Council voted to not put a Charter amendment on the 2010 ballot unless there was another City ballot measure going forward. Council discussed options for term limits for a directly-elected Mayor and requested that Charter amendment language be brought back with options for term limits.

On July 20, 2010, the City Attorney presented Report to Council No. 10-183 regarding a proposed Charter amendment for a directly-elected Mayor for the November 2011 election ballot. The report included proposed Charter amendment language for a ballot measure changing the method of selecting a Mayor to a directly-elected Mayor with options for the term and term limits for the Mayor, as well as the costs for placing a Charter ballot measure on the November 2011 ballot. After discussion of the pros and cons of a directly-elected Mayor and placing a Charter amendment for a directly-elected Mayor on the November 2011 ballot, Council voted to appoint a Charter Review Committee to look at the issue of a directly-elected Mayor.

On October 19, 2010, the Council reviewed in study session the options for a Charter Review Committee, including scope of authority, composition, and appointment procedures. Direction was given to return with an RTC to establish a Charter Review Committee limited to reviewing the issues of a directly-elected Mayor and Charter language for a change, and Council compensation provisions.

BACKGROUND

Cities in California are either “general law” or “charter” cities. General law cities have only those powers granted by state statute. 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 fifteen times since its adoption. The voters last amended the Sunnyvale City Charter in 2007 by voting in favor of amendments that modified and/or clarified certain sections of the Charter. 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.

The Sunnyvale City Council can, by a majority vote, put proposed Sunnyvale City Charter changes on the ballot for voter approval. This was the method used for the 2007 election Charter amendments. The City Council may 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. This *ad hoc* Charter Review Committee would not have the legal status or authority of a Charter Review Commission elected by the voters and would serve as an advisory body to the City Council.

History of Charter Review Committees in Sunnyvale

In 1967, the City Council appointed a citizen Charter Study Committee comprised of 35 registered Sunnyvale voters. Each councilmember submitted the names of 5 registered voters to the City Clerk. This Committee met over a five-month time period. In 1975, the City Council again appointed a Charter Study Committee similar to the 1967 group, but each Councilmember submitted the names of 3 voters and the Committee was comprised of 21 members instead of 35. The Committee submitted its recommendations to the City Council, which held a public hearing on the recommendations before deciding which Charter amendments to place on the ballot. Similarly, the City Council appointed a 15-member Charter Review Committee in 1982, with each Councilmember nominating 2 members and the 15th member selected by the entire Council. Again, the Committee’s recommendations for Charter amendments were submitted to the Council for public hearing and Council determination of which amendments would be placed on the ballot.

The last *Ad Hoc* Charter Review Committee was appointed by the City Council on July 18, 2006. The Committee was comprised of 15 members and each Council member appointed two Committee members, with the last member appointed by the Mayor and confirmed by Council. Council identified seven Charter issues as priorities for the Committee to review and make a recommendation on. Additionally, the City Council authorized the Committee to identify other Charter issues for review and recommendation and to provide the opportunity for public input on changes to the Charter.

Council Action on 2010-2011 Charter Review Committee

At the Study Session on October 19, the City Council discussed and provided direction on several Charter Review Committee issues.

- The Council wants to select and appoint a 2010-2011 Charter Review Committee as soon as possible, with a goal of having the Committee complete its work and make recommendations to the Council by the end of April, 2011.
- The Committee will have 11 members, and they will be selected using the procedure for Board and Commission appointments.
- The Committee will be staffed by the City Attorney and City Manager offices within existing budget allocations.
- The Charter Review Committee's scope of work shall be limited to: 1) consideration of a change to a directly-elected Mayor; 2) assuming that there is a change to a directly-elected Mayor, proposed Charter language, including the role and term of a directly-elected Mayor; and 3) Council salary.

DISCUSSION

Timetable for Charter Amendments on the November 2011 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. For the November 2011 election, this will be on or about August 12. The proposed timetable would focus on the November 2011 election, which would provide the Committee adequate time to complete its recommendations by March or April 2011.

The Charter Review Committee should submit its Final Report and Recommendations to the City Council no later than the end of April 2011. The next step would be the drafting of the resolution and ballot language placing the Charter amendments on the ballot for forwarding to the Registrar of Voters. In order to meet the deadlines of the Registrar of Voters, the resolutions and ballot measures need to be brought to the Council for adoption in June 2011 to insure that all election filing deadlines are met.

Therefore, at the time of the appointment of the 2010 Charter Review Committee, the Council should set a due date for the Committee recommendations to be received by the Council to allow time to adopt a resolution and ballot measure by the end of June 2011.

