

**THE COMMITTEE ON
RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS
OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO**

**ACTIONS FOR
WEDNESDAY, NOVEMBER 7, 2007, AT 9:00 A.M.**

**COUNCIL COMMITTEE ROOM (12TH FLOOR),
CITY ADMINISTRATION BUILDING
202 C STREET, SAN DIEGO, CALIFORNIA**

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NON-AGENDA PUBLIC COMMENT: None.

COMMITTEE COMMENT: Councilmember Frye requested that a hearing be held before the end of the year regarding the tax exempt status of the DROP Program and the purchase-of-service credits. Councilmember Frye also asked the Rules Committee to consider amending the Permanent Rules of Council to allow greater flexibility in dealing with quorum issues at the council's standing committees.

CITY ATTORNEY, IBA, AND MAYORAL STAFF COMMENT: None.

ADOPTION AGENDA

Approval of the Record of Action Items for October 10, 2007

ACTION: Motion by Councilmember Frye, second by Council President
Pro Tem Young, to approve.

VOTE: 3-0; Peters-yea, Young-yea, Maienschein-not present, Frye-yea,
Madaffer-not present

ITEM-1: Presentation by the Charter Review Committee regarding its Final Report related
to REVIEW OF THE SAN DIEGO CITY CHARTER AND POSSIBLE
COMMITTEE ACTION IN RESPONSE TO THE RECOMMENDATIONS

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CONTAINED IN THE REPORT

(See 2007 San Diego City Charter Review Committee Final Report; Charter Review Committee's Executive Summary; Independent Budget Analyst's Report No. 07-102; Independent Budget Analyst's November 7, 2007, PowerPoint; City Attorney's November 2, 2007, report; Mayor Sanders' November 5, 2007, memorandum)

ACTION: The Committee accepted the report, with direction by common consent that the recommendations of the Charter Review Committee be referred to City Council along with a detailed summary of the comments made by members of the Rules Committee (See Attachments 1 and 2). The Committee also directed that recommendations related to the Chief Financial Officer, Auditor, and Audit Committee be reviewed by the Audit Committee and that the Budget Committee review the recommendation regarding a balanced budget.

Scott Peters
Council President

ATTACHMENT 1

Rules Committee Member Comments Regarding the Recommendations of the Mayor's

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Charter Review Committee

Rules Committee – November 7, 2007

In addition to the summary below of general and introductory comments by members of the Rules Committee, the attached matrix summarizes the committee members' comments on specific charter amendments.

Peters – Introductory Comments

- Prior to the cancellation of the October 24, 2007 Rules Committee meeting because of the San Diego wildfires, two Rules Committee meetings were planned for review of these proposals before referral to the City Council. Now, however, there are not enough Rules Committee meetings left in 2007 to have two reviews before the end of the year. Instead, the plan will be to have two hearings at the full City Council during January and February of next year prior to the filing deadline for the June 2008 ballot.
- The goal of today's Rules Committee meeting will be to provide input on all of the Charter Review Committee's recommendations and forward all of the items to the City Council.
- Don't lose sight of the effect of Prop F.
- Can't think of who would want to go back to a system in which the City Council did not have its own independent budget and policy analysis and was dependent on the City Manager for its information.
- Some people are concerned that the Charter Review Committee is not an elected commission. It is important to remember that City Councilmembers, who ultimately decide whether to place the recommendations of the Charter Committee on the ballot, are elected by district.

Madaffer – General Comments

- Charter is the City's Constitution. It should not be written to respond to specific problems of the day, but to serve as a global guiding document.
- The Municipal Code is the place to address day to day issues.
- Operational issue demand that certain of these recommendations be placed on the ballot promptly

Frye – General Comments

- Only a few of these recommendations need to be on the June 2008 ballot.
- The public needs adequate time to understand the proposals
- Supports holding additional hearings – one of which should be during the evening – before making decisions to place any items on the ballot.

Tony Young – General Comments

- Not satisfied that there was an adequate community process in the development of the recommendations.

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- In addition to taking community input at the beginning of their process, the Charter Review Committee should have returned to the community for input after they had developed their specific recommendations.
- Not in a hurry to place these items on the ballot. Focus should be on doing a good job of thoughtfully reviewing the City's constitution with an emphasis on community input.
- Some of the issues here should be referred to other Council Committees.
- Favors carefully selecting just a few urgent issues to place on the June ballot.

ATTACHMENT 2

Rules Committee Member Comments Regarding Specific Recommendations of the Charter Review Committee
(Speakers are ordered right to left in the order they spoke)

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No	Issue	Charter Review Committee Recommendation	Madaffer	Frye	Young	Peters
1	Sunset Provision	Extend trial period to 12/31/2014 and make permanent at that time unless there is a ballot measure to the contrary.	It is too early to consider extending the trial period. The voters voted for a trial period until 2010 and we should honor that commitment.	Let the trial period run before this question is put to the voters.		
2	Mayoral Veto	Requires a 2/3 vote to override a mayoral veto. Where a supermajority is required for passage, a veto override requires a supermajority plus one.	It is premature to modify this until the decision regarding retention of the mayor-council is made. The Current arrangement is not problematic because it promotes cooperation between the Mayor and Council.			
3	Number of Council Seats	Increase the number of City Council districts from eight to eleven as soon as practicable	It is premature to modify the number of Council seats until a decision regarding retention of the mayor-council is made. If the Council is increased to an odd number then returns to the City Manager form of government there will again be an even number. In any case, if increased, there should only be nine members. The overall budget for all Council offices should not be increased. Opposed at-large Council seats. Opposed interim redistricting for fiscal reasons.	There should be a redistricting process and new census data before adding any new seats. It is premature to modify the number of Council seats until a decision regarding retention of the trial form of government.	The power of Council districts may be diluted if seats are added. Having more Council seats empower the Mayors office but not necessarily communities. Opposed to at-large council seats. Favors nine districts over eleven.	We have among the largest council districts in the country. More Council districts may give a role to more communities than have a role today.

