

**May 10, 2011****SUBJECT:** 2011 CHARTER REVIEW COMMITTEE FINAL REPORT AND  
COUNCIL DIRECTION ON CHARTER AMENDMENTS**REPORT IN BRIEF**

The Sunnyvale City Charter is the “Constitution” for the City and provides the legal guidelines for the form and function of its government. First adopted by the voters in 1949, the Charter requires periodic review to determine if any changes are advisable. In January 2011, the City Council approved the formation of a Charter Review Committee (“Committee”) to review and make recommendations on the City of Sunnyvale Charter provisions for mayor selection and Council compensation only. The City last convened a Charter Review Committee in 2006.

The City Council, in January, 2011, appointed eleven members to the Committee. The Committee first convened on February 7 and met 8 times over the next three months. The Committee invited and received email comments and held a public hearing to provide opportunity for public input and comment on the Charter issues it was considering. The Committee completed its review and recommendations for the issues identified by the City Council. The Committee will be presenting its Final Report and Recommendations to the City Council tonight, and the Chair and Committee members will be present to answer any questions the City Council may have.

After receiving the Final Report and Recommendations, the City Council will provide direction to staff on which of the Committee’s recommendations the Council would like to place on the November 2011, or subsequent ballot. After receiving that direction, staff will begin the drafting of the appropriate ballot measures and resolutions and return to Council for the approval of the Charter ballot measures and consolidation with the November 2011, or subsequent election.

**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. 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 California Constitution establishes the requirements for both adoption and amendment of a city charter. Sunnyvale's City Charter can be amended by initiative, a formal Charter Review Commission, or by Council action to place Charter amendments on the ballot. The Sunnyvale City Council can, by a majority vote, put proposed Sunnyvale City Charter changes on the ballot for voter approval. The City Council appointed the 2011 Charter Review Committee to assist the Council in reviewing Charter provisions on the selection of a mayor and Council compensation, and to make recommendations to the Council on what Charter amendments to place on the ballot. The Charter Review Committee does not have the legal authority of a Charter Review Commission elected by the voters to independently place measures on the ballot and serves as an advisory body to the City Council. The membership of the Committee is listed in the Committee Final Report (Attachment 1).

The Committee met eight times between February 2011 and April 2011 to review, discuss and vote on recommendations for the Charter. Each meeting involved spirited and thorough discussion of both sides of the Charter issues and multiple viewpoints were expressed and debated for all Charter amendments. The Committee held a noticed public hearing on March 24, 2011, and members of the public attended and commented on the Charter issues.

### **EXISTING POLICY**

The City's existing Charter policies are established by the current Charter. If Charter amendments are placed on the ballot and approved by a majority of the voters, the City policies would be set by the new Charter language for each of the amended Charter sections.

### **DISCUSSION**

Detailed discussion of the Charter issues and the Committee recommendations are in the Committee Final Report and Recommendation attached to this RTC as Attachment 1, and the recommendations will be presented to the Council by the Committee.

After receipt of the Committee's Final Report and Recommendations, the City Council's next action at the May 10 meeting will be to determine which, if any, of the Committee's recommended changes to the Charter it wants to place on the ballot. Measures can be placed on the November 2011 ballot or subsequent ballots, or the Council may decide not to place any measures on the ballot at this time. After Council provides direction to staff on which of the recommendations it wants to place on the ballot, 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. The resolutions and ballot measures need to be filed with the Registrar of Voters no later than August 12, 2011. We would anticipate bringing the resolution and ballot measures to the Council for adoption in June to ensure that all deadlines are met.

The issues presented in the Committee's Final Report and Recommendations are:

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 language on terms and term limits be.
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.

### **FISCAL IMPACT**

To date the cost of providing staffing and support to the Charter Review Committee is approximately \$15,000. This includes 40 hours for the City Attorney and 111 hours for the City Clerk and staff.

The future fiscal impact will be the cost of placing Charter measures on the ballot. The total cost will depend on the number of Charter ballot measures selected by the Council, and the current estimate for the 2011 election is \$42,000 per ballot measure.

If the Charter amendment on Council compensation is approved by the voters, there will be future cost savings if the annual CPI increases are less than the current 5% increase in the Charter.

## **CONCLUSION**

The eleven-member Charter Review Committee appointed by the City Council met from February 2011 through April 2011, and diligently and thoroughly reviewed the Charter issues assigned by the Council. The Committee is presenting its Charter recommendations to the Council tonight.

After receiving the Final Report and Recommendations, the Council's next action is to accept, reject, or modify the Committee's Charter recommendations and provide direction to staff on whether Charter amendments should be placed on the ballot.

## **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

## **ALTERNATIVES**

1. Accept Final Report and Recommendations from the Sunnyvale 2011 Charter Review Committee.
2. Direct City staff to draft appropriate ballot language and resolution(s) to place the Charter Review Committee recommendations below on the November 2011 (or a subsequent) ballot for submission to the Sunnyvale electorate, or accept the Committee recommendation that no Charter change are required for some sections.

### **a. Change to Directly-Elected Mayor:**

The Committee, by a 5-4 vote, recommends against changing the current Council-selected Mayor to a directly-elected Mayor.

- i. Accept\_\_\_\_\_
- ii. Accept with Modifications\_\_\_\_\_
- iii. Reject\_\_\_\_\_

### **b. Charter Language For Mayoral Term and Term Limits If Council Places A Directly-Elected Mayor Measure On The 2011 Ballot (Action Required Only If Council Rejects Recommendation a., above):**

The Committee recommends that the term for a directly-elected Mayor is 4 years.

- i. Accept\_\_\_\_\_
- ii. Accept with Modifications\_\_\_\_\_
- iii. Reject\_\_\_\_\_

The Committee recommends that there is a lifetime maximum term limit of 8 years for a directly-elected Mayor.

- i. Accept\_\_\_\_\_
- ii. Accept with Modifications\_\_\_\_\_
- iii. Reject\_\_\_\_\_

The Committee recommends that the term limit for a directly-elected Mayor is 8 years, and no more than a total of 16 years out of 20 for any combination of service as a Council member and directly-elected Mayor.

- i. Accept\_\_\_\_\_
- ii. Accept with Modifications\_\_\_\_\_
- iii. Reject\_\_\_\_\_

The Committee recommends that there is no required waiting period between a term of Council member and Mayor.

- i. Accept\_\_\_\_\_
- ii. Accept with Modifications\_\_\_\_\_
- iii. Reject\_\_\_\_\_

**c. Compensation (Charter Section 603)**

The Committee recommends that the automatic 5% annual salary increase should be removed. Council and Mayor salaries should be set at the current 2011 amounts and increased, if at all, by the preceding October's annual percentage change in the Consumer Price Index-U for the San Francisco-San Jose-Oakland area. In no event shall the annual increase exceed 5%, and the salary shall not be decreased.

- i. Accept\_\_\_\_\_
- ii. Accept with Modifications\_\_\_\_\_
- iii. Reject\_\_\_\_\_

3. Do not direct City staff to draft ballot language and resolution(s) to place the Charter Review Committee recommendations below on the November 2011 (or a subsequent) ballot for submission to the Sunnyvale electorate.

**RECOMMENDATION**

Staff's recommendation is that the Council accept and review the Final Report and Recommendations from the Charter Review Committee and provide direction to staff on whether each Committee recommendation is approved, approved with modifications, or rejected. Staff is not making any other recommendations on the Charter amendments.

Prepared by:

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David E. Kahn, City Attorney  
City Attorney's Office

**Attachments**

Attachment 1 – 2011 Charter Review Committee Final Report

CITY OF SUNNYVALE



**2011**  
**CHARTER REVIEW COMMITTEE**

**Final Report and Recommendations**

Dated May 10, 2011

# 2011 CHARTER REVIEW COMMITTEE

## Final Report And Recommendations

### Introduction and Background

This Report contains the findings and recommendations of the 2011 Charter Review Committee (Committee) for consideration by the Sunnyvale City Council (City Council). The Report includes a summary of the major points the Committee discussed on each Charter issue. A more detailed synopsis of the comments and discussion on each Charter issue is in the minutes of the meetings, which are attached to this Report as an Appendix.

The City Council initiated a review of the Sunnyvale City Charter (Charter) sections on the selection of Mayor, term and term limits for a directly-elected Mayor, and Council compensation in January 2011 with the selection of an 11 member Committee. The City Council charged the Committee to review only these 3 Charter issues.

The City Council solicited applications for the Charter Review Committee and 11 applications were received. The Committee members are:

Carol Weiss, Chair  
Carol Ludlow, Vice Chair  
Terry Fowler  
Glenn Hendricks  
Patrick Hughes  
Julia Miller  
Tappan Merrick  
Ken Olevson  
Mathieu Pham  
Ted Ringel  
Willis (Bill) Ritter

Sunnyvale City Attorney David Kahn and City Clerk Kathleen Franco Simmons and Deputy City Clerk Lisa Natusch staffed the Committee.

The Committee reviewed the Charter with an expedited meeting schedule in order to meet the Council's requested timeline. After approximately three months of review and 6 meetings, the Committee submits its findings and recommendations herein to the City Council. In order for any Charter changes to be enacted, the City Council will need to place ballot

measures on the November 2011 ballot, which will require a majority vote in the citywide election to pass.

### **Public Comment Opportunities**

The Committee provided notice and an agenda for its meetings as required by the Brown Act. In addition, the Committee sought input from the public beyond the minimum requirements of the Brown Act and held a public hearing on March 24, 2011.

The City of Sunnyvale advertised the March public hearing on its website and held the hearing in the City Council Chambers. The Committee provided a summary of its discussions on the Charter prior to the March public hearing. There will be another opportunity for public input at the upcoming City Council meeting when the City Council reviews this Report.

### **Structure of Recommendations**

The Committee studied the three issues in their charge from the City Council. These issues are:

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 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.

## COMMITTEE RECOMMENDATIONS

### 1. **PRESIDING OFFICER. MAYOR (Section 605):**

The Charter provides that the City Council shall select one of its members as the Mayor every two years, by majority vote of the City Council. The Mayor is the City head for ceremonial purposes, and has a voice and vote in all Council proceedings.

#### Recommendation:

- **The Committee, by a 5-4 vote, recommends against changing the current Council-selected Mayor to a directly-elected Mayor.**

#### Background:

Section 605 currently states:

At the first regular meeting in January, at which the City Council shall certify the election results, following each General Municipal Election, and at the first regular meeting in January every two years thereafter, the City Council shall select one of its members as its presiding officer, who shall have the title of Mayor. Such selection shall be by motion of the City Council. The Mayor shall have a voice and vote in all its proceedings. He/she shall be the official head of the City for all ceremonial purposes. He/she shall perform such other duties as may be prescribed by this Charter or as may be imposed by the City Council consistent with his/her office. The Mayor shall serve in such capacity for a term of two years from and after which the appointment is made, and until a successor is selected; provided, that a person can continue to serve in the capacity of Mayor only while that person remains as a member of the City Council. In the event of a vacancy in the office of Mayor, the City Council shall select one of its members to serve as Mayor for the remainder of the unexpired term.

The Mayor may be removed from such office prior to expiration of his/her term by a motion of the City Council adopted by the affirmative votes of at least five members of the City Council. (Amended effective December 31, 1975, December 21, 1976, December 21, 1987, November 30, 1995 and November 28, 2007: previously Section 704)

The first Charter provided for the selection of the Mayor from and by the City Council. The City of Sunnyvale has previously debated the issue of a directly-elected Mayor. In 1987, the City Council rejected a proposal to put a Charter amendment on the ballot for the direct election of the Mayor. Instead, the City Council proposed an alternative Charter amendment that kept the

selection of the Mayor from and by the City Council, but changed the term from one to two years.

In 1991, the City of Sunnyvale again debated the issue of a directly-elected Mayor. The City Council appointed a Charter Review Committee and primarily charged it with studying the issue of a directly-elected Mayor. The 1991 Committee recommended against a Charter amendment for a directly-elected Mayor, and the City Council adopted this recommendation. In response to the recommendation of the 1991 Committee, then-Councilmember Larry Stone developed and circulated an initiative proposal for a Charter amendment providing for a directly-elected Mayor on the 1991 ballot.<sup>1</sup> The initiative qualified for the 1991 November ballot, but it failed by a vote of 9,412 no votes to 6,678 yes votes.

In 2006, another Charter Review Committee looked at the issue of changing to a directly-elected Mayor and recommended against the change. Reasons given by the 2006 Charter Review Committee included that the issue had been on the ballot before and was defeated, and that the directly-elected Mayor may become a viable issue when the electorate perceives a need for this change. The 2006 Charter Review Committee also concluded that a directly-elected Mayor may not make sense with the Council/Manager form of government that currently exists in the City of Sunnyvale.

#### Discussion:

The 2011 Charter Review Committee had many lively and thoughtful discussions about the pros and cons of changing from a Council-selected to a directly-elected Mayor. After extensive debate, the Charter Review Committee voted 5-4 against changing to a directly-elected Mayor and wanted the Council to receive both the reasons the majority voted to not change and the reasons the minority voted for a directly-elected Mayor. The rationale of both the majority and minority votes, as set out below, were drafted by the respective groups of Committee members voting against, and for, a change to a directly-elected Mayor.

##### a. Reasons For Not Changing To A Directly-Elected Mayor

- Public response overwhelmingly favors the existing process as have all prior decisions on this subject.

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<sup>1</sup> The initiative also reduced a Councilmember's salary for missed meetings if the Councilmember was not involved in City business at the time of the missed meeting.

- Council represents all of Sunnyvale. “If we can’t trust them to pick their own leader, what can we trust them with?”
- Council already entrusted with decisions of great importance. There is no reason to treat the selection of the Mayor differently.
- We do not believe that a directly-elected Mayor would eliminate “back room” deals. A directly-elected Mayor would increase political pressure.
- Current system diffuses political power away from a single individual; in favor of the whole council.
- Existing system focuses on existing electorate concerns.
- Current Mayor selection process facilitates a team approach to effective city oversight.
- Role of Mayor would perceptibly change.
- Directly elected Mayor should be considered only if role of Council, Mayor, and City Manager is to change.
- Public is fatigued from hearing about this topic.

b. Reasons For Changing To A Directly-Elected Mayor

- Diversity voices. The Committee did not receive input reflecting the City’s demographics. Many of the minorities have come to the United States expressly for the right to vote. The last time the public had the opportunity to change to a directly-elected Mayor was 20 years ago (1991) and the city’s demographics have changed greatly since then.
- Transparency and open government. A directly-elected Mayor diminishes the possibility of Brown Act violations and of back room dealings. The citizens perform a watchdog function.
- Empowerment. Democracy is not a spectator sport. People have the right and obligation to choose their political leadership by a majority vote.
- Increases public trust in government. Majority of voters choose Mayor rather than four council members in the “old boys’ club”.
- Complexity of issues. The Mayor’s job is more complex today than it was 20 years ago. A directly-elected Mayor will have to persuade voters that he/she has the qualifications and competency to do a good job.

- Accountability. Candidates for a directly-elected Mayor must have a strong platform. They will be held accountable. Why do we want to deny our citizens the right to choose whether or not they want a directly-elected Mayor.
- Voter education and outreach. Campaigns for a directly-elected Mayor raise voter awareness of important issues and will hold Mayor to a higher standard of performance.
- Visibility. A directly-elected Mayor will increase the visibility of the position; many Sunnyvale citizens cannot even name their Mayor.
- The respondents at the public forum and in communications to the CRC do not reflect Sunnyvale's demographics.
- The Constitution guarantees every citizen the right to vote. The citizens of Sunnyvale should have the opportunity to vote for Mayor.

**2. PROPOSED CHARTER CHANGES FOR MAYORAL TERM AND TERM LIMITS IF THE COUNCIL PLACES A DIRECTLY-ELECTED MAYOR MEASURE ON THE 2011 BALLOT:**

With the current charter provisions for selection of the Mayor by the Council from its members, the Mayor's term is two years and the term limit for the Mayor is the same as for a Council member- eight years in a twelve year period, with a four year break after two consecutive terms or a two year break after one term. There is no lifetime term limit for a Council member.

Notwithstanding the recommendation for or against a directly-elected Mayor, the Council requested that the Committee review and provide recommendations on the term and term limits for a directly-elected Mayor in the event the Council votes to place the issue on the 2011 ballot.

Recommendations:

- **The Committee recommends that the term for a directly-elected Mayor is 4 years.**
- **The Committee recommends that there is a lifetime maximum term limit of 8 years for a directly-elected Mayor.**
- **The Committee recommends that the term limit for a directly-elected Mayor is 8 years, and no more than a total of 16 years out of 20 for any combination of service as a Council member and directly-elected Mayor.**

- **The Committee recommends that there is no required waiting period between a term of Council member and Mayor.**

Background:

Charter Section 600 provides that the City's elected officers are seven City Council members.

The elective officers of the City shall consist of a City Council composed of seven members.

Charter Section 601 provides for the terms of all Council members, including the Council member selected as Mayor:

Each member of the City Council shall be elected from the City at large at the General Municipal Election for a term of four years. The term shall commence at the first regular meeting in January, at which the City Council shall certify the election results, and shall continue until a successor is elected and qualified. The office of each member of the Council is a separate elective office to be separately filled at any election. The person receiving the highest number of all the votes cast for a particular elective office at any election shall be deemed and declared elected to that office. Each Council seat shall be designated by a number from 1 through 7 and shall be known as "Councilmember Seat Number \_\_\_\_." The designation given to each elective office shall be used in all elections, nomination papers, certificates of election, and all other papers pertaining to such office, and to designate the incumbent of such office. Seats numbered 1, 2, and 3 shall be filled at the General Municipal Election held in 1977 and every fourth year thereafter. Seats numbered 4, 5, 6, and 7 shall be filled at the General Municipal Election held in 1979 and every fourth year thereafter.

Charter Section 605 provides for the selection of the Mayor in January for a two year term by the Council from its members:

At the first regular meeting in January, at which the City Council shall certify the election results, following each General Municipal Election, and at the first regular meeting in January every two years thereafter, the City Council shall select one of its members as its presiding officer, who shall have the title of Mayor. Such selection shall be by motion of the City Council. The Mayor shall have a voice and vote in all its proceedings. He/she shall be the official head of the City for all ceremonial purposes. He/she shall perform such other duties as may be prescribed by this Charter or as may be imposed by the City Council consistent with his/her office. The Mayor shall serve in such capacity for a term of two years from and after which the appointment is made, and until a successor is selected; provided, that a person can continue to serve in the capacity of Mayor only while that person remains as a member of the City Council. In the event of a vacancy in the office of Mayor, the City Council shall select one of its members to serve as Mayor for the remainder of the unexpired term. The Mayor may be removed from such office

prior to expiration of his/her term by a motion of the City Council adopted by the affirmative votes of at least five members of the City Council.

The change from a one-year to a two-year Mayor took place in 2007, based on the recommendation from the 2006-07 Charter Review Committee to make the change from a one year Mayoral term and the approval of a majority of the voters on the Charter amendment.

#### Discussion:

As discussed above, a majority of the 2011 Charter Review Committee voted to retain the current Charter provisions on selecting a Mayor from the Council. Notwithstanding that recommendation, the Committee proceeded to discuss and debate recommendations on the term and term limits for a directly-elected Mayor as charged by the City Council.

On the term for a directly-elected Mayor, the Committee concluded that the benefit of having continuity in office and continued regional visibility and stability of the Mayor supported a term of 4 years if there is a directly-elected Mayor.

There was substantial debate on whether a term as directly-elected Mayor should be counted as a separate office for purposes of term limits or treated the same as a Council term and subject to the same 8 years service in 12 years term limits whether service is for 8 years as a Council member, 8 years as Mayor, or a combined 4 years as Mayor and 4 years as a Council member. After discussion, the majority view is that the reason for a directly-elected Mayor is to allow the voters to select the individual most capable of leading the City and that is should be considered a separate office from that of a Council member. Accordingly, the Committee decided that the appropriate term limit for a directly-elected Mayor is 8 years in addition to any Council terms, and with combined service as a Council member and directly-elected Mayor not to exceed 16 years in a 20 year period.

### **3. COMPENSATION (Charter Section 603):**

Current Council compensation is based on the amount the Legislature established for a General Law city of Sunnyvale's population in 1992, increased by 5% on an annual basis in

January since that date. The Mayor receives 133.3% of the salary established for a Council member. 2011 Council salary is \$2,088.64 and 2011 Mayoral salary is \$2,784.86.

Recommendation:

- **The automatic 5% annual salary increase should be removed. Council and Mayor salaries should be set at the current 2011 amounts and increased, if at all, by the preceding October's annual percentage change in the Consumer Price Index-U for the San Francisco-San Jose-Oakland area. In no event shall the annual increase exceed 5%, and the salary shall not be decreased.**

Background:

Charter Section 603 provides for Council and Mayor compensation:

In addition to reimbursement for necessary traveling and other expenses actually incurred when on official duty in or out of the City on order of the City Council, each member of the City Council shall receive as salary, each month, that sum which has been established by the State Legislature for members of the city councils of general law cities having the population range within which the City of Sunnyvale falls, all as is specified in Government Code Section 36515 as it now exists or may hereafter be amended to read, and the Mayor shall receive as salary, each month, a sum equal to one hundred thirty-three and one-third percent of that established herein for Councilmembers. In order to provide a cost of living adjustment, the salaries provided herein shall be increased annually, effective January 1 of each year, by the amount permitted for general law cities by Government Code Section 36516(c), as it now exists or may hereafter be amended. If a member of the City Council does not attend all meetings of the City Council called on order of the City Council and held during the month, his/her salary for such month shall be reduced by the sum equivalent to twenty percent of the month's salary for each meeting not attended unless he/she is absent on official duty with the consent of or on order of the City Council or is granted an excused absence by the City Council, or unless he/she is on personal leave. A member of the City Council shall be permitted four personal leave days per calendar year.

In 1992, when this Charter provision was last amended, Government Code Section 36515 et seq. established the Council member salary for a City of Sunnyvale's size at \$600/month and permitted an increase of up to 5% annually. The 1992 salary has been adjusted annually by 5% from 1992 to 2011, in accord with the Charter provision.

Discussion:

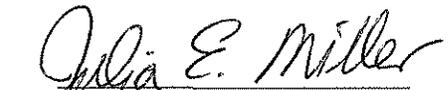
There was engaged and thoughtful discussion of the Council compensation Charter provision. Most members of the Committee believed that the current pay for the Council members was reasonable, given the time commitment and responsibilities. A few Committee members thought that the compensation should be increased, and others had the viewpoint that perhaps there should be no compensation with the motivation being interest in public service. A majority decided that the current salary was appropriate, but that the automatic 5% annual increase was excessive in view of the current economic challenges facing the City and its residents. The Committee focused on the Bay Area Consumer Price Index-U as a reasonably objective basis for adjusting Council compensation, provided that in no event could the increase exceed 5%. The Committee also decided that if the CPI is negative for a year, the salaries should not increase but there should be no decrease.

