



CITY OF HUNTINGTON BEACH

Memorandum to City Council

TO: Mayor and City Council Members

FROM: Charter Revision Committee

DATE: May 12, 2022

SUBJECT: Final Report of the 2021-2022 Charter Revision Committee

The Charter Revision Committee ("Committee") is pleased to transmit its final report to the City Council. We have examined approaches taken in other city charters, gathered public and staff input, and deliberated collegially before finalizing our recommended Charter amendments, which are detailed in this report. Please note that this report will also be presented as an Administrative Item at the June 7, 2022 City Council meeting, and the Committee looks forward to your deliberation. Last but not least, the Committee members thank the Council for this opportunity to serve our community and gain unparalleled insight into our City government.

History of Charter Committees

The first Huntington Beach City Charter was established when the City incorporated in 1909. Since then, the Charter has undergone several amendments to reflect the evolving priorities and operations of our local government. Following the adoption of a new Charter in 1965, the City convened eight separate citizen Committees and one Ad Hoc Committee that reviewed and recommended Charter amendments. Any amendments that were approved by the City Council were then placed on a ballot for voter approval. It should be noted that our Charter was last amended via a citizen-led Committee in 2010 (Attachment 1 – 2010 City Charter). The current Committee views the overall structure of this Charter to be sound and thanks previous Committees for their contributions to this foundational document.

Formation

Per Section 804 of the Charter, the City Council is required to determine at least once every 10 years if it should convene a Charter Revision Committee. On August 3, 2021, the City Council approved Council Member Mike Posey's recommendation to form a citizen-led Committee to conduct a Charter review and recommend changes as needed (Attachment 2 – H-Item Report). Each Council Member selected one Committee member:

#	2021-2022 Charter Revision Committee Members	Appointing City Council Member
1	Damon Mircheff (Chair)	Natalie Moser
2	Charles CJ Ray (Vice Chair)	Mike Posey
3	Cynthia Benton	Rhonda Bolton
4	Casey McKeon	Erik Peterson
5	Scott Miller	Dan Kalmick
6	Leonie Mulvihill	Kim Carr
7	Dianne Thompson	Barbara Delgleize

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The 2021-2022 Committee first convened on December 3, 2021 and continued to meet on the second and fourth Thursdays of every month until May 12, 2022 (Attachment 3 – Committee Workplan). On December 16, 2021, the Committee elected Damon Mircheff and CJ Ray as Chair and Vice Chair, respectively. Their primary duties have included preparing agendas with staff and consultant as well as facilitating Committee meetings. Their efforts contributed to collegial discussions, collaboration, and compromise. The Committee thanks Chair Mircheff and Vice Chair Ray for their leadership.

Lastly the Committee was staffed by Assistant to the City Manager, Catherine Jun, and consultant, Dr. Raphael Sonenshein. Dr. Sonenshein previously advised the 2010 Huntington Beach Charter Review and conducted similar work for cities such as Los Angeles, Anaheim, Culver City, Burbank, Glendale and Tucson (Arizona). Ms. Jun and Dr. Sonenshein worked together to conduct comparative charter research, prepare meeting materials, coordinate presentations and speakers, and assist the Chair and Vice Chair with meeting facilitation. This Committee thanks Ms. Jun and Dr. Sonenshein for their support.

Goals

The Committee's goals included the following:

- Address Charter-specific issues in a way that will promote government accountability, transparency, and representation of residents and taxpayers.
- Seek consensus and compromise to identify the most salient issues; propose straightforward and flexible amendments to address them.
- Establish elected and/or appointed officials with the appropriate authority, tools, and flexibility to effectively serve people that live, work, visit, and do business in Huntington Beach.
- Work in a manner that is efficient, effective and economical for the Huntington Beach community.

Process

Throughout its tenure, the Committee focused first and foremost on the process of identifying and deliberating on Charter issues. This emphasis on process helped ensure that Committee discussions remained transparent, efficient, and inclusive. This process was applied evenly across every Charter analysis and led to decisions that were reflective of the Committee's diverse viewpoints.

The Committee's process began with a section-by-section review with members calling out any areas that they wished to agendize for future discussion. In total, the Committee identified 25 potential Charter discussions that staff categorized into Phases:

- Phase 1: Addresses Charter issues that may require changes involving syntax, outdated language, minor clarifications, and other improvements that would not likely require significant deliberation. There were 13 Phase 1 items.
- Phase 2: Addresses Charter issues that may require significant changes to City policies, roles, and responsibilities and would require lengthier deliberation. There were 12 Phase 2 items.

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Committee members methodically reviewed each Charter issue beginning in Phase 1. Each review was preceded by research, input from relevant staff and consultant, and/or public comment, followed by Committee deliberation and a straw vote. The Committee determined that until all matters had been addressed, all votes should remain straw votes to make it possible to move forward, assess sentiment, and leave the door open for additional deliberation in the future. Depending on the Committee's direction, staff and consultant returned at subsequent meetings with additional research or proposed language for final consideration in Phase 3.

- Phase 3: Review all straw votes and proposed amended language for final review and consideration. Following deliberation, the Committee conducted final votes on each item for inclusion in this final report, which was approved by the Committee on May 12, 2022.

Each meeting, phased item, straw and final votes can be found in the Committee's Work Plan and Tracking Sheet (Attachments 3 and 4). These materials were updated after each meeting and attached to every Committee agenda to ensure that the public could remain up to date on the Committee's progress.

Timeline

The Committee completed work under all Phases on time and according to its Workplan. It is the Committee's hope that the City Council will consider this report and recommendations on amendments to place on the November 2022 General Municipal Election ballot. The Committee's proposed timeline is below for your consideration:

June 7, 2022	City Council to consider an Administrative Item to review the Committee's final report and recommendations to amend the Charter. Possibly consolidate and place any approved recommendations as a ballot measure at the November 8, 2022 General Election.
June – July 2022	Staff, Consultant, City Clerk and City Attorney's Office develop ballot measure language and coordinate impartial analysis, arguments, and fiscal impact information (if any).
August 12, 2022	Submit ballot measure materials to the County Registrar's Office before or by this date.
November 8, 2022	County conducts 2022 General Elections.

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Final Recommendations

The Committee's approved recommendations are listed below. A redlined version of the City Charter that incorporates these recommendations is available under Attachment 5.

All other items that the Committee considered but did not recommend are described in the Committee's Tracking Document. For a record of all deliberations and votes, please reference the Committee's minutes (Attachment 6 - Minutes).

#	Charter Section	Section Title	Summary of the Recommendation	Final Vote
1	303, 400 & 801	(Various sections)	Use gender neutral terms.	7-0
2	300	City Council, Attorney, Clerk and Treasurer. Terms	Reset the initial election years for elected officials (currently 1966 and 1968) to be more contemporary (2022 and 2024).	7-0
3	300	City Council, Attorney, Clerk and Treasurer. Terms	Replace outdated phrases ("casting lots") with modern ones ("random drawing process"). Establish a clearer process and timeframe to resolve ties in voting for elected positions.	7-0
4	300	City Council, Attorney, Clerk and Treasurer. Terms	Convert the City Clerk and Treasurer positions into appointed roles.	5-2
5	300	City Council, Attorney, Clerk and Treasurer. Terms	Convert the City Attorney position into an appointed role.	5-2
6	300	City Council, Attorney, Clerk and Treasurer. Terms	If the City Attorney position remains elected, set term limits similar to City Council term limits.	4-3
7	303(a)	Meetings and Location - Regular Meetings	Syntax adjustments to clarify the process of adjourning/re-adjourning Council meetings.	7-0
8	303(b) 304	Meetings and Location - Special Meetings Quorums, Proceedings and Rules of Order – Quorum	Add the use of "current technology" as one of several ways to distribute meeting notices to City Council.	7-0
9	303(d)	Meetings and Location – Open Meetings	Replace outdated phrases ("executive sessions") with modern ones that are used regularly ("closed sessions").	7-0
10	304	Quorums, Proceedings and Rules of Order – Proceedings	Clarifies that all disagreements between the Council and Attorney regarding the presence of a conflict of interest in legal matters will be decided by the Council.	6-1

