



**CITY OF NEWPORT BEACH
2010 CHARTER UPDATE COMMISSION**

DRAFT 4/20/10

Report to the City Council

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Commission Meeting – May 4, 2010

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Executive Summary

This report transmits recommendations from the Charter Update Commission to the Newport Beach City Council for updating the City's Charter. These recommendations are being provided to assist the City Council in determining whether measures to update and modernize the City Charter should be placed on the ballot for the upcoming November 2, 2010 general municipal election.

The Charter Update Commission ("Commission") was established by the Newport Beach City Council on December 8, 2009. After an application process, the Newport Beach City Council appointed seven citizens to the Commission on January 26, 2010. The Commission was tasked with reviewing sections of the Charter and City ordinances that have been adopted by initiative measure and making recommendations for changes. The sections reviewed include those which are currently out of compliance with state or federal law, those which could be modernized to reflect modern-day practices and improve the efficiency of the City, and sections that could benefit from possible update for policy reasons.

The Charter Update Commission convened its first meeting on February 2, 2010 and continued to meet regularly through the months of March and April 2010. The Commission held its final meeting on May 4, 2010.

The Commission considered a total of 17 Charter-related topics and voter-initiated measures. Of these, the Commission recommends that 3 be left unchanged, 7 be amended, and 5 be repealed. *(Note: These numbers reflect all items considered except for the Civil Service System items, which are pending the April 20th Commission meeting. The final numbers will be inserted after that meeting.)*

The following table summarizes 17 Commission recommendations for the City Council's consideration. The Charter sections and issues are organized into three categories, as follows:

- **Clean Up:** Those matters in which the Charter or initiative measure is inconsistent with existing law.
- **Modernization and Efficiency:** Those matters in which the Charter is not consistent with current municipal practice and/or where improved efficiency in government could be achieved through modernization.
- **Policy:** Those matters in the Charter that may warrant a review and update for policy reasons.

Table 1: Summary of Commission Recommendations

Charter Section: Issue	Commission Recommendation		
	No Change	Amend	Repeal
Clean Up Matters			
§501: City Manager Residency Requirement			X
§1005: Timing of Appointment of Redistricting Committee		X	
§1107: Tax Limits	X		
§1402: Sale of Waterfront Property		X	
Various: Gender Neutral Language		X	
Modernization and Efficiency Matters			
§1110: Public Works Contracts		X	
§800-803: Civil Service System			
Voter-approved Ordinance No. 866: Civil Service System (NBMC Chapter 2.24)			
§414: Publication of Ordinances			X
§419: Publication of Legal Notices			X
§420: Restrictions on Long-term Contracts and Leases			X
§1301: Franchise Procedures for Solid Waste Haulers		X	
§1106: Centralized Purchasing	X		
§1404: Misdemeanor Penalties		X	
Policy Matters			
§403: Council Vacancies	X		
§1401: Restrictions on Oil Drilling		X	
Voter-approved Ordinance No. 743 (NBMC 3.24.10)			X

Recommendations

The following are the Commission's specific recommendations for each topic.

City Manager Residency Requirement:

Recommendation: Repeal

The Commission recommends that Charter Section 501 be repealed due to its inconsistency with the California Constitution and to allow the City Council to determine for each recruitment the appropriate distance from City Hall that a particular City Manager may live. Appendix D provides background information related to this recommendation.

Timing of Appointment of Redistricting Committee:

Recommendation: Amend

The Commission recommends that Charter Section 1005 be amended so that it requires the City Council to appoint a committee to study and report on the advisability of redistricting the City every 10 years after the completion of the national census, and not every four years as presently provided. Appendix E provides background information related to this recommendation.

Tax Limits:

Recommendation: No Change

The Commission recommends that Charter Section 1107 remain unchanged since it is currently consistent with the California Constitution. Appendix F provides background information related to this recommendation.

Sale of Waterfront Property:

Recommendation: Amend

The Commission recommends that Charter Section 1402 be amended to allow for the sale or conveyance of waterfront property upon an affirmative vote of the electorate. Appendix G provides background information related to this recommendation.

Gender Neutral Language:

Recommendation: Amend

The Commission recommends that Charter Sections 500, 501, 502, 503, 504, 602, 603, 605, 606, 607, 608, 609, 610, 611, and 704 be changed to reflect gender neutral language. Appendix H provides background information related to this recommendation.

