

Appendix B

RESOLUTION NO. 2009-91

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH CREATING A CHARTER UPDATE COMMISSION OF LIMITED DURATION AND FOCUSED JURISDICTION

WHEREAS, the Charter of the City of Newport Beach was passed and adopted by the citizens of the City of Newport Beach effective January 7, 1955;

WHEREAS, substantial changes have occurred in the law since the approval and adoption of the Charter leaving some of its provisions outdated and unenforceable;

WHEREAS, modern municipal government has moved forward in many ways to allow more efficiency in addressing the needs of the City and the Charter should not be impediment to efficient municipal government;

WHEREAS, it is appropriate to appoint a citizens' commission for review of Charter update and modernization issues in order to maximize the benefit to the City and its citizens and to move the work program for such an update and modernization forward in a limited period of time;

WHEREAS, the Charter cannot be amended without the vote of a people;

WHEREAS, the next general election currently scheduled in the County of Orange is on November 2, 2010 and its general election is the most cost efficient matter to bring issues to the voters of the City of Newport Beach and it is recommended that all necessary ballot measures that must be voted upon be forwarded to the County of Orange no later than June 28, 2009;

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: A Charter Update Commission is hereby created and enabled in order to carry out the tasks of updating the City of Newport Beach Charter and modernizing it in order to maximize the efficiency of municipal government.

Section 2: The Commission shall be made up of seven members of the public appointed by the City Council. The City 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.

Section 3: The Commission is empowered and instructed to review the issues set forth on Exhibit "A" for the purpose of updating and modernizing the Charter. The Commission may also review the Charter and initiative enacted ordinances of the City and make recommendations to the City Council for expanding the list of issues to be addressed. The Commission shall not, however, expend resources on pursuing issues that have not been approved for review by the City Council.

Section 4: Due to the limited amount of time available, the work program for this effort, allowing for reasonable flexibility, shall proceed on the following schedule:

Date	Action
December 8, 2009	Council Adopts Resolution Creating Commission, Identifying Issues to be Addressed, and Soliciting Applications; Mayor Appointing Council Subcommittee
December 12, 2009	City Clerk Advertises for Applications for Appointment to Commission
January 8, 2010	Application Period Closes
January 11 – 15, 2009	Council Subcommittee Conducts Interviews of Applicants
January 26, 2009	Commission Appointed
February 2, 2010	First Meeting of the Commission – Work Plan Discussed
February 16, 2009	Commission Meeting – Discuss Issues

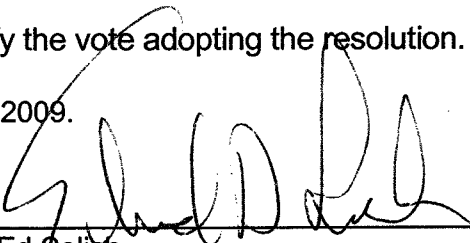
March 2, 2009	Commission Meeting – Discuss Issues
March 16, 2009	Commission Meeting – Discuss Issues
April 6, 2009	Commission Meeting – Discuss Issues
April 20, 2009	Commission Meeting – Action on Recommendations
May 4, 2009	Commission meeting – Action on Recommendations (meeting held only if needed)
May 12, 2009	Complete staff report for Council meeting of May 25, 2009
May 25, 2009	Council study session: Present staff report with Commission recommendations to Council
June 8, 2009	Council discussion and possible action on Resolutions on Ballot Measures
June 22, 2009	Final Council discussion and adoption of Resolutions re Ballot Measures (if action is not taken on June 8)

Based upon this work program schedule, the Commission shall complete its final report to the City Council with the Commission’s recommendations on or before May 4, 2010. The final report of the Commission shall be presented to the City Council at the Council’s May 25th, 2010 Council meeting. The final report does not need to be unanimous. Minority opinions or reports may be presented on any given issue.

Section 5: The Commission shall conduct its meetings consistent with the Ralph M. Brown Act (California Government Code sections 54950 *et. seq.*) A presiding officer shall be appointed to preside over the meetings of the Commission. The Commission shall be supported by the City Manager’s Office and the Office of the City Attorney. An analysis shall be provided to the Commission by staff on all issues being considered by the Commission and staff shall assist the Commission in preparing the majority report and recommendations.

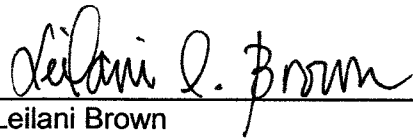
Section 6: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 8th day of December, 2009.



Ed Selich
Mayor

ATTEST:



Leilani Brown
City Clerk



Exhibit A

[A09-00673] Charter Update Issues – 2009/10 – M&CC from DRH 12.08.09 CC Mtg

<u>Issue</u>	<u>Detail</u>	<u>Context</u>
<i>Clean-Up: Those matters in which the Charter or Initiative Measure is Inconsistent with Existing Law.</i>		
C1. <u>City Manager Residency Requirement:</u>	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.
C2. <u>Redistricting Committee:</u>	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. <i>[We should retain the ability to redistrict after annexations.]</i>
C3. <u>Tax Limits:</u>	Charter section 1107 sets limitations on the taxing authority of the City.	These limitations 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.
C4. <u>Sale of Bay Front Property:</u>	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.
C5. <u>Gender References</u>	Several sections of the Charter refer to the City Manager, City Attorney, City Clerk, Finance Director, department heads,	These references could be exchanged with the person's title instead of a gender reference.

	“Chairmen,” or City Council as males. (Section 500, 501, 502, 503, 504, 602, 603, 605, 606, 607, 608, 609, 610, 611, 704.	
<u>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.</u>		
M1. <u>Contracting Authority:</u>	Charter section 1110 requires all Public Works’ projects with total expenditures over \$30,000.00 go to formal bid.	Should the City revise this amount in light of the substantial increase of construction costs and then provide for adjustment based upon CPI?
M2. <u>Civil Service System:</u>	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).	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.
M3. <u>Ordinance Publication Requirements.</u>	Charter section 414 requires that an ordinance be published at least once in the official newspaper.	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.

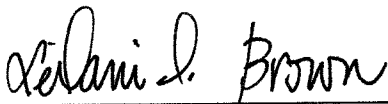
M4. <u>Publication of Legal Notices:</u>	Charter section 419 requires the City Clerk to go to bid annually for contracting out publication of legal notices.	Annual bid process has not produced any noticeable savings and has created a difficult administrative burden on the City Clerk's Office.
M5. <u>Time 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. Centralized Purchasing	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.
<i>Policy: Those matters in the Charter that may warrant a review and update for policy reasons.</i>		
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. Review Mechanics of Restrictions on Oil Drilling within the City:	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. 2009-91 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 8th day of December, 2009, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Henn, Rosansky, Curry, Webb, Gardner, Daigle, Mayor Selich
Noes: None
Absent: None
Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 9th day of December, 2009.



City Clerk
Newport Beach, California

(Seal)