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#	Charter Section	Section Title	Summary of the Recommendation	Final Vote
11	309	City Attorney. Powers and Duties	Requires the City Attorney to have at least 10 years of experience practicing law in California prior to their election or appointment.	6-1
12	309	City Attorney. Powers and Duties	Adds duties for the City Attorney: maintain all records in compliance with applicable laws; provide advice related to the Municipal Code and applicable laws; recuse oneself when there may be a conflict of interest. Also reiterates that the Council will have control over all legal business and may employ other attorneys to manage legal matters.	6-1
13	310 311	City Clerk. Powers and Duties City Treasurer. Powers and Duties	Requires minimum qualifications for the Clerk and Treasurer to be met at the time of filing one's candidacy for election or application for appointment.	6-1
14	311 601 604	Varies	Replace the "Director of Finance" title with "Chief Financial Officer" to align with the City's Organizational Chart.	7-0
15	312	Vacancies, Forfeitures and Replacement	Require at least 4 affirmative votes for Council to fill a Council vacancy. Establish that appointees may only hold office until the next general municipal election is held to fill the remainder of the unexpired term for that position.	6-1
16	312	Vacancies, Forfeitures and Replacement – Replacement	A minor wording change to clarify the pronoun "it" by replacing it with "City Council".	7-0
17	612	Public Utilities and Parks and Beaches	Add an exemption to this provision by allowing the replacement of existing equipment or infrastructure without triggering a Measure C vote. The replacement must not exceed the current footprint or height by more than 10% and must maintain its current use.	7-0
18	804	Charter Review	Require the Council to consider convening a Charter Review Commission at least every ten years, a time interval that resets after the last review conducted by a Committee, Council or staff.	7-0

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With the transmission of this report, the Committee believes it has completed its objective. Should the City Council require additional work, the Committee is ready and willing to accept that assignment. Otherwise the Committee respectfully requests its dissolution, following the Chair and Vice Chair's participation in the June 7, 2022 City Council meeting at which time they, with staff and consultant, will answer any questions the Council may have regarding this report.

We thank the City Council for this unique opportunity to serve our community through the 2021-2022 Charter review process.

Sincerely,

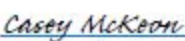
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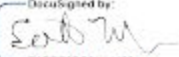
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Damon Mircheff, Chair

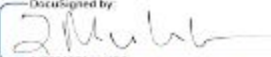
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DocuSignature
CJ Charles Ray, Vice Chair


Cynthia Benton (May 13, 2022 08:28 PDT)
Cynthia Benton, Member


Casey McKeon (May 13, 2022 10:57 PDT)
Casey McKeon, Member

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Scott Miller, Member

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Leonie Mulvihill, Member

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Dianne Thompson, Member

Cc: Sean Joyce, Interim City Manager
Travis Hopkins, Assistant City Manager
Catherine Jun, Assistant to the City Manager
Raphael Sonenshein, Consultant

Attachments:

1. City Charter
2. H-Item by Council Member Mike Posey and RCA
3. Committee Workplan
4. Committee Tracking Sheet
5. Proposed 2022 City Charter with redlines
6. Committee Minutes

ATTACHMENT 1

2010 CITY CHARTER



CITY *of* HUNTINGTON BEACH

City Charter

Incorporated February 17, 1909



CITY OF HUNTINGTON BEACH CITY CHARTER



Incorporated, February 17, 1909

(Election February 9, 1909; 94 votes cast for incorporation and 25 votes against)

CHARTER AMENDMENTS

Effective Dates

Charter Election Certified - Res. 773 Results 5/3/37.....	5/17/37
Amendments.....	2/2/40
Amendments.....	1/29/47
Amendments.....	1/27/49
Amendments.....	5/9/49
Revised.....	5/1/50
New Charter.....	2/10/66
Amendments.....	1/18/71
Amendments.....	6/5/75
Amendments.....	12/10/76
Amendments.....	7/17/78
Amendments..(Consolidation November).....	12/9/82
Amendments.....	12/7/84
Amendments.....	12/7/90
Amendments.....	4/22/02
Revised.....(Certified by the Secretary of State 1/6/11).....	12/6/10

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CHARTER

We, the people of the City of Huntington Beach, State of California believe fiscal responsibility and the prudent stewardship of public funds is essential for confidence in government, that ethics and integrity are the foundation of public trust and that just governance is built upon these values. Through the enactment of this Charter as the fundamental law of the City of Huntington Beach under the Constitution of the State of California, we do hereby exercise the privilege of retaining for ourselves, the benefits of local government, by enacting the laws, rules, regulations and procedures set forth herein pertaining to the governance and operation of our City.

It is incumbent upon those who govern and make decisions for and on behalf of the City of Huntington Beach to legally, as well as morally, abide by the provisions of this Charter, in its strictest sense, to assure the continued success and well-being of our fair City.

ARTICLE I INCORPORATION AND POWERS OF THE CITY

Section 100. NAME. The municipal corporation now existing and known as the City of Huntington Beach shall remain and continue to exist as a municipal corporation under its present name of "City of Huntington Beach."

Section 101. SEAL. The City shall have an official seal which may be changed from time to time by ordinance. The present official seal shall continue to be the official seal of the City until changed in the manner stated.

Section 102. BOUNDARIES. The boundaries of the City shall continue as now established until changed in the manner authorized by law.

Section 103. POWERS OF CITY. The City shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter or in the Constitution of the State of California.

Section 104. CONSTRUCTION. The general grant of power to the City under this Charter shall be construed broadly in favor of the City. The specific provisions enumerated in this Charter are intended to be and shall be interpreted as limitations upon the general grant of power and shall be construed narrowly. If any provisions of this Charter, or the application thereof to any person or circumstance is held invalid, the remainder of the Charter and the application of such provision to other persons or circumstances, shall not be affected thereby.

Section 105. INTERGOVERNMENTAL RELATIONS. The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States or any agency thereof.

ARTICLE II FORM OF GOVERNMENT

Section 200. COUNCIL-MANAGER FORM OF GOVERNMENT. The municipal government provided by this Charter shall be known as the Council-Manager form of government.

ARTICLE III ELECTIVE OFFICES

Section 300. CITY COUNCIL, ATTORNEY, CLERK AND TREASURER. TERMS. The elective officers of the City shall consist of a City Council of seven members, a City Clerk, a City Treasurer and a City Attorney, all to be elected from the City at large at the times and in the manner provided in this Charter and who shall serve for terms of four years and until their respective successors qualify. Subject to the provisions of this Charter, the members of the City Council in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified. Four members of the City Council shall be elected at the general municipal election held in 1966, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in 1968, and each fourth year thereafter. No person shall be elected as a member of the City Council for more than two consecutive terms and no person who has been a member for more than two years of a term to which some other person was elected a member shall be elected to the City Council more than one further consecutive term. Subject to the provisions of this Charter, the City Clerk, City Treasurer and City Attorney in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and the qualification of their successors. A City Clerk and City Treasurer shall be elected at the general municipal election held in 1968, and each fourth year thereafter. A City Attorney shall be elected in 1966, and each fourth year thereafter.

The term of each member of the City Council, the City Clerk, the City Treasurer and the City Attorney shall commence on the first Monday following the certification of the election. Ties in voting among candidates for office shall be settled by the casting of lots.