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No	Issue	Charter Review Committee Recommendation	Madaffer	Frye	Young	Peters
4	Role of the IBA	Authorize the IBA to provide both budgetary and policy analysis to the City Council.	Supports making the IBA permanent irrespective of whether strong mayor-council is retained. Clarify that the IBA provides both budget and policy analyst to the City Council. Consider for June Ballot	Supports making the IBA permanent irrespective of the form of government.		Addition of the Independent Budget Analyst has been an invaluable resource to the City Council. Prior to the implementation of the Strong Mayor-Council form of government, the IBA illegal Not sure of the need for both a City Manager and an IBA if Strong Mayor-Council is not retained. Roles may be redundant when both report to the same entity. Need to think through how the positions of City Manager and IBA would be structured in their reporting if there is a reversion.
5	Role of the CFO & City Treasurer	CFO – providing that the CFO shall assume the duties of the City Auditor and Comptroller and clarifying that the CFO is an unclassified position.	The CFO should assume duties of Comptroller but not the auditor. Consider for June Ballot	CFO should assume role of the Comptroller. Consider for the June Ballot Referral: Audit Committee	Referral: Audit Committee	Referral: Audit Committee
		Treasurer – remove the requirement for Council confirmation of the City Treasurer	Prefers that all department heads be confirmed by Council including the Treasurer. Consider for June Ballot	Consider for the June Ballot Referral: Audit Committee	Referral: Audit Committee	Referral: Audit Committee

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No	Issue	Charter Review Committee Recommendation	Madaffer	Frye	Young	Peters
6	Audit Committee	Establishes a five-member Audit Committee comprised of two City Councilmembers and three members of the public. The public members will be nominated by the City Council from a pool of candidates created by a screening committee comprised of the CFO, IBA, a Councilmember and two members of the public.	Agrees with the Charter Committee proposal Consider for June Ballot	Disagrees with the Charter Committee recommendation. Mayor should have no role in appointment of members. Consider for June Ballot Referral: Audit Committee and City Attorney to review the legality of the Audit Committee's duties in light of Charter Section 11.1	The community may not support three outside members making decisions for the Citizens of San Diego. The kinds of people who will be appointed are not going to identify with community members. Favors having elected officials on the audit committee with expert advice. If there are some outsiders, they should in the minority. Referral: Audit Committee	Kroll's and Mayor's recommendation would have cut out the Council. Charter Committee gave the Council a role. Consider for June Ballot Referral: Audit Committee

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No	Issue	Charter Review Committee Recommendation	Madaffer	Frye	Young	Peters
7	City Auditor	City Auditor is appointed by the City Manager (Mayor) in consultation with the Audit Committee and confirmed by the City Council. Auditor must be a CPA or Certified Independent Auditor. 10-year term of office. Auditor reports to the Audit Committee which may terminate the Auditor for cause with a 4/5 vote. The decision to terminate is appealable to Council.	Auditor needs to be independent of the Mayor and the Mayor should have no role in the selection of the City Auditor Consider for June Ballot	There is an urgent need to fix the structure of the City Auditor. Mayor should have no role in appointing. Auditor must be independent of the Mayor. Supports an elected City Auditor Referral: Audit Committee	It is important to fix this issue. Sees positive aspects to both elected and appointed auditors. Currently more favorable to an elected auditor. Consider for June Ballot Referral: Audit Committee	More concerned about who the Auditor reports to than who has a role in appointing the auditor. The auditor must be independent from management not from the Council. Does not support an elected auditor. Consider for June Ballot Referral: Audit Committee
8	Balanced Budget	Requires the City to adopt a balanced budget and establishes procedures to keep the budget balanced throughout the fiscal year.	Agrees with the Charter Committee proposal Consider for June Ballot	Referral: Budget Committee	Referral: Budget Committee	Referral: Budget Committee
9	Managed Competition	Exempts Police Officers, firefighters and lifeguards from Managed Competition	Agrees with the Charter Committee proposal Consider for June Ballot	EMS personnel are already contracted out. We need a better definition of what can and cannot be contracted out.		

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No	Issue	Charter Review Committee Recommendation	Madaffer	Frye	Young	Peters
10	Role of the City Attorney	Defines the civil client of the City Attorney as the San Diego municipal corporation. Clarifies the authority related to settlement of lawsuits and the authority of the municipal corporation to retain outside legal counsel when the City Attorney's office may not provide such services due to conflict of interest.	Willing to hear more on this issue			This is not working now. Most people understand that you cannot rely on someone for confidential legal advice one day when you have to worry that that same person will prosecute you the next day. We ought to clarify the role of the civil legal advisor. New York City Charter may provide a model to examine.
11	Setting Elected Officials' Salaries	Alters the salary setting process for all elected officials. Establishes professional qualifications for the members of the salary setting commission, compels the City Council to adopt the recommendations of the Salary Setting Commission, and prohibiting the Mayor from vetoing their recommendations.	Salary Setting Commission should make the final decision and the City Council should not participate in the setting of their own salaries Consider for June Ballot	Salary Setting Commission should make the final decision and the City Council should not participate in setting of their own salaries. May not need to be on the June ballot, but needs to be done. Referral: City Attorney to review the legality of this proposal in light of Charter Section 11.1.		The Charter Review Committee proposal still requires that the Council vote on elected official salaries and that they vote "yes." It would be more appropriate that the Council not vote at all on their salaries.