

**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:

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| <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> |
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<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.

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Kathleen Franco Simmons  
City Clerk

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Date