Membership of the 2010 Charter Review Committee

An important issue is the membership of the 2010 Charter Review Committee. The Council has discretion in determining how to select members for the Committee. In looking at potential members, Council can consider things such as knowledge of Sunnyvale government, representation of different groups in the community, experience on similar citizen committees, ability to communicate well and work with others, and whether members have to be registered voters or not. Possible sources of Committee members include individual Sunnyvale residents, representatives from community organizations or neighborhood groups, members of Sunnyvale boards and commissions, one or more Council members, or any combination from the above groups. Considerations in the selection of each group are discussed below.

Registered voters residing in Sunnyvale provide the greatest diversity of viewpoints and perspectives, and represent the largest pool of potential Committee members. However, because some voters interested in being on the Committee may have no prior background in Sunnyvale city government, this group may require the most staff support, orientation and training to be successful on the Committee.

Representatives from City boards and commissions have prior experience in Sunnyvale city government and working with City staff and the Committee would benefit from their experience and background. Current Board and Commission members already commit substantial amounts of time to volunteering for the City, and service on a Charter Review Committee would require meetings over a relatively short time period to discuss and develop recommendations.

Sunnyvale has a number of community civic organizations such as the Lion's Club, Rotary, League of Women Voters, Kiwanis, and others. Organization members are usually active in the community and have an interest in city government, and can represent a broad spectrum of community interests.

The recruitment process for the 2010 Charter Review Committee will depend on what the Council decides should be the membership. If the members are to be selected from individual voters then print and electronic ads in local papers and on the City Website will be most effective. Recruitment of Board and Commission members and/or civic organizations could be accomplished by individual letters.

Committee Size

The Council designated the number of Committee members as eleven at the Study Session. There should be an odd number of Committee members to avoid a tie vote on recommendations.

Selection and Appointment of Committee Members

The Council provided preliminary direction at the Study Session that the selection of Committee members will follow the process for selection of Board and Commission members. This requires the submission of an application, interviews by the Council, and a vote in an open meeting to select 11 Committee members. The application form is attached as Attachment A.

Staffing of 2010 Charter Review Committee

A Charter Review Committee will require staff assistance to do its work. In 2006, the City Attorney's office provided support to the *Ad Hoc* Charter Review Committee. The Committee met twice a month over a period of seven months, as well as holding two public hearings. The City Attorney attended all of the meetings of the Charter Review Committee, along with the City Attorney's office paralegal, who took and prepared the minutes, as well as provided other clerical support needed to conduct the meetings and business of the Committee. The exact number of hours required to support the 2010 Charter Review Committee would depend on the membership size of the Committee and the number of meetings it holds. There will also be City Clerk hours required to support the agenda and notice requirements for meetings.

For the 2006-07 fiscal year, internal staffing costs for the 2006 *Ad Hoc* Charter Review Committee were \$33,893.46. This included 93.20 hours of attorney time, 328.5 hours of legal staff time, and 1.5 hours of IT support time.

The Office of the City Attorney has not budgeted this special work for 2010-11. However, the City Attorney will staff the Committee with no additional budget supplement. The required administrative support will be provided by the City Clerk, also within the current budget allocation for the Office of City Manager.

Direction on Issues to Be Studied

The Council's direction for the 2010-2011 Charter Review Committee is that the Committee's charge is limited to these Charter issues:

1. What are the pros and cons for Sunnyvale of changing the current selection process of an appointed Mayor to a directly-elected Mayor, and a recommendation to the Council on whether or not the City should have a directly-elected Mayor.
2. Assuming that the City elects to proceed with a Charter amendment for a directly-elected Mayor, what should the Charter amendment language be, including the role of the directly-elected Mayor and the term and term limits.
3. Review of current Charter language on Council compensation, and a recommendation on whether to retain current Charter provisions on Council compensation or recommend a Charter amendment changing the terms of Council compensation.

Guidelines for 2010 Charter Review Committee

The Council is not required to adopt by-laws or guidelines for the 2010 Charter Review Committee and the Committee can be given the authority to determine how it wants to organize itself and conduct business. Alternatively, the Council can provide some structure and direction to the Committee through the adoption of one or more of the following guidelines:

- The Committee must provide for public notice and opportunity for comment by the public, Councilmembers and Board and Commission members before making any recommendation.
- 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 California Cities, or other similar organization.

Application of Brown Act to the 2010 Charter Review Committee

The 2010 Charter Review Committee will be subject to the Brown Act noticing, agenda and open meeting requirements.

FISCAL IMPACT

The total costs from the 2006 *Ad Hoc* Charter Review Committee were \$34,308.72. The costs for the 2010-2011 Charter Review Committee will include internal staff costs which will be included from the current budget allocation. No staff overtime requiring an additional budget allocation is contemplated.

