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January 21, 1999

To: Elected Los Angeles Charter Reform Commission
 From: Erwin Chemerinsky
 Re: Conference Committee proposal concerning remaining issues for the Unified Charter initiative

On Wednesday, January 20, the Conference Committee of the Appointed and Elected Charter Reform Commissions met to consider the remaining areas where the Commissions have taken different positions. The Conference Committee unanimously voted to accept, and to strongly urge our fellow Commissioners to adopt, the following proposals.

The Appointed Commission considered these proposals at its meeting held on Wednesday afternoon, immediately after the Conference Committee meeting. The Appointed Commission unanimously adopted these recommendations. They will be considered by the Elected Commission at our meeting on Monday night, January 25.

Work is under way to produce a draft of a complete Unified Charter. It is expected that the Appointed Commission will consider this draft at its January 27 meeting for purposes of sending it to the City Council. It is planned that the Elected Commission will consider the draft at its February 1 meeting. The hope is that the Elected Commission will then adopt a resolution informing the City Council that we plan to place this document on the ballot, hopefully jointly with the City Council, assuming the council makes no significant changes. I continue to be told by key personnel in the Council that it will not make changes in a document supported by both the Appointed and the Elected Commissions.

It is important to view the following recommendations as a package that, overall, fairly represents the views of both Commissions. All involved have had to compromise to produce a single Charter proposal. As always, this does not present Charter language, but instead recommends the concepts to be reflected in the new Charter.

For each topic, the views of the two Commissions are presented and then the recommendation of the Conference Committee is presented. The Conference Committee recommends the following:

1. Budget process:

The Appointed Commission's draft Charter requires that the

- a) Change the current Charter provisions which require Council review of all contracts approved by Commissions for a period of greater than three years to require Council review of all contracts approved by Commissions for a period of greater than five years.
- b) Include provisions enabling design/build or other appropriate delivery project systems, when justified by the type of project and approved by the contracting authority.
- c) Include comprehensive language which specifically enables the use of qualifications-based selection after a finding of appropriateness by the contracting authority and in accordance with such criteria as established by ordinance.
- d) Require the contracting authority to specify the dollar amount of the total award which can be approved by department employees in the form of change orders without the necessity of returning to the contracting authority for authorization.
- e) Eliminate the requirement of obtaining Council approval of leases longer than five years, but provide instead for a legislative veto.

Recommendation: The Elected Commission's approach, except for the following:

--As to e), it should be limited to proprietary departments and the Charter should contain a requirement that proprietary departments notify the City Council when a lease for greater than five years is on its agenda and also when it enters into such leases. The time for City Council veto begins upon receipt of notice of a decision by the Commission to enter into such a lease.

7. Delivery of services:

The Elected Commission's draft Charter has a provision stating: "Every City office and department, and every City official and employee, is expected to perform their functions with diligence and dedication on behalf of the people of the City of Los Angeles. In the delivery of City services and in the performance of its tasks, the government undertakes to perform at the highest levels of achievement including efficiency, accessibility, accountability, quality, use of technologically advanced methods, and responsiveness to public concerns. Every analysis and review of the performance of the government and its officials and employees shall seek to ascertain whether such high standards are being met, and if not, shall recommend methods of improvement." There is no comparable provision in the Appointed Commission's draft Charter.

Recommendation: The Elected Commission's approach.

14. Neighborhood Councils: The Unified Charter creates a system of participatory, self-selected, advisory neighborhood councils.

The Elected Commission at its January 11 meeting adopted a motion stating its desire to place on the ballot a separate initiative creating elected neighborhood councils. The initiative would be placed on the ballot only by the Elected Commission. The initiative would go into effect only if it receives more votes than the "main" Charter and only if the "main" Charter passes.

Recommendation: The Elected Commission will not place on the ballot a separate initiative creating elected neighborhood councils.

15. Office of Research and Administrative Support:

The Unified Charter provides that there shall be an Office of Research and Administrative Support to report to both the Mayor and the Council and to conduct research and make reports, especially as to budget matters such as costs and revenues.

A concern has been raised that neither the Mayor nor the Council should be able to unilaterally assign additional tasks to this office, except, of course, that either may request reports and information. Because the office reports to both, neither the Mayor nor Council should be able to attempt greater control of the office by assigning additional tasks. Additional tasks should require the approval of both the Mayor and a majority of the City Council.

Recommendation: Except in the area of employee relations, where duties can be assigned to the Office of Research and Information by ordinance, additional responsibilities (other than preparing reports and gathering information) may be assigned to the Office of Research and Information only with the agreement of both the Mayor and a majority of the City Council. Either the Mayor or the Council may ask the Office to prepare a report on any topic. The Council may make requests for reports by resolution of the Council or by action of a committee.

16. Police department:

The Elected Commission made the following changes in the police discipline system. These changes were expressly agreed to by both representatives of the Chief of Police and the Police Protective League.

a) Prohibit any ex parte communication with members of a Board of Rights panel about the subject matter of the hearing during the time of the proceedings. No person shall attempt to influence the decision of a Board of Rights panel except during