Public Works Contracts:

Recommendation: Amend

The Commission recommends that Charter Section 1110 be amended to (1) increase the contract cost limits requiring formal bidding to \$125,000; (2) include a provision granting the City Council the power to regulate all aspects of public works projects, including the bidding, award and performance of public works contracts through ordinance or resolution; (3) tie the public works contract threshold to either the Consumer Price Index or Engineering News Record (ENR) construction cost index; and (4) include language that allows for more flexibility in

the types of bidding methods used by the City. Appendix I provides background information related to this recommendation.

Civil Service System:

Recommendation: _____

The Commission recommends (to be completed after the April 20th commission meeting).

Appendix J provides background information related to this recommendation. *(Note: This Appendix will consist of the Civil Service System Binder presented to the Commission on March 16, 2010, plus any additional materials subsequently distributed.)*

Publication of Ordinances;

Recommendation: Repeal

The Commission recommends that Charter Section 414 be repealed, and that the City follow the procedures of Government Code Section 36933 for the legal publication of ordinances. Appendix K provides background information related to this recommendation.

Publication of Legal Notices:

Recommendation: Repeal

The Commission recommends that Charter Section 419 be repealed, and that the publication of legal notices be handled through a contract or purchase agreement. Appendix L provides background information related to this recommendation.

Restrictions on Long-term Contracts and Leases:

Recommendation: Repeal

The Commission recommends that Charter Section 420 be repealed, leaving the Charter silent, and that restrictions on long-term contracts and leases be established within the Newport Beach Municipal Code. Appendix M provides background information related to this recommendation.

Franchise Procedures:

Recommendation: Amend

The Commission recommends that Charter Article 13 be amended to streamline franchising procedures for solid waste haulers, and that concurrently, Newport Beach Municipal Code Section 12.63.030 be updated to set forth the franchise procedures to be applicable to waste haulers. Appendix N provides background information related to this recommendation.

Centralized Purchasing:

Recommendation: No Change

The Commission recommends that Charter Section 1106 be unchanged. Appendix O provides background information related to this recommendation.

Misdemeanor Penalties:

Recommendation: Amend

The Commission recommends that Charter Section 1404 be amended to allow for flexibility in the establishment of misdemeanor penalties. Appendix P provides background information related to this recommendation.

City Council Vacancies:

Recommendation: No Change

The Commission recommends that Charter Section 403 be unchanged. Appendix Q provides background information related to this recommendation.

Restrictions on Oil Drilling:

Recommendation: Amend

The Commission recommends that Charter Section 1401 be amended to designate certain geographic areas as the only locations in which new oil drilling may be allowed upon annexation to the land in Newport Beach, and to eliminate all other provisions with the exception of the three geographic areas. Appendix R provides background information related to this recommendation.

Fundraising Requests from Chambers of Commerce:

Recommendation: Repeal

The Commission recommends that Newport Beach Municipal Code Section 3.24.010 be removed and that Chamber of Commerce funding requests be evaluated according to Council policy and the Municipal Code language in existence at the time the request is made. Appendix S provides background information related to this recommendation.

More detailed information about the individual issues considered and the Commission's recommendations are provided beginning on page .

Background

A Charter and Its Purpose

A city charter is a unique document that, in many ways, acts like a constitution for the city adopting it. It can be only adopted, amended or repealed by a majority vote of the city's voters. The primary advantage of a charter is that it allows greater authority for a city's governance than that provided by state law.

A charter transfers the power to adopt legislation affecting municipal affairs from the state legislature to the city adopting it. These affairs are unaffected by the general laws passed by the state legislature on the same subject matters. This, in effect, gives the local voters more control over their local government and the affairs of the city. However, a city operating under a charter is still subject to the general laws, as passed by the state legislature, on affairs that are not municipal in nature, and are of statewide concern (e.g., the California Vehicle Code).

Key Principles of Charters

Charters seek to follow four key principles: (1) Be a document of limitation, (2) be flexible, (3) stand the test of time, and (4) reserve all powers possible to the local municipality.

Document of Limitation: A charter serves as a limitation by the voters on city council action. It should include only those elements necessary to achieve identified goals and objectives. The charter may, intentionally or unintentionally, expand or contract a city's ability to function. Therefore, it is important to protect and expand local municipal authority in the Charter when appropriate. Many issues are better addressed outside of the charter, such as through the city's municipal code, or policies and procedures adopted by the City Council and/or City Manager.