If no candidate meets the qualifications for office of the City Clerk, City Treasurer, or City Attorney, the City Council shall fill that position by appointment until the next municipal general election in which a qualified candidate is elected.

Section 301. POWERS VESTED IN CITY COUNCIL. All powers of the City shall be vested in the City Council except as otherwise provided in this Charter.

Section 302. COMPENSATION. The members of the City Council including the Mayor shall receive as compensation for their services as such a monthly salary in the sum of One Hundred Seventy-five Dollars per month. In addition, each member of the City Council shall receive reimbursement on order of the City Council for Council authorized traveling and other expenses when on official duty upon submission of itemized expense accounts therefor. In addition, members shall receive such reasonable and adequate amounts as may be established by ordinance, which amounts shall be deemed to be reimbursement to them of other routine and ordinary expenses, losses and costs imposed upon them by virtue of their serving as City Councilpersons.

Section 303. MEETINGS AND LOCATION.

(a) **Regular Meetings.** The City Council shall hold regular meetings at least twice each month at such time as it shall fix by ordinance or resolution and may adjourn or re-adjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment and when so adjourned each adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment, such meeting shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday such regular meeting shall be held on the next business day.

(b) **Special Meetings.** A special meeting may be called at any time by the Mayor, or by a majority of the members of the City Council, by written notice to each member of the City Council and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such

notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as specified in the notice.

The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting. If any person entitled to such written notice files a written waiver of notice with the City Clerk, it may be dispensed with. This notice requirement shall be considered fulfilled as to any person who is actually present at the meeting at the time it convenes. In the event of an emergency affecting the public peace, health or safety, a special meeting may be called as provided in this section with less than twenty-four hours written notice by the Mayor Pro Tem in the Mayor's absence or by any member of the City Council in the absence of both the Mayor and Mayor Pro Tem provided that the nature of the emergency is set forth in the minutes of the meeting.

(c) **Place of Meetings.** All regular meetings shall be held in the Council Chambers of the City or in such place within the City to which any such meeting may be adjourned. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place within the City as is designated by the Mayor, or, if he should fail to act, by a majority of the members of the City Council.

(d) **Open Meetings.** All regular and special meetings of the City Council shall be open and public, and all persons shall be permitted to attend such meetings, except that the provisions of this section shall not apply to executive sessions. Subject to the rules governing the conduct of City Council meetings, no person shall be denied the right to be heard by the City Council.

(e) **Dissemination of Information.** The City Council shall adopt rules to ensure thorough and timely dissemination of information via current technology by resolution.

Section 304. QUORUMS, PROCEEDINGS AND RULES OF ORDER.

(a) **Quorum.** A majority of the members of the City Council shall constitute a quorum to do business but a lesser number may adjourn from time to time. In the absence of all the members of the City Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. The City Clerk shall cause written notice of a meeting adjourned by less than a quorum or by the City Clerk to be delivered personally or by mail to each Council member at least twenty-four hours before the time to which the meeting is adjourned, or such notice may be dispensed with in the same manner as specified in this Charter for dispensing with notice of special meetings of the City Council.

(b) **Proceedings.** The City Council shall judge the qualification of its members as set forth by the Charter. It shall judge all election returns. Each member of the City Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the City Council. The City Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. They shall be served and complied with in the same manner as subpoenas in civil actions. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable. The City Council shall have control of all legal business and proceedings and all property of the legal department, and may employ other attorneys to take charge of or may contract for any prosecution, litigation or other legal matter or business.

(c) **Rules of Order.** The City Council shall establish rules for the conduct of its proceedings and evict or prosecute any member or other person for disorderly conduct at any of its meetings. Upon adoption of any ordinance, resolution, or order for payment of money, or upon the demand of any

member, the City Clerk shall call the roll and shall cause the ayes and noes taken on the question to be entered in the minutes of the meeting.

Section 305. PRESIDING OFFICER. At the Council meeting at which any Council member is installed following any general or special municipal election, and at any time when there is a vacancy in the office of Mayor, the City Council shall meet and shall elect one of its members as its presiding officer, who shall have the title of Mayor. The Mayor may make and second motions and shall have a voice and vote in all its proceedings. The Mayor shall be the official head of the City for all ceremonial purposes; shall have the primary but not the exclusive responsibility for interpreting the policies, programs and needs of the City government to the people, and as occasion requires, may inform the people of any major change in policy or program; and shall perform such other duties consistent with the office as may be prescribed by this Charter or as may be imposed by the City Council. The Mayor shall serve in such capacity at the pleasure of the City Council.

Section 306. MAYOR PRO TEMPORE. The City Council shall also designate one of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. The Mayor Pro Tempore shall perform the duties of the Mayor during the Mayor's absence or disability or at the Mayor's request.

Section 307. NON-INTERFERENCE WITH ADMINISTRATION. Except as otherwise provided in this Charter, no member of the City Council shall order, directly or indirectly, the appointment by the City Manager, or by any of the department heads in administrative service of the City, of any person to any office or employment, or removal therefrom. Except for the purpose of investigation and inquiry, the members of the City Council shall deal with the administrative service under the jurisdiction of the City Manager solely through the City Manager, and no member of the City Council shall give orders to any subordinate of the City Manager, either publicly or privately.

No elected department head or staff of the Office of the elected department head shall be a member of the management negotiation team for the purposes of negotiations of memorandums of understanding with the employee bargaining units.

Section 308. OFFICIAL BONDS. The City Council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officials or employees who are required by this Charter or by ordinance to give such bonds. All bonds shall be executed by responsible corporate surety, shall be approved as to form by the City Attorney, and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City. A blanket bond may be used if it provides the same protection as the required separate bond would provide.

In all cases wherein an employee of the City is required to furnish a faithful performance bond, there shall be no personal liability upon, or any right to recover against, the employee's superior officer or other officer or employee or the bond of the latter, unless such superior officer, or other officer or employee is a party to the act or omission, or has conspired in the wrongful act directly or indirectly causing the loss.

Section 309. CITY ATTORNEY. POWERS AND DUTIES. To become and remain eligible for City Attorney the person elected or appointed shall have graduated from a law school accredited by the American Bar Association, be an attorney at law, duly licensed as such under the laws of the State of California, shall have been engaged in the practice of law in this State for at least five years prior to their election or appointment. The City Attorney shall have the power and may be required to:

(a) Represent and advise the City Council and all City officers in all matters of law pertaining to their offices.

(b) Prosecute on behalf of the people any or all criminal cases arising from violation of the provisions of this Charter or of City ordinances and such state misdemeanors as the City has the power to prosecute, unless otherwise provided by the City Council.

(c) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee, or former City officer or employee, in any or all civil actions or proceedings in which such officer or employee is concerned or is a party for any act arising out of their employment or by reason of their official capacity.

(d) Attend all regular meetings of the City Council, unless excused, and give their advice or opinion orally or in writing whenever requested to do so by the City Council or by any of the boards or officers of the City.

(e) Approve in writing the form of all contracts made by and all bonds and insurance given to the City.

(f) Prepare any and all proposed ordinances and City Council resolutions and amendments thereto.

(g) Devote such time to the duties of their office and at such place as may be specified by the City Council.

(h) Perform such legal functions and duties incident to the execution of the foregoing powers as may be necessary.

(i) Surrender to their successor all books, papers, files, and documents pertaining to the City's affairs.

(j) Assist and cooperate with the City Manager consistent with Section 403 of the City Charter.

(k) Provide advice related to compliance with the City Charter to all elected and appointed officials of the City.

Section 310. CITY CLERK. POWERS AND DUTIES. To become and remain eligible for City Clerk, the person elected or appointed shall have a Bachelor's Degree in business, public administration, or a related field, and hold a certification as a Municipal Clerk or obtain such certification within the first three years in office. The City Clerk shall have the power and shall be required to:

(a) Attend all meetings of the City Council, unless excused, and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the City Council in records that shall bear appropriate titles and be devoted to such purpose.

