

December 2, 1998

To: Members, Conference Committee of the Appointed and Elected
Charter Reform Commissions

From: George Kieffer and Erwin Chemerinsky

Re: Suggestions for unified Charter proposal

At our last meeting, the Conference Committee made tentative decisions concerning the authority of the Controller, some issues concerning budget and finance, the redistricting process, and public works. We agreed that our tentative agreements would not be presented to the two Commissions until we had completed a package that included most of the major areas of the Charter. The Conference Committee agreed that it would continue to try to find agreement on the remaining Charter issues over the next few weeks.

As we did for the last meeting, we wish to propose the following for consideration and tentative agreement by the Conference Committee. Of course, we are not proposing Charter language, but rather areas for policy agreement. Our focus, in this memo and for Thursday's meeting, are several issues concerning citizen participation and the responsiveness of City government.

A word about the timetable. We believe that the Conference Committee must complete its work in the next few weeks. If the Conference Committee is successful in agreeing upon a unified package proposal for a single Charter, that should be presented to the two Commissions in late December or very early January. If the two Commissions agree, drafting of language (reconciling the drafts of the two Commissions) would occur in January. This would allow sufficient time for review by both Commissions and the City Council.

Specifically, we propose the following with regard to issues concerning representation:

1. **Neighborhood councils.** We propose that the Charter create a system for participatory, self-selected, advisory neighborhood councils.

The Appointed Commission chose to create an Office of Neighborhood Empowerment to formulate a plan for a citywide system of neighborhood councils. Under the Appointed Commission's approach, the Charter would set criteria for the plan, including that the formulation of the plan shall involve

public participation. Also, regulations must provide: a method of selection that provides an opportunity for broad participation; that all areas are given an equal opportunity to form neighborhood councils; and that neighborhood councils adopt fair and open procedures. Boundaries of neighborhood councils would respect neighborhood boundaries, rather than political boundaries. The method of selecting members and drawing boundaries would be established by ordinance. The City Council may, by ordinance, give neighborhood councils decision-making powers. The City Council would be required to adopt implementing ordinances within a specified period of time. The Charter shall require that neighborhoods be given notice of decisions affecting them and, at a minimum, advisory powers over such local matters as shall be enumerated by ordinance. The Charter shall provide for review after seven years.

The Elected Commission chose to offer the voters a choice between two models of neighborhood councils. The Charter would create a participatory form of neighborhood councils, where all in a neighborhood could participate and members would be chosen through self-selection. A Department of Neighborhoods would be created to ensure that all areas have the opportunity to create neighborhood councils. Additionally, funding would be provided in the same manner as the Charter now provides for the Ethics Commission (i.e., the Council must appropriate funds for neighborhood councils at least one year in advance of each fiscal year). The Elected Commission also tentatively decided that the Charter should allow the voters to enact, as an alternative, a system of elected neighborhood councils. Under this proposal, each City Council district would have a neighborhood council. Each neighborhood council would have seven members. The members would be elected via a system where each citizen would vote for one member of the council and the seven candidates with the highest vote total would prevail. Each elected neighborhood council would be allocated a small amount of money to buy additional city services. Elected neighborhood councils would have an advisory role on land use matters.

We propose the following:

A. The Charter proposal contain only one form of neighborhood councils: participatory, self-selected neighborhood councils with an advisory role. In other words, there would not be a separate ballot option for elected neighborhood councils.

B. An Office of Neighborhood Empowerment would be created. It would be responsible for overseeing the creation of a system of neighborhood councils throughout the city. Included would be provision of the Appointed Commission's proposal that would require the Office of Neighborhood Empowerment to develop a plan for the creation of neighborhood councils and present this to the City Council within a specified amount of time after approval of

the Charter. The plan would go into effect if not rejected by the City Council within a specified amount of time.

C. The Office of Neighborhood Empowerment would be responsible for making sure that every area of the city has the opportunity to be a part of a neighborhood council. Neighborhood councils would reflect community boundaries, not City Council district lines.

D. The neighborhood councils should be participatory in that all in the community (i.e., citizens, non-citizens, business, civil groups, etc.) would have the opportunity to participate.

E. Each neighborhood, with the assistance of the Office of Neighborhood Empowerment, will decide the means it will use for selection of its members.