Flexibility: A charter should be proactive and flexible, and not unreasonably restrict future governmental action. It should allow for change, progress and reform. Limitations that seem appropriate today may become less appropriate in the future. Ideally, a charter should allow for experimentation, reinvention and creativity, and for rapid governmental response to changing conditions.

Test of Time: A charter should stand the test of time. The nature of government is that missions, goals and responsibilities will change over time as community needs and conditions change. A charter also should appreciate these changes and be as sound today as 20 years from now. Charter development must involve forward thinking, far-sighted leadership and an element of futures forecasting.

Reserve All Powers of Municipal Affair: A charter must reserve all powers possible to the local municipality. The more broad the granting of authority, the less likely individual charter elements will be challenged as conflicting with state law. A charter brings a degree of independence, and that independence should be protected and preserved in the charter language. The charter must ensure accountability and preserve authority over all municipal affairs.

Common Charter Elements

Some of the common municipal affairs that are explicitly regulated in a charter include:

- The powers of the city, its incorporation and succession
- The form of government for the city, i.e., Council-Manager
- The City Council, i.e., eligibility, composition, terms of office, term limits, filling of vacancies, and powers of authority
- The city manager, officers and employees of the city, their authorities and responsibilities
- Appointive boards and commissions, their roles and responsibilities
- Elections
- Fiscal Administration, including the adoption of the city's budget

City charters may contain additional elements having specific importance to the community.

The Newport Beach City Charter

The City of Newport Beach Charter was originally adopted effective January 7, 1955. Since that time it has been periodically amended. Appendix A summarizes the history of the Newport Beach City Charter since inception to date.

While amendments have been made to the Charter over the last 55 years, the document itself has never undergone a significant or comprehensive review. A closer examination of the charter revealed that it contains provisions that are no longer consistent with state or federal laws, and that updating, clarifying or amending certain sections could help make Newport Beach's municipal government more efficient. In addition, there are a few sections which could benefit from review and updating for policy reasons, which has been done through this Charter Update Commission process.

Establishment of the Charter Update Commission

On November 24, 2009, the City Council first considered the appointment of a commission to consider possible updates to the Charter and to City ordinances that have been adopted by initiative measure. Staff was directed to prepare a resolution creating such a commission, establishing the issues to be addressed and a timeline for the Commission to complete its work.

On December 8, 2009 the City Council adopted Resolution No. 2009-91 (Appendix B). This resolution created the Charter Update Commission, established the issues for the Commission to consider in updating and modernizing the charter, and set a timeline of June 2010 for the Commission to complete its work. The City Council's intent was to allow sufficient time to consider the Commission's recommendations and place update measures, if any, on the November 2, 2010 general municipal election ballot.

On Saturday, December 12, 2009 the City Clerk advertised the vacancies for serving on the Commission; the deadline to apply was Friday, January 8, 2010. Fourteen applications were

received by this deadline. There were some Council districts for which there were no applicants.

On January 12, 2010, Mayor Keith D. Curry and Council Members Don Webb and Edward D. Selich were appointed to a Council Ad Hoc Appointments Committee to review the applications received. Because not all Council districts were represented, the Council Ad Hoc Appointments Committee recommended that all of the applications be forwarded to the City Council for consideration and appointment.

On January 26, 2010, the City Council adopted Resolution No. 2010-16, which amended Resolution No. 2009-91 regarding the membership, purpose and responsibilities of the Charter Update Commission and refined the areas for the Commission to consider (Appendix C). By paper ballot, the City Council appointed seven citizens the Charter Update Commission as follows:

- Marian Bergeson, Chairperson
- Rush Hill
- Richard Luehrs
- Dennis O'Neil
- Karen Rhyne
- Larry Tucker
- Paul Watkins

The City Council also appointed Mayor Pro Tem Michael F. Henn as a non-voting Council Liaison to the Commission; Mayor Curry was appointed as an alternate non-voting Council Liaison.

The City Council's Charge to the Commission

In Resolution No. 2010-16, the City Council identified 15 areas of the Charter for the Commission to consider. The areas fall into three categories as follows:

- **Clean Up:** Those matters in which the Charter or initiative measure is inconsistent with existing law.
- **Modernization and Efficiency:** Those matters in which the Charter is not consistent with current municipal practice and/or where improved efficiency in government could be achieved through modernization.
- **Policy:** Those matters in the Charter that may warrant a review and update for policy reasons.

