

Appendix C

RESOLUTION NO. 2010-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWPORT BEACH AMENDING RESOLUTION  
NO. 2009-91 REGARDING THE MEMBERSHIP AND PURPOSE  
AND RESPONSIBILITIES OF THE CHARTER UPDATE  
COMMISSION**

**WHEREAS**, the City Council established the Charter Update Commission on December 8, 2009, through the adoption of Resolution No. 2009-91; and

**WHEREAS**, the membership of the Charter Update Commission includes seven (7) citizens of the community appointed by the City Council. Council shall make an effort to appoint one member from each district of the City, but if there are no qualified applicants from any district that position can be filled by an applicant from another district; and

**WHEREAS**, the purpose and responsibilities of the Charter Update Commission requires that the Commission members attend meetings on specific dates; and

**WHEREAS**, the City Council wishes to amend the membership of the Charter Update Commission to also include a non-voting Council liaison and an alternate non-voting Council liaison; and

**WHEREAS**, the City Council wishes to amend the purpose and responsibilities of the Charter Update Commission to allow for more flexibility in scheduling meetings.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Newport Beach that

1. The Council hereby expands the membership of the Charter Update Commission to include a non-voting Council liaison and an alternate non-voting Council liaison, and amends the meeting attendance requirement, as reflected in Attachment A.

2. The Council hereby expands the list of issues to be addressed by the Charter Update Commission by adopting the Revised List of Issues attached as Attachment B to this resolution.

**ADOPTED** this 26<sup>th</sup> day of January, 2010.



Keith D. Curry  
Mayor

ATTEST:



Leilani I. Brown  
City Clerk



## Attachment A

### CHARTER UPDATE COMMISSION

**AUTHORIZATION:** Established by Resolution No. 2009-91, adopted on December 8, 2009; and amended by Resolution No. 2010-16, adopted on January 26, 2010.

**MEMBERSHIP:** The Commission shall consist of seven (7) citizens of the community appointed by the City Council. Council shall make an effort to appoint one member from each district of the City, but if there are no qualified applicants from any district that position can be filled by an applicant from another district.

The Commission shall also include a non-voting Council liaison and liaison alternate.

**TERM:** This will be a short-term obligation, as the Commission is currently scheduled to complete its work by June 2010.

**PURPOSE & RESPONSIBILITIES:**

A. To consider possible updates to the City Charter and to City Ordinances that have been adopted by initiative measure so that updated measures can be placed on the November 2010 ballot.

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

C. The Commission shall not, however, expend resources on pursuing issues that have not been approved for review by the City Council.

D. The Commission members shall make every effort to attend meetings on February 2, February 16, March 2, March 16, April 6, April 20, and May 4, 2010, or recommend alternative dates if unable to attend.

**ATTACHMENT B**

**CHARTER UPDATE: REVISED LIST OF ISSUES TO ADDRESS**

*(Revised for January 26, 2010 Council Meeting)*

<u>Issue</u>	<u>Detail</u>	<u>Context</u>
<b><i>Clean-Up: Those matters in which the Charter or Initiative Measure Is Inconsistent with Existing Law.</i></b>		
<b><u>C1. City Manager Residency Requirement:</u></b>	Charter section 501 requires that a City Manager become a resident of the City.	As determined during the recent recruitment process, this requirement is now inconsistent with federal law.
<b><u>C2. Redistricting Committee:</u></b>	Charter section 1005 requires the City Council to appoint a committee to study and report on possible redistricting.	This section has not been uniformly followed and creates an administrative burden. Statewide redistricting takes place every ten years when the census results are published. It may be appropriate to clean-up this section to be consistent with current practice and statewide practice. <b><i>[We should retain the ability to redistrict after annexations.]</i></b>
<b><u>C3. Tax Limits and Procedures:</u></b>	Charter section 1107 sets limitations on the taxing authority of the City. Charter section 1113 sets out procedures for enactment of a capital improvement tax.	These limitations and procedures have been largely, if not entirely, superseded by state law through Proposition 13 and Proposition 218 as well as other statewide initiative measures. Duplication of restrictions can cause confusion and a trap for the unwary.
<b><u>C4. Sale of Bay Front Property:</u></b>	Charter section 1402 provides that Bay Front property, except with limited exceptions, cannot be sold.	Several times in the past the City has enacted Charter amendments in order to allow for the sale of Bay Front property. This procedure can be avoided simply by amending the prohibition to allow for the sale upon an affirmative vote of the electorate.
<b><u>C5. Gender References:</u></b>	Several sections of the Charter refer to the City Manager, City Attorney, City Clerk, Finance Director, department heads, "Chairmen," or City Council as males. (Section 500, 501, 502, 503, 504, 602, 603, 605, 606, 607, 608, 609, 610, 611, 704.	These references could be exchanged with the person's title instead of a gender reference.

