

DRAFT 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">• 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;
<ul style="list-style-type: none">• 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;• Comment that it is more important to decide if the question should be placed on the ballot;• 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;
<ul style="list-style-type: none">• Additional comments in support of addressing whether to recommend a directly-elected mayor or not first.

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">• Comment that the majority of citizens who communicated by email are not in favor of a directly-elected mayor;
<ul style="list-style-type: none">• 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.

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"> • 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; • 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; • 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;
<ul style="list-style-type: none"> • 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;
<ul style="list-style-type: none"> • 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;
<ul style="list-style-type: none"> • 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";
<ul style="list-style-type: none"> • 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;
<ul style="list-style-type: none"> • 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; • 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;
<ul style="list-style-type: none"> • Comment that 25 people in a poll and by email were opposed to a directly-elected mayor, five in favor; • 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;
<ul style="list-style-type: none"> • 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; • Comment that in a survey of people in the neighborhood didn't know the mayor is not directly-elected.

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">• 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;
<ul style="list-style-type: none">• 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.
<ul style="list-style-type: none">• 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;
<ul style="list-style-type: none">• 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.
<ul style="list-style-type: none">• 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;
<ul style="list-style-type: none">• 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;
<ul style="list-style-type: none">• 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 of twelve, separate from the council; request for clarification regarding whether a councilmember could run for mayor without resigning;
<ul style="list-style-type: none">• 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.
<ul style="list-style-type: none">• Suggestion to add to the previous suggestion to allow a current councilmember to run for

mayor;
<ul style="list-style-type: none"> • Comment that another issue is whether a sitting councilmember who has served eight years has to wait four years before running for mayor;
<ul style="list-style-type: none"> • Comment that there should not be a constraint from serving eight years on the council then serving eight years as mayor.
<ul style="list-style-type: none"> • 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;
<ul style="list-style-type: none"> • 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;
<ul style="list-style-type: none"> • 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

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"> • Comment that a councilmember who runs for mayor has an unfair advantage over other candidates;
<ul style="list-style-type: none"> • Comment that it is not part of the motion on the table and not a major concern that needs to be addressed;
<ul style="list-style-type: none"> • Comment that it is an important concern when four councilmembers are coming off the council; will they be eligible to immediately run for mayor? • 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;
<ul style="list-style-type: none"> • 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;
<ul style="list-style-type: none"> • 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.

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.