CONCLUSION

The Sunnyvale City Charter is the City's constitution and provides legal guidelines for the City's government and operations. First adopted in 1949, the Charter has been amended by the voters on 15 separate occasions, most recently in November, 2007.

This Report to Council follows the Council's direction for a 2010-2011 Charter Review Committee with a limited scope of looking at a change to a directly-elected Mayor, and changes to the terms of Council compensation. The Committee's recommendations would be presented to the Council in approximately April 2011, for Council consideration for the November 2011 election. There are costs associated with the appointment and support of a 2010 Charter Review Committee.

ALTERNATIVES

1. Council directs that a 2010-2011 Charter Review Committee be created, and that the Committee should have the following characteristics:
 - a. The Committee should be comprised of 11 members.
 - b. Committee members will be selected through an open application process, Council interviews, and appointment based on the procedure for appointments to City boards and commissions.
 - c. The Committee's Charter review authority is whether to change to a directly-elected Mayor, to propose Charter language if the City Council decides to place a Charter amendment for a directly-elected Mayor on the 2011 ballot, and to review and make a recommendation on the Charter provisions on Council compensation.

- d. The Committee must provide for public notice and opportunity for comment by the public, Councilmembers and Board and Commission members before making any recommendation.
2. Council directs that a 2010-2011 Charter Review Committee not be established.

RECOMMENDATIONS

Staff recommends Alternative 1.

Prepared by:

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City Attorney's Office

Attachments:

Attachment A – Charter Review Committee Application



CITY OF SUNNYVALE CHARTER REVIEW COMMITTEE APPLICATION

The City supports its demographic diversity and encourages applicants from all groups to apply.

Office Use Only
Date Received: _____
Residency Checked: _____

Please print or type answers to all questions. Write N/A if not applicable.

Eligibility requirements: Sunnyvale resident and registered voter in Sunnyvale. Contact the Office of the City Clerk at (408) 730-7483, TDD (408) 730-7501 for more information.

1. Applicant Name: _____
Last First M.I

2. Current Residence _____
Street City State Zip

Mailing Address: _____
(If different from above) Street City State Zip

E-mail Address: _____

3. Phone Number: (Home) _____ (Work) _____ (Cell) _____

4. How long have you been a resident of Sunnyvale? _____

5. Are you a currently-registered voter in Sunnyvale? _____ When was the last time you voted?
Month _____ Year _____

6. Have you previously served as a City Council Member? _____
If yes, when? _____ Terms served _____
_____ Terms served _____

7. Have you served on a previous City of Sunnyvale Charter Review Committee? _____
If yes, in what year? _____

8. Are you currently serving or have you served on a City of Sunnyvale board or commission? _____
If yes, which one? _____ Term currently serving _____
Term previously served _____

9. Are you currently serving or have you served on a City of Sunnyvale staff advisory committee? _____
If yes, which one? _____ Term currently serving _____
Term previously served _____

10. What motivated you to apply for the Charter Review Committee?

11. What skills or attributes can you bring to the Charter Review Committee?

12. Education: List college degrees and majors, and any relevant training or experience that demonstrates your ability to effectively serve on the Charter Review Committee.

13. Briefly describe your current or last occupation.

14. Have you attended a City Council, board or commission meeting? If so, please describe what you learned and what improvements you would suggest the City consider.

15. Describe your involvement in community activities, volunteer and civic organizations.

16. The City has a Code of Ethics and Conduct for Elected and Appointed Officials that appointed members are required to follow. Do you have any concerns in this area? If so, please describe. (You may obtain a copy of this policy on the City Web site or from the Office of the City Clerk at (408) 730-7483

Please Note: Pursuant to the Americans with Disabilities Act (ADA), the City of Sunnyvale will make reasonable efforts to accommodate persons with qualified disabilities during the boards and commission interview process. Should you require special accommodations, please contact the Office of the City Clerk at (408) 730-7595 at least five days in advance of your scheduled interview.

IMPORTANT NOTICE

A Charter Review Committee member is a public official. As such, it is necessary to provide contact information to the public. Please note that all information provided on the form becomes a public record after it is officially filed. Please do not include any information on this form that you do not want posted on the City's Web site and the City's official roster.

I certify under penalty of perjury that all statements I have made on this application are true and correct. I hereby authorize the City of Sunnyvale to investigate the accuracy of this information from any person or organization, and I release the City of Sunnyvale and all persons and organizations from all claims and liabilities arising from such investigation or the supplying of information for such investigation. I acknowledge that any false statement or misrepresentation on this application or supplementary materials will be cause for refusal of appointment or immediate dismissal at any time during the period of my appointment.

Your application is not complete until this application is completed, signed and submitted to the Office of the City Clerk, 603 All America Way, P.O. Box 3707, Sunnyvale, CA 94088-3707.

Signature of Applicant _____

Date _____