**Modernization and Efficiency: Those matters in which the Charter is not consistent with current municipal practice and efficiency in government can be achieved through modernization.**

<p><b>M1. <u>Contracting Authority:</u></b></p>	<p>Charter section 1110 requires all Public Works' projects with total expenditures over \$30,000.00 go to formal bid.</p>	<p>Should the City revise this amount in light of the substantial increase of construction costs and then provide for adjustment based upon CPI?</p>
<p><b>M2. <u>Civil Service System:</u></b></p>	<p>Charter sections 800 through 803 provide for a Civil Service System within the City and Ordinance 866, passed by the voters on November 4, 1958 (codified as Municipal Code Chapter 2.24).</p>	<p>Currently the City's Civil Service System is administered by the City's Civil Service Board that was created via ordinance adopted in 1958 and has not been updated in over fifty years. The entire law governing public employment has changed dramatically in that time leaving some of the provisions of our system inconsistent with state and federal law (for example section 2.24.170 prohibiting political activities by employees is now unconstitutional based upon appellate case authority from the state and federal courts) and at least one requirement of the ordinance, the provision of appellate rights to candidates for original employment with the City, has been recommended for change by the Civil Service Board. These concerns may warrant a review and modernization of the system.</p>
<p><b>M3. <u>Ordinance Publication Requirement:</u></b></p>	<p>Charter section 414 requires that an ordinance be published at least once in the official newspaper.</p>	<p>Publication of ordinances in their entirety can be extremely expensive. State law (Government Code section 36933) allows for summaries of ordinances to be published as a cost savings device.</p>
<p><b>M4. <u>Publication of Legal Notices:</u></b></p>	<p>Charter section 419 requires the City Clerk to go to bid annually for contracting out publication of legal notices.</p>	<p>Annual bid process has not produced any noticeable savings and has created a difficult administrative burden on the City Clerk's Office.</p>

M5. <u>Time for Contracting:</u>	Charter section 420, with some exceptions, restricts the length of time for municipal contracting to not in excess of 25 years.	This requirement potentially limits the City's ability to enter into modern financial transactions.
M6. <u>Franchise Procedures:</u>	Article XIII of the Charter creates franchising procedures and requirements.	Franchising procedures are now governed by the municipal code. Allowing for municipal code regulation of the procedures as opposed to Charter regulation provides for flexibility in a changing economic environment.
M7. <u>Centralized Purchasing:</u>	Charter section 1106 requires the City to continue a process of centralized purchasing.	Centralized purchasing may work in some cases, but not in all. Advances in technology and controls may make decentralized purchasing less expensive.
M8. <u>Misdemeanor Penalties:</u>	Charter section 1404 limits misdemeanor penalties to \$1,000 and/or six months imprisonment.	Currently this provision is consistent with the California Penal Code. It may be helpful to amend it with general language that allows for the penalties to be raised so long as they do not exceed those provided by California law.
<b><u>Policy: Those matters in the Charter that may warrant a review and update for policy reasons.</u></b>		
P1. <u>Appointment to Vacant Council Seat:</u>	Charter section 403 directs that vacancies on the Council shall be filled by appointment within thirty days, or set an election, and the appointee shall sit until the next general municipal election and his or her successor is qualified.	Does the Council wish to address this issue, either to clarify how this provision falls within term limits or to otherwise modify the provisions?
P2. <u>Review Mechanics of Restrictions on Oil Drilling within the City:</u>	Charter 1401 effectively provides that there is to be no new oil exploration, drilling, production, or refining in the City that was not in existence at the effective date of the Charter or on the effective date of newly annexed properties.	Consider ways to make these provisions more flexible in order to allow for modification of existing drilling while not opening the City as a whole for new oil exploration or drilling.

STATE OF CALIFORNIA            }  
COUNTY OF ORANGE            }  
CITY OF NEWPORT BEACH        }        ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2010-16 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 26th day of January, 2010, and that the same was so passed and adopted by the following vote, to wit:

Ayes:        Selich, Rosansky, Henn, Webb, Gardner, Daigle, Mayor Curry

Noes:        None

Absent:      None

Abstain:    None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 27th day of January, 2010.

*Leilani I. Brown*

\_\_\_\_\_  
City Clerk  
Newport Beach, California

(Seal)