**Respectfully submitted,  
2011 CHARTER REVIEW COMMITTEE**

**The signatures below are from all members of the Charter Review Committee participating in the Committee's work. The individual Committee members signing do not necessarily endorse or agree with all of the recommendations and reasons in the report.**

  
Carol Weiss, Chair

  
Glenn Hendricks, Member

  
Julia Miller, Member

  
Carol Ludlow, Vice Chair

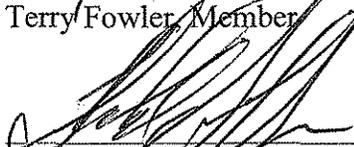
  
Patrick Hughes, Member

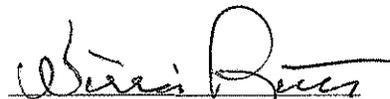
  
Ken Olevson, Member

  
Terry Fowler, Member

  
Tappan Merrick, Member

  
Mathieu Pham, Member

  
Ted Ringel, Member

  
Willis Ritter, Member

Appendix A

2011 Charter Review Committee Meeting Minutes

**APPROVED MINUTES\***  
**SUNNYVALE 2011 CHARTER REVIEW COMMITTEE**  
**MONDAY, FEBRUARY 7, 2011**

**1. CALL TO ORDER**

City Attorney David Kahn called the meeting to order at 6 PM.

**2. ROLL CALL**

**PRESENT:** Committee Member Terry Fowler  
Committee Member Glenn Hendricks  
Committee Member Patrick Hughes  
Committee Member Carol Ludlow  
Committee Member Tappan Merrick  
Committee Member Ken Olevson  
Committee Member Mathieu Pham  
Committee Member Ted Ringel  
Committee Member Willis (Bill) Ritter  
Committee Member Carol Weiss

**ABSENT:** Committee Member Julia Miller

**STAFF PRESENT:** City Attorney David Kahn  
City Clerk Kathleen Franco Simmons

**3. OATH OF OFFICE**

City Clerk Kathleen Franco Simmons administered the Oath of Office to all members present.

**4. INTRODUCTIONS**

Committee members introduced themselves and provided brief remarks regarding their background and interest in the Charter Review Committee.

**5. SELECTION OF CHAIR AND VICE CHAIR**

City Attorney Kahn opened the floor for nominations for Chair.

Committee Member Hendricks nominated Carol Weiss.  
Committee Member Merrick nominated Carol Ludlow.

There being no further nominations, Committee Member Ringel made a motion to close nominations.

SHOW OF HANDS VOTE IN FAVOR OF CAROL WEISS: 6 (Committee Members Hendricks, Ludlow, Olevson, Pham, Ringel, and Weiss voted in favor of Weiss)

SHOW OF HANDS VOTE IN FAVOR OF CAROL LUDLOW: 4 (Committee Members Fowler, Hughes, Merrick, and Ritter voted in favor in favor of Ludlow)

Carol Weiss was selected to serve as Chair.

MOTION: Committee Member Ringel moved and Committee Member Olevson seconded the motion to appoint Carol Ludlow as Vice Chair.

VOTE: 10-0 (Committee Member Miller absent)  
Motion carried.

## **6. FUTURE MEETING SCHEDULE**

By consensus, the Committee set the following dates to meet:  
February 17, 2011 in the Library Program Room, Library  
March 3, 2011 in the West Conference Room, City Hall  
March 15, 2011 in the West Conference Room, City Hall  
March 24, 2011 in the West Conference Room, City Hall

MOTION: Committee Member Ritter moved to set the meeting time at 6 PM.  
Motion died for lack of a second.

MOTION: Committee Member Olevson moved to set the meeting time at 7 PM on February 17.  
Motion died for lack of a second.

MOTION: Committee Member Ringel moved and Committee Member Merrick seconded the motion to set the meeting time at 6:30 PM.

VOTE: 10-0 (Committee Member Miller absent)  
Motion carried.

## **7. CHARTER REVIEW COMMITTEE SCOPE OF WORK AND WORK PLAN**

City Attorney Kahn presented information and materials detailing the direction provided by Council regarding the scope of the Charter Review Committee's review and responded to comments or questions from Committee members.

The Committee requested the following records and information to be provided:

- Minutes from the meetings detailed in the Reports to Council (RTCs)
- Copy of the budget for the Mayor's office
- Research other cities which have made a similar transition
- Organizational chart for the City Manager's office

The Committee suggested for consideration for the agenda for the next meeting: to summarize the pros and cons of a directly-elected mayor, to discuss how it might affect the other members of the city council and members of the city staff, and to discuss timing and a date for a public hearing.

By consensus, the Committee identified the following additional dates to meet:  
March 10, 2011 (pending location of a meeting room)  
March 30, 2011 in the West Conference Room, City Hall

**8. PUBLIC COMMENTS**

None.

**9. ADJOURN MEETING**

The meeting was adjourned at 8 PM.

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Kathleen Franco Simmons  
City Clerk

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Date

**APPROVED MINUTES\***  
**SUNNYVALE 2011 CHARTER REVIEW COMMITTEE**  
**FEBRUARY 17, 2011**

**1. CALL TO ORDER**

Chair Weiss called the meeting to order in Library Program Room A at 6:35 PM.

**2. ROLL CALL**

**PRESENT:** Committee Chair Weiss Carol Weiss  
Committee Vice Chair Carol Ludlow  
Committee Member Terry Fowler  
Committee Member Glenn Hendricks  
Committee Member Tappan Merrick  
Committee Member Julia Miller  
Committee Member Ken Olevson  
Committee Member Mathieu Pham  
Committee Member Ted Ringel  
Committee Member Willis (Bill) Ritter

**ABSENT:** Committee Member Patrick Hughes

**STAFF PRESENT:** City Attorney David Kahn  
City Clerk Kathleen Franco Simmons

Chair Weiss presented for consideration a request that decisions be made by a majority vote rather than by consensus.

MOTION: Committee Member Merrick moved and Committee Member Miller seconded the motion that decisions be made by a majority vote of the members present.

VOTE: 10 - 0 (Committee Member Hughes absent)

Brief discussion was held regarding the schedule of meetings, a date to hold the public forum/public hearing, and the agenda of topics for the forum. Without objection, it was agreed to postpone setting the date for the public hearing until later in the meeting.

**3. PUBLIC COMMENTS**

None.

**4. APPROVAL OF MINUTES**

Committee Member Miller stated she would abstain from voting on the approval of the minutes as she was not present at that meeting.

MOTION: Committee Member Merrick moved and Committee Member Olevson seconded the motion to approve the Charter Review Committee Minutes of February 7, 2011 as submitted.

VOTE: 9 - 0 (Committee Member Hughes absent, Committee Member Miller abstained)

**5. DISCUSSION AND RECOMMENDATIONS ON SUNNYVALE CHARTER PROVISIONS AND CHARTER LANGUAGE FOR SELECTION OF MAYOR**

**a. Discussion of pros and cons of a directly-elected mayor.**

Comments, questions and concerns included:

<ul style="list-style-type: none"> <li>• If it isn't broke, why fix it?</li> </ul>
<ul style="list-style-type: none"> <li>• A directly-elected mayor would provide better representation; a four-year mayor carries more weight;</li> <li>• There is a divide between growth interests and those who believe things are ok; a directly-elected mayor would represent the interests of the voters;</li> </ul>
<ul style="list-style-type: none"> <li>• The committee's assignment will be to consider whether to keep the two-year mayor as-is; go back to how it was previously with a one-year rotating mayor; extend the two-year mayor to a four-year term, selected by the seven Council members; or put a charter amendment on the ballot to change to a directly-elected mayor and identify one of the seven Council seats that would be the directly-elected mayor's seat;</li> </ul>
<ul style="list-style-type: none"> <li>• The previous committee suggested one reason they did not want a directly-elected mayor was because it may be more beneficial to have someone who has experience serving on the city council and would be more knowledgeable;</li> </ul>
<ul style="list-style-type: none"> <li>• A person running for directly-elected mayor may not necessarily be unqualified; sitting council members would be eligible to run for directly-elected mayor;</li> </ul>
<ul style="list-style-type: none"> <li>• When the council selected the mayor for a one-year term there was effectually a rotation system; now with the two-year term there potentially are more politics;</li> </ul>
<ul style="list-style-type: none"> <li>• The politics with a one-year mayor was based on seniority; the most senior member of Council who had not served as mayor, and if two members were elected at the same time, the Council member who had the most votes and received four votes; when the charter was changed three years ago, the seniority requirement was removed;</li> <li>• We are only in the second term of a two-year mayor; Why is the vice mayor a one-year term? Shouldn't it be a tag team between the mayor and vice mayor?</li> <li>• When somebody new becomes vice mayor, it gives them training and makes them more competitive for filling the mayor's slot; this creates potential for political maneuvering;</li> </ul>
<ul style="list-style-type: none"> <li>• A review of the input from staff, public and council in '87, '91, '96, and 2006 did not produce any reason given as to what was wrong with the selection of the mayor by the council; what is wrong with the present system?</li> </ul>
<ul style="list-style-type: none"> <li>• It doesn't have to be broken to be improved upon; consideration of the question</li> </ul>

<p>shouldn't be based upon a finding that something is broken;</p> <ul style="list-style-type: none"> <li>• Governments are well-served when representatives are elected by the people; to restrict election of mayor to the view of six or seven council members may not be the most perfect way to determine who the mayor is;</li> </ul>
<ul style="list-style-type: none"> <li>• Changing the way the mayor is elected has implications on the role of the mayor and suggests we are changing the role and responsibilities;</li> <li>• We have a representative form of government in which we elect the council and those seven people make all the other votes on what the city does; why is selecting one of them as mayor, who does not have radically different responsibilities from the rest of the council any more singular than a budget or other decision?</li> <li>• There may be unintended consequences of changing to a directly-elected mayor;</li> </ul>
<ul style="list-style-type: none"> <li>• The directly-elected mayor would have the same responsibilities as the two-year or one-year mayor: they are the spokesperson for the city, the ambassador for the city, they are invited first for all public appearances and ribbon-cuttings, they work with the city manager on setting the agenda; the compensation is different because it is set that way in the charter;</li> <li>• If this committee recommends a four-year mayor, it would also have to choose between a four-year mayor elected by the seven council members or by the community at-large;</li> <li>• A directly-elected mayor who does a good job and could serve for eight years would have more leverage on the state and national level to bring recognition and funding to Sunnyvale;</li> </ul>
<ul style="list-style-type: none"> <li>• The directly-elected mayor is a position of prominence; the public has a right to elect someone who has that kind of presence;</li> </ul>
<ul style="list-style-type: none"> <li>• A four-year mayor could possibly bring more dollars to Sunnyvale as they could play a greater role in the U.S. Mayor's Conference;</li> </ul>
<ul style="list-style-type: none"> <li>• In the first quarter of 1991, venture capital invested in Bay Area cities with Council/Manager forms of government was six times greater than that of cities with directly-elected mayors, which would dispute the previous argument;</li> </ul>
<ul style="list-style-type: none"> <li>• Running in an election is costly; if a change is made, it should be to a four-year mayor;</li> </ul>
<ul style="list-style-type: none"> <li>• If a currently sitting council member is elected mayor, the city would incur the cost of a special election to fill the seat vacated;</li> </ul>
<ul style="list-style-type: none"> <li>• We need to frame a better definition of what the mayor does and doesn't do;</li> </ul>
<ul style="list-style-type: none"> <li>• The mayor would be seen as a buffer between the city council and the public; a translator of policies between the city council to the public; a representational figure providing additional policy leadership; the mayor is a focal point; a symbol of the city and has a higher profile;</li> </ul>
<ul style="list-style-type: none"> <li>• Disagreement that the role of the mayor is as a buffer, a translator, or provides additional policy leadership;</li> </ul>
<ul style="list-style-type: none"> <li>• The scope of the mayor's responsibilities is not an issue before this committee;</li> </ul>
<ul style="list-style-type: none"> <li>• Changing to a directly-elected mayor will subtly shift the definitions of the role and responsibilities of the mayor;</li> </ul>
<ul style="list-style-type: none"> <li>• A four-year mayor will assume certain powers whether or not they are written or whether it is intended or not; the statement that the mayor would have more influence at the regional, state, and federal level supports this;</li> </ul>
<ul style="list-style-type: none"> <li>• Specific benefits that will result should be identified before a recommendation can be made to make that change;</li> </ul>

<ul style="list-style-type: none"> <li>• A signpost of democracy is citizen participation; voter turnout is low; an election for mayor would have higher profile and more people would come out to vote;</li> </ul>
<ul style="list-style-type: none"> <li>• If the city wanted more participation from the citizenry, elections would be held in even years, not odd years;</li> <li>• Sunnyvale is the second largest city in the county; of 481 cities in the League of California Cities, 22 have a population of 100,000 or more that do not directly-elect their mayors; some of the more peaceable and less troubled cities do not have a directly-elected mayor; the argument that Sunnyvale needs a directly-elected mayor because it is a big city doesn't hold;</li> </ul>
<ul style="list-style-type: none"> <li>• Statistics are interesting but the focus should be on what is best for Sunnyvale;</li> </ul>
<ul style="list-style-type: none"> <li>• Cities with directly-elected mayors are more financially troubled; Sunnyvale's city manager is effective in putting together a balanced budget and the seven council are focused on making the final decisions; the current system seems to be working well;</li> </ul>
<ul style="list-style-type: none"> <li>• A different view on voter turnout could be that people are fairly happy with the way things are going and don't see the need for change;</li> </ul>
<ul style="list-style-type: none"> <li>• The view that there will be a higher voter turnout with a directly-elected mayor hasn't been demonstrated;</li> </ul>
<ul style="list-style-type: none"> <li>• A neighboring city recently had a mayoral election with four people running, a lot of debates, a lot of events and had a large turnout;</li> </ul>
<ul style="list-style-type: none"> <li>• A directly-elected mayor will have a different level of debate than the city council, will have an agenda or their own vision for the city, and will be able to say they have more clout;</li> <li>• We are saying the directly-elected mayor will be able to do more at the state and national level; are we saying they will also do exactly the same kinds of things locally? It will tilt toward the side of trying to do more, not because of anything statute-wise that we put in, but because of the way human nature is;</li> </ul>
<ul style="list-style-type: none"> <li>• What is the benefit of this change? What is a tangible value of recommending this change?</li> </ul>

Chair Weiss presented a list of pros and cons of a directly-elected mayor for follow-up discussion; Vice Chair Ludlow transcribed the list onto a flip chart.

<b>Pros</b>	<b>Cons</b>
1. More democratic;	1. Directly-elected mayor could result in outstanding people being unable to serve;
2. The trend in California cities is to directly-elected Mayor;	2. Could work against a unified, integrated administration;
3. It will bring out more voters in an election;	3. May come into conflict with city administration;
4. Political identification;	4. Can not be removed from office except by recall election;
5. Translator on policy decisions;	5. Would create another level of bureaucracy between council members and administration;
6. International City Management Association (ICMA) favors directly-elected mayor;	6. Additional expense;
7. Prevents cliquish politics from	7. Could introduce partisanship into local

dominating the city;	elections;
<b>Pros (continued)</b>	<b>Cons (continued)</b>
8. Provides continuity;	8. Citizens currently have more access to elected officials; a directly-elected mayor would reduce access;
9. Provides additional policy leadership;	9. Council-elected mayor ensures the position is held by someone with knowledge and experience;
10. Assumes independence in views since the office is not secured by majority vote of council;	10. Council-elected mayor is a “we” form of government, not an “I” form of government;
11. Single voice for the city;	Additional points added by other members included:
12. Media coverage of election tends to be higher than other local races;	11. Directly-elected mayor is a way to get around term limits;
13. Higher level of voter awareness of local issues;	12. Potential for abuse of power; a directly-elected mayor is more susceptible to special interests or lobbyists
14. More accountability	

Discussion was held at this time to set a date for the public hearing to be held.

MOTION: Committee Member Ringel moved and Committee Member Miller seconded the motion to hold the public hearing March 24 to include all matters the committee is charged with addressing.

VOTE: 10 – 0 (Committee Member Hughes absent)

Continued discussion and comments regarding the pros and cons of a directly-elected mayor listed earlier included:

<ul style="list-style-type: none"> <li>• Fundamental disagreement that most points listed as pro are a pro or listed as con are a con;</li> </ul>
<ul style="list-style-type: none"> <li>• The fact that the trend is that more cities are going to a directly-elected mayor doesn't matter and has no bearing on Sunnyvale;</li> </ul>
<ul style="list-style-type: none"> <li>• Disagreement that a directly-elected mayor brings out more voters;</li> </ul>
<ul style="list-style-type: none"> <li>• Disagreement that political identification is a good thing;</li> </ul>
<ul style="list-style-type: none"> <li>• Disagreement that a directly-elected mayor is a translator of policy decisions;</li> </ul>
<ul style="list-style-type: none"> <li>• Disagreement with inclusion of the statement that a directly-elected mayor would result in outstanding people being unable to serve; this is just the way the process is whether directly-elected or not;</li> </ul>
<ul style="list-style-type: none"> <li>• Disagreement that a directly-elected mayor can not be removed from office except by recall; the current provisions for removal would not change;</li> </ul>
<ul style="list-style-type: none"> <li>• Disagreement that another level of bureaucracy would be created between council and administration;</li> </ul>
<ul style="list-style-type: none"> <li>• Disagreement that continuity is limited to directly-elected mayor; there would be</li> </ul>

continuity without a directly-elected mayor because that person rotates from the council;
<ul style="list-style-type: none"> <li>• Agreement that a directly-elected mayor will provide continuity in representation at the regional, state and national levels;</li> </ul>
<ul style="list-style-type: none"> <li>• Abstention on taking a position on all points, as they are what other people's ideals are; all points should be included;</li> </ul>
<ul style="list-style-type: none"> <li>• Agreement that a directly-elected mayor is more democratic; (three members indicated agreement);</li> </ul>
<ul style="list-style-type: none"> <li>• A directly-elected mayor has the effect of investing the citizenry in its city government; the mayor would campaign on a platform;</li> </ul>
<ul style="list-style-type: none"> <li>• Disagreement that running on a platform is exclusive to a directly-elected mayor; council members have platforms when they run for election;</li> </ul>
<ul style="list-style-type: none"> <li>• A directly-elected mayor will provide accountability;</li> </ul>
<ul style="list-style-type: none"> <li>• Voter turnout is low because elections are held in off-election years; citizenry would be stimulated to come out to vote;</li> </ul>
<ul style="list-style-type: none"> <li>• A down-side to campaigning in general election years is that it is more expensive to try to reach more voters;</li> </ul>
<ul style="list-style-type: none"> <li>• A directly-elected mayor may feel they have a more efficient policy;</li> </ul>
<ul style="list-style-type: none"> <li>• A mayor will feel they have a mandate from the voters;</li> </ul>
<ul style="list-style-type: none"> <li>• A mayor may or may not have a mandate but if they are to get anything done, they have to get four votes of the council; this is within the system of checks and balances in the Council/Manager form of government;</li> </ul>
<ul style="list-style-type: none"> <li>• A directly-elected mayor will have policy ideas, will have campaigned and raised funds; whether intended or not, the process will be politicized and may result in the city manager having less administrative powers;</li> </ul>
<ul style="list-style-type: none"> <li>• Disagreement that a directly-elected mayor achieves more investiture by the citizenry;</li> <li>• There is an implied change in role and responsibilities; the mayor will be able to say they were directly-elected by the citizenry to accomplish the things they campaigned on;</li> </ul>
<ul style="list-style-type: none"> <li>• A directly-elected mayor who is elected by an 80-20 vote still has to get three votes on the council; council members won't compromise their strongly held views because the mayor got an 80-20 vote;</li> <li>• On the other hand, if the mayor was elected by 80-20, maybe the other council members ought to re-think their position. That could be a benefit of a directly-elected mayor;</li> </ul>
<ul style="list-style-type: none"> <li>• Disagreement that there could be a change to a directly-elected mayor with exactly the same roles and responsibilities as today</li> </ul>

The committee began development of a new list to narrow down the list of pros of a directly-elected mayor:

Pros	Comments:
1. Invests the Sunnyvale citizens in City government	
2. Accountability	<ul style="list-style-type: none"> <li>• Disagreement that accountability would be improved, unless the mayor is given the tools to make the changes they ran on</li> </ul>

3. Continuity at the regional, state, and national level	
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Brief discussion was held regarding recommendations of the National Civic League as cited in the city attorney's memo of November 22, 2006.

Chair Weiss recommended before the next Charter Review Committee meeting of March 3, additional research should be done, bring any new information, and give thought to bullet points that would be more expressive of the current situation.

**6. ADJOURN MEETING**

Chair Weiss adjourned the meeting at 8:55 PM.

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Kathleen Franco Simmons  
City Clerk

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Date

**APPROVED MINUTES\***  
**SUNNYVALE 2011 CHARTER REVIEW COMMITTEE**  
**MARCH 3, 2011**

**1. CALL TO ORDER**

Chair Weiss called the meeting to order at 6:35 p.m.

**2. ROLL CALL**

**PRESENT:** Committee Chair Weiss Carol Weiss  
Committee Vice Chair Carol Ludlow  
Committee Member Terry Fowler  
Committee Member Glenn Hendricks  
Committee Member Patrick Hughes  
Committee Member Tappan Merrick  
Committee Member Julia Miller  
Committee Member Ken Olevson  
Committee Member Mathieu Pham  
Committee Member Ted Ringel  
Committee Member Willis (Bill) Ritter

**ABSENT:** None.

**STAFF PRESENT:** City Attorney David Kahn  
City Clerk Kathleen Franco Simmons

**3. PUBLIC COMMENTS**

Alia Wilson, Sunnyvale Sun staff writer, introduced herself.

**4. APPROVAL OF MINUTES**

Chair Weiss recommended a correction to remove "Weiss" as erroneously listed after Committee Vice Chair, to correctly read: Committee Vice Chair Carol Ludlow.

MOTION: Committee Member Ringel moved and Committee Member Merrick seconded the motion to approve the Charter Review Committee Minutes of February 17, 2011 as amended.

VOTE: 11 - 0  
Motion carried.

**5. DISCUSSION AND RECOMMENDATIONS ON SUNNYVALE CHARTER PROVISIONS AND CHARTER LANGUAGE FOR SELECTION OF MAYOR**

- a. Discussion of input and comment from City Council, City staff, and citizens on Charter review issues

Committee Member Olevson provided information regarding materials he submitted titled: "Selected California City Data."

The committee briefly reviewed the charge of the City Council to the Charter Review Committee and the scope of work as limited to consideration of whether to change to a directly-elected Mayor, proposed Charter amendment language for changing to a directly-elected mayor including the term and term limits but not changing the role of the mayor, and consideration of the Charter provisions on Council compensation.