The Commission was empowered and instructed to review the issues approved by the City Council. The Commission also was empowered to review the Charter and initiative enacted ordinances and make recommendations to the City Council for expanding the list of issues to be addressed.

Upon the Commission's recommendation, the City Council approved one addition to the Commission's work plan on February 23, 2010. This addition was the consideration of restricted funding for chambers of commerce found in Newport Beach Municipal Code Section 3.24.010, which had been adopted as an initiative measure.

Commission Meeting Dates and Topics Discussed

The Commission commenced its work on February 2, 2010. Table 2 below summarizes the Commission's meeting dates and the Charter or voter initiative issues discussed at each meeting. Topics are further identified by which category they fall into.

Clean up topics or those matters that are inconsistent with existing law are coded as "C"; modernization and efficiency topics are coded with an "M"; and issues which were reviewed as a matter of policy are indicated with a "P."

Table 2: Commission Meetings Held and Topics Discussed

Date	Topic	Type
February 2, 2010	Gender Neutrality (various charter sections)	C
	Publication of Ordinances (§414)	M
	Publication of Legal Notices (§419)	M
	City Manager Residency Requirement (§501)	C
	Timing to Appoint Redistricting Committee (§1005)	C
February 16, 2010	Public Works Contracts (§1110)	M
	Sale of Waterfront Property (§1402)	C
	Civil Service System (§800-803), background provided	M
March 2, 2010	Restrictions on Long-Term Contracts and Leases (§420)	M
	Tax Limits (§1113)	C
	Franchising Procedures (Article 13, §1301)	M
	Misdemeanor Penalties (§1404)	M
March 16, 2010	Civil Service System (§710-711, §800-803, initiative measure 766, codified as NBMC Chapter 2.24)	M
April 2, 2010	City Council Vacancies (§403)	P
	Centralized Purchasing (§1106)	M
	Restrictions on Oil Drilling (§1401)	P
	Non-profit Funding (NBMC Section 3.24.010)	P
April 20, 2010	Civil Service System (§710-711, §800-803, initiative measure 766, codified as NBMC Chapter 2.24), continued from March 16, 2010	M
	Review and Comment on Draft Commission Report to the City Council	
May 4, 2010	Consideration and Approval of Commission Report to the City Council	

Charter Update Commission Recommendations

This section contains more detailed information about each Charter section reviewed, the alternatives considered, and the Commission's recommendation.

Clean Up Matters

The following recommendations pertain to matters in which the Charter or initiative measure is inconsistent with existing law.

City Manager Residency Requirement

Charter Section 501 is inconsistent with the California Constitution, Article XI, Section 10(b), which prohibits cities from requiring their employees to reside within the city's corporate boundaries. The Commission considered two alternatives (1) recommend to repeal Charter Section 501, or (2) recommend amendment of Charter Section 501 to bring it into conformance with the California Constitution by establishing a "reasonable and specific" distance from City Hall that a City Manager must live. Appendix D provides the background information the Commission used in forming its recommendation.

Recommendation: Repeal Charter Section 501

The Commission recommends that Charter Section 501 be repealed due to its inconsistency with the California Constitution and to allow the City Council to determine for each recruitment, the appropriate distance from City Hall that a particular City Manager may live.

Timing of Appointment of Redistricting Committee

Charter Section 1005 requires the City Council to appoint a committee every four years "to study and report to the City Council on the advisability of redistricting the City." The State of California, and most agencies, redistrict after the completion of the national census. The Commission considered two alternatives: (1) recommend no change, or (2) recommend a change to appoint the redistricting committee every 10 years, upon receipt of the final results of the national census. Appendix E provides the background information the Commission used in forming its recommendation.

Recommendation: Amend Charter Section 1005

The Commission recommends that Charter Section 1005 be amended so that it requires the City Council to appoint a committee to study and report on the advisability of redistricting the City every 10 years after the completion of the national census, and not every four years as presently provided.

Tax Limits

Charter Section 1107 establishes various ad valorem property taxes within the City. The Commission reviewed whether the tax provisions in Section 1107 needed to be amended in light of Proposition 218 or Proposition 13, and determined that the section is currently consistent with the California Constitution. Appendix F provides the background information the Commission used in forming its recommendation.