F. An "early warning system" should be created where neighborhood councils are alerted as to matters affecting their community; the warning should be sufficiently in advance of consideration by the City Council or other bodies so as to allow time for input before the decision. Failure to adhere to the early warning requirement would not be a basis for invalidating the government's action.

G. Neighborhood councils shall identify community needs and concerns and may make recommendations to appropriate decision-makers on any issues of concern to the community, except in a manner that is inconsistent with established city policy or other sections of the Charter.

H. The funding for neighborhood councils shall be provided by a requirement that the Council must appropriate funds for neighborhood councils at least one year in advance of each fiscal year. (This is how funding for the Ethics Commission is now provided for in the Charter).

I. The Charter shall provide for review of neighborhood councils after seven years.

2. **Area planning commissions.** Both Commissions approved a proposal for Area Planning Commissions. There are only minor differences between the proposals. Area Planning Commissions are a key way to address the concern that downtown City government is too far away and too removed. Decentralization of planning is an important way to provide more local decision-making for land use issues.

We propose the following:

- a) The Charter shall prescribe that the City shall be divided into not less than three Area Planning Districts, with the number of Districts determined by ordinance and the boundaries to be drawn by ordinance in a manner which does not divide community planning areas.
- b) An Area Planning Commission shall be created for each of the areas determined by ordinance. Five Commissioners, with residency in each district, will be appointed/removed in the manner as all other Commissioners. Area Planning Commissions are quasi-judicial agencies. Each Area Planning Commission shall have and exercise the following powers with respect to matters concerning property located in the area served by the Area Planning Commission:
- i) To hear and determine appeals where it is alleged that there is error or abuse of discretion in any order, requirement, decision, interpretation or other determination made by the Zoning Administrator;
 - ii) To hear and make determinations on any matter normally under the jurisdiction of the Zoning Administrator when that matter has been transferred to the jurisdiction of the Area Planning Commission pursuant to a request for transfer because the Zoning Administrator has failed to act within the time limits prescribed by ordinance;
 - iii) To hear and determine applications for, or appeals related to conditional use permits and other similar land use permits, in accordance with procedures prescribed by ordinance.
 - iv) To make determinations with respect to zone changes or similar matters as referred to it from the City Planning Commission pursuant to Section 462 of the Charter.
 - v) To hear and determine other matters as may be delegated to it by ordinance.
- c) A Citywide Planning Commission would be created and consist of nine members. It shall:
- i) give advice and make recommendations to the Mayor, Council, Director of Planning, municipal departments and agencies with respect to city planning and related activities and legislation.
 - ii) make reports and recommendations to the Council and to other governmental officers or agencies as may be necessary to implement and secure compliance with the General Plan.
 - iii) perform other functions set forth elsewhere in the Charter or specified by ordinance.

- d) Appeals shall be made directly from the Area Planning Commissions to the City Council, except where the Citywide Planning Commission is involved, in which case appeal would be from it to the City Council.
- e) The Board of Zoning Appeals would cease to exist and all appeals would go through this system. Zoning variances would continue to go through the Office of Zoning Administrator with appeals to Area Planning Commissions.
- f) Neighborhood Councils would have an advisory role in the Area Planning Commission or the Citywide Planning Commission.

3. Size of City Council. We propose that the Charter create 21 City Council districts. However, the ballot should give the voters the option to maintain 15 City Council districts instead.

The Appointed Commission has tentatively decided that the Charter should create 21 Council districts. The Elected Commission has tentatively decided to give the voters a choice between 15 and 25 districts. Under the Elected Commission's approach, the Charter would create 15 districts, but a separate initiative would propose 25 Council districts. This is similar to the current Charter which proposed nine Council districts, but an initiative on the same ballot proposing 15 was approved.

As a compromise, we propose maintaining the Elected Commission's approach of giving the voters an alternative ballot choice with regard to Council size, but incorporating the Appointed Commission's recommendation for 21 districts. There is strong division of opinion as to whether the size of the Council should be expanded. The Elected Commission decided to leave the issue to the voters. The Appointed Commission chose 21 Council seats. Therefore, as a compromise we propose that the voters be able to choose between 15 and 21 Council districts. Specifically, the main body of the Charter should be for a Council of 21 members. A separate amendment would be to leave the Council size at 15.

4. Maintain the current Charter provisions with regard to the Los Angeles Unified School District.

The Appointed Commission voted to increase the number of districts and to increase the salary for members of the School Board. The Elected Commission voted not to change these provisions, but tentatively decided to make recall elections much easier.