Discussion, comments and concerns included:

<ul style="list-style-type: none"><li>• Suggestion that the agenda for the public hearing March 24 be narrowed down to five pros and cons;</li><li>• Comment that the previous discussion made apparent that one person's "pro" is another person's "con";</li><li>• Suggestion to take a weighted selection of the pros and cons; each member would rate each one as to which is the most important and could speak to why each point should be included on the pro or con list; then the committee would rank and vote on them to come up with five of each;</li></ul>
<ul style="list-style-type: none"><li>• Concern the method above would be weighting the conversation at the public hearing;</li><li>• Suggestion to start with a clean slate and ask the public to tell the committee what they think;</li></ul>
<ul style="list-style-type: none"><li>• Concern regarding the delay in publicizing the public hearing and public meetings through an e-mail blast to the neighborhood associations;</li></ul>
<ul style="list-style-type: none"><li>• Concern regarding not wanting to channel the public's input;</li><li>• Comment that it is the voting citizen's responsibility to find out what is going on in their community and if they take the time to come out and make their point, they should be given the opportunity to speak to the issue within the parameters; to pre-decide the pros and cons would give the impression that it is a predisposed position; it should be an open discussion;</li></ul>
<ul style="list-style-type: none"><li>• Suggestion that the parameters of the hearing should be decided, an introduction should be given to set the framework of what the committee is reviewing and what it is not reviewing;</li></ul>
<ul style="list-style-type: none"><li>• Suggestion to give notice of a 3-minute limit for each speaker and have the City Attorney report on the charge of the Council to the committee;</li></ul>
<ul style="list-style-type: none"><li>• Comments that putting out the pros and cons as the committee sees them will trigger more input;</li></ul>
<ul style="list-style-type: none"><li>• The citizenry should be invited to submit their views about the issues by email to one central point; the committee meetings should be made more available to the public and to each of the neighborhood groups;</li></ul>

Chair Weiss requested of the city clerk that a notice be listed on the meeting notices stating that if someone cannot attend the meeting, comments may be emailed to the city clerk's email address.

Alia Wilson, staff writer for the Sunnyvale Sun, provided information regarding news articles for the Sun.

MOTION: Committee Member Ritter moved that the public be advised that City Council has created a charter review committee for the specific purpose which Counselor will describe, the scope of the committee's job, and a general timetable for the conclusion of the committee's work and not include in the motion the pros and cons.

RESTATED MOTION: Committee Member Ritter restated the motion that the public be advised about the public meeting and that background be given as to why the Charter Review Committee exists, what its charge is and what its deadline is, and describe in general what the issue is, which is either to continue the present system or to go to a directly-elected mayor, and say no more. Committee Member Ringel seconded the motion.

Committee Member Miller requested to amend the motion to include compensation of the mayor.

AMENDMENT: Committee Member Ritter amended the motion to include the issue of compensation.

RESTATED MOTION: Committee Member Ritter restated the motion that the public be advised at the March 24 public meeting that the agenda would include a summary of how the Charter Review Committee was created, why it was created, and what its charge is.

MOTION to CLOSE DISCUSSION: Committee Member Ringel moved and Committee Member Merrick seconded the motion to close discussion.

VOTE to CLOSE DISCUSSION: 11 - 0  
Motion carried.

VOTE on MAIN MOTION as AMENDED: 7 - 3 - 1 (Committee Members Fowler, Ludlow, and Merrick dissented, Committee Member Hughes abstained)  
Motion carried.

MOTION: Committee Member Miller moved and Committee Member Ringel seconded the motion to let the Chair decide the best way to handle time limits for public comment based on how many people are in attendance at the March 24 public hearing.

VOTE: 10 - 1 (Committee Member Merrick dissented)  
Motion carried.

Brief discussion was held regarding narrowing down the list of pros and cons transcribed from the flip chart list developed at the February 17 meeting. Without objection, it was agreed to delay this discussion until after public input is received March 24.

MOTION: Committee Member Merrick moved and Committee Member Ringel seconded the motion to schedule an additional Charter Review Meeting April 7, 2011.

MOTION to CLOSE DISCUSSION: Committee Member Ringel moved and Committee Member Merrick seconded the motion to close discussion.

VOTE to CLOSE DISCUSSION: 11 - 0  
Motion carried.

VOTE on MAIN MOTION: 11 - 0  
Motion carried.

City Attorney Kahn provided information regarding the other issues Council requested to be considered relating to the term and term limits of a directly-elected mayor.

Discussion, comments, question and concerns included:

<ul style="list-style-type: none"><li>• Consideration whether a directly-elected mayor would have a two year or four year term;</li><li>• Consideration whether election as mayor counts for term limits against Council terms, or whether there is a separate term as mayor, or a third option such as in Milpitas that following two terms as a city Councilmember, election as mayor extends the term limit by one additional term;</li></ul>
<ul style="list-style-type: none"><li>• Information from other cities and previous mayors regarding term limits;</li></ul>
<ul style="list-style-type: none"><li>• Currently the City does not have lifetime term limits; when a Councilmember has termed out after two four-year terms they have to sit out for the length of one term, four years, before they are eligible to run again;</li><li>• Would that mean that all seven sitting Councilmembers can run for mayor without sitting out for four years?</li></ul>

Committee Member Olevson volunteered to conduct independent research by calling other cities of similar size, charter and non-charter, directly-elected and not, to find out what term limits they have.

MOTION: Committee Member Merrick moved that we limit the review of mayoral position to a four year term only, because of the cost associated with running every two years; and second, to limit total term limits on the Council and mayor to twelve years without a break. Committee Member Ritter seconded the motion for discussion purposes.

Committee Member Ritter requested of the maker of the motion to entertain an addendum to the motion that says that a City Councilmember who has served two four-year terms must wait four years before they can run for mayor, and then if successful as mayor, they would be termed out after one term.

The maker of the motion declined to accept the amendment.

Additional discussion, comments, and questions regarding mayoral terms included:

<ul style="list-style-type: none"><li>• If a Councilmember gets elected to mayor for four years, they should be eligible to re-run for that position because it is a different position and the term would be a full eight years;</li><li>• Alternatively, to prevent current Councilmembers jumping off, remove the charter language that says they have to wait two years and change it to they have to wait one year or two years to give a gap in service while allowing a contiguous two-terms; it will take the politics out of positioning to get the votes and support for the directly-elected mayor position;</li></ul>
<ul style="list-style-type: none"><li>• Different Council seats end in different years; if the provision for twelve years total if a Councilmember served two four-year terms; would there be a required separation if elected once and part-way through the term a Councilmember wanted to run for mayor? If the Councilmember lost the election, would they still hold their Council seat?</li></ul>

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| <ul style="list-style-type: none"><li>• In the previous charter review, when the issue of term limits came up, the charter was changed to the current language, that for any twelve-year period a person may serve a total of eight years, whether eight consecutive or eight by serving four years, then not being on the Council for four years, then being on the Council for four years.</li></ul> |
| <ul style="list-style-type: none"><li>• Comments were expressed regarding the merits of continuing the discussion or not, of the pros and cons of a directly-elected mayor and whether conclusion of that issue should preclude the discussion on terms and term limits.</li></ul>   |

RESTATED MOTION: Committee Member Merrick restated the motion that the discussions regarding the directly-elected mayor first of all only deal with a four-year directly-elected mayor, and second, that the Councilmember/mayor can only serve a maximum of 12 years consecutively.

MOTION to CLOSE DISCUSSION: Committee Member Hendricks moved and Committee Member Hughes seconded the motion to close discussion.

VOTE to CLOSE DISCUSSION: 11 – 0  
Motion carried.

VOTE on MAIN MOTION: 1 – 9 – 1 (Committee Members Fowler, Hendricks, Hughes, Ludlow, Miller, Olevson, Pham, Ritter, and Weiss dissented, Committee Member Ringel abstained)  
Motion failed.

City Attorney Kahn provided information regarding the Council's request to review and make recommendations on the Charter provision on Council compensation as provided in the staff report.

Committee discussion, comments, questions and concerns relating to Council compensation included:

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| <ul style="list-style-type: none"><li>• Question of whether the charter could be amended to provide for the Council to vote annually on an increase or not subject to a 5% limit;</li></ul>  |
| <ul style="list-style-type: none"><li>• When the current provision was placed on the ballot in 1991 it was for the reason that the Council didn't have to go into a public forum and set their own compensation;</li><li>• Councilmembers may and do waive and decline the 5% increase on the dais; and it is automatically reinstated if not stated publicly each year;</li><li>• Question of how long, under the current provision, could an automatic 5% increase be sustained;</li></ul> |
| <ul style="list-style-type: none"><li>• Question of whether the committee could look at the total compensation of the mayor and Council as a percent of the City budget;</li><li>• Question of whether the committee could look at whether the increases not to exceed factors such as CPI capped at 5% or other factors;</li></ul>  |
| <ul style="list-style-type: none"><li>• Question of vesting of health benefits based on length of service;</li></ul>   |
| <ul style="list-style-type: none"><li>• Comments that Councilmembers are significantly underpaid;</li><li>• Suggestion that a fulltime Councilmember should receive \$60,000 or a Councilmember working halftime should be getting \$30,000, which would be an \$8000 raise over their current salary;</li></ul>   |
| <ul style="list-style-type: none"><li>• Councilmembers do a lot behind the scenes and expend a lot of personal time on the City's behalf;</li><li>• Comments expressing strongly in favor of compensating Councilmembers for the job they are doing;</li></ul>   |

<ul style="list-style-type: none"> <li>• Agreement that public servants are not well-compensated; the committee should go very slow in thinking about reducing Council compensation;</li> <li>• Comment that great care should be taken when considering changing the charter in any way because the valley may be in the doldrums economically right now, but won't be forever; if the charter is changed now, then there may be a need to have another charter amendment when things get better;</li> <li>• Comment that if the charter is to be amended, it ought to be amended so that the Council is compensated fairly;</li> </ul>
<ul style="list-style-type: none"> <li>• Question from a labor market perspective, do we have difficulty getting people to run for office;</li> </ul>
<ul style="list-style-type: none"> <li>• Comment that 25 public safety positions have been laid off and numerous positions of people who have retired have not been refilled; this City has always been efficient;</li> <li>• What you don't see are other benefits of the job; by the time you include all the benefits it will be close to \$50,000 per Council person;</li> <li>• Agreement that the compensation should be increased; the charter amendment should connect it to CPI and cap it at 5%;</li> </ul>
<ul style="list-style-type: none"> <li>• Question of whether the rank and file workers have automatic salary increases;</li> <li>• Comment that the automatic cost of living increase doesn't make sense;</li> <li>• An increase tied to CPI seems like a good idea and better than the current provision but it should be capped at 5%; if inflation is at 10% there should be more revenue coming in and a general correlation should be generally be made;</li> </ul>
<ul style="list-style-type: none"> <li>• During the Carter years, employment was going down while inflation was going up; neither is a good formula; also need to choose the right version of CPI;</li> </ul>
<ul style="list-style-type: none"> <li>• Support for tying to CPI with a cap; suggest finding a way to tie it to revenues to the budget;</li> <li>• Comment that people have different motivations for becoming Councilmembers other than for a paycheck; they should be compensated for their time;</li> </ul>
<ul style="list-style-type: none"> <li>• Total revenues for the City budget for 10-11 is \$264 million of which 74% is generated from taxes and service fees;</li> <li>• The problem with tying to the budget is how to do it if inflation goes up and CPI goes up but the real estate market goes down with high unemployment;</li> </ul>
<ul style="list-style-type: none"> <li>• Comment that it would be a complicated formula;</li> </ul>
<ul style="list-style-type: none"> <li>• It could be stated that if the pay raise this year would cause the total expenditures paid for Council salaries to exceed a certain percent;</li> <li>• This might give a strong incentive to generate more revenue;</li> </ul>
<ul style="list-style-type: none"> <li>• This might be a way of helping to enforce a leadership statement;</li> </ul>
<ul style="list-style-type: none"> <li>• Question regarding travel expense allowance for Council;</li> <li>• If a Councilmember does not use their travel budget they have an option to give it to another Councilmember or mayor or turn it back in and not use it;</li> </ul>
<ul style="list-style-type: none"> <li>• Comment that people don't do the job for the money; it is a part time job; money Councilmembers spend to get elected isn't necessarily their own money;</li> </ul>
<ul style="list-style-type: none"> <li>• Comment that there is not a lack of candidates; it isn't the number of candidates but the quality; some good candidates may say they don't want to take the pay cut or get elected to Council and leaves after a year or two;</li> </ul>
<ul style="list-style-type: none"> <li>• Recommendation that 1) any raise take effect in 2016 so there are no issues regarding Councilmembers voting for their own raise; 2) an average of cost of living over 5 years to gives City a better opportunity to budget; and 3) determine a salary of \$30,000 for Councilmembers and \$40,000 for the mayor as a starting point.</li> </ul>
<ul style="list-style-type: none"> <li>• Comment that Council compensation was being considered by the committee because</li> </ul>

of a desire to lower the salary.
<ul style="list-style-type: none"><li>• Comment that the 27th amendment to the Constitution does not allow Congress to raise its own salary; if Congress should vote a salary increase, it does not go into effect until the next Congress.</li></ul>

MOTION: Committee Member Ringel moved it be resolved that the Council compensation be set at the fiscal year 2010/2011 rate and henceforth increased annually by the CPI for Oakland Bay Area, capped at 5%.  
Motion died for lack of second.

**6. ADJOURN MEETING**

MOTION to ADJOURN: Committee Member Fowler moved and Committee Member Miller seconded the motion to adjourn.

VOTE: 8 - 3 (Committee Members Ritter, Ringel, and Merrick opposed)

Chair Weiss adjourned the meeting at 8:58 p.m.

\_\_\_\_\_  
Kathleen Franco Simmons  
City Clerk

\_\_\_\_\_  
Date

**APPROVED MINUTES\***  
**SUNNYVALE 2011 CHARTER REVIEW COMMITTEE**  
**MARCH 10, 2011**

**1. CALL TO ORDER**

Chair Weiss called the meeting to order at 6:40 p.m.

**2. ROLL CALL**

**PRESENT:** Committee Chair Weiss Carol Weiss  
Committee Vice Chair Carol Ludlow  
Committee Member Terry Fowler  
Committee Member Tappan Merrick  
Committee Member Julia Miller  
Committee Member Mathieu Pham  
Committee Member Ted Ringel  
Committee Member Willis (Bill) Ritter

**ABSENT:** Committee Member Glenn Hendricks  
Committee Member Patrick Hughes  
Committee Member Ken Olevson

**STAFF PRESENT:** City Attorney David Kahn  
City Clerk Kathleen Franco Simmons

Committee Member Ringel raised a point of information to inquire as to whether the committee as a constituted body of the City of Sunnyvale should begin the meetings with the pledge of allegiance. City Attorney Kahn provided information and concluded the committee may if it chooses, but is not required.

**3. PUBLIC COMMENTS**

Chair Weiss reported she received a communication from a councilmember regarding the issue Councilmember participation at the March 24 public hearing.

MOTION: Committee Member Fowler moved and Committee Member Merrick seconded the motion to extend an invitation to the City Councilmembers to speak at the public hearing on March 24 and provide input.

Discussion, comments and concerns included:

- |   |
|---|
| <ul style="list-style-type: none"><li>• Comment that councilmembers as residents of Sunnyvale are invited to participate as a matter of course;</li></ul> |
|---|

<ul style="list-style-type: none"><li>• Comment that it may not be appropriate to ask the Council to provide input as they will be making the final decision to accept or reject the recommendation of the Charter Review Committee;</li></ul>
<ul style="list-style-type: none"><li>• Suggestion that the councilmember may have asked just as a courtesy but as a member of the public, they can come and provide input;</li></ul>
<ul style="list-style-type: none"><li>• The committee is trying to gain as much information as possible and if the Council has specific reasons why this is a good idea or not, it would be worthwhile to hear that;</li></ul>
<ul style="list-style-type: none"><li>• The councilmember's request should be responded to that he is welcome to come to any meeting and speak to the committee during the public hearing, but this motion isn't necessary;</li></ul>
<ul style="list-style-type: none"><li>• The councilmember is a citizen and may come at his choosing; if he has information he thinks would be valuable to the committee, the committee would be delighted to have him come and provide input;</li></ul>
<ul style="list-style-type: none"><li>• Recommendation to respond back that all citizens of Sunnyvale are invited to come and speak.</li></ul>

MOTION to CLOSE DISCUSSION: Committee Member Pham moved and Committee Member Miller seconded the motion to close discussion.

VOTE to CLOSE DISCUSSION: 8 - 0 (Committee Members Hendricks, Hughes, Olevson absent)

Motion carried to close discussion.

Committee Member Fowler withdrew the motion. Committee Member Merrick withdrew the second.

Norval Nelson, member of the public, spoke in opposition to changing to a directly-elected mayor assuming the duties remain the same and spoke in support of the current provision for council compensation for the amount of time and effort they spend getting prepared for meetings.

#### **4. APPROVAL OF MINUTES**

MOTION: Committee Member Merrick moved and Committee Member Pham seconded the motion to approve the Charter Review Committee Minutes of March 3, 2011.

Committee Member Ritter suggested a correction on page 4, where it states "Committee Member Ritter seconded the motion" to indicate that he seconded the motion for discussion purposes only.

MOTION: Committee Member Ringel moved and Committee Member Ludlow seconded the motion to approve the Charter Review Committee Minutes of March 3, 2011 as corrected.

MOTION to CLOSE DISCUSSION: Committee Member Merrick moved and Committee Member Fowler seconded the motion to close discussion.

Without objection, discussion was closed.

VOTE on MOTION to approve as corrected: 8 - 0 (Committee Members Hendricks, Hughes, Olevson absent)

Motion carried.

**5. DISCUSSION AND RECOMMENDATIONS ON SUNNYVALE CHARTER PROVISIONS AND CHARTER LANGUAGE FOR SELECTION OF MAYOR**

- a. Discussion of input and comment from City Council, City staff, and citizens on Charter review issues

**Issue: Directly-elected Mayor.**

Committee Member Ritter presented a request for information regarding voter registration and participation to test whether or not there is evidence that a directly-elected mayor may increase voter turnout.

Discussion, comments and concerns included:

<ul style="list-style-type: none"><li>• Suggestion that it would be helpful to find out how many people were eligible to vote by age and citizenship, how many were registered to vote; and how many voted;</li><li>• It might be helpful to go back two or three elections to see how it has changed over time for Sunnyvale and for some adjoining cities and compare cities with a directly elected mayor and those with council/manager situations;</li><li>• It might be helpful for the committee's judgment as to whether or not the decision on directly-elected mayor or current system might change election turnout;</li></ul>
<ul style="list-style-type: none"><li>• More voters come out for gubernatorial and presidential elections held on the even-year; if increased voter turnout is the goal, a recommendation should be made to switch from odd to even-year elections;</li></ul>
<ul style="list-style-type: none"><li>• Comment that gathering the data will take away from the real focus of what the committee has been asked to do – should Sunnyvale have a directly-elected mayor, for two years or four years and should the compensation stay the same, decrease or increase;</li><li>• Normal voter turnout is 37% to 42% and it probably wouldn't significantly increase with a directly-elected mayor;</li><li>• Recent census results indicate the city has gained in population and diversity so it will be hard to know what the actual real numbers are;</li></ul>
<ul style="list-style-type: none"><li>• In 2008 there were reportedly 74,000 registered voters and around 59,000 cast a ballot;</li><li>• Concern regarding the amount of staff time the research would take;</li></ul>
<ul style="list-style-type: none"><li>• It would be difficult to conclude larger voter turnout is due to a directly-elected mayor; it could be that there are other important issues on the ballot.</li></ul>

City Attorney Kahn offered to have staff check with the Registrar of Voters to see if they have easily available registration figures and percentages who voted in the last several elections.

**MOTION:** Committee Member Ritter moved to ask staff to develop as much information as they can in summary form for the county as a whole, the City of Sunnyvale and for a select number of additional cities to include a few with directly-elected mayors and a few with council/manager situations where the council selects the mayor.

**AMENDMENT:** Committee Member Pham requested the motion be amended to include the condition that this direction doesn't cost the city staff time and money for the research.

Committee Member Ritter declined to accept the amendment.

Motion died for lack of second.

MOTION: Committee Member Pham moved to direct staff to do the research with the condition that it doesn't take a lot of time or any money to do.

Committee Member Pham withdrew the motion.

Chair Weiss recommended Committee Member Ritter conduct the research. City Attorney Kahn re-affirmed staff would gather easily attainable information and distribute to the committee.

**Issue: Council compensation.**

MOTION: Committee Member Merrick moved and Committee Member Fowler seconded the motion that the cost of living increase for Council and/or Mayor not be an automatic five percent but that it be tied to the consumer price index (CPI) for the State of California.

Discussion, comments and concerns included:

<ul style="list-style-type: none"> <li>• When inflation is one to three percent then five percent is too high; when inflation is 18% then five percent may not be enough; at a time when the city council was being paid several hundred dollars a month, five percent was reasonable;</li> <li>• The pay is now starting to get closer to a reasonable rate;</li> <li>• In a bad economy, people are not going to be receptive to giving Councilmembers five percent automatically;</li> </ul>
<ul style="list-style-type: none"> <li>• The automatic five percent increase is at some point going to be not sustainable and may result in a salary that is unreasonable for a part-time job;</li> <li>• The negative argument is that if it is changed by the voters it will be very difficult to reinstate at some time;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion to proceed procedurally on an incremental basis;</li> </ul>
<ul style="list-style-type: none"> <li>• Recommend changing what is currently in place to an automatic CPI increase in January;</li> </ul>
<ul style="list-style-type: none"> <li>• The motion may not necessarily include an automatic increase;</li> </ul>
<ul style="list-style-type: none"> <li>• Concern is that the first segment of the committee's recommendation might need to be modified after approval of subsequent steps as the committee is really looking at a total compensation package;</li> </ul>
<ul style="list-style-type: none"> <li>• Some of the incremental steps procedurally might include, if the committee accepts the motion on CPI, to consider criteria that it is not necessarily a good idea to grant a raise when the city is losing money;</li> <li>• Question of how to define when the city is losing money;</li> <li>• Question of what to do with compounding when over a four year period, CPI may be increased;</li> </ul>
<ul style="list-style-type: none"> <li>• Question of whether it is intended to use the CPI that is seasonally or annually adjusted;</li> </ul>
<ul style="list-style-type: none"> <li>• The intent of the motion is based on the annual CPI;</li> <li>• Recommendation to tie it to the fiscal year, July to July;</li> <li>• Recommendation to consider as a next step, to look at a five-year average, to allow for anomalies when the CPI jumps by 15% in one year or drops by five percent in another year;</li> </ul>
<ul style="list-style-type: none"> <li>• Comment that a five year average would be too complex and not workable within the twenty-year budget system;</li> </ul>
<ul style="list-style-type: none"> <li>• Comment that the numbers are there and are easy to average over five years;</li> </ul>

<ul style="list-style-type: none"> <li>• Question of to which councilmembers the provision would apply;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion to consider this question with consideration of the total compensation;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion that if the charter amendment was to pass in November 2011, it would take effect for all seven in January of 2012;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion to keep it simple; don't create five year averaging;</li> </ul>
<ul style="list-style-type: none"> <li>• Recognition that the issue of council salaries needs to be addressed, but salaries should not be tied to the budget because councilmembers have very little control over revenues or the general economy of the area; aside from department fees, revenues primarily come from real estate taxes and sales tax which is outside of Council's purview;</li> <li>• Suggestion to consider from an overall view rather than incrementally;</li> <li>• Recommendation to start from a motion to decide the basic compensation, when it should start, and how much the annual increment should be;</li> </ul>
<ul style="list-style-type: none"> <li>• Comment that it is not reasonable for councilmembers to receive an automatic raise when the city is losing money;</li> </ul>
<ul style="list-style-type: none"> <li>• Comment that councilmembers have the option to decline the raise in that twelve month period;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion that the annual cost of living adjustment tied to CPI use a moving average over the five most current years;</li> <li>• Suggestion that motions should not be made until after discussion as there are other elements in the total compensation package to consider;</li> <li>• Suggestion that to encourage the best and brightest, the city needs to be competitive with the private sector;</li> </ul>
<ul style="list-style-type: none"> <li>• Comment that competing on this level translates to professional politicians;</li> <li>• Many officeholders in Sunnyvale have full-time day jobs and the impetus and drive to perform this civic duty as a part-time job;</li> </ul>
<ul style="list-style-type: none"> <li>• Comment that in terms of the time and effort for a councilmember to do a first-rate job, it is almost a full-time job;</li> </ul>
<ul style="list-style-type: none"> <li>• Comment that Sunnyvale councilmembers are compensated more so than the cities around it;</li> </ul>
<ul style="list-style-type: none"> <li>• Comment that this may account for the better quality of officeholders Sunnyvale has.</li> </ul>

RESTATED MOTION: Committee Member Merrick restated the motion to change the automatic five percent increase to the cost of living CPI for the State of California. Merrick clarified that the motion was intended to mean annual CPI based on the last fiscal year. Committee Member Fowler confirmed his second of the motion as restated.