Recommendation: No Change to Charter Section 1107

The Commission recommends that Charter Section 1107 remain unchanged since it is currently consistent with the California Constitution.

Sale of Waterfront Property

Charter Section 1402 prohibits the sale or conveyance of any waterfront property with limited exceptions. However, over the years, Section 1402 has been amended six times to allow for the sale of waterfront property at various locations throughout the harbor. Each amendment required an affirmative vote of the electorate to modify the Charter and add the exception.

The Commission considered two alternatives. The first was to recommend amending Charter Section 1402 to allow for the sale or conveyance of waterfront property upon an affirmative vote of the electorate. This would allow the electorate to retain the right to determine whether waterfront property should be conveyed by the City, but would not require an amendment of the Charter to do so. The second alternative considered was to recommend no amendment to the Section, thereby continuing the practice of not allowing City-owned waterfront property to be sold or conveyed except to the State or County for use as a public beach or park. Appendix G provides the background information the Commission used in forming its recommendation.

Recommendation: Amend Charter Section 1402

The Commission recommends that Charter Section 1402 be amended to allow for the sale or conveyance of waterfront property upon an affirmative vote of the electorate.

Gender Neutral Language

Charter Sections 500 through 504, 602 and 603, 605 through 611 and 704 contain language that is not gender neutral. The Commission considered two alternatives: (1) recommend amending various sections of the Charter to reflect gender neutral language, or (2) recommend retaining the language as it exists. Appendix H provides the background information the Commission used in forming its recommendation.

Recommendation: Amend Various Sections to reflect Gender Neutral Language

The Commission recommends that Charter Sections 500, 501, 502, 503, 504, 602, 603, 605, 606, 607, 608, 609, 610, 611, and 704 be changed to reflect gender neutral language.

Modernization and Efficiency Matters

The following recommendations pertain to matters in which the Charter or initiative measure is not consistent with current municipal practice and where efficiency in government could be achieved through modernization.

Public Works Contracts

Charter Section 1110 currently provides that all public works projects over \$30,000 be required to undergo formal bidding procedures and be awarded by Council. Over the years, Charter Section 1110 has been amended twice to raise the monetary limit, however, the current threshold contrasts sharply with existing state law and standards adopted by other charter cities.

The Commission considered two alternatives: (1) recommend a change to increase the threshold requirement for formal bidding of public works contracts from \$30,000 to \$125,000, consistent with the guidelines provided by state law in Public Contracts Code Section 22032; and that the City Council be given the authority to regulate all aspects of public works contracts by ordinance or resolution; or (2) leave Charter Section 1110 unchanged. Appendix I provides the background information the Commission used in forming its recommendation.

Recommendation: Amend Charter Section 1110

The Commission recommends that Charter Section 1110 be amended to (1) increase the contract cost limits requiring formal bidding to \$125,000; (2) include a provision granting the City Council the power to regulate all aspects of public works projects, including the bidding, award and performance of public works contracts through ordinance or resolution; (3) tie the public works contract threshold to either the Consumer Price Index or Engineering News Record (ENR) construction cost index; and (4) include language that allows for more flexibility in the types of bidding methods used by the City.

Civil Service System

The City of Newport Beach's civil service system is founded upon the provisions of Article VIII of the City's Charter. NBMC Chapter 2.24 and the City's Civil Service Rules and Regulations are additional sets of regulations governing the system. The Civil Service Ordinance (reflected as NBMC Chapter 2.24) has not been changed since its original adoption in 1958. The law governing public personnel matters, however, has changed dramatically since then. The Commission considered several alternatives as follows: *(Note: The report will contain a summary of the Commission staff report and white paper.)* Appendix J provides the background information the Commission used in forming its recommendation. *(Note: This Appendix will consist of the Civil Service System Binder presented to the Commission on March 16, 2010, plus any additional materials subsequently distributed.)*

Recommendation:

The Commission recommends (this will be completed after the April 20th Commission meeting).

Publication of Ordinances

Currently Charter Section 414 requires that an ordinance be published in its entirety at least once in the official newspaper. However, publication of ordinances in their entirety can be extremely expensive. Government Code Section 36933 allows for summaries of ordinances to be published as a cost savings measure for local governments.