We recommend that the Charter make none of these changes, but instead continue the status quo as to education provisions of

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

GN

Date: February 25, 1999

To: The Council

From: Keith Comrie, City Administrative Officer *KC*
Ronald Deaton, Chief Legislative Analyst *RD*

Subject: **RESPONSES TO COUNCIL MEMBER QUESTIONS**
RE: UNIFIED CHARTER

RECEIVED
FEB 25 1999
JOEL WACHS
2nd COUNCIL DIST.

Attached are responses to Council member questions raised during presentation of the Unified Charter at the February 11 Council meeting. The responses are based upon the February 26 draft document.

KC:RAM:jh/cmj

Attachments

Responses to Council Member Questions from 2/11/99 Meeting

Neighborhood Councils

- Q** How are neighborhood council members selected?
- A** Neighborhood council systems are established by ordinance or by regulation. It is the intent of the Charter that all of the stakeholders in a neighborhood (e.g. business, residents, religious organizations, community groups etc.) can participate on the council and decide on the method of selection of the executive board officers of the council. Methods of self selection of their officers could include a town hall meeting or mail ballot, as determined by each community council. All stakeholders who participate in the community council will be eligible to vote for and to serve on the executive board. Sec. 905(a)(1)
- Q** Would the Mayor approve the system for neighborhood council selection?
- A** No. (see above).
- Q** Can someone serve on a neighborhood council and on a City commission concurrently?
- A** There is no prohibition in the Unified Charter.

Office of Administrative and Research Services

- Q** Will the Council have as easy access to the OARS as it has from the CAO?
- A** Section 291 (i) provides that the Director furnish the Mayor or council aid, information or recommendations as requested in writing by the Mayor or by the Council or Council committee. It appears there is no change in access of Council to OARS.

Budget and Finance

- Q** What's the difference between OARS and the Office of Finance?
- A** The revenue collection functions currently performed by the City Clerk Tax and Permit Division are consolidated into the Office of Finance. The Director develops and implements revenue policy and guidelines for the collection of outstanding receivables. The Charter does not transfer any functions of OARS to the Office of Finance. OARS basically retitles the current CAO and maintains the same duties and responsibilities, except certain transfers of funds and personnel which are assigned to the Mayor. Section 291 (OARS); Section 300 (Finance)

Responses to Council Member Questions from 2/11/99 Meeting

- Q** Can you clarify the role of the Office of Finance regarding economic development activities?
- A** The Unified Charter does not assign any economic development activities to the Office of Finance.
- Q** Are there any provisions in the unified Charter ensuring that revenue collection is made public?
- A** No. There are no provisions to this effect in the Unified or current Charter.

Executive Orders

- Q** Will Executive Directives be made public? Does the Brown Act apply?
- A** The Unified Charter provides that Executive Directives shall be filed with the City Clerk and published in the same manner as ordinances. Executive Directives shall take effect 15 days after publication. The Brown Act does not apply. Section 231(j)
- Q** Can the Council set the parameters for the issuance of Executive Directives through ordinance or some other means?
- A** No. Executive Directives are binding on all departments unless they conflict with provisions of the Charter or ordinances. Section 231(j)

Contracts

- Q** Is the Mayor prevented from approving multiple contracts for an amount less than the limit set by ordinance?
- A** The Charter does not address the issue of multiple contracts to avoid Council review. However, the council may by ordinance prohibit this practice. Section 373
- Q** Is it required that information about transfers of funds be made public at the time they are made?
- A** Transfers of appropriated funds up to the amount requiring only the approval of the Mayor (the amount to be set by ordinance) require the Mayor to give notice to the Clerk at the time the transfer is made. The Clerk notifies the Council President, Controller, and the Director of OARS. Intra-departmental transfers are subject to the same notification requirement. Sections 342(a) and 343. (In addition, the City's financial records are available to the public.)

Responses to Council Member Questions from 2/11/99 Meeting

- Q** Under Section 370, who signs a contract?
- A** The Mayor, board, officer or employee and persons authorized by the Council. No change from current practice.
- Q** What contracts does the Mayor approve?
- A** The Mayor approves those involving his own office and those authorized by the Council.
- Q** Under 370 (b), what contracts do employees enter into?
- A** Employees can enter any contracts where they are authorized, such as personal services, purchasing, and all others delegated to them. This language is consistent with the current Charter.