MOTION to CLOSE DISCUSSION: Committee Member Ringel moved and Committee Member Ludlow seconded the motion to close discussion.

Without objection, discussion was closed.

VOTE on MAIN MOTION: 4 - 4 (Committee Members Miller, Pham, Ringel, Ritter dissented, Committee Members Hendricks, Hughes, Olevson absent)  
 Motion failed.

MOTION: Committee Member Ringel moved and Committee Member Fowler seconded the motion that the annual raises be tied to the Oakland/Bay Area CPI.

Discussion, comments and concerns included:

<ul style="list-style-type: none"><li>• Opposition was expressed for the reason that motions should not be voted upon at this point before all the elements of the compensation package have been discussed thoroughly;</li><li>• Comment that the CPI index gives an idea of the inflation rate and includes the cost of commodities;</li></ul>
<ul style="list-style-type: none"><li>• Comment that CPI doesn't give an accurate sense of inflation as it doesn't include the cost of food or gasoline;</li></ul>
<ul style="list-style-type: none"><li>• Discussion of merit pay or how councilmember performance is recognized;</li></ul>
<ul style="list-style-type: none"><li>• Question of whether there is legal authority to pay councilmembers different amounts;</li></ul>
<ul style="list-style-type: none"><li>• Suggestion that if a five percent automatic increase is too much, consideration should be given to changing to four or three percent;</li><li>• Comment that some believe public service should not be compensated;</li></ul>
<ul style="list-style-type: none"><li>• Comment that if public servants are not compensated, only the wealthiest can afford to serve;</li></ul>
<ul style="list-style-type: none"><li>• Comment that people that have the desire and the time to serve the public do serve;</li></ul>
<ul style="list-style-type: none"><li>• Comment that consideration of incentive pay or merit increases is not part of the committee's charge.</li></ul>

MOTION to CLOSE DISCUSSION: Committee Member Ringel moved and Committee Member Pham seconded the motion to close discussion.

Without objection, discussion was closed.

VOTE on MAIN MOTION: 5 - 3 (Committee Members Miller, Pham, and Ritter dissented, Committee Members Hendricks, Hughes, Olevson absent)  
Motion carried.

MOTION: Committee Member Merrick moved and Committee Member Ludlow seconded the motion to adopt a five year moving average to apply to the CPI.

MOTION to CLOSE DISCUSSION: Committee Member Miller moved and Committee Member Ringel seconded the motion to close discussion.

Discussion, comments and concerns included:

<ul style="list-style-type: none"><li>• Comment that with CPI for each year, an increase could be justified, while with a five year rolling average of CPI a single year with unusually high CPI will roll into the next three or four years and result in a significantly higher rate even in a year with very low CPI;</li></ul>
<ul style="list-style-type: none"><li>• Comment that the five year average will actually retard the base in the high income years and won't penalize the councilmembers when the CPI drops;</li></ul>
<ul style="list-style-type: none"><li>• Question of why a rolling average should be used;</li></ul>
<ul style="list-style-type: none"><li>• Comment that a high cost of living and a declining cost of living are bad economies; during a year of hyper-inflation, the public will not want to pay the council more just because of inflation, because the public isn't getting more; it is politically insensitive to give increases in a bad economy;</li><li>• Comment that the five percent average spreads it out.</li></ul>

VOTE on MAIN MOTION: 3 - 5 (Committee Members Ludlow, Miller, Pham, Ringel, and Ritter dissented, Committee Members Hendricks, Hughes, Olevson absent)  
Motion failed.

MOTION: Committee Member Ringel moved and Committee Member Fowler seconded the motion to cap the increase at five percent per annum.

Discussion, comments and concerns included:

<ul style="list-style-type: none"><li>• Comment that if capped at five percent, when there is hyper-inflation, the increase is given but when the CPI goes down the increase will go down;</li></ul>
<ul style="list-style-type: none"><li>• Question of whether the city can legislate declines in salaries;</li></ul>
<ul style="list-style-type: none"><li>• Comment that if the charter is amended with this provision, the charter would dictate the increase or decrease;</li></ul>
<ul style="list-style-type: none"><li>• Question of whether a lower cap should be considered;</li></ul>
<ul style="list-style-type: none"><li>• Support for the upper limit but not to mandate a cut in pay if the CPI drops below zero;</li></ul>
<ul style="list-style-type: none"><li>• Motion was based on the baseline being the fiscal year 2010; henceforth the increases would be the CPI capped at five percent.</li></ul>

RESTATED MOTION: Committee Member Ringel restated the motion to cap the annualized increases at five percent. Ringel clarified the baseline is at the fiscal year 2010 and the adjustment cannot go below zero.

MOTION to CLOSE DISCUSSION: Committee Member Pham moved and Committee Member Miller seconded the motion to close discussion.

Without objection, discussion was closed.

VOTE on MAIN MOTION: 7 - 0 – 1 (Committee Member Ritter abstained, Committee Members Hendricks, Hughes, Olevson absent)  
Motion carried.

MOTION: Committee Member Merrick moved the Council will not be required to take a cut in pay in the years when CPI is negative.

Motion died for lack of second.

Brief discussion prior to adjournment included a suggestion for the next meeting to give each member an opportunity to express their thoughts on a directly-elected mayor and give the committee the opportunity to address any individual concerns.

**6. ADJOURN MEETING**

MOTION to ADJOURN: Committee Member Pham moved and Committee Member Ringel seconded the motion to adjourn.

VOTE: 6 - 2 (Committee Members Merrick and Ritter dissented, Committee Members Hendricks, Hughes, Olevson absent)

Chair Weiss adjourned the meeting at 8:30 p.m.

\_\_\_\_\_  
Kathleen Franco Simmons  
City Clerk

\_\_\_\_\_  
Date

**APPROVED MINUTES\***  
**SUNNYVALE 2011 CHARTER REVIEW COMMITTEE**  
**MARCH 15, 2011**

**1. CALL TO ORDER**

Chair Weiss called the meeting to order at 6:30 p.m.

**2. ROLL CALL**

**PRESENT:** Committee Chair Weiss Carol Weiss  
Committee Vice Chair Carol Ludlow  
Committee Member Terry Fowler  
Committee Member Glenn Hendricks  
Committee Member Patrick Hughes  
Committee Member Julia Miller (arrived at 6:43 p.m.)  
Committee Member Tappan Merrick  
Committee Member Ken Olevson  
Committee Member Mathieu Pham  
Committee Member Ted Ringel  
Committee Member Willis (Bill) Ritter

**ABSENT:** None

**STAFF PRESENT:** City Attorney David Kahn  
City Clerk Kathleen Franco Simmons

**3. PUBLIC COMMENTS**

Constance Cook Turner, stated she was present to listen and give public input.

Fred Fowler, stated he was present to listen.

**4. APPROVAL OF MINUTES**

Hendricks stated he will abstain from voting on the minutes as he was not present.

MOTION: Committee Member Merrick moved and Committee Member Pham seconded the motion to approve the Charter Review Committee Minutes of March 10, 2011 as submitted.

VOTE: 7 – 0 (Committee Members Hendricks, Hughes, Olevson abstained, Committee Member Miller absent)  
Motion carried.

**5. DISCUSSION AND RECOMMENDATIONS ON SUNNYVALE CHARTER PROVISIONS AND CHARTER LANGUAGE FOR SELECTION OF MAYOR**

- a. Discussion of input and comment from City Council, City staff, and citizens on Charter review issues

**Issue: Directly-elected Mayor.**

Individual Committee Member comments included:

- Committee Member Olevson stated the current system seems to be working well and he hasn't heard any arguments strongly advocating why the city should change to a directly-elected mayor. He stated before the committee makes its final decision, he hopes to have time to call other cities and find out what they found as pros and cons, but at this point he is tending to favor leaving it the way it is.
- Committee Member Ringel stated his research of the 1982, 1991, and 2006 Charter Review Committees and City Council decisions and the January 2011 Council meeting, identified the following arguments in favor of a directly-elected mayor:
  - 1- A directly-elected mayor would serve on select committees at Mayor's Conferences, etc.;
  - 2- A four-year directly-elected mayor would have more influence in regional organizations and the city would become a leader of global networking;
  - 3- As the city grows, there is a need to evolve from part-time to full-time council and mayor; there is more interest by voters in the political arena;
  - 4- A directly-elected mayor is more effective in getting things done; the mayor cannot be as effective if not directly-elected.He stated that he identified the following opposing views:
  - 1- The directly-elected mayor would spend more time climbing a personal ambition ladder and attend more meetings on a national, local and state level;
  - 2- The Sunnyvale government-business influence is exemplary in the Bay Area, California and nationwide;
  - 3- Global networking is an illusion; cities don't have global networking unless they are New York City, Chicago or Los Angeles;
  - 4- The city manager and city council have grown the city positively in the last 43 years;
  - 5- Four Charter Review Committees and City Councils over the past 28 years have rejected changing the present form; the responsibility of the manager would be diminished and the mayor's responsibility would be increased which would create a problem in the election process and management process and be at increased cost.Ringel stated he is on the side of keeping it the way it is with the Council electing to mayor for two years.
- Committee Member Miller stated she said many of the things Committee Member Ringel said at the first meeting in regard to how a directly-elected mayor could enhance Sunnyvale's position locally, statewide and federally. Miller stated she has been taking a poll of community members and most people are leaning toward the way it was done before the mayor's term was changed to two years; they don't like the two-year term because they are confused with who the Vice Mayor is. Miller stated that she likes the idea of letting the citizenry decide but questioned whether the people that vote would have as much knowledge as the committee members who have studied the issue. She stated that there will be a cost to the city to put it on the ballot, and that she doesn't think it will affect Sunnyvale in a negative way to have a directly-elected mayor, but that the current way has also been effective for many years. Miller stated her personal view is that it should have been done three years ago, but wasn't, so it is important to look at the political will on what is trying to make it happen three years later.

- Committee Member Ritter stated he hasn't been able to find the information on voter turnout yet on how it is trending and whether a comparison can be made of surrounding cities with directly-elected mayors and cities with council-selected mayors. He stated he does not have pre-conceived ideas about that but that as a principle of good government, the more citizen participation the better. Ritter stated that preliminarily he believes the mayor ought to be determined by the electorate and that it ought to go on the ballot; but that the weight of the evidence is important to him, and not all of the evidence is in; he is anxious to hear more from the committee and the public.
- Committee Member Pham stated he has not made up his mind yet; he continues to weigh the pros and cons and is waiting for all the evidence to come in before he makes a decision. He stated he is undecided.
- Committee Member Hendricks stated he has not made a final decision and is still open to input. He stated the most compelling argument he has heard relate to length of term and how the mayor has time to establish relationships with other governmental entities. He stated that having a directly-elected mayor may not be the only way to solve that problem, if it even does solve it. He stated the remaining arguments he has heard in favor of a directly-elected mayor tend to go into the aspect of role and responsibilities either at the statutory level or in the perception of what the mayor would be allowed to do or what their responsibility is or what accountability they should have. Hendricks stated if the question were reversed to ask: "What is the role and responsibility that we want the mayor of Sunnyvale to have?", and the response articulated a changed role, then it would be appropriate to say the mayor should be directly-elected. He stated the arguments against a directly-elected mayor, such as somebody might want to do this by ambition or that it would be costly, were not as compelling. He stated the issue of voter turnout may potentially be described as a problem but that he is not sure a directly-elected mayor is the only way that satisfies that problem, or whether it would even solve it. Hendricks stated that the committee is not looking at role and responsibility, and whether at the statutory level or through perception, changing to a directly-elected mayor changes the role and responsibility. He stated that on that level, subject to more information, he would tend to lean toward having it stay the way it is.
- Committee Member Merrick stated he sees this as a drive motivated by political aspirations to develop a political base to run for higher offices, and that is not a reason for Sunnyvale to choose to do that. He stated regardless of what the charter says, greater power would be consolidated with one person as people would go to the mayor. Merrick stated that this would make it easier for the pro growth, high-density advocates as he has observed in Santa Clara. He stated Sunnyvale handles things much more responsive to its citizens and less responsive to high-density development and is more cautious about the approaches to development. Merrick stated that because there would be political promises made in elections, there would be a greater probability of spending more money than the city has and the city will look more like the other cities that don't have surpluses. He stated the cities with budget problems all have directly-elected mayors. Merrick stated if a change is made this year, there is nothing to say another change couldn't be made in four years. He stated this would be the beginning of the changes rather than the end, so he is happy to leave Sunnyvale as it is.
- Chair Weiss stated the Preamble to the Constitution starts with "We the people..." and with that is implicit the idea of popular sovereignty, that power resides with the people. She stated she believes the committee should recommend putting it on the ballot, to give the people of Sunnyvale a chance to have discussions among themselves and vote. Weiss stated that people she has spoken with are surprised that they don't elect the mayor. Weiss stated accessibility is a very important feature and by getting the people more involved, whichever way they vote, the public will be more educated and it will make them feel like the

<p>system is more accessible. She stated that she is not in favor of the city council selecting the mayor; she feels that walking precincts and explaining issues is a very important civic adventure. Weiss stated that putting this position on the ballot will cost about the same as running for a council seat. She stated the fact that the city works so well can be credited to staff and the fact that it is long-term budgeting with short term adjustments that lend to stability. Weiss stated that there has also been disparity in the ability levels of council members. She stated the committee should vote in such a way to allow the public to get involved.</p>
<ul style="list-style-type: none"><li>• Committee Member Fowler stated he appreciates the request to find more statistics on the effect on voter turnout in having a directly-elected mayor, but that it is difficult to determine that there is a cause and effect relationship. He stated it also weighs on his mind that one might find some council members more to their liking than others but that when a mayor is directly-elected, a mayor might be elected that you don't agree with. Fowler stated that he found it interesting that people may want to go back to a one-term mayor. He stated that he can't see any particular reason to change to a directly-elected mayor and that he is not sure the electorate is that interested in changing it. He stated he is leaning toward not recommending that it be put on the ballot.</li></ul>
<ul style="list-style-type: none"><li>• Committee Member Hughes stated that in the absence of any substantive changes to the role and responsibilities of the mayor, he is not convinced the set of people affected by this change would consist of anything other than current and future mayors of Sunnyvale. He stated that all the other arguments seem to be fairly subjective or hard to quantify. In lieu of doing a weighted decision matrix, he stated he would tend to fall back on whatever solution is simpler; there are more decisions to make voting in California already and voting for council is a fairly simple solution; voting for council and mayor seems like an unnecessary complexity. Hughes stated he is leaning against the idea of a directly-elected mayor under these constrictions.</li></ul>
<ul style="list-style-type: none"><li>• Committee Member Ludlow stated that she understands all the pros and cons, and what she is hearing from a lot of people who've been in Sunnyvale for forty years is that they don't want it to change. She stated that there are new people coming in to Sunnyvale, so she does not believe that is a good reason on which to base the decision. Ludlow stated she had a lot more to say that has been said and she agrees with everything Chair Weiss said 150%.</li></ul>

## PUBLIC COMMENT

Public comment was re-opened at 7:28 p.m.

Constance Cook Turner commented that there are so few people who follow the council, who are educated about city governance and who vote. She expressed support for how well the city is doing now and stated she was not in favor of placing the issue on the ballot. In addition, she provided comments that public service is a privilege and that councilmembers should be reimbursed for expenses but otherwise should be honored to perform this part-time service to the city.

Fred Fowler provided comments that the directly-elected mayor is a solution but not to the more important problems if it doesn't put more police on the street, pave more roads and keep parks clean; the council is supposed to act as an oversight body to make sure city workers serve the public good. Fowler questioned whether a directly-elected or non-directly elected mayor would make that idea work better and indicated that he was against putting it on the ballot unless a strong case can be made by unanimous recommendation of the committee.

**Issue: List of PROS and CONS of a directly-elected Mayor.**

MOTION: Committee Member Hendricks moved and Committee Member Ludlow seconded the motion to take the single page list of PROS and CONS of a directly-elected mayor and let committee members have the opportunity to add, delete or adjust the language on the list. The list of PROS as developed by the committee at their meeting of February 17, 2011 was as follows:

- Item 1. *Democratic*
- Item 2. *Trend is to directly-elected Mayor*
- Item 3. *Bring out more voters*
- Item 4. *Political identification*
- Item 5. *City manager's association favors directly-elected Mayor*
- Item 6. *Prevents cliquish [sic.]*
- Item 7. *Continuity*
- Item 8. *Policy leadership*
- Item 9. *Assume independence*
- Item 10. *Single voice*
- Item 11. *Higher media coverage*
- Item 12. *Higher voter awareness*
- Item 13. *More accountability*

- Item 1. *Invest the Sunnyvale citizens in City government*
- Item 2. *Accountability*
- Item 3. *Continuity – Reg – State – National*

The list of CONS was as follows:

- Item 1. *Could work against system*
- Item 2. *Conflict with administration*
- Item 3. *Not be removed unless recall*
- Item 4. *Create new bureaucracy*
- Item 5. *Additional expense*
- Item 6. *Council introduce partisanship*
- Item 7. *Reduces access*
- Item 8. *Ensure someone with more knowledge*
- Item 9. *We form of government*
- Item 10. *Get around term limits*
- Item 11. *More susceptible to special interest*

AMENDMENT: Committee Member Hughes offered an amendment to the motion to use the corrected list that has the City Manager/ICMA change rather than the first list.

Committee Member Hendricks declined to accept the amendment.

VOTE on MAIN MOTION: 7 – 3 (Committee Members Ringel, Ritter, and Weiss dissented, Committee Member Miller abstained)  
Motion carried.

The committee affirmed or made modifications to the list of PROS of a directly-elected mayor by the following informal votes by show of hands:

**PROS**

Item 5. *City manager favors ...*

Modify to: *International City Managers Association (ICMA) favors directly-elected Mayor*

No vote was taken at this time.

Discussion was held on a suggestion to add Item 14: *Allows for political aspirations.*  
No action was taken.

Item 1. *Democratic*

Modify to: *Public chooses its Mayor*

VOTE in favor of keeping Item 1 on the list as modified: 7 (carried)

Item 2. *Trend is to directly-elected Mayor*

Remove from list

VOTE in favor of removing Item 2 from list: 8 (carried)

Item 3. *Bring out more voters*

and

Item 12. *Higher voter awareness*

Combine Items 3 and 12 and modify to: *May have more voter awareness and turnout*

VOTE in favor of combining Items 3 and 12 as modified: 7 (carried)

Item 4. *Political identification*

Modify to: *Gives Sunnyvale higher visibility and influence*

VOTE to keep Item 4 on list as modified: 8 (carried)

Item 5. *International City Managers Association (ICMA) favors directly-elected Mayor\**

Keep on list as corrected

VOTE in favor of keeping Item 5 on list as modified: 3 (failed)

Item 6. *Prevents cliquish [cliques]*

Remove from list

VOTE in favor of removing Item 6 from list: 9 (carried)

Item 7. *Continuity*

Remove from list

VOTE in favor of removing Item 7 from list: 8 (carried)

Item 8. *Policy leadership*

Modify to: *Enhanced leadership opportunity*

VOTE in favor of keeping Item 8 as modified: 8 (carried)

Item 9. *Assume independence*

Remove from list

VOTE in favor of removing Item 9 from list: 9 (carried)

Item 10. *Single voice*

Replace: *Primary point of contact for public*

VOTE in favor of replacing Item 10 on the list as worded: 6

Item 10. *Single voice*

Replace: *Higher visibility for the office of Mayor*

VOTE in favor of replacing Item 10 on the list as worded: 9 (carried)

Item 11. *Higher media coverage*

Remove from list

VOTE in favor of removing Item 11 from list: 10 (carried)

Item 13. *More accountability*

Modify to: *More accountability of Mayor to the public*

VOTE in favor of keeping Item 13 as modified: 9 (carried)

**PROS** from short list at the bottom:

Item 1: *Invest the Sunnyvale citizens in City government*

Modify to: *Empowers the citizens of Sunnyvale*

VOTE in favor of keeping this item on the list of pros as modified: 7 (carried)

Item 2. *Accountability*

and

Item 3. *Continuity – Reg – State – National*

No action necessary; handled in previous actions above.