The Commission considered two alternatives: (1) recommend repeal of Section 414 and follow Government Code Section 36933, or (2) recommend no change to Section 414 and continue to publish ordinances in their entirety. Appendix K provides the background information the Commission used in forming its recommendation.

Recommendation: Repeal Charter Section 414

The Commission recommends that Charter Section 414 be repealed, and that the City follow the procedures of Government Code Section 36933 for the legal publication of ordinances.

Publication of Notices

Charter Section 419 requires the City Clerk to go out to bid annually for publication of legal notices. Legal notices include public hearing notices, notices of vacancies, and notices inviting bids. Annual bidding is not the City's current practice for other similar professional service agreements. For such agreements, the standard timeframe between bids ranges between three and five years.

The Commission considered two alternatives: (1) recommend amendment of Section 419 to require the City Clerk to go out to bid at an interval to be determined by the City Council, rather than annually, or (2) recommend removing Section 419 and handle legal advertising as a contract or purchase agreement. Appendix L provides the background information the Commission used in forming its recommendation.

Recommendation: Repeal Charter Section 419

The Commission recommends that Charter Section 419 be repealed, and that the publication of legal notices be handled through a contract or purchase agreement.

Restrictions on Long-term Contracts and Leases

Charter Section 420 limits the City Council's authority to enter into contracts for longer than 25 years without voter approval. Section 420 makes no distinction as to which side of a given transaction the City might be on, offers an exception for public utilities that appears to be unnecessary, and imposes a 25-year limit that is inconsistent with most modern long-term arrangements.

The Commission considered three alternatives: (1) recommend amending Section 420 to extend the Council's authority over a longer contract term, eliminate the exception for public utilities, create a distinction between situations where the City is the lessee or the lessor, and add a provision for long-term real property leases; (2) recommend elimination of the Section and rely on the NBMC to establish such restrictions, or (3) recommend no change. Appendix M provides the background information the Commission used in forming its recommendation.

Recommendation: Repeal Charter Section 420

The Commission recommends that Charter Section 420 be repealed, leaving the Charter silent, and that restrictions on long-term contracts and leases be established within the Newport Beach Municipal Code.

Franchise Procedures

Charter Section 1301 sets forth the notice and hearing requirements for potential franchises in the City. The requirements take approximately three months to complete and apply to a wide variety of entities and utilities using the public right of way, including solid waste haulers. However, unlike other entities, solid waste haulers are required to obtain a franchise by NBMC Section 12.63.030, even if they are hauling from only one demolition site. The franchise approval process in the Charter and the associated time required serves as a disadvantage to solid waste haulers.

The Commission considered two alternatives: (1) recommend amending Section 1301 to maintain the franchising procedure for utility companies, but permit codification of a streamlined procedure for waste haulers in the NBMC; or (2) recommend no change. Appendix N provides the background information the Commission used in forming its recommendation.

Recommendation: Amend Charter Section 1301.

The Commission recommends that Charter Section 1301 be amended to streamline franchising procedures for solid waste haulers, and that concurrently, Newport Beach Municipal Code Section 12.63.030 be updated to set forth franchise procedures applicable to waste haulers.

Centralized Purchasing

Charter Section 1106 establishes a centralized purchasing system for all departments of the City under the direction of the City Manager. Charter Section 1111 allows the City Council to approve rules and regulations for purchasing by ordinance, and specifies that when making purchases, merchants within City limits be given preference so long as the quality and price are equal. Other than these two sections, the Charter gives broad discretion to the City Manager to implement a centralized purchasing system as he or she sees fit.

When this issue was first identified, there was a question as to whether decentralized purchasing might be a less expensive alternative. However, centralized purchasing represents a good business practice to ensure the acquisition of goods and services for the lowest total cost, to promote fair and open competition among suppliers, and to ensure good internal controls exist to prevent unnecessary or duplicative expenditures of public funds.

The Commission considered two alternatives: (1) recommend elimination of the Section and rely on the City's existing codes, policies, and administrative procedures to establish purchasing roles and responsibilities, or (2) recommend no change. Appendix O provides the background information the Commission used in forming its recommendation.

Recommendation: No Change to Charter Section 1106

The Commission recommends that Charter Section 1106 be unchanged.

