

# Attachment A

## CHARTER UPDATE COMMITTEE MINUTES

City Council Chambers  
Thursday, May 31, 2012  
4:00 p.m.

### I. CALLED MEETING TO ORDER – 4:00 p.m.

### II. ROLL CALL

Present: Chairman Paul Watkins and Members David Bahnsen, Paul Glowienke, Jeff Herdman, Suzanne Savary, Joseph Stapleton, and Mayor Nancy Gardner

Excused

Absence: Member Dan Wampole

City Staff: City Manager Dave Kiff, City Clerk Leilani Brown, Acting Assistant City Attorney Michael Torres, Assistant to the City Manager Rob Houston, and Public Information Manager Tara Finnigan

### III. APPROVAL OF MINUTES

Member Glowienke requested that Public Comments be amended to reflect that the Committee allowed 3-minute public testimony on agenda items for the May 24<sup>th</sup> meeting only.

Bob Rush provided a handout of City Council Policy A-16 - *Conflict of Interest Procedures* and took issue with last week's discussions, believing that City Attorney Harp mischaracterized the policy. Acting Assistant City Attorney Torres responded that that City Attorney Harp had correctly stated the requirements of City Council Policy A-16. Further, he stated that, if any member of the Committee believed they had a conflict, they are encouraged to speak to the City Attorney's Office and, if the member believes they have a conflict, they will disclose it upon the record and recuse themselves from participating in the item for which they have a conflict.

In response to Jim Mosher's questions, City Clerk Brown confirmed that the meetings are being recorded, but unsure relative to how long the recordings are retained.

**Motion by Member Bahnsen, seconded by Member Herdman** to waive reading of the subject minutes, approve as amended, and order filed.

Acting Assistant City Attorney Torres noted that comments from today's meeting will be reflected in the May 31 minutes, including the City Council Policy A-16 handout.

The motion carried by the following roll call vote:

Ayes: Bahnsen, Glowienke, Herdman, Savary, Stapleton

Abstain: Chairman Watkins

Absent: Wampole

### IV. CHARTER SECTION DISCUSSIONS

Without objection, Chairman Watkins provided suggestions on how to proceed with the proposed green, yellow, and red sections of the redline version.

City Manager Kiff or Acting Assistant City Attorney Torres discussed the proposed changes to the following Charter Sections:

**Section 103** – Adopted with original Charter and is no longer applicable.

**Section 105** – Adopted with original Charter and is no longer applicable.

**Section 106** – Includes language to better match the process set forth in the California Constitution.

**Section 200** – Changes an “and” to an “or.”

**Section 410** – The current practice is that the City Clerk calls the roll anytime requested by Council.

**Section 412** – Provides the ability for Council to consider ordinances and resolutions at other types of meetings, not just regular or adjourned regular meetings; and allows a simple majority vote to approve ordinances.

**Section 418** – Does not require that the entire ordinance be reconsidered when only a section or subsection is being amended.

**Section 503** – Requiring a City-paid surety bond is an outdated practice. The City Manager contract is brought back at a Council meeting, so the requirement to also adopt a resolution is outdated, especially since the City Attorney and City Clerk salaries are not established in this manner.

**Section 504** – Adds the word “may” and reflects that the purchasing system is not centralized, since departments also have purchasing authority.

**Section 505** – Does not require the City Manager to sit at the dais.

Regarding **Section 410**, Member Glowienke suggested changing “noes” to “nays” unless this is not consistent with the rest of the Charter. Chairman Watkins suggested amending the third paragraph to read, “...the City Clerk shall call the roll and shall cause the ayes and ~~noes~~ nays taken on an issue which is the subject of the demand such questions to be entered...”

Mayor Gardner requested and received clarification regarding **Section 412**, and expressed concern relative to the proposed change to the voting provision.

Following discussion relative to **Section 503**, Acting Assistant City Attorney Torres indicated that he can provide more information relative to the current cost to the City, and comparisons with other cities or the County relative to whether they require surety bonds. He concurred that this Section should be changed from Green to Yellow as it relates to the bond issue.

Member Glowienke suggested amending **Section 504** to read, “Establish and maintain a purchasing system...” Discussion ensued relative to the inclusion of “may” and how it might be interpreted.

Jim Mosher expressed concern that **Section 410** does not require the City Clerk to record the votes on ordinances or resolutions. He stated that he does not support **Section 412**, noted that **Section 418** deals with sections and subsections, and took issue with using “may” in **Section 504**.

In response to Member Stapleton’s question, City Clerk Brown confirmed that all ordinance and resolution votes are recorded in the meeting minutes.

Bob Rush referenced City Council Policy A-16 and reiterated his conflict of interest concerns. Assistant City Attorney Torres reported that, under the Political Reform Act, the Committee Members are not public officials; however, indicated that a Committee Member can speak with the City Attorney’s Office in the event they feel they may have a conflict of interest.

Bob Hawkins expressed opposition to the proposed changes to **Sections 200 and 412**, and questioned if the entire City Manager’s Office should disqualify themselves from Article V discussions.

Dan Purcell agreed with the concerns relayed relative to **Section 412**.

Following discussion, it was the consensus of the Committee to retain the third paragraph in **Section 412**.