City Attorney Kahn read back the approved list of PROS for the Preliminary Discussion Points:

1. *Public gets to choose Mayor*
2. *May have more voter awareness and turnout*
3. *Gives Sunnyvale more visibility and influence*
4. *Enhanced leadership opportunity*
5. *Primary point of contact for the public*
6. *Higher visibility for office of Mayor*
7. *More accountability by Mayor to the public*
8. *Empowers citizens of Sunnyvale*

By consensus, Numbers 1 and 8 on the list of approved PROS were combined to read:

*Empowers citizens of Sunnyvale to choose the Mayor.*

The committee affirmed or made modifications to the list of CONS of a directly-elected mayor by the following informal votes by show of hands:

### **CONS**

Item 1. *Could work against system*

and

Item 2. *Conflict with administration*

Combine Items 1 and 2 and modify to: *Could cause conflict with Council and City Manager*

VOTE in favor of keeping Items 1 and 2 combined as modified: 8 (carried)

Item 3. *Not be removed unless recall*

Modify to: *Directly-elected Mayor can not be removed unless by a recall vote*  
VOTE in favor of keeping Item 3 as modified: 11 (carried)

Item 4. *Create new bureaucracy*

Remove from list

VOTE in favor of removing from list: 10 (carried)

Item 5. *Additional expense*

Modify to: *Additional one-time expense*

VOTE in favor of keeping Item 5 on list as modified: 10 (carried)

Item 6. *Council [sic] introduce partisanship*

Correct to: *Directly-elected Mayor introduces partisanship*

VOTE in favor of keeping Item 6 on list as corrected: 4 (failed)

Item 7. *Reduces access*

Remove from list

VOTE in favor of removing Item 7 from list: 8 (carried)

Item 8. *Ensure someone with more knowledge*

Modify to: *Enables someone without civic experience to be elected Mayor*

VOTE in favor of keeping Item 8 on list as modified: 9 (carried)

Item 9. *We form of government*

Modify to: *Potential to change the dynamics of Sunnyvale government*

VOTE in favor of keeping Item 9 on list as modified: 9 (carried)

Item 10. *Get around term limits*

Modify to: *Potential to circumvent term limits*

VOTE in favor of keeping Item 10 on list as modified: 9 (carried)

Item 11. *More susceptible to special interests*

VOTE in favor of keeping Item 11 on list: 9 (carried)

MOTION: Committee Member Ringel moved and Committee Member Ludlow seconded the motion to close discussion and the list.

VOTE: 11 – 0  
Motion carried.

Discussion regarding the intent of the list of pros and cons included:

<ul style="list-style-type: none"><li>• List should be titled "Preliminary Discussion Points"</li><li>• Concern about giving the impression to the public that the committee is in support of this list, all of it or any one item;</li><li>• Concern the public may get the idea the committee has worked on this list for months and no new ideas are necessary;</li><li>• The list ought to be presented with caution to make sure the public understands the committee is interested in their original thinking regarding the issue of a directly-elected mayor;</li></ul>
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<ul style="list-style-type: none"> <li>• The list invites the opportunity to discuss the issues;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion to have the three charges made by the City Council on display in the room and the Chair will state the committee has had discussions on the points provided in a handout;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion to change “discussion points” to “talking points”;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion that more important than the label is how the Chairperson’s opening comments present the information as a summary of points that have been talked about;</li> <li>• Suggestion to call them open-ended questions;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion the Chair introduce the list as items the committee has preliminarily discussed, that the committee has not reached any final decision on any of the items, and the committee would like to hear more points from the public for consideration;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion to include a statement to that effect on the document.</li> </ul>

City Attorney Kahn read back the approved list of CONS for the Preliminary Discussion Points:

1. *Could cause conflict with City Council and city manager*
2. *Directly-elected Mayor can not be removed unless by a recall vote*
3. *Additional one-time expense*
4. *Enables candidate without civic experience to be elected Mayor*
5. *Potential to change dynamics of Sunnyvale government*
6. *Potential to circumvent term limits*
7. *More susceptible to special interests*

City Attorney Kahn reported the list will be provided as an attachment to the agenda with a disclaimer that the points are presented as a summary of discussion points and are not the final decisions of the Charter Review Committee. Kahn reported the document will include the committee’s decision on the issue of compensation to recommend Council compensation be set at the amount currently received by Council, adjusted by CPI capped at five percent.

Discussion regarding the format of the public hearing included:

<ul style="list-style-type: none"> <li>• Suggestion to include on the handout and white board the three issues Council charged the Charter Review Committee with;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion to make the information available at the podium for speakers;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestions for handling time limits; previous action left this to the discretion of the Chair;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion that questions of the committee members to the public be made sparingly or limited to requests for clarification or explanation;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion the intent of the public hearing is to listen, not to engage in dialogue or persuasion;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion to limit questions to speakers through the Chair;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion to allow time for committee discussion following the public hearing.</li> </ul>

**6. ADJOURN MEETING**

MOTION to ADJOURN: Committee Member Miller moved and Committee Member Ringel seconded the motion to adjourn.

VOTE: 11 - 0

Chair Weiss adjourned the meeting at 9:45 p.m.

\_\_\_\_\_  
Kathleen Franco Simmons  
City Clerk

\_\_\_\_\_  
Date

**APPROVED MINUTES\***  
**SUNNYVALE 2011 CHARTER REVIEW COMMITTEE**  
**MARCH 24, 2011**

**1. CALL TO ORDER**

Chair Weiss called the meeting to order at 6:33 p.m.

**2. ROLL CALL**

**PRESENT:** Committee Chair Weiss Carol Weiss  
Committee Vice Chair Carol Ludlow  
Committee Member Terry Fowler  
Committee Member Glenn Hendricks  
Committee Member Patrick Hughes  
Committee Member Julia Miller  
Committee Member Tappan Merrick  
Committee Member Ken Olevson  
Committee Member Mathieu Pham  
Committee Member Ted Ringel  
Committee Member Willis (Bill) Ritter

**ABSENT:** None

**STAFF PRESENT:** City Attorney David Kahn  
City Clerk Kathleen Franco Simmons

**3. APPROVAL OF MINUTES**

This item was handled following the public hearing at 7:16 p.m.

MOTION: Committee Member Merrick moved and Committee Member Fowler seconded the motion to approve the Charter Review Committee Minutes of March 15, 2011 as submitted.

VOTE: 11 – 0  
Motion carried.

**4. DISCUSSION AND RECOMMENDATIONS ON SUNNYVALE CHARTER PROVISIONS AND CHARTER LANGUAGE FOR SELECTION OF MAYOR**

a. **PUBLIC HEARING**

Chair Weiss provided introductory remarks.

Public hearing opened at 6:35 p.m.

Speakers:

Chris Moylan stated he wanted to provide some insight from the Council perspective. With regard to question one on whether there should or should not be a directly-elected mayor, he stated it is simply an up or down question on whether to put it before the voters. He stated question two asking how you would do it is where the committee can provide real value. The previous charter review committee that recommended extending the mayor's term to two years recognized that not everyone should be the mayor. Moylan stated that there have been some unintended consequences, particularly behind the scenes politics and campaigning, while trying to avoid violating the Brown Act. He provided copies of an article on Menlo Park which had a problem with that. Moylan stated he received multiple calls from out of town telling him who he should support for mayor. In response to questions from the committee, Moylan stated he believes the former charter review committee was right to make the term longer than one year as it was reported by former mayors to be a handicap. He stated under the former circumstances, when someone didn't get their turn as mayor, psychologically it left bitterness and relationships permanently broken. Moylan stated the decision should be made by the largest number of people possible.

Mei-Ling Stefan stated she submitted a letter to the committee earlier expressing her reasons against the direct election of the mayor. She stated that a city council in which all members work together as equals is a better safeguard for our democratic system than one in which there is a special, high-profile position. Stefan stated that election of a mayor by elected representatives takes out the risks of concentration of power in one person, especially when the role of a directly-elected mayor is not defined at the outset by the review committee. She stated the present way prevents a single election race from having an unduly high impact since an election can be won with a slim majority of votes from a small fraction of citizens. Stefan expressed the need for surer and better ways to increase voter participation. She stated that although the Charter Review Committee cannot define the role and responsibilities of the directly-elected mayor, in the list of pros there are assumptions about the roles, such as: the directly-elected mayor would be the primary point of contact for the public. She stated it would be better if all city council members feel equally free to be in direct contact with the public. She questioned how the voters could be asked to vote whether they want a directly-elected mayor when they do not know the role and responsibilities of a directly-elected mayor.

Melinda Hamilton stated she was speaking as a private citizen. She stated she is terming out of office and has no plans to run for office here or anywhere else and submitted her comments in writing. Hamilton stated under the old system, there was an expectation you would get to be mayor at some point if re-elected. She stated that part of the discussion is because of the transition while some current council members were elected under the old system. Hamilton stated there are some compelling reasons why we have a two-year mayor; from a representation viewpoint locally and in the county, it helps to have the continuity. She stated that she also thinks that there are not many people who would turn the job down when it is their turn under the rotation system. Hamilton stated she is starting to think it is possible that the city should have a directly-elected mayor, but it would have to be a full time mayor, which is beyond the scope of what the committee is to consider. She stated there would need to be a community-wide dialogue and there is not enough time to discuss the pros and cons. She stated there would be unintended consequences, changes the dynamic between mayor and council members and between the mayor and city manager. Hamilton advocated continuing with the

current system to allow at least two or three more election cycles with a full council elected under this system before revisiting the question.

Steve Chessin, President of Californians for Electoral Reform, stated he has no opinion on whether or not to recommend a directly-elected mayor. With regard to issue two, to recommend proposed charter language, he stated the question of how the mayor is elected should be addressed. He stated there are alternatives to a plurality vote where the most votes wins such as a two-round run off and instant run-off. Chessin stated because of the recent elections in Oakland and San Francisco there is a lot of information and misinformation about instant run-off voting. He stated the previous charter review committee invited him to educate them on electoral systems and stated he would be happy to present the pros and cons of the methods at a later date for consideration when drafting the proposed charter language.

Richard Kolber stated he opposes a directly-elected mayor because the mayor is a member of the city council, and directly-elected mayors are not elected to be members of the council. He stated, as an alternative, the mayor could be the person receiving the most votes in the most recent elections. He stated there would be problems with how to realign the city council.

Brandon Sulser stated that as a voter, he would prefer a directly-elected mayor and expressed support for putting the question on the ballot as it would put the power of choice in the hands of the voters.

Marilyn Howard, Voter Chair representing Cupertino/Sunnyvale League of Women Voters, stated the association has no opinions until they study the question. She requested an explanation of how the charter committee was selected. Following responses by committee members, Howard commended the committee that eleven people who could work so well together to come up with a concrete proposal is a testimony to community involvement.

Fred Fowler stated that it seems like some of the feelings are strong but the reasons articulated aren't very strong. He stated his recommendation to the committee is to try to work together to clearly articulate the real choices. Fowler stated the city is organized like a business and the mayor's job is to be chairman of the board, to make the entire board work together as a team, so the overall direction of the city stays in the public interest. He stated the mayor needs to be somebody who is respected and trusted by the council, and for that reason, it is more likely that the council selecting one of their own would result in a situation where the mayor is the leader of the council. He stated a directly-elected mayor is more truly a leader of the community, so the question is: what role does the mayor play, and how do we make government most effective to do the people's business? Fowler concluded the best way to make the council work as a team, is to make sure that the mayor is the leader of that team, selected by that team.

MOTION: Committee Member Ringel moved and Committee Member Ludlow seconded the motion to close the public hearing at 7:14 p.m.

VOTE: 11 – 0  
Motion carried.

Public hearing closed at 7:14 p.m.

b. Discussion of input and comment from City Council, City staff, and citizens on Charter review issues

Committee Member Fowler distributed a written proposal on term and term limits for discussion purposes.

Committee Member Olevson provided a broad overview of the memorandum regarding Summary of Data from nearby Cities which he prepared and provided earlier.

Discussion, comments and suggestions included:

<ul style="list-style-type: none"><li>• Comment that all council members are not elected in the same year, therefore, if the proposed language were adopted, some council members may not have the opportunity to become mayor;</li></ul>
<ul style="list-style-type: none"><li>• Suggestion that the committee would have to recommend a four-year cycle in order for everybody on the council to be eligible for the mayor's seat;</li><li>• Comment that it is more important to decide if the question should be placed on the ballot;</li><li>• Comment in support of keeping it simple; support for picking a seat, whichever seat number it would be, or recommend doing away with numbered seats in order to implement a directly-elected mayor;</li></ul>
<ul style="list-style-type: none"><li>• Additional comments in support of addressing whether to recommend a directly-elected mayor or not first.</li></ul>

**Issue: Directly-elected Mayor.**

MOTION: Committee Member Merrick moved and Committee Member Olevson seconded the motion to adopt as an agenda item for the next meeting the final decision to either directly-elect or not directly-elect the mayor and then proceed with the term length of the mayor as a second agenda item.

FRIENDLY AMENDMENT: Committee Member Hendricks offered a friendly amendment that at the next meeting to come up with the Committee's recommendation to the three items that are on the table in the order that they are listed.

Committee Member Merrick declined to accept the friendly amendment.

Committee Member Ringel informed the committee he would not be at the next meeting, would not be available to participate by teleconference and indicated he would state his position before the close of the meeting.

VOTE: 10 – 1 (Committee Member Merrick dissented)  
Motion carried.

Continued discussion, comments included:

<ul style="list-style-type: none"><li>• Comment that the majority of citizens who communicated by email are not in favor of a directly-elected mayor;</li></ul>
<ul style="list-style-type: none"><li>• Comment that people who have been in Sunnyvale a long time don't want to change to a directly-elected mayor, but that is not a good reason to oppose giving the people a choice.</li></ul>

Discussion and suggestions with regard to process included:

- Suggestion to articulate the reasons pro and con at the next meeting;
- Suggestion for each member before the next meeting to articulate solid reasons why they are voting the way they are;
- Suggestion to indicate how they will vote, yes or no, write a paragraph on each of the three questions detailing the rationale for their decision, and forward to the city clerk; the city clerk will compile and distribute to the committee.

Statement of position on directly-elected mayor:

- Committee Member Ringel made a statement of his reasons as to why he strongly believes the city should stay with the same system that is in place now. He stated Sunnyvale has tried four times to call for directly-elected mayor; in 1982, 1991, 2006 charter review committees have recommended against it; city councils have recommended against it on three occasions; voters have rejected it over the past 28 years. Ringel stated when looking at the financial aspect, every city he has looked at that has a directly-elected mayor has a lesser credit rating than the City of Sunnyvale. He stated that the city has been singled out for its management team because they are good; the city council has worked well with staff over many years. Ringel stated that of the seven people who spoke tonight, only one was for directly-elected mayor, and one who wouldn't commit; the people who wrote are overwhelmingly in favor of maintaining the present system. He stated if it is going to be changed, another issue must be addressed, and that is the power structure of how we govern ourselves. Ringel stated this can't be done easily, will take a lot of time and there may be a lot of problems to be addressed. Ringel asked the committee to consider that we have a good system now.

Continued discussion of directly-elected mayor included:

- Comment that rules governing the scope of mayor's job tightly confine the mayor's responsibilities;
- Suggestion to carefully consider what would happen if the people elected the mayor, rather than four council people from their own ranks, not the most democratic way of electing mayor;
- Comment that if the mayor chose to go outside of the boundaries of their responsibility, they would be doing a disservice to the city, to themselves, and to the council;
- Comment that in Sunnyvale one of the candidates raised \$96,000 from labor unions all across state; another council member gets financial support from developers in Santa Clara where developers have a more undue influence;
- Comment that Councilmember Moylan mentioned the politics of running for mayor, and Sunnyvale already has politics;
- Comment that Sunnyvale is a civil service organization; there are extremes in Santa Clara that we don't want to see in Sunnyvale;
- Comment that councilmembers are responsive to the community and the people, so giving one person more power will be the result of a directly-elected mayor.
- Comment that the electorate in Sunnyvale is very wise; if voters of Sunnyvale chose a directly-elected mayor, a large number of people might run for the position, money and politics will come in to any race; there were also previous city council candidates who ran and didn't raise any money, and upon re-election were unopposed; there are a lot of dynamics that can't be controlled; the committee has to look at what is best for the city;
- Comment in support of open government and giving the citizenry the opportunity to decide;

<ul style="list-style-type: none"><li>• Comment that if there is to be a directly-elected mayor, the seat will have to be decided; it will have to be decided whether all council are eligible to run and term limits;</li><li>• Comment that a directly-election mayor would have the right to serve a full four-year term and an option to run for a second term; it would be up to the constituency to decide if that person should be re-elected to serve another term;</li><li>• Comment that current councilmembers can get around current term limits by serving eight years as a councilmember and then serve eight years as mayor; then can go back and serve another eight years as a councilmember because there are no lifetime term limits;</li></ul>
<ul style="list-style-type: none"><li>• Suggestion to re-designate a council seat as the mayor's seat such as seat 7, then all of the provisions that hold for council will continue to hold for the mayor; no seated councilmember can run for mayor until the end of their term; they would not be allowed to have more than eight consecutive in any form whether the mayor's seat or council seat;</li></ul>
<ul style="list-style-type: none"><li>• Comment that three mayors who've spoken haven't said what changing to a directly-elected mayor will fix; no definitive benefit has been offered except that it will empower the people to elect an individual to be mayor;</li></ul>
<ul style="list-style-type: none"><li>• Comment that if the committee can't clearly articulate that the change will have a positive effect on the governance, the finances, or something, then it is only being done on the emotion of "we like it";</li></ul>
<ul style="list-style-type: none"><li>• Comment that a more democratic process and empowering the people to make the choice for themselves is a very important process; the question ought to be posed to the people;</li></ul>
<ul style="list-style-type: none"><li>• Comment with regard to term limits, that if it is better to give the people the choice, why not give them the choice to vote them in as they choose rather than impose term limits;</li><li>• Comment that if there is a separate position as mayor, why couldn't people be potentially be elected to two terms as a mayor; and why wouldn't someone be able to run for mayor at the same time as serving as a councilmember; if we want to allow people to have a choice, then let the people have a choice;</li></ul>
<ul style="list-style-type: none"><li>• Comment that 25 people in a poll and by email were opposed to a directly-elected mayor, five in favor;</li><li>• Comment that older voters are more responsive, younger tend to be more involved with children or schools; efforts have been made to solicit comments from neighborhood groups, but the neighborhood groups didn't get notices from the city;</li></ul>
<ul style="list-style-type: none"><li>• Comment to clarify that earlier comments made regarding the differences based on age wasn't accurate; what was meant was that people who've lived in Sunnyvale longer tend to want to keep the system the way it is;</li><li>• Comment that in a survey of people in the neighborhood didn't know the mayor is not directly-elected.</li></ul>

**Issue: Council compensation.**

MOTION: Committee Member Ringel moved: Be it resolved that the base salary of council and mayor shall be at the fiscal year basis of 2010, shall not go below zero, the increase shall be limited the Bay Area/Oakland CPI with a maximum increase of 5% annum.

Committee Member Merrick seconded the motion and offered an amendment to instead of using fiscal year 2010, to base it as of February 1, 2011.

Committee Member Ringel accepted the amendment.

VOTE: 11- 0  
Motion carried.

**Issue: Terms and term limits.**

MOTION: Committee Member Merrick moved to talk about term limits.

MOTION: Committee Member Miller moved that term limits stay the same as the current charter: two four-year terms with a requirement to sit out four years and no lifetime term limits.

Committee Member Miller withdrew the motion.

Discussion, comments, questions and clarification included:

<ul style="list-style-type: none"> <li>• Comment that a directly-elected mayor is a new office; an issue must be addressed of whether current councilmembers can run for that office and start a new four-year or eight-year term with a limit of twelve years;</li> </ul>
<ul style="list-style-type: none"> <li>• City Attorney Kahn indicated a determination would need to be made whether the term of the directly-elected mayor would be two years or four years, and whether it would be treated the same as the mayor is now, which is limited to eight years within any twelve year period, or whether, because it is a new office, it would not count toward term limits for councilmember and a term could be held as mayor even if two terms have already been served as a councilmember.</li> </ul>
<ul style="list-style-type: none"> <li>• Question based on Committee Member Fowler’s proposal of picking one seat such as seat 7, if one of the seats is left vacant, would the term of the current councilmember that won the directly-elected mayor be kept; the mayor would have a term of two or four years and that might extend the person over eight years;</li> </ul>
<ul style="list-style-type: none"> <li>• City Attorney Kahn clarified that it will depend on what the committee and ultimately the charter would say; if it counted toward an eight year limit, if a councilmember ran for mayor at the end of their first term, it would still be eight years; no additional time would be added; if the mayor doesn’t count toward councilmember term limits, a person could be a councilmember for four years, mayor for four years, and run again for councilmember for four years resulting in twelve years of service within a twelve year period; with regard to the other question, there couldn’t be a vacant seat because one of the provisions would be that if a councilmember ran for mayor they would have to vacate the council seat.</li> </ul>
<ul style="list-style-type: none"> <li>• Comment that in the past, a councilmember served eight years in one seat number, went off for two years, and ran in a different seat number and served sixteen years that way; the committee should ensure that circumstance is not possible again, or put a limit of sixteen years; eight years as a council member and eight years as the mayor;</li> </ul>
<ul style="list-style-type: none"> <li>• Comment that Charter Section 602 it states “No incumbent member of the Council shall be a candidate for a Council seat other than the one which that person then holds” and “No person shall be eligible to serve as a member of the Council for more than two successive four-year elective terms”; making the mayor just another seat retains all these provisions and all the term limits carry directly over;</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion for discussion: the directly-elected mayor is not part of the council terms; the mayor is a separate office and the terms could be limited to eight or twelve, separate from the council; request for clarification regarding whether a councilmember could run for mayor without resigning;</li> </ul>
<ul style="list-style-type: none"> <li>• City Attorney Kahn clarified the committee and the council will need to decide whether a councilmember could continue in their seat while running for mayor or have to resign to run; one of the choices that would have to be made is if the seat is vacated, then the city would have to hold a special election.</li> </ul>
<ul style="list-style-type: none"> <li>• Suggestion to add to the previous suggestion to allow a current councilmember to run for</li> </ul>

mayor;
<ul style="list-style-type: none"><li>• Comment that another issue is whether a sitting councilmember who has served eight years has to wait four years before running for mayor;</li></ul>
<ul style="list-style-type: none"><li>• Comment that there should not be a constraint from serving eight years on the council then serving eight years as mayor.</li></ul>
<ul style="list-style-type: none"><li>• Comment that the statement in Section 602 “No incumbent member of the Council shall be a candidate for a Council seat other than the one which that person then holds” would not apply to the mayor as the mayor is a separate office;</li></ul>
<ul style="list-style-type: none"><li>• Comment that Committee Member Fowler’s proposal is intended to be binding on both the mayor’s seat and the council seats to maintain the current term limits in the charter;</li></ul>
<ul style="list-style-type: none"><li>• Comment that the other proposal would make the odd number of seats more attractive as a councilmember could run for mayor every election and retain their seat if they lose; with the other seats, the members would have to choose whether to run for their council seat or the mayor’s seat</li></ul>

MOTION: Committee Member Ringel moved that term limits for any council person and/or mayor would be two four-year terms within any twelve year continuous period. Ringel clarified that the motion means that eight years in a twelve year period could be served as a council member followed by eight years in a twelve year period as the mayor.