Intergovernmental Relations

- Q** Is there a conflict between the Council's responsibility for establishing City legislative positions (subject to Mayoral veto) and the Mayor's responsibility for representing the City in intergovernmental relations?
- A** Section 254 provides that the Council establish official positions with respect to pending legislation subject to Mayoral veto and Council override. The Unified Charter appears to allow the Mayor to take a position on any matter not in conflict with the official position of the City. Section 231(h)
- Q** Does the Council retain the right to speak for the City in intergovernmental relations given the Mayor's role in the process?
- A** The Unified Charter limits the Council to representing Council policies.

Public Works

- Q** Is there a conflict by having a full-time board and a full-time general manager appointed by the Mayor?
- A** There could be conflict between a full time Board and a full time general manager appointed by the Mayor. The Mayor is also the appointing authority for the General Manager and the Bureau heads. Sections 580 and 582
- Q** How does one reconcile a full-time Commission with responsibilities similar to other part-time commissions?
- A** This provision is retained from the current Charter.

Responses to Council Member Questions from 2/11/99 Meeting

Prop. 5

- Q** Does the legislative veto process replacing the current Prop. 5 process have a greater potential for creating gridlock?
- A** Possibly, because the process has been changed to a veto instead of Council authority to also make a decision. This necessitates the matter being sent back to the Commission for further action. Section 245

Litigation

- Q** Can we distinguish between litigation involving monetary and non-monetary issues?
- A** We believe most litigation in which the City is involved includes monetary and non-monetary issues in the same law suit. Section 273
- Q** Can we easily identify the litigation over which the Council and the Mayor have control?
- A** No. The Charter is not clear on this issue. However Section 272(d) provides the City Attorney is authorized to determine who makes client decisions.
- Q** Can the Council set the monetary threshold under which the Mayor has the authority to settle a case?
- A** Yes, this amount is to be established by ordinance. Section 273 (b) (1)
- Q** Does any single entity have control over litigation?
- A** No. The Unified Charter splits control among the Mayor, Council, and boards of independent departments.
- Q** Are there any new checks over the flow of information in lawsuits?
- A** In all litigation involving potential financial liability the City Attorney must keep the Mayor and Council informed as to the status of litigation. Section 271(c)

Council Seat Expansion

- Q** How will the amendment process work for expanding the number of Council seats?
- A** The Unified Charter must pass for expansion to occur. By separate ballot item voters will have the opportunity to select 21 or 25 Council seats. For either of these options to pass they must receive a majority of the votes cast for the expansion. If both options receive a majority the option with the higher number of votes becomes effective.

Responses to Council Member Questions from 2/11/99 Meeting

Area Planning Commissions

- Q** How are the areas that will be served by Area Planning Commissions to be defined?
- A** They will be defined by ordinance. The Charter provides for a minimum of five Area Planning Commissions but has no maximum. Section 552

Exemptions

- Q** Haven't about 60 to 70 positions been added to the current list of 150 exemptions?
- A** Yes. The Unified Charter adds two assistant general managers in most departments and 10 positions for Airports and Harbor to the 150. There are other minor additions as well. It also allows the Council, by ordinance adopted by 2/3 vote, to raise the current 150 limit up to a maximum of 1% of the number of regular authorized positions in the City workforce. Section 1001

DWP

- Q** Is rate setting done by the Board?
- A** Yes, subject to approval by the Mayor and Council, by ordinance. Section 676 (a)
- Q** Under Section 677, can the Board determine whether surplus water can be sold outside the City?
- A** Yes, subject to approval by the Mayor and Council, by ordinance. Section 677 (a) (2) (B)

Redistricting

- Q** Who appoints the reapportionment group?
- A** One by each Council member - 15;
- ◆ two by the Council President
 - ◆ three by the Mayor
 - ◆ one by the City Attorney
 - ◆ one by the Controller
 - ◆ City officers and employees are exempted from participation Section 204 (b)

Responses to Council Member Questions from 2/11/99 Meeting

- Q** What about accountability in neighborhood councils—are accountability factors built into the Charter?
- A** Self-selecting neighborhood councils are required to establish bylaws which include measures of accountability. Section 905 (a)

u/exec/rhart/ram1.wpd