(b) Maintain separate records, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the Clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter.

(c) Maintain separate records of all written contracts and official bonds.

(d) Keep all records in their possession properly indexed and open to public inspection when not in actual use.

(e) Be the custodian of the seal of the City.

(f) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of official records.

(g) Be ex officio Assessor, unless the City Council, has availed itself, or does in the future avail itself, of the provisions of the general laws of the State relative to the assessment of property and the collection of City taxes by county officers, or unless the City Council by ordinance provides otherwise.

(h) Have charge of all City elections.

(i) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

(j) Assist and cooperate with the City Manager consistent with Section 403 of the City Charter.

The City Clerk may, subject to the approval of the City Council, appoint such deputy or deputies to assist them or act for them, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

Section 311. CITY TREASURER. POWERS AND DUTIES. To become and remain eligible for City Treasurer, the person elected or appointed shall have a minimum of five years of financial and/or treasury experience, and have either:

A Master's Degree in accounting, finance, business, or public administration; or

A Bachelor's Degree in accounting, finance, business, or public administration with certification by the California Municipal Treasurer's Association, or their successor, within three years of election or appointment.

The City Treasurer shall have the power and shall be required to:

(a) Receive on behalf of the City all taxes, assessments, license fees and other revenues of the City, or for the collection of which the City is responsible, and receive all taxes or other money receivable by the City from the County, State or Federal governments, or from any court, or from any office, department or agency of the City.

(b) Have and keep custody of all public funds belonging to or under control of the City or any office, department or agency of the City government and deposit or cause to be deposited all funds coming into their hands in such depository as may be designated by resolution of the City Council, or, if no such resolution be adopted, then in such depository designated in writing by the City Manager, and in compliance with all of the provisions of the State Constitution and laws of the State governing the handling, depositing and securing of public funds.

(c) Pay out moneys only on proper orders or warrants in the manner provided for in this Charter.

(d) Prepare and submit to the Director of Finance monthly written reports of all receipts, disbursements and fund balances, and shall file copies of such reports with the City Manager and City Council.

(e) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

(f) Assist and cooperate with the City Manager consistent with Section 403 of the City Charter.

The City Treasurer may, subject to the approval of the City Council, appoint such deputy or deputies to assist them or act for them, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

Section 312. VACANCIES, FORFEITURES AND REPLACEMENT.

(a) **Vacancies.** A vacancy in the City Council or in any other office designated as elective by this Charter, from whatever cause arising, shall be filled by appointment by the City Council.

(b) **Forfeiture.** If a member of the City Council is absent from all regular meetings of the City Council for a period of thirty consecutive days from and after the last regular City Council meeting attended by such member, unless by permission of the City Council expressed in its official minutes, the office shall become vacant. If an elected City officer pleads guilty or no contest to or is convicted of a felony or any crime of moral turpitude, or ceases to be an elector of the City, the office shall become vacant. The City Council shall declare the existence of such vacancy. Any elective officer of the City who shall accept or retain any other elective public office, except as provided in this Charter, shall be deemed thereby to have vacated the office under the City Government.

(c) **Replacement.** In the event it shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, the City Council shall forthwith cause an election to be held to fill such vacancy for the remainder of the unexpired term.

Section 313. CONFLICT OF INTEREST, NEPOTISM.

(a) **Conflict of Interest.** The City Council shall adopt or approve rules and regulations regulating conflicts of interest and promoting fair dealing in all City business.

(b) **Nepotism.** The City Council shall not appoint to a salaried position under the City government any person who is a relative by blood or marriage within the third degree of any one or more of the members of such City Council, nor shall the City Manager or any department head or other officer having appointive power appoint any relative of such person or of any Council member within such degree to any such position.

This provision shall not affect the employment or promotional status of a person who has attained a salaried position with the City prior to the existence of a situation contemplated by this provision; however, Council members or officers with appointive powers in such a situation shall disqualify themselves from all decisions affecting the employment and promotional status of such person.

ARTICLE IV APPOINTIVE OFFICES AND PERSONNEL

Section 400. CITY MANAGER. COMPOSITION, TERM, ELIGIBILITY, REMOVAL.

(a) **Composition.** There shall be a City Manager who shall be the chief administrative officer of the City.

(b) **Term.** The City Manager shall be appointed by the affirmative vote of at least a majority of the members of the City Council and shall serve at the pleasure of the City Council; provided, however, that the person occupying the office shall not be removed from office except as herein provided.

(c) **Eligibility.** The City Manager shall be chosen on the basis of executive and administrative qualifications, with special reference to actual experience in and knowledge of accepted practice as regards the duties of the office as herein set forth. No person shall be eligible to be appointed City Manager or Acting City Manager while serving as a member of the City Council nor within one year following the termination of membership on the City Council.

(d) **Removal.** The City Manager shall not be removed from office during or within a period of ninety days next succeeding any municipal election at which a member of the City Council is elected. At any other time the City Manager may be removed only at a regular meeting of the City Council and upon the affirmative vote of a majority of the members of the City Council. At least thirty days prior to the effective date of removal, the City Manager shall be furnished with a written notice stating the Council's intentions and, if requested by the City Manager, the reasons therefor. Within seven days after receipt of such notice, the City Manager may by written notification to the City Clerk request a public hearing before the City Council, in which event the Council shall fix a time for a public hearing which shall be held at its regular meeting place before the expiration of the thirty-day period above referred to. The City Manager shall appear and be heard at such hearing. After furnishing the City Manager with written notice of the intended removal, the City Council may suspend the City Manager from duty, but his compensation shall continue until removal as herein provided. In removing the City Manager, the City Council shall use its uncontrolled discretion and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of which is to allow the City Council and the City Manager to present to each other and to the public all pertinent facts prior to the final action of removal.

Section 401. POWERS AND DUTIES. Except as otherwise provided in this Charter, the City Manager shall be responsible to the City Council for the proper administration of all affairs of the City. Without limiting this general grant of powers and responsibilities, the City Manager shall have the power and be required to:

(a) Appoint, promote, demote, suspend or remove department heads, officers and employees of the City except elective officers and the Chief of Police. The Chief of Police shall not be appointed or removed until the City Manager shall first have reviewed such appointment or removal with the City Council and have received approval for such appointment or removal by a majority vote of the full City Council.

(b) Prepare the budget annually, submit it to the City Council, and be responsible for its administration upon adoption.

(c) Prepare and submit to the City Council as of the end of each fiscal year, a complete report on the finances of the City, and annually or more frequently, a current report of the principal administrative activities of the City.

(d) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.

(e) Maintain a centralized purchasing system for all City offices, departments and agencies.

(f) Prepare, administer and enforce rules and regulations recommended to and adopted by the City Council governing the contracting for, purchase, inspection, storage, inventory, distribution and disposal of all supplies, materials and equipment required by any office, department or agency of the City government.

(g) Be responsible for the compliance by the City with the laws of the State pertaining to the City, the provisions of this Charter and the ordinances, franchises and rights of the City.

Subject to policy established by the City Council, exercise control of all administrative offices and departments of the City and of all appointive officers and employees, and prescribe such general rules and regulations as deemed necessary or proper for the general conduct of the administrative offices and departments of the City under their jurisdiction.

(h) Perform such other duties consistent with this Charter as may be required by the City Council.

Section 402. ACTING CITY MANAGER. During any temporary absence or disability of the City Manager, the City Manager shall appoint one of the other officers or department heads of the City to serve as Acting City Manager. In the event the City Manager fails to make such appointment, such appointment may be made by the City Council.