**Motion by Member Bahnsen, seconded by Member Glowienke** to a) approve the recommended changes to Sections 103, 105, 106, 200, 418 and 505; b) approve the amendment to Sections 410 to read, “...the City Clerk shall call the roll and shall cause the ayes and ~~noes~~ nays taken on an issue which is the subject of the demand such questions to be entered...”; c) retain the third paragraph in Section 412, but include the remainder of the redline changes; d) bring back more information relative to the bond issue in Section 503, but

approve the remainder of the redline changes; and e) approve the amendment to Section 504 to read, "Establish and maintain a purchasing system..."

The motion carried by the following roll call vote:

Ayes: Bahnsen, Glowienke, Herdman, Savary, Stapleton, Chairman Watkins  
Abstain: None  
Absent: Wampole

City Manager Kiff or Acting Assistant City Attorney Torres discussed the proposed changes to the following Charter Sections:

**Section 507** – The change reflects the current practice of the City Manager to designate an Acting City Manager and inform the City Council.

**Section 602** – The change reflects current practices.

**Section 603** – Adds the word "may."

**Section 605** – Adds the word "may."

**Section 609** – The amendment is more compatible with State law.

**Section 611** – Refers to bonds and should be tabled pending the outcome of **Section 503**.

**Section 700** – Allows the creation of new Boards or Commissions by resolution to streamline the process.

**Section 702** – Provides Council discretion to establish terms for Boards and Commissions that are created after November 1, 2012.

**Section 703** – Adopted with original Charter and is no longer applicable.

**Section 704** – Provides Boards and Commissions more flexibility relative to when to meet and when/how to reorganize.

Regarding **Section 507**, Acting Assistant City Attorney Torres noted that an amendment has been proposed in **Section 1400(b)** that allows duties or grants power to a duly authorized deputy or employee in the absence of a public officer, like the City Manager. Chairman Watkins suggested amending the language to read, "The City Manager shall appoint and notify the Council of the identity of, ~~subject to the approval of the City Council,~~ one of the other officers or department heads of the City to serve as Manager Pro Tempore..."

In response to Member Glowienke's question, Acting Assistant City Attorney Torres noted that Article VII only refers to Boards and Commissions.

Member Herdman expressed support for the amendment to **Section 704**.

Bob Rush referenced City Council Policy A-16 and reiterated his conflict of interest concerns.

Jim Mosher expressed concerns regarding **Section 507** and took issue with the use of "may."

George Schroeder stated that he has no concerns relative to **Section 507**, but had a concern relative to the timeline proposed in **Section 700**.

Following discussion relative to the use of "may," it was the consensus of the Committee to utilize "shall" instead of "may" in **Sections 504, 603 and 605**. Acting Assistant City Attorney Torres noted that **Section 504** has already been voted upon, so a motion for reconsideration will need to be made. Further, to be consistent, "...unless this Charter expressly provides otherwise" would need to be removed when **Section 1400(b)** is considered.

**Motion by Member Glowienke, seconded by Member Herdman** to reconsider the vote taken on Section 504, in order to remove "may" from the first paragraph.

The motion carried by the following roll call vote:

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Ayes: Bahnsen, Glowienke, Herdman, Savary, Stapleton, Chairman Watkins  
Abstain: None  
Absent: Wampole

**Motion by Member Bahnsen, seconded by Member Stapleton** to a) approve the recommended changes to Sections 507, 602, 609, 611, 700, 702, 703 and 704; and b) return to the original language in Sections 504, 603 and 605.

In response to Member Glowienke's question, Acting Assistant City Attorney Torres clarified that Section 504(e) deals with purchasing and Section 605(c) deals with accounting.

The motion carried by the following roll call vote:

Ayes: Bahnsen, Glowienke, Herdman, Savary, Stapleton, Chairman Watkins  
Abstain: None  
Absent: Wampole

**V. ADDITIONAL PROVISION(S) TO BE CONSIDERED (NOT YET COUNCIL APPROVED)**

Chairman Watkins reviewed the timeline to present new items to the City Council for the June 12, 2012 City Council meeting and reported that Section 1106 will need to be brought before Council since it was inadvertently left off the list.

Member Stapleton requested that the 2010 background information be provided relative to Section 1401.

Member Glowienke requested that the 2010 background information be provided relative to Section 1110. He referenced the budget timeline in Section 1102 and asked if that should be looked at and if Sections 1102 and 1103 should be combined. Chairman Watkins requested that staff contact the Finance Department to determine if this is an item that needs further review. Noting that projections are not as accurate the further out the timeline is, Member Bahnsen indicated that he is satisfied with the current language.

Jim Mosher noted that Council Member Selich questioned whether the City should have two-year budget cycles.

**VI. PUBLIC COMMENTS ON NON-AGENDA ITEMS**

Jim Mosher requested that the agenda list which Sections will be discussed and expressed issues with how the Committee Members were appointed.

Bob Rush requested to speak to City Manager Kiff and Acting Assistant City Attorney Torres after the meeting.

**VII. ADJOURNMENT - Adjourned at 5:47 p.m. to Tuesday, June 7, 2012, at 4:00 p.m. in the Fire Conference Room.**

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The agenda was posted on May 25, 2012, at 2:00 p.m. on the City Hall Bulletin Board located outside of the City of Newport Beach Administration Building.

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Recording Secretary

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Chairperson

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City Clerk