

**CHARTER REVIEW COMMITTEE MINUTES  
MUNICIPAL LIBRARY, COMMUNITY ROOM, 2<sup>ND</sup> FLOOR  
41 WEST THURMAN AVENUE  
SEPTEMBER 25, 2013, 5:30 P.M.**

Call to Order at 5:34 p.m.

Roll Call: Member Bush, Member Cortez, Member Green, Member Hardin, Member Irish, Member Salazar, Member Stowe, Vice Chair Giraudi, Chair Bailey

**ORAL COMMUNICATIONS**

- Brock Neeley, Porterville, spoke in support of the City's participation in CalPERS; and read an e-mail dated September 25, 2013, from Rob Feckner, President of CalPERS Board of Administration, regarding the current status of CalPERS and addressing comments made by the City Attorney.
- Ellen Nichols, Porterville, inquired as to whether City employees paid into Social Security.
- Barry Caplan, Porterville, spoke about provisions relative to severance pay and current contracts; potential conflicts of interest; and expressed concerns regarding the committee using one e-mail address.

**SCHEDULED MATTERS**

**1. Minutes of September 11, 2013**

Chair Bailey introduced the item and asked if any amendments to the minutes were needed.

**COMMITTEE ACTION:** MOVED by Member Irish, SECONDED by Member Stowe that the Charter Review Committee approve the Minutes of September 11, 2013, as presented. The motion carried unanimously.

Documentation: M.O. 01-092513

Disposition: Approved.

**2. Review of Recommended Legal and Other Minor Modifications to Charter**

Chair Bailey introduced the item, and solicited questions and comments from the committee. At the committee's request, modifications were considered one Charter section at a time. With regard to Section 9, Paragraph 2, Chair Bailey inquired about the proposed amendment regarding terms of council members, and as a result the proposed language was amended to read, "...in accordance with this section and/or until their successors are elected and installed in office." Staff also responded to questions regarding consolidation of elections with the County.

The Committee expressed an interest in reviewing Section 9, Paragraph 5 regarding the organization of the City Council, and agreed to re-visit at a later time. A motion was

made, and seconded to approve the modifications to Section 9, as amended, but was withdrawn to allow the committee the opportunity to review all the proposed modifications.

City Attorney Lew then addressed questions from the committee regarding Section 18, Paragraph 3, and Section 21, Paragraph 1. The committee agreed to re-visit Section 18, Paragraph 3 pertaining to severance pay after all other proposed amendments were reviewed.

With regard to Section 21, Paragraph 1, Ms. Lew advised that the Charter's requirement that the city manager be a resident of the city may not be unenforceable. The committee discussed the pros and cons, and how the residency requirement could potentially affect future recruitments. The committee concurred that the modifications proposed by the City Attorney were acceptable.

In response to questions posed by Member Irish, the City Attorney and City Manager provided clarification regarding the City audit process and use of a certified public accountant, as it pertained to Section 59, Paragraph 1.

City Attorney Lew noted the handout regarding the proposed amendment to Section 14 Official Bonds; Where Filed, which consisted of replacing "City Treasurer" with "City Manager or his/her designee."

COMMITTEE ACTION: MOVED by Member Stowe, SECONDED by Member Hardin that the Charter Review Committee approve the proposed modifications, as amended, not to include Section 9, Paragraph 5, and Section 18. The motion carried unanimously.

Documentation: M.O. 02-092513

At Vice Chair Giraudi's request, City Attorney Lew elaborated on a strong mayor form of local government, and a separately elected mayor. Concerns were communicated regarding the recent reorganization of the City Council, the process, public perception, and the media attention it had received. A discussion ensued during which the following suggestions were explored:

1. Requiring three (3) votes to put in a mayor, and four (4) votes to remove a mayor;
2. Yearly rotation of Mayor; and
3. Reorganization on a yearly basis (1-year term), while allowing back to back terms.

Chair Bailey suggested that the committee seek input from the community, and staff offered to research what other cities have in place. The committee directed that the item be brought back for consideration at the next meeting.