Section 403. PERSONNEL. In addition to the City Council, a City Clerk, a City Treasurer, a City Attorney and City Manager, the officers and employees of the City shall consist of such other officers, assistants, deputies and employees as the City Council may provide by ordinance or resolution. The City Council shall establish such reasonable compensation and fringe benefits as are appropriate by ordinance or resolution for such offices, officials and employees except as herein provided.

The City Council shall maintain by ordinance a comprehensive personnel system for the City. The City Manager and any officers designated as elective by the Charter shall be exempt. The system shall consist of the establishment of minimum standards of employment and qualifications for the various classes of employment and procedures to be followed in advancement, demotion, suspension and discharge of employees included within the system, as the City Council shall determine to be for the best interest of the public service. The ordinance shall designate the appointive officers and employees who shall be included within the system. By subsequent ordinances the City Council may amend the system or the list of appointive officers and employees included within the system. The system shall comply with all other provisions of this Charter.

It shall be the duty of all department heads, whether appointed or elected, to assist and cooperate with the City Manager in administering the affairs of the City in the most efficient, fiscally responsible, and harmonious manner consistent with the duties as prescribed by law, City Charter, or by ordinance.

Section 404. RETIREMENT SYSTEM. The City shall participate in a retirement system.

Section 405. BOARDS, COMMISSIONS AND COMMITTEES. The City Council shall establish such boards, commissions and committees as are deemed necessary for the orderly functioning of the City. All such boards, commissions and committees shall report directly to the City Council.

ARTICLE V ORDINANCES AND RESOLUTIONS

Section 500. REGULAR ORDINANCES. ENACTMENT, ADOPTION, PUBLICATION, AMENDMENT, WHEN EFFECTIVE AND CODIFICATION.

(a) **Enactment.** In addition to such other acts of the City Council as are required by this Charter to be taken by ordinance, every act of the City Council establishing a fine or other penalty, or granting a franchise, shall be by ordinance. The enacting clause of all ordinances shall be substantially as follows: "The City Council of the City of Huntington Beach does ordain as follows:" No order for the payment of money shall be adopted or made at other than a regular or adjourned regular meeting. Upon introduction, an ordinance shall be read by title only. Unless a higher vote is required by other provisions of this Charter, the affirmative vote of at least four of the City Council shall be required for the enactment of any ordinance or for the making or approving of any order for the payment of money. All ordinances shall be signed by the Mayor and attested by the City Clerk.

(b) **Adoption.** A regular ordinance shall be adopted only at a regular or adjourned regular meeting held no less than five days after its introduction. In the event that any ordinance is altered after its introduction, it shall be finally adopted only at a regular or adjourned regular meeting held no less than five days after the date it was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

(c) **Publication.** The City Clerk shall cause each ordinance to be posted in three places designated by the City Council within the City and to be published by title with a brief summary at least once within fifteen days after its adoption in a daily, semiweekly or weekly newspaper, published in the County or the City and circulated in the City, which is selected by the City Council for that purpose. Current technology shall be used to ensure the widest possible dissemination.

(d) **Amendment.** The amendment of any section or subsection of an ordinance may be accomplished solely by the re-enactment of such section or subsection at length, as amended.

(e) **When Effective.** Every ordinance shall become effective thirty days from and after the date of its adoption, except the following, which shall take effect upon adoption:

- (1) An ordinance calling or otherwise relating to an election;
- (2) An improvement proceeding ordinance adopted under some special law or procedural ordinance relating thereto;
- (3) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of property taxation, or levying the annual tax upon property.
- (4) An emergency ordinance adopted in the manner provided in this Charter.

(f) **Codification.** Detailed regulations pertaining to any subject and comprehensive codifications of valid ordinances may be adopted by reference, with the same effect as an ordinance, in the manner set forth herein; however, such regulations and codifications need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the City Clerk prior to adoption. Ordinances codified shall be repealed as of the effective date of the codification. Amendments to the code shall be enacted by ordinance.

Section 501. EMERGENCY ORDINANCES. Any ordinance declared by the City Council to be necessary as an emergency measure for the immediate preservation of the public peace, health, or safety, and containing a statement of the reasons for its urgency, may be adopted in the manner provided in Section 500 except that such emergency ordinance may be introduced, enacted and adopted at one and the same regular or special meeting and shall take effect immediately upon adoption if passed by at least five affirmative votes. An emergency ordinance shall expire automatically after 120 days.

Section 502. RESOLUTIONS. The City Council may act by resolution or minute order in all actions not required by this Charter to be taken by ordinance.

Section 503. PUBLISHING OF LEGAL NOTICES. The City Council shall cause to be published all legal notices and other matters required to be published by law in a daily, semiweekly or weekly newspaper published in the County or the City and circulated in the City which is selected by the City Council for that purpose and using current technology. No defect or irregularity in proceedings taken under this section shall invalidate any publication where it is otherwise in conformity with this Charter or law or ordinance.

ARTICLE VI FISCAL ADMINISTRATION

Section 600. FISCAL YEAR. The fiscal year of the City shall be as set forth by resolution of the City Council.

Section 601. ANNUAL BUDGET, PREPARATION BY THE CITY MANAGER. At such date as the City Manager shall determine, each board or commission and each department head shall furnish to the City Manager, personally, or through the Director of Finance, estimates of the department's, board's or commission's revenue and expenditures for the ensuing fiscal year, detailed in such manner as may be prescribed by the City Manager. In preparing the proposed budget, the City Manager shall review the estimates, hold conferences thereon with the respective department heads, boards or commissions as necessary, and may revise the estimates as may be deemed advisable.

Section 602. ANNUAL BUDGET. SUBMISSION TO THE CITY COUNCIL. The City Manager shall submit the proposed budget to the City Council at least thirty days prior to the beginning of each fiscal year. After reviewing the proposed budget and making such revisions as it may deem advisable, the City Council shall hold a public hearing thereon at least fifteen days prior to the beginning of each fiscal year and shall cause to be published a notice thereof not less than ten days prior to said hearing. Copies of the proposed budget shall be available for inspection by the public in the office of the City Clerk at least ten days prior to said hearing.

Section 603. ANNUAL BUDGET. PUBLIC HEARING. At the time so advertised or at any time to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the proposed budget, at which interested persons desiring to be heard shall be given such opportunity.

Section 604. ANNUAL BUDGET. FURTHER CONSIDERATION AND ADOPTION. At the conclusion of the public hearing the City Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable and on or before the last day of the fiscal year it shall adopt the budget with revisions, if any, by the affirmative vote of at least a majority of the total members of the Council. Upon final adoption, the budget shall be in effect for the ensuing fiscal year. Copies thereof, certified by the City Clerk, shall be filed with the City Manager, Director of Finance, City Treasurer and the person retained by the City Council to perform the post audit function, and a further copy shall be placed, and shall remain on file in the office of the City Clerk where it shall be available for public inspection. The budget so certified shall be reproduced and copies made available for the use of the public and of departments, offices and agencies of the City.

Section 605. ANNUAL BUDGET APPROPRIATIONS. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments, offices and agencies for the respective objects and purposes therein named; provided, however, that the City Manager may transfer funds from one object or purpose to another within the same department, office or agency. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

At any public meeting after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by the affirmative vote of at least a majority of the total members of the City Council.

Section 606. DETERMINATION OF CITY TAX RATE. The City Council shall prescribe by ordinance for the assessment, levy and collection of taxes upon property which is taxable for municipal purposes. If the City Council fails to fix the rate and levy taxes on or before August 31 in any year, the rate for the next preceding fiscal year shall thereupon be automatically adopted and a tax at such rate shall be deemed to have been levied on all taxable property in the City for the current fiscal year.

Section 607. TAX LIMITS.