Discussion:

<ul style="list-style-type: none"><li>• Comment that a councilmember who runs for mayor has an unfair advantage over other candidates;</li></ul>
<ul style="list-style-type: none"><li>• Comment that it is not part of the motion on the table and not a major concern that needs to be addressed;</li></ul>
<ul style="list-style-type: none"><li>• Comment that it is an important concern when four councilmembers are coming off the council; will they be eligible to immediately run for mayor?</li><li>• Comment that this would be in direct opposition to the current charter as there is a four year waiting period when eight years have been served;</li></ul>
<ul style="list-style-type: none"><li>• Suggestion to consider that no councilmember/mayor can serve more than ten years in a twelve year period or sixteen years in a twenty year period; that would require if they’ve been on the council to take two years off;</li></ul>
<ul style="list-style-type: none"><li>• Comment that four years waiting period is a long time out of the loop; two years would provide a break and still be in the election cycle.</li></ul>

FRIENDLY AMENDMENT: Committee Member Hendricks offered a friendly amendment for clarifying purposes, to add “there is no requirement to wait between going from council to mayor.”

Committee Member Ringel accepted the friendly amendment.

RESTATED MOTION: Committee Member Ringel restated the motion: Be it resolved that the term limits for council persons and four-year directly-elected mayors be two consecutive four-year terms in a twelve year period; council persons may run for directly-elected mayor without having to wait, council persons shall not have to have a waiting period to enter the mayoral race.

Committee Member Miller called for the question at 8:56 p.m.

VOTE: 3 – 8 (Committee Members Fowler, Hughes, Ludlow, Merrick, Miller, Olevson, Pham, and Ritter dissented)  
Motion failed.

**5. ADJOURN MEETING**

MOTION to ADJOURN: Committee Member Miller moved and Committee Member Ritter seconded the motion to adjourn.

VOTE: 7 – 4 (Committee Members Merrick, Hendricks, Weiss, and Ringel dissented)  
Motion carried to adjourn.

Chair Weiss adjourned the meeting at 9:11 p.m.

\_\_\_\_\_  
Kathleen Franco Simmons  
City Clerk

\_\_\_\_\_  
Date

**APPROVED MINUTES\***  
**SUNNYVALE 2011 CHARTER REVIEW COMMITTEE**  
**MARCH 30, 2011**

**1. CALL TO ORDER**

Chair Weiss called the meeting to order at 6:33 p.m.

**2. ROLL CALL**

**PRESENT:** Committee Chair Weiss Carol Weiss  
Committee Vice Chair Carol Ludlow  
Committee Member Terry Fowler  
Committee Member Glenn Hendricks  
Committee Member Patrick Hughes  
Committee Member Tappan Merrick  
Committee Member Ken Olevson  
Committee Member Mathieu Pham (arrived late)  
Committee Member Willis (Bill) Ritter

**ABSENT:** Committee Member Ted Ringel  
Committee Member Julia Miller

**STAFF PRESENT:** City Attorney David Kahn  
City Clerk Kathleen Franco Simmons

**3. PUBLIC COMMENTS**

Mei-ling Stefan expressed concerns about a directly-elected mayor and stated support for a previous suggestion from a member of the public to consider as an alternative that the candidate who receives the most votes in an election should become the mayor.

Richard Kolber spoke in support of giving the current system of selecting the mayor more time to prove itself rather than doing a quick change based on one election. With regard to council compensation, Mr. Kolber expressed support for the committee's suggested proposed revision.

Vice Mayor Griffith expressed his appreciation for the Charter Review Committee in taking the time to look at the issues and give the council a sense of what the public thinks. Griffith encouraged the committee to act with caution in considering changing the fundamental way the city is governed or the fundamental way people are attracted to run for office. He stated he would hope if the committee makes recommendations on changes, it is made clear that a problem exists and explain why the recommendations will make the problem better. Griffith stated the compensation issue is important and may take 10-15 years to recoup the cost of what

fixing it through a ballot measure. He stated it is also a leadership issue; it looks bad when employees are being asked to take cuts while the council receives an automatic 5% increase.

#### **4. APPROVAL OF MINUTES**

MOTION: Committee Member Hendricks moved and Committee Member Merrick seconded the motion to approve the Charter Review Committee Minutes of March 24, 2011 as submitted.

VOTE: 8 - 0 - 1 (Committee Member Ritter abstained, Committee Members Miller and Ringel absent)  
Motion carried.

#### **5. DISCUSSION AND COMMITTEE DECISIONS ON RECOMMENDATIONS FOR SUNNYVALE CHARTER PROVISIONS AND CHARTER LANGUAGE FOR SELECTION OF MAYOR INCLUDING TERM AND TERM LIMITS, AND COUNCIL COMPENSATION**

- a. Council compensation
- b. Selection of mayor
- c. Term and term limits

MOTION: Committee Member Hendricks moved and Committee Member Fowler seconded the motion to consider the three items separately.

VOTE: 9 – 0 (Committee Members Miller and Ringel absent)  
Motion carried.

##### **Issue: Council compensation**

City Attorney Kahn provided a brief report regarding the proposed language for council compensation as based on the committee's previous action. Following discussion, City Attorney Kahn noted suggested revisions: "The compensation of the council and mayor shall increase by a percentage equal to the percentage increase in the preceding year's October twelve-month rolling average of the CPI-U as determined by the United States Department of Labor..." and "However, in no event shall the CPI-U compensation increase exceed (5%) per year, nor result in a decrease."

MOTION: Committee Member Merrick moved and Committee Member Olevson seconded the motion to accept the revisions as noted by City Attorney Kahn.

VOTE: 9 – 0 (Committee Members Miller and Ringel absent)

##### **Issue: Election of mayor**

MOTION: Committee Member Ritter moved the committee consider the pros and cons provided today, discuss those and adopt them before proceeding to the issue of whether or not a directly-elected mayor should be recommended by this committee.

Motion died for lack of second.

MOTION: Committee Member Olevson moved and Committee Member Merrick seconded the motion that the committee recommend to the City Council that we do not change the current method of electing the mayor.

FRIENDLY AMENDMENT: Committee Member Fowler offered a friendly amendment that the motion read: "The Charter Review Committee does not recommend changing to a directly-elected mayor."

Committee Member Olevson accepted the amendment.

VOTE: 5 - 4 (Committee Members Ludlow, Pham, Ritter, and Weiss dissented, Committee Members Miller and Ringel absent)

Motion carried.

At 7:58 p.m., the committee broke into two groups to develop draft lists for and against a directly-elected mayor.

**Public comment:**

Dave Simmons stated a directly-elected mayor helps develop someone who wants to move on to higher office and gives a greater visibility for one person.

The committee reassembled at 8:33 p.m. and presented the draft lists for and against a directly-elected mayor.

Reasons for a directly-elected mayor:

1. Diversity of voices. The youth and minority voices have not been heard; many of the minorities have come here expressly for the right to vote. The last ballot measure was 20 years ago and the city's demographics have changed greatly since then.
2. Transparency and open government. A directly-elected mayor diminishes the possibility of Brown Act violations and of back room dealings. The citizens perform a watchdog function.
3. Empowerment. Democracy is not a spectator sport. People have the right and obligation to choose their leadership by a majority vote.
4. Increases public trust in government. Majority of citizens choose mayor rather than four councilmembers in the "old boys club".
5. Complexity of issues. The mayor's job is much more complex today than it was 20 years ago. A directly-elected mayor will have to persuade voters that he or she has the qualifications and competency to do a good job.
6. Accountability. Candidates to be a directly-elected mayor will have to say what they will do and it is easier to hold him/her accountable.
7. Why do we want to deny our citizens the right to choose whether or not they want a directly-elected mayor?
8. Voter education and outreach. Campaigns for a directly-elected mayor raise voter awareness of important issues and will hold mayor to a higher standard of performance.
9. Visibility. This will increase the visibility of the mayor; many Sunnyvale citizens cannot even name their mayor.
10. The respondents at the public forum and in communications to the Charter Review Committee do not reflect Sunnyvale's demographics.
11. The right to vote is guaranteed by the constitution and cannot be abridged.

Reasons against a directly-elected mayor:

1. Public response overwhelmingly favors existing process as have all prior votes on this subject.
2. Council is fully representative of all Sunnyvale. "If we can't trust them to pick their own leader, what can we trust them with."
3. Council already entrusted with issues of equal or greater import, so there is no reason to select out the mayor.
4. We do not believe that directly-elected mayor would eliminate "back room" deals. Directly-elected mayor would increase political pressure.
5. Current system diffuses political power away from a single individual in favor of whole council.
6. Existing system focuses on existing electorate concerns.
7. "Feeling is strong, but logic is weak." Current mayor selection process facilitates a team approach to effective city oversight.
8. Role of mayor would perceptibly change.
9. Directly-elected mayor should be considered only if role of council, mayor and city manager is to change.
10. Public is fatigued from hearing about this topic.

**Issue: Term and term limits**

MOTION: Committee Member Merrick moved and Committee Member Olevson seconded the motion for term limits for a directly-elected mayor: no councilmember may serve more than eight years out of twelve; no mayor may serve more than eight years out of twelve; no mayor/councilmember may serve more than ten out of twelve or sixteen out of twenty years in a row.

FRIENDLY AMENDMENT: Committee Member Hendricks offered a friendly amendment that if there is a directly-elected mayor the term would be four years and they could not serve more than two contiguous terms.

The amendment was not accepted.

Discussion included:

<ul style="list-style-type: none"><li>• Clarification that the intent of the motion is that it be a four-year term and to require a two-year break after serving two four-year terms in one office before running for another elective office, or a four-year break within twenty years;</li></ul>
<ul style="list-style-type: none"><li>• Suggestion to make the concept clear by stating the mayor is a separate position and making a discrete point by including a statement that a person could not go directly from two consecutive terms in a council seat to a mayor position or visa versa;</li></ul>
<ul style="list-style-type: none"><li>• Clarification that the motion is not intended to eliminate somebody from running for mayor who has served only one term as councilmember;</li></ul>
<ul style="list-style-type: none"><li>• Suggestion to state that no person who has served as mayor or council shall serve more than ten out of twelve years without a two-year break;</li></ul>
<ul style="list-style-type: none"><li>• Comment that currently, a person who serves four years as a council person and is not re-elected can run again two times within twelve years, while the suggestion would result in a person who runs for council and then runs for mayor would have to wait two years before running again for council which would have the potential to change the current council term conditions;</li></ul>
<ul style="list-style-type: none"><li>• Comment that in the above example, a person who serves four years as a councilmember, then four years as mayor would have to wait two years to run for council again, resulting in</li></ul>

a six year forced break from council to council, which modifies the current council term language that allows a person to serve as a council member eight out of twelve years;
<ul style="list-style-type: none"><li>• Comment that the position is separate, yet it is tied in with the council term;</li><li>• Suggestion that if it is determined to be a separate position, to not constrain it;</li><li>• Suggestion for a lifetime maximum of two terms as mayor;</li></ul>
<ul style="list-style-type: none"><li>• Suggestion that this would allow for twenty-four years of continuous service: eight as council, eight as mayor followed by eight as council.</li></ul>

Committee Member Merrick called for the question on the motion on the table at 9:36 p.m.

MOTION RESTATED: Committee Member Merrick restated the motion and added the term of the directly-elected mayor is defined as four years; no councilmember may serve more than eight years out of twelve; no mayor may serve more than eight years out of twelve; no mayor/councilmember may serve more than ten out of twelve or sixteen out of twenty years in a row.

VOTE: 1 - 7 - 1 (Committee Members Hendricks, Hughes, Ludlow, Olevson, Pham, Ritter, and Weiss dissented, Committee Member Fowler abstained, Committee Members Miller and Ringel absent)  
Motion failed.

By consensus the committee agreed that if there is a directly-elected mayor, the term should be four years.

MOTION: Committee Member Merrick moved and Committee Member Ludlow seconded the motion that the term of directly-elected mayor is four years and the directly-elected mayor will be eligible to serve a lifetime maximum of two terms.

VOTE: 8 - 1 (Committee Member Hughes dissented, Committee Members Miller and Ringel absent)  
Motion carried.

MOTION: Committee Member Merrick moved and Committee Member Ludlow seconded the motion that no individual may serve on the council/mayor for combined terms of more than sixteen of twenty years.

VOTE: 6 - 3 (Committee Members Hendricks, Hughes, and Ritter dissented, Committee Members Miller and Ringel absent)  
Motion carried.

**6. ADJOURN MEETING**

MOTION to ADJOURN: Committee Member Merrick moved and Committee Member Ludlow seconded the motion to adjourn.

VOTE: 8 - 1 (Committee Member Hendricks dissented, Committee Members Miller and Ringel absent)  
Motion carried to adjourn.

Chair Weiss adjourned the meeting at 10:06 p.m.

\_\_\_\_\_  
Kathleen Franco Simmons  
City Clerk

\_\_\_\_\_  
Date

**CITY CLERK'S RECORD OF PROCEEDINGS**  
**DRAFT MINUTES**  
**OF FINAL MEETING OF THE**  
**SUNNYVALE 2011 CHARTER REVIEW COMMITTEE**  
**APRIL 7, 2011**

**1. CALL TO ORDER**

Chair Weiss called the meeting to order at 6:30 p.m.

**2. ROLL CALL**

**PRESENT:** Committee Chair Weiss Carol Weiss  
Committee Vice Chair Carol Ludlow  
Committee Member Terry Fowler  
Committee Member Glenn Hendricks (arrived at 7:30 p.m.)  
Committee Member Patrick Hughes  
Committee Member Tappan Merrick  
Committee Member Julia Miller  
Committee Member Ken Olevson  
Committee Member Ted Ringel  
Committee Member Willis (Bill) Ritter

**ABSENT:** Committee Member Mathieu Pham

**STAFF PRESENT:** City Attorney David Kahn  
City Clerk Kathleen Franco Simmons

**3. PUBLIC COMMENTS**

None at this time.

**4. APPROVAL OF MINUTES**

Committee Member Fowler and Chair Weiss noted several minor corrections.

MOTION: Committee Member Merrick moved and Committee Member Ritter seconded the motion to approve the Charter Review Committee Minutes of March 30, 2011 as amended.

VOTE: 7 - 0 - 2 (Committee Member Miller and Ringel abstained, Committee Member Pham and Hendricks absent)  
Motion carried.

**5. DISCUSSION AND COMMITTEE DECISIONS ON RECOMMENDATIONS FOR SUNNYVALE CHARTER PROVISIONS AND CHARTER LANGUAGE FOR SELECTION OF MAYOR INCLUDING TERM AND TERM LIMITS, AND COUNCIL COMPENSATION**

**a. Discussion and approval of draft Committee Report**

Discussion included:

<ul style="list-style-type: none"><li>• Comments that committee members are not all in agreement with all of the reasons listed for or against a directly-elected mayor;</li></ul>
<ul style="list-style-type: none"><li>• Clarification that the report states the rationale for both the majority and minority votes were drafted by the respective groups of committee members voting against and for a change to directly-elected mayor;</li></ul>
<ul style="list-style-type: none"><li>• Request to include a statement that the signatures on the report are by members of the Charter Review Committee who participated in the process but that the individual members are not necessarily in agreement.</li></ul>

MOTION: Of the five members who developed the list of "Reasons for Not Changing to a Directly Elected Mayor" Committee Member Olevson moved and Committee Member Merrick 2<sup>nd</sup> seconded the motion to remove the statement "Feeling is strong, but logic is weak".

VOTE: 4 – 0 (Committee Members Fowler, Olevson, Merrick, and Hughes approved, Committee Member Hendricks absent)  
Motion carried.

Through additional discussion by the committee and by consensus of the group who voted in the majority to recommend against changing to a directly-elected mayor, the list of "Reasons For Not Changing to a Directly-Elected Mayor" was revised as follows:

- Public response overwhelmingly favors the existing process as have all prior decisions on this subject.
- Council represents all of Sunnyvale. If we can't trust them to pick their own leader, what can we trust them with?
- Council already entrusted with decisions of great importance. There is no reason to treat the selection of the Mayor differently.
- We do not believe that a directly-elected Mayor would eliminate "back room" deals. A directly-elected Mayor would increase political pressure.
- Current system diffuses political power away from a single individual in favor of the whole council.
- Existing system focuses on existing electorate concerns.
- Current Mayor selection process facilitates a team approach to effective city oversight.
- Role of Mayor would perceptibly change.
- Directly elected Mayor should be considered only if role of Council, Mayor, and City Manager is to change.
- Public is fatigued from hearing about this topic.

Through discussion by the committee and by consensus of the group who voted in the minority to recommend against changing to a directly-elected mayor, the list of "Reasons For Changing to a Directly-Elected Mayor" was revised as follows:

- Diversity of voices. The Committee did not receive input reflective of the City's demographics. Many of the minorities have come to the United States expressly for the right to vote. The last time the public had the opportunity to change to a directly-elected mayor was 20 years ago (1991) and the city's demographics have changed greatly since then.
- Transparency and open government. A directly-elected Mayor diminishes the possibility of Brown Act violations and of back room dealings. The citizens perform a watchdog function.
- Empowerment. Democracy is not a spectator sport. People have the right and obligation to choose their political leadership by a majority vote.
- Increases public trust in government. Majority of voters choose Mayor rather than four council members in the "old boys' club".
- Complexity of issues. The Mayor's job is more complex today than it was 20 years ago. A directly-elected Mayor will have to persuade voters that he/she has the qualifications and competency to do a good job.
- Accountability. Candidates for a directly-elected mayor must have a strong platform, therefore it will be easier to hold them accountable. Why do we want to deny our citizens the right to choose whether or not they want a directly-elected Mayor?
- Voter education and outreach. Campaigns for a directly-elected Mayor raise voter awareness of important issues and will hold Mayor to a higher standard of performance.
- Visibility. A directly-elected mayor will increase the visibility of the position; many Sunnyvale citizens cannot name their Mayor.
- The respondents at the public forum and in communications to the Charter Review Committee do not reflect Sunnyvale's demographics.
- The Constitution guarantees every citizen the right to vote. The citizens of Sunnyvale should have the opportunity to vote for Mayor.

MOTION: Committee Member Olevson moved and Committee Member Merrick seconded the motion to add the committee recommends that there be no waiting period between service as a councilmember and service as a mayor.

VOTE: 10 – 0 (Committee Member Pham absent)  
Motion carried.

MOTION: Committee Member Ringel moved and Committee Member Olevson seconded the motion to amend the previous motion that there is no *required* waiting period between service as a councilmember and service as a mayor.

VOTE: 7 - 2 (Committee Members Miller and Ritter dissented, Committee Members Ludlow and Pham absent)  
Motion carried.

**Compensation recommendation from page 9 of the draft report:**

MOTION: Committee Member Ringel moved for acceptance as written. Committee Member Ludlow seconded the motion.

Discussion included:

- |  |
|--|
| <ul style="list-style-type: none"><li>• Suggested revision of the recommendation as follows: “The automatic 5% annual salary increase shall be removed. Council and Mayor’s salaries should be set at the current 2011 amounts and increased, if at all, by the preceding October’s twelve-month rolling average percentage change in the Consumer Price Index-U for the San Francisco-San Jose-Oakland area. In no event shall the annual increase exceed 5%, and the salary shall not be decreased if there is a negative CPI index change.”</li></ul> |
| <ul style="list-style-type: none"><li>• Suggestion to remove “if there is a negative CPI index change”</li></ul>   |

AMENDED MOTION: Committee Member Ringel moved to amend the motion accordingly. Committee Member Merrick seconded the amended motion.

AMENDED MOTION: Committee Member Olevson moved to amend the motion to remove the “rolling average” phrase from the statement.

RESTATED: “The automatic 5% annual salary increase shall be removed. Council and Mayor’s salaries should be set at the current 2011 amounts and increased, if at all, by the preceding October’s annual percentage change in the Consumer Price Index-U for the San Francisco-San Jose-Oakland area. In no event shall the annual increase exceed 5%, and the salary shall not be decreased.”

VOTE: 10 – 0 (Committee Member Pham absent)  
Motion carried.

**b. Discussion and direction on presentation to Council of Report**

MOTION: Committee Member Ringel moved and Committee Member Ludlow seconded the motion that the Chair will present the final report to Council.

VOTE: 10 – 0 (Committee Member Pham absent)  
Motion carried.

MOTION: Committee Member Ringel made a motion to thank and compliment City Attorney David Kahn and City Clerk Kathleen Franco Simmons for their excellent support to the Committee in negotiating the difficult issues addressed. Committee Member Merrick seconded the motion.

VOTE: 10 – 0 (Committee Member Pham absent)  
Motion carried.

**PUBLIC COMMENT:**

Fred Fowler stated Committee members have approached this process very carefully, have been respectful of each other, have been thoughtful and have done a fine job.

**6. ADJOURN MEETING**

MOTION to ADJOURN: Committee Member Merrick moved and Committee Member Miller seconded the motion to adjourn.

VOTE: 10 - 0 (Committee Member Pham absent)  
Motion carried to adjourn.

Chair Weiss adjourned the meeting at 9:00 p.m.

\_\_\_\_\_  
Kathleen Franco Simmons  
City Clerk

\_\_\_\_\_  
Date

Appendix B

2011 Charter Review Committee – Public Comments Received



Re: [SunnyvalePolitics] Sunnyvale's directly elected mayor

Tuesday, March 1, 2011 8:25 AM

From: "Sandi Spires" [redacted]  
To: "Tappan Merrick" [redacted]  
Cc: "Jim Griffith" [redacted]

Hi Tap,

Since you are a committee member, I will share my 2-cents. Feel free to reference as you see fit.

I like our City Council / City Manager system. It seems to work well in encouraging rational efficiency & avoiding partisan divisions.

I see the counter argument is that an elected mayor would give the city a public face, and make us a "player" in a larger arena (those mayors conferences?!). I'm skeptical. Sounds like the con man's promise of a rosy future--"we will attract more stuff". It rarely pans out to benefit the mark, um, er citizen.

It just seems to me that an elected mayor would be a new power center, to compete with manager & council. And the elected mayor would provide a focus for special-interest business groups to fund.

I don't really care that elected mayors are the "trend" in city government. I'm frumpy in everyday life. I can be frumpy in my government, too.

as you say, thanks for caring,  
--Sandi

On 2/28/2011 4:10 PM, Tappan Merrick wrote:

Dear Neighbors,  
The Sunnyvale City Council has decided to create an 11 person Charter Review Committee to recommend whether to elect a mayoral position directly by the voters, revisit the role and responsibilities of a mayor (whether elected by the citizens or by the voters), and to visit the pay of council members and the mayor.

As a member of that committee I feel that it is important for each of you to review the pros and cons of the mayoral decision for yourselves. This past meeting's minutes (Feb. 17, 2011) outline many of the issues that we, as a committee, are considering. To find these minutes go to the City of Sunnyvale's website and look under the Charter Review Committee in Sunnyvale spot to click on these minutes.

The Charter Review Committee plans to extend an opportunity for the public to come and give us your comments (either written or in person) and will send out that announcement in the very near future. Of course, citizens are also welcome at any of the Committee meetings that we hold, so you ought to feel free to attend them also.

....