With regard to Section 18, Paragraph 3, Member Hardin spoke in favor of decreasing the amount of severance pay, and various members of the committee voiced their agreement. City Attorney Lew advised of the justification behind the severance pay, which pertained to City Manager turnover. Chair Bailey and Member Stowe advocated leaving the amendments as is for flexibility.

COMMITTEE ACTION: MOVED by Member Hardin, SECONDED by Member Green that the Charter Review Committee amend Section 18, Paragraph 3 to allow up to 12 months of severance pay.

AYES: Green, Hardin, Salazar, Irish, Cortez, Giruadi, Bailey  
NOES: Bush, Stowe  
ABSENT: None  
ABSTAIN: None

Documentation: M.O. 02-092513

City Attorney Lew noted that in addition, staff had identified an additional amendment which would remove the following language from Paragraph 3, "...and he/she shall only be entitled to compensation for that expired proportion of the month or term of service during which he/she shall have performed his/her duties."

COMMITTEE ACTION: MOVED by Member Irish, SECONDED by Member Bush that the Charter Review Committee amend Section 18, Paragraph 3, as proposed by staff above. The motion carried unanimously.

Documentation: M.O. 02-092513

Disposition: Approved, as amended.

The committee took a five minute break at 7:09 p.m.

### **3. Review of Porterville Charter Pension Provisions**

Chair Bailey introduced the item, and City Attorney Lew spoke about the broad authority granted to the committee by the Council. She explained that there various legal issues associated with changes to pension provisions, and provided additional information regarding CalPERS which she obtained from the League of California Cities website. Member Salazar questioned why the Council had tasked the committee with reviewing such a contentious issue, and City Manager Lollis indicated that Council's interest was to receive an opinion.

At Member Bush's request, Administrative Services Director Patrice Hildreth reported on the City's efforts to address increased costs relative to employee pensions

that included, negotiating a lesser formula for new employees and increased employee contributions with all bargaining units.

Member Salazar suggested tabling the item until all other areas of the Charter in need of revision have been addressed. The committee discussed the complexity of the information provided, and staff advised of additional resources to assist in that regard. City Attorney Lew noted that there were a number of factors that attributed to the current condition of the CalPERS system, and spoke of some of them. Member Green inquired about the potential implications to vested employees and the City, such as litigation, which prompted a discussion regarding the cities of San Diego, San Jose, and Delano.

#### **4. Scheduling of Future Meetings**

Without objection, Chair Bailey scheduled the next meeting on October 2<sup>nd</sup>, at 5:30 p.m. City Attorney Lew stated that she would compile a list of items identified by Staff for future consideration. The committee directed that the following be included on the next agenda: Fiscal Year; Leases; Council Reorganization; and Committee Items of Interest.

#### **OTHER MATTERS**

- Staff was directed to arrange a presentation from a CalPERS representative.

#### **3. Review of Porterville Charter Pension Provisions**

Various members of the committee communicated a desire to leave the issue of pension reform to the City Council. Member Green made a motion to do so, which was seconded by Member Irish. Member Salazar offered an amendment to recommend that the Council establish a separate advisory committee made up of City staff and citizens to review the matter. Member Stowe offered an amendment to the amendment to remove the recommendation regarding a separate advisory committee, which was not accepted by Member Salazar. Member Salazar's amendment was accepted by Members Green and Irish.

Chair Bailey spoke in opposition to voting so hastily on the matter.

**COMMITTEE ACTION:** MOVED by Member Green, SECONDED by Member Irish that the Charter Review Committee approve giving the review of Porterville Charter Pension Provisions back to the Council, and recommending that the Council establish a separate advisory committee made up of City staff and citizens to review the matter.

AYES: Green, Bush, Salazar, Irish, Giraudi, Cortez  
NOES: Stowe, Hardin, Bailey  
ABSTAIN: None  
ABSENT: None

Documentation: M.O. 03-092513  
Disposition: Approved.

**ADJOURNMENT**

The Charter Review Committee adjourned at 8:00 p.m. to the meeting of October 2, 2013.

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Luisa M. Zavala, Deputy City Clerk

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Allan Bailey, Committee Chair