(a) The City Council shall not levy a property tax for municipal purposes in excess of One Dollar annually on each One Hundred Dollars of the assessed value of taxable property in the City, except as otherwise provided in this section, unless authorized by the affirmative vote of a majority of the electors voting on a proposition to increase such levy at any election at which the question of such additional levy for municipal purposes is submitted to the electors. The number of years that such additional levy is to be made shall be specified in such proposition.

(b) There shall be levied and collected at the same time and in the same manner as other property taxes for municipal purposes are levied and collected, as additional taxes not subject to the above limitation, if no other provision for payment thereof is made:

1. A tax sufficient to meet all liabilities of the City of principal and interest of all bonds and judgments due and unpaid, or to become due during the ensuing fiscal year, which constitute general obligations of the City; and
2. A tax sufficient to meet all obligations of the City for the retirement system in which the City participates, due and unpaid or to become due during the ensuing fiscal year.

(c) Special levies, in addition to the above and not subject to the above limitation, may be made annually, based on City Council approved estimates, for the following specific purposes, but not to exceed the following respective limits for those purposes for which limits are herein set forth, to wit: parks and recreation and human services not to exceed \$0.20 per One Hundred Dollars; Libraries not to exceed \$0.15 per One Hundred Dollars; promotional interests and cultural affairs not to exceed \$0.07 per One Hundred Dollars; and civil defense and disaster preparedness not to exceed \$0.03 per One Hundred Dollars. The proceeds of any special levy shall be used for no other purpose than that specified.

Section 608. VOTE REQUIRED FOR TAX MEASURES. No tax, property tax, or other measure whose principal purpose is the raising of revenue, or any increase in the amount thereof, shall be levied, enacted or established except by ordinance adopted by the affirmative vote of at least five (5) members of the City Council; provided, however, that any tax levied or collected pursuant to Section 607(b) of this Charter shall be exempt from the minimum voting requirement of this section.

This section shall not apply to any license, permit, or any other fee or charge whose principal purpose is to pay or reimburse the City for the cost of performing any regulatory function of the City under its police power in connection with the City's duty to preserve or maintain the public peace, health, safety and welfare.

This section shall not apply to any user or service fee or charge provided such fee or charge is directly related to such use or service, is charged to the user or person receiving such service, and is to pay or reimburse the City for the costs of providing such use or service.

This section shall not apply to any fee or charge relating to any franchise or proprietary function of the City.

Section 609. REAL ESTATE TRANSFER TAX. The City Council shall not levy a tax on the transfer or conveyance of any interest in real property unless authorized by the affirmative vote of a majority of the electors voting on a proposition submitted to the electors to authorize such tax at a general or special election.

Section 610. BONDED DEBT LIMIT. The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of 12 percent of the total assessed valuation, for purposes of City taxation, of all the real and personal property within the City.

No bonded indebtedness which shall constitute a general obligation of the City may be created unless authorized by the affirmative vote of the majority required by law of the electors voting on such proposition at any election at which the question is submitted to the electors.

Section 611. REVENUE BONDS. Bonds which are payable only out of such revenues, other than taxes, as may be specified in such bonds, may be issued when the City Council by ordinance shall have established a procedure for the issuance of such bonds. Such bonds, payable only out of revenues, shall not constitute an indebtedness or general obligation of the City. No such bonds payable out of revenues shall be issued without the assent of the majority of the voters voting upon the proposition for issuing the same at an election at which such proposition shall have been duly submitted to the registered voters of the City.

It shall be competent for the City to make contracts and covenants for the benefit of the holders of any such bonds payable only from revenues and which shall not constitute a general obligation of the City for the establishment of a fund or funds, for the maintaining of adequate rates or charges, for restrictions upon further indebtedness payable out of the same fund or revenues, for restrictions upon transfer out of such fund, and other appropriate covenants. Money placed in any such special fund for the payment of principal and/or interest on any issue of such bonds or to assure the application thereof to a specific purpose shall not be expended for any other purpose whatever except for the purpose for which such special funds were established and shall be deemed segregated from all other funds of the City and reserved exclusively for the purpose for which such special fund was established until the purpose of its establishment shall have been fully accomplished.

Section 612. PUBLIC UTILITIES AND PARKS AND BEACHES.

(a) No public utility or park or beach or portion thereof now or hereafter owned or operated by the City shall be sold, leased, exchanged or otherwise transferred or disposed of unless authorized by the affirmative votes of at least a majority of the total membership of the City Council and by the affirmative vote of at least a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted.

(b) No golf course, driving range, road, building over three thousand square feet in floor area nor structure costing more than \$161,000.00 may be built on or in any park or beach or portion thereof now or hereafter owned or operated by the City unless authorized by the affirmative votes of at least a majority of the total membership of the City Council and by the affirmative vote of at least a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted after the appropriate environmental assessment, conceptual cost estimate, and reasonable project description has been completed and widely disseminated to the public. Effective January 1, 2011, and each year thereafter, the maximum cost will be adjusted by the Consumer Price Index for the Los Angeles-Riverside-Orange County area.

(c) Section 612(a) and 612(b) shall not apply;

(1) to libraries or piers;

(2) to any lease, franchise, concession agreement or other contract where;
- the contract is to perform an act or provide a service in a public park or beach
AND
- such act was being performed or service provided at the same location prior to January 1, 1989 AND

- the proposed lease, franchise, concession agreement or other contract would not increase the amount of parkland or beach dedicated to or used by the party performing such act or providing such service.
- (3) to above ground public works utility structures under 3,000 square feet;
- (4) to underground public works utility structures if park or beach use is not impeded;
- (5) to any public works construction, maintenance or repair mandated by state or federal law that does not negatively impact recreational opportunities; or
- (6) to renewable energy projects that do not negatively impact recreational opportunities.

(d) If any section, subsection, part, subpart, paragraph, clause or phrase of this amendment, or any amendment or revision of this amendment, is for any reason held to be invalid or unconstitutional, the remaining sections, subsections, parts, subparts, paragraphs, clauses or phrases shall not be affected but shall remain in full force and effect.

Section 613. EXECUTION OF CONTRACTS. Except as hereinafter provided, the City shall be bound by a contract only if it is made in writing, approved by the City Council and signed on behalf of the City by the Mayor and City Clerk or by a City officer designated by the City Council and only upon the direction of the City Council. Exceptions to this procedure are as follows:

(a) By ordinance or resolution the City Council may authorize the City Manager or other officer to bind the City, with or without a written contract, for the acquisition of equipment, materials, supplies, labor, services or other items included within the budget approved by the City Council, and may impose a monetary limit upon such authority.

(b) By ordinance or resolution, the City Council may provide a method for the sale or exchange of personal property not needed in the City service or not fit for the purpose for which intended, and for the conveyance of title thereto.

(c) Contracts for the sale of the products, commodities or services of any public utility owned, controlled or operated by the City may be made by the manager of such utility or by the head of the department or City Manager upon forms approved by the City Manager and at rates fixed by the City Council.

Section 614. CONTRACTS ON PUBLIC WORKS. Except as hereinafter expressly provided, every contract involving an expenditure as set forth by ordinance of the City Council for the construction or improvement (excluding maintenance and repair) of public buildings, works, streets, drains, sewers, utilities, parks and playgrounds, and each separate purchase of materials or supplies for the same, where the expenditure required for such purchase shall exceed the amount set by ordinance, shall be let to the lowest responsible bidder after notice by publication in accordance with Section 503 by two or more insertions, the first of which shall be at least ten days before the time for opening bids.