2011 MAR -4 AM 11:53

To: Sunnyvale Charter Committee

March 2, 2011

From: Norval Nelson

[REDACTED]

Sunnyvale, Ca. 94087-3705

[REDACTED]

Subject: General Comments on Directed Elected Mayor

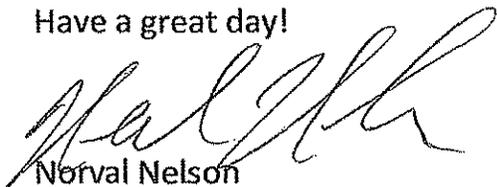
- 1.0 Sunnyvale has gotten and continues to get national recognition for its city government and how well it operates. What has changed over the years to now suggest that this form of city government needs to be revised? Has it now become recognized as being incompetent and almost bankrupt and in the same league as San Jose and Santa Clara?
- 2.0 I have heard it mention by one or more City Council members that it is necessary to have an elected mayor as it would enhance the city's ability to get grant money. When has the city lost out on any grant money due to this supposed deficiency?
- 3.0 The position of a full time elected Mayor can only create the need for more money to fund this.
- 4.0 From comments I have heard by some council members would give you the distinct impression they would like to see this mayors position be elected as it could then enhance any future enhancement of their political ambitions if they ran and were elected. Is this how Ron Gonzales got ahead?
- 5.0 Who would be in charge of the city government? Mayor or city manager? In all my years of watching city council meetings I can never remember a single incidence of any public display where the city manager or other city government folks did not recognize they worked for and at the behest of the city council. The city council is the top power base. Why does anyone think

there now needs to be another power base within the city government?

As a general comment that when the subject of an elected Sunnyvale mayor comes up it only seems to emanate from a council member. My first memory of the suggestion that an elected mayor position be created was by Larry Stone when he was a council member. It sure did not succeed.

These are first blush general comments and I am sure if I give it some thought there surely are others I could make. We have a very successful city government with a great city manager. Why change what works so well?

Have a great day!



Norval Nelson

**City Clerk AP - Direct election of Mayor**

---

**From:** "Wayne E. Amacher" [REDACTED] <[REDACTED]>  
**To:** <cityclerk@ci.sunnyvale.ca.us>  
**Date:** 3/7/2011 5:25 PM  
**Subject:** Direct election of Mayor

---

Direct election of Mayor

What we have right now works better than most cities. We don't need any more politics.

If it works don't fix it!

Wayne E. Amacher

[REDACTED]  
Sunnyvale, CA 94087

**City Clerk AP - pension and healthcare benefits**

---

**From:** "Manu Patel" [REDACTED]  
**To:** <cityclerk@ci.sunnyvale.ca.us>  
**Date:** 3/7/2011 8:26 PM  
**Subject:** pension and healthcare benefits

---

I personally favor electing mayor by public voting. Secondly, public employees benefits should be brought in line with what everybody gets in industry. Pension and health benefits contribution should be tied to 401k type and public employee should contribute 35 to 40 percent of the cost. Welcome to new reality world!!

Manu patel.  
Resident of Sunnyvale since 1971

2011 MAR -9 A 10:31

To: Sunnyvale Charter Committee

March 6, 2011

From: Norval Nelson

[REDACTED]

Sunnyvale, Ca. 94087

[REDACTED]

Subject: Elected Mayor

This is a follow up to my previous letter which I prepared under a misunderstood assumption that discussions would include the position job duties. This is apparently not in the charter agenda being specifically excluded by the City Council when setting up this charter committee. This then sets the assumption the duties will be the same as currently assumed by the mayor elected by the City Council. So what is left to discuss? Well maybe a discussion about any statutory provisions at the local, state or national level requiring this position be publically elected?

Also maybe the City Council wants this position be set up as being publically elected so it then can be used to further enhance the possibility for further moves into a county or state elected positions assuming the current mayoral election process does not support this goal. This then could (questionably) improve the city's visibility and reputation. If this were to be the final decision then the city should consider providing funding to help having the best possible candidate elected.

To further the possibility of moving up the individual will need to continually make a visible splash. Does this increase the possibility of conflict within current city management structure of a strong city council and city manager arrangement?

---

City Charter Committee

Without any discussion of duties of this newly publically elected position the whole city charter committee sure seems to be a waste of time as was demonstrated by previous attempts to have the mayoral position be publically elected. Maybe I am wrong but my past life experiences have, time and time again, shown me committee's can be a great confidence building experience.

Well enough for now. I will try to attend upcoming meetings as it will be interesting to witness all defense of position discussions.

Have a great day!

Norval Nelson

To the Charter Review Committee

CITY OF SUNNYVALE, CA  
CITY CLERK'S OFFICE

As with the United States Government, Sunnyvale is missing the big picture, penny wise and pound foolish, as it were. It is not clear that by members making \$1894.42/month (\$22,704/yr) or \$600/month (\$7,200/yr) is a little (i.e. this is a full time job), or a lot (put in 2 hrs/week), the fact is that a public servant holding office should only be paid while holding office.

I have no data on hand, though I know I read that ex council members get lifetime benefits such as health care or maybe a pension, I am not sure, though this is where the focus should be. Eliminate any monies coming into ex council members. Council members should only be paid while they are council members. That is it.

Looking at the vast majority of U.S. citizens, they have a job and when they leave that job, they no longer get paid in any way. There is no reason this should not be held true with regard to council members. I have not doubt that the whatever human desires that draw people to seek council positions will stay strong, in fact perhaps more so without a subtle greed motive in place, so that excellent people will still seek these noble positions.

My biggest concern is that this letter will be buried or dismissed as I see this would be a direct conflict of interest to some of the current committee member's (ex council members) bank accounts (i.e. Self interested lobbyists who's true objective is to protect the few or the one vs. the stated goal of protecting the whole).

Sincerely,

Mark Burford  
Sunnyvale Resident

**City Clerk AP - Comments on Changes to the Charter**

---

**From:** "DSA Van Den Broeke" [REDACTED]  
**To:** <cityclerk@ci.sunnyvale.ca.us>  
**Date:** 3/16/2011 11:08 AM  
**Subject:** Comments on Changes to the Charter

---

Council Members,

Here we go again. I'll keep it short and sweet. I am against wasting MORE Sunnyvale tax payer dollars on an election to change our charter to provide for a separate election for the office of city mayor.

IF IT'S NOT BROKE, THERE'S NOTHING TO FIX. Clearly, the election will cost, apparently, more than what the council members are paid per year to serve. If we are in deficit spending, we do not have the money. We do not need a separate mayoral office, such an elevated position will clearly not make the city function any better because it won't ensure that YOU, the council, agree on everything. It seems that this effort is just a power grab and completely unnecessary.

Moreover, the salary of our city council members should be low; this is why it's called public service. I'm all for splitting the cost of this election as a bonus for the council if you'll just stop pushing for this stupid change. If you change anything in the charter with regard to salaries, I think it ought be that 5 percent limit. It should be set at a rate no higher than the national inflation rate.

Perhaps, there are other salary cuts that need to occur within our city employees. We do not want to become another Bell, California. Like every company on the planet that wants to stay in business, if your expenses exceed your income, cut expenses. Because of the abuses of the SEIU and the NEA unions (who of us gets full health coverage for life FREE after retirement? What a rip off!), my mind is set against TAX INCREASES to pay for these people plush benefits.

Thank you for having this forum where we can express our concerns. I truly appreciate the opportunities we have as citizens of Sunnyvale to contribute our opinions in a free, open and safe environment. I'm praying God will continue to fill you with His wisdom.

Sincerely,  
Susan Van Den Broeke

City Clerk AP - Fw:citizen comments re: charter committee

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**From:** Tappan Merrick [REDACTED]>  
**To:** <cityclerk@ci.sunnyvale.ca.us>  
**Date:** 3/16/2011 7:44 PM  
**Subject:** Fw:citizen comments re: charter committee

---

--- On Wed, 3/16/11, Mike Piccardo <piccardo@ix.netcom.com> wrote:

From: Mike Piccardo <piccardo@ix.netcom.com>  
 Subject: Re: [BirdlandNeighbors] Directly Elected Mayor-3/24/11-We seek comments  
 To: "Tappan Merrick" <tappan.merrick@ci.sunnyvale.ca.us>  
 Date: Wednesday, March 16, 2011, 3:37 PM

Tap,

The council members and mayor get an automatic 5% cost of living increase every year? That's ridiculous. It should reflect the actual inflation rate. I got an 8 tenths of 1% (.8%) raise this year at Boeing!!!

Mike on Spoonbill

-----Original Message-----

From: Tappan Merrick  
 Sent: Mar 16, 2011 3:04 PM  
 To: [REDACTED], Raynor Park Neighbors , Sunnyvale Politics ,  
 NeighborsFirst Sunnyvale ,  
 [REDACTED]  
 Cc: cityclerk@ci.sunnyvale.ca.us  
 Subject: [BirdlandNeighbors] Directly Elected Mayor-3/24/11-We seek comments

Dear Neighbors,

The Sunnyvale Charter Review Committee, which I am on, is seeking any and all input from our citizens on or before next Thursday, March 24, 2011. To that end we invite all interested parties to our meeting that night, starting at 6:30 PM in the Council Chambers.

The three issues we are considering are:

1. Should Sunnyvale directly elect it's mayor instead of the current system of the Council electing the mayor for a two year term from within its own ranks?
  - 1a. How long should the Mayor's term be, two or four years?
2. Should the Council and Mayor continue receiving their current salaries plus the 5% annual cost of living increase, or should those be revised in some manner? (Current Council members receive around \$22,000 per year plus some other capped travel reimbursement costs, while the Mayor receives around \$30,000 plus capped travel reimbursement costs.)
3. If the City decides to directly elect a mayor, should there be term limits, and if so, should those term limits tie in some manner into the currently existing no more than 8 in any twelve year period that applies to the Council Members?

You may either show up and speak to the entire Committee (sorry, no TV channel 15), send your input to the City Clerk for distribution to the Committee (at [cityclerk@ci.sunnyvale.ca.us](mailto:cityclerk@ci.sunnyvale.ca.us)), or send to me. If sending to me be sure and let me know if you want your comments posted with, or without your name/e-mail address. I will honor your request when forwarding your comments on.

The committee has spent a good amount of time trying to identify many of the previous committees' opinions, both for and against, and we shall provide a meaningful list at this next meeting. You may also go to the City of Sunnyvale's website and click on the Charter Review Committee to review our minutes. I draw your attention to the February 17th minutes, in particular, where this list is expanded on and better detailed.

I am also taking some time to personally interview those I run across in the community this week, and will forward those comments on anonymously. Currently I have:  
G & A-Yes for the mayor. The voters ought to have the opportunity of choosing their own mayor.  
Two dog walking gentleman-No, because this will only require more money being raised for campaigns, meaning Big Money will be the only winner.  
R&L-No, Sunnyvale has already reviewed this thing three or four times already and consistently decided against it. Why should we be doing this all over again especially so soon after the last review?

As many of you haven't been shy about voicing your good natured opinions about my views in the past, I hope that you will feel free to voice them now over the next week. So let us know.

I will remind you a couple of more times before the meeting.

Thanks for caring.  
Tap

[Non-text portions of this message have been removed]

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**City Clerk AP - Web Request - Reassign 15344 from: Nathan Truitt to: LNatusch,  
subject: charter review**

---

**From:** "Nathan Truitt" <ntruitt@ci.sunnyvale.ca.us>  
**To:** "City clerk" <cityclerk@ci.sunnyvale.ca.us>, "Lisa Natusch" <lnatusch@ci.sunnyvale.ca.us>  
**Date:** 3/16/2011 7:50 AM  
**Subject:** Web Request - Reassign 15344 from: Nathan Truitt to: LNatusch, subject: charter review  
**CC:** "Information" <info@ci.sunnyvale.ca.us>, "Nathan Truitt" <ntruitt@ci.sunnyvale.ca.us>

---

Dear **Lisa Natusch**,

Please respond to web request 15344 by clicking one of the three buttons below:

**From** elizabeth erickson 

**Reply Needed** Yes

**Priority** Regular

**Subject** charter review

**Message** This directly-elected mayor issue must be a smokescreen to keep us from a real issue: the City Council's numbered seats, which serve NO useful purpose and should be abolished or assigned to specific districts!

To: Sunnyvale Charter Committee

CITY OF SUNNYVALE  
CITY CLERK'S OFF

From: Norval Nelson

2011 MAR 17 A 8:11

[REDACTED]  
Sunnyvale, California

94087-3705

Subject: LETTER NUMBER 3-GENERAL COMMENTS

Hi There. After attending the recent Charter Committee meeting I said I would give some additional thought and get back to you so here they are.

- Directly elected mayor: The idea of using voting results from other cities was interesting. The first thing that came to mind was how would you dampen out the effect of a ballot which had a controversial item on it which could increase voter turnout? Also how do you determine what is a controversial ballot measure? Seems you would end up in a statistical do loop with no end in site. Statistics are more often than not used to support a position rather than support a real world solution. The time and effort to accomplish such an approach sure does not seem like a sustainable idea.
- Council member compensation: One of the committee members commented that using the current method of a 5% annual increase, considering the compounding effect, did not seem to be a fiscal sustainable approach. I totally agree.

The idea of using a five year rolling CPI average is really a great one. It is a simple calculation to apply .With an explanation to the electorate of what it is, how it is used by California and how they can go on line to educate themselves should have a positive effect

The next issue seems to be is the current salary base the correct starting point? Your first instinct is to compare that number with similar cities with a strong city council/city manager management approach. That can be a

good starting point but again each city is different with significantly different issues like fiscal, crime, tax base, size and demographics. How you take all this into consideration to make a final decision I do not know. The city staff seems to have provided the committee with a lot of information so possibly some can be used. If the current salary seems to be close to start from it sure is the easiest approach to take. I am sure you do not plan to use Bell as a comparable city. .

Have a great day! Norval Nelson

**City Clerk AP - Mayoral Candidates**

---

**From:** "H. Dietrich" [REDACTED]  
**To:** <cityclerk@ci.sunnyvale.ca.us>  
**Date:** 3/19/2011 11:10 AM  
**Subject:** Mayoral Candidates

---

Dear City Clerk:

I believe that appointing Sunnyvale's Mayor by the City Council Members is appropriate. Other larger cities, i.e., San Francisco and San Jose, have separate elections for the mayoral position. For Sunnyvale City Council Members and the Mayor, it will be a considerable time and cost savings not to have a separate mayoral election.

Sincerely,

Hannalore Dietrich  
City of Sunnyvale Resident

**City Clerk AP - Issues Up for Discussion - My Feedback**

---

**From:** Michelle Philips <[REDACTED]>  
**To:** <cityclerk@ci.sunnyvale.ca.us>  
**Date:** 3/20/2011 9:49 AM  
**Subject:** Issues Up for Discussion - My Feedback

---

Hello,

For the three issues being considered (my responses are in underlined):

1. Should Sunnyvale directly elect it's mayor instead of the current system of the Council electing the mayor for a two year term from within its own ranks?  
The mayor should be elected among its own ranks. I do not want big businesses with deep pockets getting involved in the election any more than they already are.

1a. How long should the Mayor's term be, two or four years? Two years.

2. Should the Council and Mayor continue receiving their current salaries plus the 5% annual cost of living increase, or should those be revised in some manner? (Current Council members receive around \$22,000 per year plus some other capped travel reimbursement costs, while the Mayor receives around \$30,000 plus capped travel reimbursement costs.)  
There should be no cost of living increases. Many businesses have not given these for years (my husband's included). Just as many businesses have done, travel should be cut to the bone. My husband works for a big corporation and employees have had many of their benefits cut, salaries reduced, etc. The City Council should follow suit.

3. If the City decides to directly elect a mayor, should there be term limits, and if so, should those term limits tie in some manner into the currently existing no more than 8 in any twelve year period that applies to the Council Members?  
I am against a directly elected mayor, but if it happens I want to see strict term limits.

**City Clerk AP - [BULK] Fw:One more- Directly Elected Mayor-3/24/11-We seek comments**

---

**From:** Tappan Merrick <[REDACTED]>  
**To:** <cityclerk@ci.sunnyvale.ca.us>  
**Date:** 3/21/2011 10:47 PM  
**Subject:** [BULK] Fw:One more- Directly Elected Mayor-3/24/11-We seek comments

---

--- On Wed, 3/16/11, Ed and Lynn Aisawa <ednlynn2@comcast.net> wrote:

From: Ed and Lynn Aisawa <ednlynn2@comcast.net>  
Subject: RE: [BirdlandNeighbors] Directly Elected Mayor-3/24/11-We seek comments  
To: "Tappan Merrick" <[REDACTED]>  
Date: Wednesday, March 16, 2011, 3:24 PM

Hi Tap,

Is there a site that outlines some of the pros and cons of this proposal?

With no further information than the question itself, I would have to say no, a directly elected mayor is not necessary. It seems to be something that benefits an elected individual's long term political career, but really doesn't appear to benefit the city much. This question has been pushed forward multiple times only to be defeated, why must time and effort be spent addressing this again? If there is ever a need for term limits, I'm thinking this issue has reached it unless there is significant new information to share.

Thanks for all you do for Sunnyvale,

Lynn Aisawa

---

**From:** BirdlandNeighbors@yahoogroups.com [mailto:BirdlandNeighbors@yahoogroups.com] **On Behalf Of** Tappan Merrick  
**Sent:** Wednesday, March 16, 2011 3:04 PM  
**To:** [REDACTED]; Raynor Park Neighbors; Sunnyvale Politics; NeighborsFirst Sunnyvale; [REDACTED]  
**Cc:** cityclerk@ci.sunnyvale.ca.us

Honorable Members of the Charter Review Committee:

I am strongly against the direct election of a mayor. It is too easy to think that change will make things better. In this case, I am very concerned that a recommendation for a directly-elected mayor will open the door to concentration of power that is against the best interest of Sunnyvale, especially when the role and the responsibilities of a mayor are not defined by the Committee. I shall use the summary of pros and cons in the meeting minutes of February 17 as help in explaining my thinking.

1. A system with a directly-elected mayor may not be more democratic than our present system of election of mayor by the City Council.

Elections can be won with a slim majority of votes from a small fraction of citizens, by happy or unhappy circumstance. It would be an oversimplification to think that a winner has a mandate. As a voter, I can only make choices between the available options, and I do not necessarily agree with a candidate in all things. In fact, disagreements can come to light after a person takes office. On the other hand, I can agree with, and respect, the views of elected officials that I may not have voted for. Election of mayor by the City Council takes out the risks of concentration of power in one person, and the effect of a single election. Moreover, a designated high-profile member in the City Council may be a barrier for other Council members to contribute his or her best.

2. I have not seen the statistics showing a trend to have directly elected mayors, so I cannot agree with or disagree with this point. But I support an earlier comment by a Committee member that "Statistics are interesting but the focus should be on what is best for Sunnyvale".

(I also agree with the preceding comment by another Committee Member that the argument that Sunnyvale needs a directly-elected mayor because it is a large city does not hold.

I share the concern that a directly-elected mayor could work against a unified, integrated administration.

3. Will the direct election of a mayor really increase voter turnout in Sunnyvale? Or will there be more politics that turn off voters or make them feel resigned? Are there not better and surer ways to improve voter education and participation?

4. Is increasing political identification a good thing? I prefer to think about each issue without subscribing to anyone's political agenda. "Taking sides" is a phrase I heard from someone who was not interested in the last city election. Elections are different from horse-racing or football games, are they not?

5-6 ( I shall skip my opinions here.)

7. I do not see how the direct election of a mayor can eliminate cliquish politics.

- 8-12 I do share the concerns stated in the cons. These are serious and valid concerns.

Will a higher level of media coverage be a blessing? I think not, unless the quality of reporting improves. The media do not generally cover election issues very well, and like to create winners and losers. I understand the wonderful psychological effects of voting for a mayor – I too, love Superman. But there are the realities of money and politics in elections.

Even as I think that there is room for improvement in making our city government more accountable, I do not think having a directly-elected mayor is the way to go. We need to improve our collective wisdom. The recent passage of Measure H in Los Angeles is a fine example of taking the right steps.

To me, it is important to look for experience in a city manager and high-level staff. But to me, the most important qualities in our elected city leaders are integrity, fairness, the ability to listen and think, and genuinely caring for the well-being of citizens.

Thank you for your hard work.

Mei-Ling Stefan

[REDACTED], Sunnyvale, CA 94087.

[REDACTED]

2011 March 21

**City Clerk AP - Directly elected Mayor issue**

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**From:** [REDACTED]  
**To:** <cityclerk@ci.sunnyvale.ca.us>  
**Date:** 3/22/2011 11:10 AM  
**Subject:** Directly elected Mayor issue

---

Dear Sirs:

It is our opinion that there is no need to have our mayor directly elected. We elect our council members to be equally capable and responsible to their constituents, despite having various skill sets and personalities. Therefore, in our opinion, each one should be just as capable and responsible to handle the office of mayor. Our mayor should not have more weight in voting matters or prestige. Being the mayor should not be viewed as an opportunity for overly ambitious politicians..rather the mayor of Sunnyvale ought to be viewed as an honor of serving the citizens of Sunnyvale. The mayor/council members should be helping to direct the city staff keep our city safe and prosperous.

Again, we do not want to see our mayor chosen in a city wide election.

Sincerely,  
Carl and Terry Yordan

[REDACTED]  
Sunnyvale

**City Clerk AP - public hearing re Mayor**

---

**From:** "Anita Herrmann" <[REDACTED]>  
**To:** <cityclerk@ci.sunnyvale.ca.us>  
**Date:** 3/22/2011 11:23 AM  
**Subject:** public hearing re Mayor

---

Should Sunnyvale directly elect its mayor instead of the current system of the Council electing the mayor for a two year term from within its own ranks?  
Current system

How long should the Mayor's term be, two or four years?  
2 years

Should the Council and Mayor continue receiving their current salaries plus the 5% annual cost of living increase, or should those be revised in some manner?  
The budget should inform this decision.

**City Clerk AP - another citizen comment-Anonymous**

---

**From:** Tappan Merrick <[REDACTED]>  
**To:** <cityclerk@ci.sunnyvale.ca.us>  
**Date:** 3/23/2011 10:19 AM  
**Subject:** another citizen comment-Anonymous

---

I'm leaning against the directly elected mayor. I am definitely concerned about money being funneled into the mayor's race, but if folks

are going to be spending money anyway, at least this seems like one person won't have as much sway.

Current Salary: keep as is.

I'd prefer those comments not be used, just my general opinion can be shared.

Thanks,

## City Clerk AP - Sunnyvale Public Hearing re Mayor, Thursday March 24

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**From:** <[REDACTED]>  
**To:** <cityclerk@ci.sunnyvale.ca.us>  
**Date:** 3/24/2011 5:03 PM  
**Subject:** Sunnyvale Public Hearing re Mayor, Thursday March 24

---

You may either show up and speak to the entire Committee or send your input to cityclerk@ci.sunnyvale.ca.us

1. Should Sunnyvale directly elect its mayor instead of the current system of the Council electing the mayor for a two year term from within its own ranks?

