

**CHARTER UPDATE COMMISSION
MINUTES**

**Newport Beach Central Library – 1000 Avocado Avenue
Tuesday, April 6, 2010
2:00 p.m.**

I. ROLL CALL

Present: Commissioners Rush Hill, Richard Luehrs, Dennis O’Neil, Karen Rhyne, Paul Watkins, Chairwoman Marian Bergeson, and Mayor Pro Tem Henn
Absent: Larry Tucker (excused)

II. APPROVAL OF MARCH 16, 2010 MEETING MINUTES

1. **Motion by Commissioner O’Neil, seconded by Commissioner Watkins,** to waive reading of subject minutes, approve as amended, and order filed.

The motion carried by the following roll call vote:

Ayes: Hill, Luehrs, O’Neil, Rhyne, Watkins, and Chairwoman Bergeson
Absent: Tucker

III. CHARTER SECTION DISCUSSIONS (COUNCIL-APPROVED PROVISIONS)

2. **CHARTER SECTION 403 – CITY COUNCIL VACANCIES.**

Acting City Attorney Mulvihill provided a staff report, noted that term limits are defined in Newport Beach Municipal Code Section 1.32, and distributed the code section.

Commissioner O’Neil referenced the white paper and indicated that Alternative 2 (clarifying term limits) is not necessary due to Section 1.32. He recommended that the current process remain unchanged (Alternative 3). He added that the 30-day timeline has not been a limiting factor for Council to fill the Council vacancy.

Motion by Commissioner Luehrs, seconded by Commissioner O’Neil, to not amend Charter Section 403.

The motion carried by the following roll call vote:

Ayes: Hill, Luehrs, O’Neil, Rhyne, Watkins, and Chairwoman Bergeson
Absent: Tucker

3. **CHARTER SECTION 1106 – CENTRALIZED PURCHASING.**

Administrative Services Director McCraner indicated that originally staff questioned whether Charter Section 1106 was still necessary and whether imposed restrictions which could interfere with the City Manager’s authority to manage the purchasing system efficiently and effectively. However, staff has determined that it is a good business practice to have centralized purchasing, and that the charter provisions provide broad authority to the City Manager and the Administrative Services Director to manage the system appropriately. Consequently, staff recommends that Charter Section 1106 remain unchanged.

In response to Commissioner questions, Administrative Services Director McCraner stated that the City already has provisions to allow emergency purchases in order to conduct repairs and noted that Charter Section 1111 expresses a preference for using local merchants in the City when feasible.

Motion by Commissioner Watkins, seconded by Commissioner Luehrs, to recommend to the City Council that Charter Section 1106 be unchanged (Alternative 1).

The motion carried by the following roll call vote:

Ayes: Hill, Luehrs, O'Neil, Rhyne, Watkins, and Chairwoman Bergeson
Absent: Tucker

4. **CHARTER SECTION 1401 – RESTRICTIONS ON OIL DRILLING.**

Assistant City Manager Wood reported that Charter Section 1401, as it pertains to areas that may one day be annexed into the City, may restrict the City's options on how to conduct oil drilling and complicate the issue regarding Banning Ranch. Further, she recommended simplifying the language in the section by eliminating the detail about how to drill for oil since technology changes. She emphasized that the proposed changes would only apply to three sites in the event that those areas were annexed and does not affect the oil derricks off the coast. She utilized photos to depict where the provisions would apply, reported that the unincorporated Banning Ranch site is about 20 acres, indicated that she is unsure if the City makes oil payments to the County, and reported that the current oil revenue is over \$1 million a year and that all the money goes back into the Tidelands fund. She added that the proposal could result in an increase in revenue and allow the use of more modern drilling techniques, while reducing the acreage where drilling is allowed.

Chairwoman Bergeson indicated that the proposal needs to be written so that the voters understand the benefits and the positive impacts to the environment.

Mayor Pro Tem Henn believed that the language regarding how to safely remove derricks, etc. should remain in the Charter. Assistant City Manager Wood recommended placing restrictions like this in the municipal code so it can be amended if new techniques are developed.

George **Bayse**, Newport Banning Ranch, noted that there is a State agency that oversees oil drilling, abandonments, and closures.

Commissioner Luehrs recommended noting that the City must follow all State and Federal regulations.

Commissioner Hill questioned having details about how to drill for oil in the charter and believed it would be better to place this information in the municipal code.

Motion by Commissioner O'Neil, seconded by Commissioner Rhyne, to recommend to the City Council 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 of the land to Newport Beach (Alternative 3) and eliminate all other provisions other than the three geographic areas.

The motion carried by the following roll call vote:

Ayes: Hill, Luehrs, O'Neil, Rhyne, Watkins, and Chairwoman Bergeson
Absent: Tucker

5. NEWPORT BEACH MUNICIPAL CODE SECTION 3.24.010.

Project Manager Standiford asked the Acting City Attorney to provide guidance on potential conflicts of interest on this item for the record, since at least **three** of the Commissioners have a formal relationship with local chambers of commerce. Acting City Attorney Mulvihill noted that the Political Reform Act indicated that a "public official" makes decisions. Because the Charter Update Commission makes recommendations to the City Council, but does not have the authority to make the final decision, Commissioners are not considered to be public officials under the law. However, it is up to individual Commissioners to decide whether they may potentially have a personal conflict of interest.

Public Information Manager Finnigan reported that Section 3.24.010 is specific to the Chamber of Commerce and it is uncertain of why it was placed on a ballot for inclusion in the municipal code. She noted that the City provides funding and/or staff time to a variety of organizations or causes, but the code section limits the amount the City is allowed to assist the Chamber. Staff is recommending that the section be repealed to enable the Chamber to request assistance in the same manner and at the same level as other organizations. Commissioner Watkins noted that the Special Events Advisory Committee (SEAC) is charged with looking at all special event funding applications.

Motion by Commissioner Watkins, seconded by Commissioner O'Neil, to recommend to the City Council to repeal Newport Beach Municipal Code Section 3.24.010 and evaluate Chamber of Commerce funding requests according to Council Policy and the Code language in existence at the time the request is made (Alternative 1).

The motion carried by the following roll call vote:

Ayes: Hill, O'Neil, Rhyne, Watkins, and Chairwoman Bergeson
Abstain: Luehrs
Absent: Tucker

IV. COMMISSION WORK PLAN

Project Manager Standiford noted that the Civil Service System issue will be coming back before the Commission at the April 20 meeting. Additionally, the preliminary report that will be forwarded to the City Council will also be presented to the Commission on April 20, with final adoption to take place by the Commission at the May 4 meeting.

Project Manager Standiford noted that she will not be in attendance at the April 20 meeting, but Assistant City Manager Perkins will be facilitating the meeting in her absence.

Project Manager Standiford reviewed a request from the February 16 meeting regarding Public Works contracts (Charter Section 1110) relative to bringing information back to the Commission. Without objection, it was the consensus of the Commission that staff did not need to bring back specific language to the Commission for approval.

V. PUBLIC COMMENTS – None

VI. ADJOURNMENT – Adjourn to Tuesday, April 20, 2010, at 2:00 p.m. in the Friends Room at the Newport Beach Central Library, 1000 Avocado Avenue, Newport Beach.

The agenda was posted on April 1, 2010, at 3:10 p.m. on the City Hall Bulletin Board located outside of the City of Newport Beach Administration Building.

Recording Secretary

Chairperson

City Clerk

AMENDED