The City Council may reject any and all bids presented and may readvertise in its discretion. After rejecting bids, or if no bids are received, or without advertising for bids if the total amount of the contract or project is below the amount set by ordinance, the City Council may declare and determine that in its opinion, the work in question may be performed better or more economically by the City with its own employees, or that the materials or supplies may be purchased at lower price in the open market, and after the adoption of a resolution to this effect by the affirmative vote of a majority of the total members of the

City Council, it may proceed to have said work done or such materials or supplies purchased in the manner stated without further observance of the provisions of this section.

All public works contracts exceeding the amount set by ordinance may be let and purchases exceeding the amount set by ordinance may be made without advertising for bids if such work or the purchase of such materials or supplies shall be deemed by the City Council to be of urgent necessity for the preservation of life, health, or property and shall be authorized by at least five affirmative votes of the City Council.

Projects for the extension, replacement or expansion of the transmission or distribution system of any existing public utility operated by the City or for the purchase of supplies or equipment for any such project or any such utility may be excepted from the requirements of this section by the affirmative vote of a majority of the total members of the City Council.

Section 615. GRANTING OF FRANCHISES. The City Council shall by ordinance regulate the granting of franchises for the City.

Section 616. INDEPENDENT AUDIT. The City Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm annually provided that the designation for any particular fiscal year shall be made no later than thirty days after the beginning of such fiscal year. As soon as practicable after the end of the fiscal year, a final audit and report shall be submitted by such accountant to the City Council, one copy thereof to be distributed to each member. Additional copies of the audit shall be placed on file in the office of the City Clerk where they shall be available for inspection by the general public, and a copy of the financial statement as of the close of the fiscal year shall be published in the official newspaper.

Section 617. INFRASTRUCTURE FUND.

(a) All revenue raised by vote of the electors or imposed by vote of the City Council on or after March 5, 2002, by a measure which states that the revenue to be raised is for the purpose of infrastructure, as said term is defined in this paragraph, shall be placed in a separate fund entitled "Infrastructure Fund." The term "Infrastructure" shall mean long-lived capital assets that normally are stationary in nature and normally can be preserved for significantly greater number of years. They include storm drains, storm water pump stations, alleys, streets, highways, curbs and gutters, sidewalks, bridges, street trees, landscaped medians, parks, beach facilities, playgrounds, traffic signals, streetlights, block walls along arterial highways, and all public buildings and public ways. Interest earned on monies in the Infrastructure Fund shall accrue to that account. Monies in said Fund shall be utilized only for direct costs relating to infrastructure improvements or maintenance, including construction, design, engineering, project management, inspection, contract administration and property acquisition. Monies in said Fund shall not be transferred, loaned or otherwise encumbered for any other purpose.

(b) Revenues placed in the Infrastructure Fund shall not supplant existing infrastructure funding. The average percentage of general fund revenues utilized for infrastructure improvements and maintenance, for the five- (5) year period of 1996 to 2001, is and was 14.95%. Expenditures for infrastructure improvements and maintenance, subsequent to 2001, shall not be reduced below 15% of general fund revenues based on a five- (5) year rolling average.

(c) The City Council shall by ordinance establish a Citizens Infrastructure Advisory Board to conduct an annual review and performance audit of the Infrastructure Fund and report its findings to the City Council prior to adoption of the following fiscal-year budget.

ARTICLE VII ELECTIONS

Section 700. GENERAL MUNICIPAL ELECTIONS. General municipal elections shall be held in the city on the first Tuesday after the first Monday in November in each even-numbered year.

Section 701. SPECIAL MUNICIPAL ELECTIONS. All other municipal elections that may be held by authority of this Charter, or of any law, shall be known as special municipal elections.

Section 702. PROCEDURE FOR HOLDING ELECTIONS. All elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exists or hereafter may be amended, for the holding of municipal elections, so far as the same are not in conflict with this Charter.

Section 703. INITIATIVE, REFERENDUM AND RECALL. There are hereby reserved to the electors of the City the powers of the initiative and referendum and of the recall of municipal elective officers. The provisions of the Elections Code of the State of California, as the same now exists or hereafter may be amended, governing the initiative and referendum and the recall of municipal officers, shall apply to the use thereof in the City so far as such provisions of the Elections Code are not in conflict with the provisions of this Charter.

Section 704. NOMINATION PAPERS. Nomination papers for candidates for elective municipal office must be signed by not less than twenty nor more than thirty electors of the City.

ARTICLE VIII MISCELLANEOUS

Section 800. TRANSITION. Elective officers and elective officers whose offices are made appointive of the City shall continue to hold such offices until the completion of their current terms and the election or appointment and qualification of their respective successors under this Charter. All boards, commissions and committees presently in existence shall continue to act in accordance with their original grant of authority until such time as the City Council adopts appropriate ordinances pertaining to their activities or for one year, whichever occurs first. All lawful ordinances, resolutions, rules and regulations, and portions thereof, in force at the time this Charter takes effect and not in conflict or inconsistent herewith, are hereby continued in force until the same shall have been duly repealed, amended, changed or superseded by proper authority.

Section 801. DEFINITIONS. Unless the provisions or the context otherwise requires, as used in this Charter:

- (a) "Shall" is mandatory, and "may" is permissive.
- (b) "City" is the City of Huntington Beach and "department," "board," "commission," "agency," "officer," or "employee" is a department, board, commission, agency, officer or employee, as the case may be, of the City of Huntington Beach.
- (c) "County" is the County of Orange.
- (d) "State" is the State of California.
- (e) The masculine includes the feminine and the feminine includes the masculine.
- (f) The singular includes the plural and the plural the singular.

- (g) "Person" includes firm and corporation.

Section 802. VIOLATIONS. The violation of any provision of this Charter shall be a misdemeanor.

Section 803. PROPERTY RIGHTS PROTECTION MEASURE.

(a) The City shall not enact or enforce any measure which mandates the price or other consideration payable to the owner in connection with the sale, lease, rent, exchange or other transfer by the owner of real property. Any such measure is hereby repealed.

(b) The word "mandates" as used in subsection (a) includes any measure taken by ordinance, resolution, administrative regulation or other action of the City to establish, continue, implement or enforce any control or system of controls on the price or other terms on which real property in the city may be offered, sold, leased, rented, exchanged or otherwise transferred by its owner. The words "real property" as used in subsection (a) refer to any parcel of land or site, either improved or unimproved, on which a dwelling unit or residential accommodation is or may be situated for use as a home, residence or sleeping place.

(c) This Section 803 shall not apply to:

- (1) any real property which contains serious health, safety, fire or building code violations, excluding those caused by disasters, for which a civil or criminal citation has been issued by the City and remains unabated for six months or longer;
- (2) any real property owned by a public entity, and real property where the owner has agreed by contract with the public entity, including the City and any of its related agencies, to accept a financial contribution or other tangible benefit including without limitation, assistance under the Community Redevelopment Law;
- (3) any planning or zoning power of the City as relates to the use, occupancy or improvement of real property and to any real property which the City or any of its related agencies may acquire by eminent domain, purchase, grant or donation;
- (4) any power of the City to require a business license for the sale or rental of real property, whether for regulation or general revenue purposes;
- (5) any dwelling unit or accommodation in any hotel, motel or other facility when the transient occupancy of that dwelling unit or accommodation is subject to a transient occupancy tax; or
- (6) to impair the obligation of any contract entered into prior to the enactment of this Section 803 or otherwise required by State law.

Section 804. CHARTER REVIEW. The City Council shall determine if there is a need to convene a citizen's Charter Review Commission to conduct a review of the City Charter no less frequently than every ten years.