Misdemeanor Penalties

Section 1404 of the City's Charter only sets forth the maximum penalties that could be imposed for violations of the City's Charter. However, it does not reflect maximum penalties for violations of the City's ordinances. The Commission considered two alternatives: (1) recommend an amendment to Section 1404 to allow the City to exercise maximum flexibility to legislate and determine the appropriate maximum punishment that could be sought for a violation of the City's Charter or an ordinance, or (2) recommend no change. Appendix P provides the background information the Commission used in forming its recommendation.

Recommendation: Amend

The Commission recommends that Charter Section 1404 be amended to allow for flexibility in the establishment of misdemeanor penalties.

Policy Matters

The following recommendations pertain to matters in the Charter or an initiative measure that may warrant a review and update for policy reasons.

City Council Vacancies

Charter Section 403 provides the process by which a vacancy on the City Council is filled, giving the City Council the option to either appoint a qualified person within 30 days or cause an election to fill such a vacancy. This policy issue was first raised to determine whether the Charter section should be amended to clarify the application of term limits for Council members appointed to complete a partial vacated term. However, Section 1.32.020 of the NBMC clarifies term limits for such appointees. Appendix Q provides the background information the Commission used in forming its recommendation. *(Note: will need to add copy of NBMC Section 1.32 distributed at the 4/2/09 Commission meeting to the Appendix.)*

Recommendation: No Change to Charter Section 403

The Commission recommends that Charter Section 403 be unchanged.

Restrictions on Oil Drilling

Oil well production and drilling activity have been ongoing on City and County land on and in the immediate vicinity of Banning Ranch for more than 50 years and prior to the enactment of the City's Charter. Over that period of time, many things have changed. In 2006, the voters approved a new General Plan which establishes goals for the re-use of Banning Ranch as either fully or mostly open space, the achievement of which will require changes in current oil drilling activity. In addition, productivity of oil wells and methods of oil extraction have changed since the Charter was enacted.

Charter Section 1401 prohibits oil drilling within the City without a vote of the people and imposes restrictions on certain types of drilling methods. The original Charter language is ambiguous with regard to the scope of activities that are allowed to continue oil production from an existing oil extraction area. This makes it difficult for the City to move forward with consolidation of oil drilling on the Banning Ranch property to allow its reuse, or to implement new oil extraction techniques such as water injection on the City's own oil wells.

The Commission considered three alternatives: (1) recommend no change, (2) recommend deletion of Section 1401, or (3) recommend that Section 1401 be amended to define geographic areas in which oil drilling may occur after the areas are annexed to Newport Beach. The recommended areas are the two City oil well sites and the two consolidation sites proposed for Banning Ranch. Appendix R provides the background information the Commission used in forming its recommendation.

Recommendation: Amend Charter Section 1401

The Commission recommends that Charter Section 1401 be amended to designate certain geographic areas as the only locations in which new oil drilling may be allowed upon annexation to the land in Newport Beach, and to eliminate all other provisions with the exception of the three geographic areas.

Fundraising Requests from Chambers of Commerce

The City of Newport Beach provides financial assistance and dedicates thousands of hours of staff time each year in support of events, programs and activities to a number of community organizations. Included among the organizations that receive City assistance are the Newport Beach Chamber of Commerce and the Corona Del Mar Chamber of Commerce. However, the City is limited by NBMC Section 3.24.010 in the financial assistance it may provide to the Chambers. This section was added by voter initiative in 1955 and limits the amount of funds that may be appropriated by the City to the local chambers of commerce for promotion, publicity, advertising, and entertainment purposes to \$2,400 annually. This amount has never been adjusted for inflation.

The Commission considered two alternatives: (1) recommend the repeal of NBMC Section 3.24.010 and evaluate Chamber funding requests according to Council Policy and the NBMC language in effect at the time the request is made, or (2) recommend increasing the appropriation limit. Appendix S provides the background information the Commission used in forming its recommendation.

Recommendation: Repeal NBMC Section 3.24.010

The Commission recommends that Newport Beach Municipal Code Section 3.24.010 be removed and that Chamber of Commerce funding requests be evaluated according to Council policy and the Municipal Code language in existence at the time the request is made.

Minority Reports

NOTE: If Commissioners wish to register their individual disagreement with a particular recommendation, they may submit a minority report. Thus far all recommendations have been unanimous—if there are no dissenting opinions, we can omit this section.

Acknowledgements

NOTE: This section would include any acknowledgements the Commission wishes to make, if desired.