No, Sunnyvale should not directly elect its mayor instead of the current system of the Council electing the mayor for a two year term from within its own ranks.

The Sunnyvale Council is a collegiate system that allows the councilmembers to learn from each other, discuss amongst themselves, and together come to a decision on how best to serve the citizens of Sunnyvale. We encourage service from within with many preparation classes, and many councilmembers come from serving on various commissions and committees. That is how we would like our city to be governed, by the citizens ourselves, not professional politicians.

The mayor's previous one-year term was only recently extended to two years such that "Sunnyvale Mayor" may carry more clout on a certain regional board. Seeing what it's come to - suggestion for changing to directly-elected mayor - makes me regret my then vote of yes. It really should not have mattered one-year or two-years, only doing a bang-up job matters. If the one-year mayor does a bang-up job, s/he can teach the other councilmembers to continue the bang-up job for Sunnyvale here and elsewhere. That's the meaning of a collegiate system. We don't need a superstar to just shine for her/himself. If you want to be a superstar, you don't need another term, that's where all our professional representatives have fallen into: they want another and another and yet another year or term, all they can think about is re-election, whether or not they do a good job at all.

I've lived in Sunnyvale 34 years, and have revisited this issue more than once. Please, no directly-elected mayor.

1a. How long should the Mayor's term be, two or four years?

As I said above, I wish we could go back to one-year instead of the present two. I don't welcome dreams of grandeur for the Mayor of Sunnyvale. Please do a bang-up job in the one year - unfortunately two years now - and help the others on the Council do a bang-up job as well as you may have. Then move on to other playing fields, and leave the city to its own citizens who want to serve without the added glory of a mayor's title.

2. Should the Council and Mayor continue receiving their current salaries plus the 5% annual cost of living increase, or should those be revised in some manner? (Current Council members receive around \$22,000 per year plus some other capped travel reimbursement costs, while the Mayor receives around \$30,000 plus capped travel reimbursement costs.)

In this environment of financial crisis, I would call the 5% increase lucky. You only need to go to Sunnyvale Community Services to see the swarming ranks of the unlucky ones. Those complaining should not be in their jobs, and their names need to become public.

3. If the City decides to directly elect a mayor, should there be term limits, and if so, should those term limits tie in some manner into the currently existing ones, no more than 8 in any twelve year period, that applies to the Council Members?

Absolutely there should be term limits, as an essential protection for the residents against professional politicians. As stringent as possible.

Rose-Marie Twu  
 [REDACTED]  
 Sunnyvale CA 94086

One of the Committee members has informed me that some of my remarks the other night were not sufficiently audible, and asked if I would summarize them in print. Accordingly, the points I wished to make, and two points that Committee members made in response, are covered here.

1. **The most important activity for this Committee will be the creation of a ranked list of alternatives as to what the terms and term limits should be for a directly-elected mayor ballot measure.** It was a lack of consensus on the various options that led Council to create this Committee. The biggest danger to the effectiveness of the Committee would be spending time debating whether or not the mayor should be directly elected, a question on which most if not all Councilmembers have already established firm positions. The Committee would then not have sufficient time to work out the more complicated issue for which it was created.
2. **How did I personally come to the conclusion that the voters should be asked to consider such a change?** When the previous Charter Review Committee recommended elimination of the former process of one-year mayor terms filled in order of seniority, replacing it with a two-year mayor that by necessity could not guarantee every Councilmember the opportunity to serve as mayor, I supported the changes. After experiencing two rounds of the new selection process, I continue to believe that a longer term is better, and that not every Councilmember should serve as mayor. But during the first contested mayoral selection, in January of 2010, I was dismayed at the amount of back-room politicking and lobbying that went on, including multiple phone calls from elected officials outside Sunnyvale telling me whom I should support for mayor. It was clear that future interactions with these other elected officials would be affected by whether I did as they requested. In my view, the Sunnyvale mayor should be selected with input only from Sunnyvale sources. But under our current system, officials in other cities or at higher levels of government are likely to vote against our city's best interests if our Councilmembers don't obey their orders regarding whom to select for mayor.

It has gotten worse since then. I am told that there is already campaigning going on for next year's mayor. I fear that this year's Council elections will be tainted by private conversations trading political support for particular candidates in exchange for the promise of a vote for a given mayoral candidate. Our current process has pulled the mayoral selection process behind the scenes, out of the sight of citizens. It has undermined open government. In Menlo Park, which uses the same process, a Councilmember violated the Brown Act by speaking privately with two colleagues about her desire to become mayor. A citizen lodged a formal complaint, and she resigned. Sunnyvale has been in serious danger of the identical situation since we adopted the new process. It's very hard to avoid, and we should eliminate the temptation.

Citizens who oppose this concept have asked me, "Why fix it if it ain't broken?" I think that it is partly broken, even though the problems are hidden from most citizens, and that we must therefore fix it. As Committee member Ritter pointed out, we should always be trying to "form a more perfect union;" if we keep or expand the mayor's term length and let the citizens make the choice rather than a clique of Councilmembers, we will have improved the city. It is my view that the larger the group that makes the decision, the more legitimate the result is. As Committee member Merrick noted, this is exactly analogous to the proposal I made to move our elections to even-numbered years, when more people vote. A mayor chosen by thousands of voters would be a more legitimate mayor than one chosen by three other Councilmembers and himself.

Public Comment  
Submitted by  
Chris Mayhew  
3/24/2011

# Menlo Park mayor resigns after apparent open meeting violation

December 13, 2010 by donal brown

Filed under [1st Amendment News](#), [Access to Meetings](#), [News & Opinion](#), [Sunshine Ordinances](#)

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*Menlo Park's new mayor resigned three days after he appointment, admitting that her private consultations with two other council members about the mayor vote constituted serial meetings in violation of the state's open meeting law. -db*

San Jose Mercury News

December 12, 2010

By Bonnie Eslinger

Three days after being appointed mayor of Menlo Park, Kelly Fergusson resigned from her post Friday in the fallout from apparently having violated the state's open government law.

Fergusson also removed herself as a candidate for mayor when the city council votes again Tuesday night for a new leader.

"I recognize the city faces critical business during the coming year, and that my actions have created a distraction from essential focus of the council on this business," Fergusson wrote in a statement released Friday morning.

"Having the best interest of the city at heart, I hereby resign as Mayor," Fergusson said. "I will not stand as a candidate when a new Mayor is elected."

A special council meeting had been scheduled for Friday afternoon so another vote could be taken to rectify the state law violation, but it was canceled. The city otherwise would have violated the same state law because it failed to state on the meeting notice hastily sent out Thursday that the public has a right to comment at the special session.

The resignation came one day after Fergusson admitted she discussed the mayoral vote with two council colleagues and had an intermediary talk to another before the Dec. 7 meeting. Those discussions apparently violated the state government law known as the Brown Act, City Attorney Bill McClure said.

Under the Brown Act, elected officials aren't supposed to talk directly or through an intermediary with a majority of elected colleagues about city business scheduled for discussion by the full government body. By contacting two colleagues directly and one through an intermediary, Fergusson discussed the mayoral job with a quorum of the five-member city council before the scheduled vote.

On Friday, Fergusson reasserted that the violation was unintentional.

"I did not consider my individual contacts with council members or lobbying of members on my behalf to constitute a serial meeting, nor did I intend to violate any provision of the Brown Act," Fergusson wrote in her latest statement. "However, in retrospect, and after discussing this in more detail with the City Attorney, I now realize that, in the aggregate, my conduct may well have constituted a serial meeting."

Doing 'the right thing'

Fergusson was appointed mayor on a 3-2 vote. Former mayor Rich Cline and newly-elected Council Member Kirsten Keith voted for Fergusson, who cast a the third vote for herself. During the same meeting, Keith was appointed vice mayor after being nominated by Fergusson.

Council Member Peter Ohtaki, who is also new, said he appreciated Fergusson resigning.

“That was the right thing for Kelly to do,” Ohtaki said. “I think it’s important to get past this and work on the key issues that the city faces.”

At the Dec. 7 meeting, Ohtaki had nominated Council Member Andy Cohen to be mayor. He declined Friday to discuss whether he would support Cohen again on Tuesday.

A non-binding city policy that the council has traditionally followed says the mayor’s position should be rotated among members who have served on the council for at least one year, with the turn for mayor going to the person who had served longest without the title. After Fergusson that would be Cohen, but his appointment is not certain.

Cline previously told The Daily News he would serve if nominated, and McClure said even a newly-elected council member could become mayor.

In her statement, Fergusson recommended that the “council’s policy of mayoral selection be suspended.”

Cohen, who has previously said he felt marginalized by other council members, pointed out that Fergusson had been all for the policy when her turn for mayor was coming up. “I think Kelly’s trying to squeeze me out,” Cohen said.

Cline and Keith did not respond to calls for comment Friday.

A second violation?

The city’s decision to reschedule the meeting to Tuesday prevented an additional violation of the Brown Act, said Peter Carpenter, an Atherton resident who filed the original complaint against Fergusson in the form of a formal “cure or correct” request.

Carpenter sent the city an e-mail Thursday objecting to a mid-afternoon meeting with only one-day’s notice. At 7:01 a.m. Friday, he sent another e-mail noting that the meeting notice did not explain the public would have an opportunity to comment — a Brown Act requirement.

McClure posted a challenge to Carpenter’s assertion on the city’s website, but followed up with another e-mail admitting Carpenter was correct. By 10:05 a.m. the city sent out a new notice, with the appropriate wording, and moved the meeting to Tuesday.

Carpenter said he was “stunned” to have to tell the city attorney how to comply with the state’s open government law.

“These people are waving the flag, saying we believe in the Brown Act,” he said. “Perhaps the first thing they should do is read it.”

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# MenloParkPatch (1)

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## Government

### City Attorney Confirms Brown Act Violation

Council to reselect mayor Friday.

By [Banks Albach \(/users/banks-albach\)](#) | [Email the author \(#\)](#) | [December 9, 2010](#)

Menlo Park Mayor Kelly Fergusson violated the Brown Act in the run-up to being selected mayor this week by privately discussing the vote with several council members, and possibly lobbying one member for support, City Attorney Bill McClure confirmed Thursday.

In a statement, McClure said he launched an investigation Wednesday after receiving several complaints from the public, many from government watchdog Peter Carpenter, that Fergusson had broken the state open government law, known as the Ralph M. Brown Act. He said he interviewed the five current council members and detailed all communications between them and outside intermediaries.

"Based upon those interviews, it appears there was a violation of the Brown Act through serial communications by Council Member Fergusson with two other Council Members," McClure said, referring to then Mayor Richard Cline and newly-elected Council Member Peter Ohtaki.

Fergusson may have violated the law again by using a third party to lobby newly-elected Council Member Kirsten Keith for a vote in Tuesday's mayor selection, McClure said. The investigation did not find any specific agreements or plans between a council majority to vote a certain way and cleared Ohtaki, Cline and Keith of any violation.

The widening scandal has forced the city to hold an emergency meeting Friday at 3 p.m. to revote on the selections of city mayor and vice mayor. The council originally chose Fergusson to lead the city next year in a 3-2 vote Tuesday.

Carpenter has also sent a complaint to the San Mateo County District Attorney's office which is waiting in the wings to see if the city "corrects and cures" the situation properly, Chief Deputy District Attorney Steve Wagstaffe said.

"The city has scheduled a meeting to cure and correct," Wagstaffe said. "We are not investigating it, but we will be in contact after the meeting to see if it's been done properly."

Before McClure released his findings, Fergusson had already admitted Thursday morning that she may have violated the act, but did so unknowingly, she claimed in a statement.

"It appears I was directly or indirectly involved in possible Brown Act violations in the days leading up to the mayor selection on Dec. 7 based on conversations with Rich Cline and Peter Ohtaki," Fergusson said in the statement. "If there was a violation, it was not intentional."

Cline, who handed over the chairmanship to Fergusson this week, said he had no idea that Fergusson had contacted Ohtaki as well.

"Kelly reached out to me to talk about the procedure of the meeting (Tuesday)," Cline said. "She asked where I stood on choosing a mayor and if I was going to support her. I told her that I was planning on following the selection policy."

Under the city's non-binding mayor rotation policy, Fergusson was most eligible to be mayor in 2011.

"I'm glad she is addressing it head on and put a public statement out," Cline said. "That is the right procedure."

Former Council Member Lee Duboc said she first caught wind of the possible violation minutes before Tuesday's meeting. She said a friend told her that Fergusson called Ohtaki, asked him how he was going to vote and told him she had already secured a council majority in her favor.

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Duboc sent an e-mail to city residents Wednesday highlighting the possible violation that eventually snowballed into McClure's investigation and Fergusson's Thursday statement.

"She's been on the council for six years and she was a planning commissioner before that," Duboc said in an interview. "She knows the Brown Act. I think we should have the district attorney look into this. It might be the tip of iceberg."

---

McClure cited a portion of the Brown Act that states it is violation for a majority of a legislative body to "use a series of communications of any kind, directly or through intermediaries to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body."

Passed in 1953, the act has grown and modernized over the last 57 years. But the law's central premise of creating transparency and openness in government remains the same.

The county deals with about a dozen alleged Brown Act violations each year, but most are self-corrected by the cities where they happened, Wagstaffe said. Once in a while, the district attorney's office takes violators to court in order to force a correction, Wagstaffe said.



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Good evening. My name is Melinda Hamilton and I am here as a private citizen with a keen interest in the governance of my city and a unique perspective based on my experience. ~~In the interest of full disclosure, I am terming out of office next January — my successor~~ will be selected in November — and I do not anticipate running for any office in the future. As a result, the outcome of this issue is not going to affect me any more than it will affect any of you. And I would also add that I am speaking only for myself, and in no way represent the views of the city or my colleagues.

I have spent a great deal of time thinking about the two issues that you are discussing. On the issue of a directly elected mayor, my thoughts have been evolving. Under the old rotation system, there was an expectation that if you got reelected, you would get to be mayor at some point. The change to the two year mayor moved the goalposts for those of us elected under the rotation system, which is currently five of the seven council members. When I first ran, I honestly did not want to be mayor. My thoughts on that obviously changed over the course of my time on the council, largely because of the expectation that I would get to be mayor no matter what. Under the rotation system, I should have been mayor in the last year of my first term. At the time, I declined the honor for personal reasons.

The point is that the expectations of the council members change the dynamic of the council, and we have not yet seen the two-year mayor system in action with a council that was entirely elected under the two year mayor system. I believe that we should give this new system an opportunity to work, at least through another few election cycles so that we have a full council that elected under the two-year system and had that as the expectation coming in.

As I continued to think about this topic after we appointed the committee, I am coming

round to the thought that if we were to have a directly elected mayor, then it should be a full time position that should assume additional intergovernmental relations assignments and other responsibilities to take the load off the other councilmembers. I am not advocating a change in the city manager form of government; I am only suggesting that such a system would redistribute some of the existing councilmember responsibilities, delineating clear expectations for what role the mayor would play and compensating accordingly. There are many potential implications to this, both positive and negative, and any such shift should undergo a rigorous discussion within the community at large, as it would be a fundamental shift in how our city is governed. I do not think this is something we should pursue at the time for a couple of reasons: first, as mentioned above, we should give the current system a few more election cycles to work; second, aside from the philosophical reasons, there are serious budget implications to what I'm suggesting and we are in no position right now to consider that; third, we do not have time to fully engage the community prior to the November election; and finally, that is beyond the scope of what this charter review committee has been tasked with.

On the issue of compensation, I will not offer any numbers. I will only say that it is important to compensate councilmembers at some reasonable rate for the time devoted to the job. Am I doing this for the money? No. I don't know anyone in elected office who does. Would I be doing it without the money? No. I choose to spend my time here, but I could be earning 3-4 times the salary for far less than 3-4 times the hours. Unless you want only the retired and the independently wealthy, you need to make it worth someone's time to devote so much of it at such personal cost to public service.

The one thing the charter does right is to include an automatic increase. You may argue over what that increase should be, but having it there ensures that the council will get those

raises. I was speaking to a councilmember from a general law city that has not seen an increase in 15 years because the council finds it too awkward to vote themselves the increase allowed under the general law. At some point, the salary becomes so small as to be unreasonable. It needs to be an amount that acknowledges that the time of those choosing public service has value, while recognizing that it is not equivalent to what could be earned in the private sector.

Thank you for taking the time to listen, and thank you for your service on this committee.

**City Clerk AP - Further input from a citizen**

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**From:** Tappan Merrick <[REDACTED]>  
**To:** <cityclerk@ci.sunnyvale.ca.us>  
**Date:** 3/25/2011 11:01 AM  
**Subject:** Further input from a citizen

---

--- On Thu, 3/24/11, Peter <[REDACTED]> wrote:

**From:** Peter <[REDACTED]>  
**Subject:** [PNFS] input to Charter Review Committee  
**To:** <[REDACTED]>  
**Date:** Thursday, March 24, 2011, 9:12 PM

I was surprised to see how few people showed up at the Charter Review public hearing this evening. I hope you have sent, or will send, your suggestions to the Committee. Just for once, I shall post my public comment here, to arouse you to give better inputs. I heard a couple of interesting things. A past mayor gave a very good comment; unfortunately you can only read the minutes. The only video recording was done by a reporter from TVHS, a Chinese (Mandarin) channel.

Mei-Ling Stefan

3 days ago I submitted a letter explaining my reasons against the direct election of a mayor. I feel that a City Council in which all members work together as equals is a better safeguard for our democratic system than one in which there is a special high-profile position. Election of a mayor by our elected representatives takes out the risks of concentration of power in one person, especially when the role of a directly-elected mayor is not defined at the outset by the Review Committee. The present way of electing a mayor also prevents a single election from having an unduly high impact, since an election can be won with a slim majority of votes from a small fraction of citizens. Our tradition of democracy can be quite fragile, and we need better and surer ways to improve voter education and participation.

In the last few days I have thought further about the matter. While the Review Committee cannot define the role and responsibilities of a directly-elected mayor, I see that in the list of pros, there are assumptions about the role. For instance, the directly-elected mayor would be the primary point of contact for the public. But is it not better if all city council members feel equally free to be in direct contact with the public, in a city as diverse as Sunnyvale? I felt hopeful when a town hall meeting was held by a new City Council member. Perhaps there will be more Council members holding town hall meetings?

More and more, I have also come to feel there is a basic dilemma. So I asked a question, "Will you vote to have a directly-elected mayor, when you do not know what the directly-elected mayor does or does not do?" My husband's response was, "not a good idea". My next-door neighbor replied, "No". I continue to wonder. What does it mean if voters are asked to decide on a directly-elected mayor, when we do not really know, and cannot get to vote on at the same

time, the role and responsibilities of the directly-elected mayor?

Thank you.

My 3 minutes were up. I did not have the time to read from my draft:

I understand that this Review Committee is not a standing committee that can continually review and make recommendations. The recommendation you make in the near future may, once and for all, have far-reaching consequences well beyond the experience and lifetime of anyone present here today.

-----  
A DISCUSSION GROUP FOR LOCAL GOVERNMENT ISSUES IN SUNNYVALEYahoo!  
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*Patricia Vorreiter*

ATTORNEY AT LAW

CITY OF SUNNYVALE  
CITY CLERK'S OFFICE

2011 MAR 28 A 10

[REDACTED]  
[REDACTED]  
SUNNYVALE, CALIFORNIA 94088-3707

March 24, 2011

Charter Review Committee  
c/o City Clerk  
P.O. Box 3707  
Sunnyvale, CA 94088-3707

Dear Committee members,

I wish to express my opposition to the directly elected mayor currently being considered. This issue has been brought to the voters on at least two occasions and soundly rejected, with good cause.

Having a directly elected mayor would attract a person primarily interested in using the position as a stepping stone to higher office. Don't misunderstand my concern...I believe that the best politicians at higher office have a grounding in local government. However, I believe that a directly elected mayor will be more likely to focus on short-term goals that can more clearly be associated with his/her term in the office. Such a primary focus will surely be contrary to the Sunnyvale tradition of long-range planning and vision.

The argument has been made that a directly elected mayor would have more visibility in regional issues. I doubt this. One councilmember, or mayor as the case may be, cannot devote the energy and time necessary to make a difference in all of the areas of concern to our community, i.e. housing, transportation, the environment, open space/parks, business development. The Sunnyvale practice of allowing and encouraging a councilmember to take the lead on a particular area of interest at various levels of government and act as the liaison to the rest of the council and the community serves Sunnyvale well.

Finally, there is the cost. A directly elected mayor may have the expectation of becoming a full-time politician. Currently, councilmembers come from a broad spectrum of the community and are primarily public servants and volunteers. A full-time mayor would be more costly to the city in terms of salary and staffing. The call to public service would not come from community members who derive their primary identity from a variety of professions and business backgrounds, but possibly from someone who intends to make politics his or her career. I believe that the focus of the city would change dramatically by this move.

Our present procedure serves us well. What is the motivation for proposing a change?

Very truly yours,

*Patricia Vorreiter*  
Patricia Vorreiter

**Kathleen Franco Simmons - Fw: Citizen comment on MAYOR**

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**From:** Tappan Merrick <[REDACTED]>  
**To:** Kathleen Franco Simmons <kfrancosimmons@ci.sunnyvale.ca.us>  
**Date:** 3/30/2011 9:19 AM  
**Subject:** Fw: Citizen comment on MAYOR

---

Kathleen,  
You'll need to start at the bottom for this to make sense.  
Thanks and see you tonight.  
Tap

--- On Wed, 3/30/11, [REDACTED] wrote:

From: [REDACTED] <[REDACTED]>  
Subject: Re: MAYOR  
To: [REDACTED]  
Date: Wednesday, March 30, 2011, 9:03 AM

Yes. An additional comment. This would be a great way to retain corporate memory and eliminate the need for OJT for a new mayor which, in and by itself, could create internal controversy. Norv

In a message dated 3/30/2011 8:58:26 A.M. Pacific Daylight Time, [REDACTED]:

Should I forward your comments on?  
Tap

--- On Wed, 3/30/11, [REDACTED] wrote:

From: [REDACTED] <[REDACTED]>  
Subject: MAYOR  
To: [REDACTED]  
Date: Wednesday, March 30, 2011, 7:50 AM

This is an out of school comment but what if the mayor were elected by the citizens but the candidates would be from the existing council members? Norv

**From:** d tivol <[REDACTED]>  
**To:** <kfrancosimmons@ci.sunnyvale.ca.us>  
**Date:** 3/31/2011 11:23 AM  
**Subject:** Charter Review Input

---

I understand that opinions are being solicited regarding direct mayoral election, and that you are the contact for introducing such opinions into the appropriate discussions.

1. I hope the discussion will include that the election should be by instant runoff (ranked choice voting), which seems to have worked quite well elsewhere in the Bay Area.

2. I oppose term limits in general but suppose that it'd be peculiar to have an anomalously unlimited mayoral term.

Thank you for including viewpoints of the community at large into consideration.