ATTACHMENT 2

**AUGUST 3, 2021 H-ITEM BY COUNCIL
MEMBER POSEY AND RCA TO FORM THE
CHARTER REVISION COMMITTEE**



CITY OF HUNTINGTON BEACH
CITY COUNCIL MEETING – COUNCIL MEMBER ITEMS REPORT

TO: THE HONORABLE MAYOR AND CITY COUNCIL

FROM: MIKE POSEY, CITY COUNCIL MEMBER

DATE: AUGUST 3, 2021

SUBJECT: CONVENING A CHARTER REVIEW COMMITTEE OF THE CITY COUNCIL

As evidenced by the recent City Council vacancy selection process, there are certain provisions within the City's Charter that warrant review and reconsideration. For instance, Huntington Beach City Charter Section 312 states that any vacancy on the City Council "*shall be filled by appointment by the City Council.*" Further, the Charter stipulates that if the City Council fails to fill the "*vacancy by appointment within sixty days after such office shall become vacant, the City Council shall forthwith cause an election to be held to fill such vacancy for the remainder of the unexpired term.*"

In an effort to strengthen our local democratic institutions, I am suggesting that a committee of the City Council be convened to develop recommended updates to the City Charter, including but not limited to a review of the vacancy appointment process. Through this City Council committee, recommended updates would be developed and brought forward for full City Council consideration. If the City Council then moves to adopt the proposed changes, the Charter amendments would be put forward for voter consideration.

RECOMMENDED ACTION

I recommend that the City Council vote to direct the formation of a City Council Ad-Hoc Charter Review Committee to develop and submit for consideration Charter update language.



City of Huntington Beach

CATHERINE JIM
APPROVED 7-0
AS AMENDED TO
INCLUDE 7 ALTERNATES

File #: 21-656

MEETING DATE: 9/7/2021

REQUEST FOR CITY COUNCIL ACTION

SUBMITTED TO: Honorable Mayor and City Council Members

SUBMITTED BY: Oliver Chi, City Manager

PREPARED BY: Travis K. Hopkins, Assistant City Manager

Subject:

Approve the formation of a 2021 Charter Revision Committee to conduct a review of the Huntington Beach City Charter

Statement of Issue:

Per Section 804 of the Huntington Beach City Charter, the City Council must determine - at least once every ten years - if there is a need to convene a citizen's Charter Revision Commission to review the Charter and recommend proposed revisions. A review may allow the City to identify sections of the Charter that might benefit from clarifications and revisions, as community priorities, systems, and legislation evolve over time. The last Charter Revision Commission convened in 2010.

On August 3, 2021, the City Council directed that staff work to coordinate the development of a Charter Revision Committee, and details related to the formation of the proposed committee are outlined in this report.

Financial Impact:

Should the City Council decide to form a citizen's Charter Revision Committee, staff recommends appointing a consultant to provide subject matter expertise and guidance throughout the revision process. Services may cost up to \$50,000, which can be absorbed in the current Fiscal Year 2021-22 City's General Fund Budget.

Recommended Action:

Approve the formation of a 2021 Charter Revision Committee comprised of seven residents, individually appointed by each City Council Member, and one Charter review consultant to provide subject matter expertise and guidance throughout the process; direct the City Manager to enter into an agreement with a qualified consultant.

Alternative Action(s):

Do not approve the recommendation and direct staff accordingly.

Analysis:

The Huntington Beach City Charter (Charter) establishes the fundamental laws, regulations, and procedures pertaining to the City's governance and operations. However, as community priorities, legislation, and systems evolve over time, the City of Huntington Beach, as well as other local governments, intermittently revisit their Charter and identify areas that would benefit from amendments and revisions to better serve the community. Per the Constitution of the State of California, City Charter revisions may be proposed by the City Council or a citizen commission; however, those revisions are not in effect unless approved by the majority of the local electorate in an official election and filed with the Secretary of State.

While a majority of Charter Amendments had been initiated by the City Council, citizen Committees present an opportunity for residents to also become involved in the process. Section 804 of the Huntington Beach City Charter directs the City Council to determine - at least every ten years - if there is a need to convene a citizen Charter Revision Committee. The last citizen Committee that successfully completed this effort was formed by the City Council in December 2008 and submitted several recommended revisions that were placed as ballot measures in the November 2010 Election (see Attachment A - History of Charter Review Committees).

A detailed history of all Huntington Beach Charter Revision Committees and actions taken are available under Attachment A. However, an abbreviated list that includes the Committee's formation dates and structure is available below:

Date Range: From Formation to Ballot Measure	Name	Committee Structure
1/2019 to 8/2019 <i>Duration: 6.5 months</i>	Charter Revision Ad-Hoc Committee	Ad-Hoc Committee: 3 Council Members, City Manager, and City Attorney
12/2008 to 11/2010 <i>Duration: 23 months</i>	Charter Review Commission	15 Appointees: (7 Individual Council Appointees and 8 At-Large Appointees) & 1 Consultant
4/2002 to 5/2002 <i>Committee not formed</i>	Citizen's Committee to Study Councilman Districts via Charter Amendment	7 Individual Council Appointees & 1 Consultant
11/1981 to 2/1982 <i>Duration: 3 months</i>	Charter Revision Committee	7 Appointees (<i>comprised of Former Mayors</i>)
9/1976 to 6/1978 <i>Duration: 21 months</i>	City Charter Revision Committee	9 Appointees & 1 Consultant
4/1973 to 11/1973 <i>Duration: 6-7 months</i>	Charter Revision Advisory Committee	7 At Large Appointees
2/1971 to 6/1972 <i>Duration: 16 months</i>	Charter Revision Committee	6 Appointees and 4 Alternates
11/1969 <i>Committee not formed</i>	Charter Revision Committee	N/A
3/1965 to 8/1965 <i>Duration: 5 months</i>	Citizens' Charter Revision Committee	15 At Large Appointees & 1 Legal Consultant

Since 1965, City Council has considered the formation of a citizen Committee on nine different

occasions, with seven resulting in the formation of a citizen or ad-hoc committee. The table also shows that the duration of the Charter Revision process undertaken by a Committee varies widely with a rough average of 11.5 months across all instances. Lastly, past Committees have been formed under varying structures as well, with a small majority represented by 7 at-large or individual City Council appointees, as well as an outside consultant with the expertise to inform and guide the Committee throughout the revision process and help draft ballot measure language.

Recommendation

Should the City Council decide to form a 2021 Charter Revision Committee, staff recommends a Committee structure that can be formed efficiently and can undergo the Charter review process with few barriers. As such, staff recommends selecting seven residents, each of whom are appointed by one City Council Member who are certain of their availability, willingness to serve, and skills that can be beneficial to Committee discussions and deliberations. Staff also recommends hiring an outside consultant with extensive experience guiding government bodies through the review process in an organized and efficient manner. Staff will oversee the consultant and ensure that all milestones are met in order to meet the Committee's timeline.

Environmental Status:

None

Strategic Plan Goal:

Non Applicable - Administrative Item

Attachment(s):

1. History of Charter Revision Committees

History - Huntington Beach Charter Revision Committees
September 7, 2021

City Charter: Section 804	"The City Council shall determine if there is a need to convene a citizen's Charter Review Commission to conduct a review of the City Charter no less frequently than every ten years."
<i>Important Note: Not all Charter Amendments are reflected in this chart. Some Amendments have been made via City Council direction or citizen petition, and followed by a vote of the electorate, as the California Constitution allows.</i>	

Date Range: From Committee Formation to Ballot Measure	Name	Committee Structure	Timeline	Outcome
1/2019 to 8/2019 <i>Duration: 6.5 months</i>	Charter Revision Ad-Hoc Committee	Ad-Hoc Committee: 3 Council Members, City Manager, and City Attorney	In January 2019, Council Member Posey submitted an H-Item proposing a Charter Review Committee. In February 2019, the City Attorney led a Study Session and recommended an ad hoc committee in lieu of a Charter Review Committee comprised of 3 Council Members, the City Manager and City Attorney. The ad hoc was approved by Council.	Following meetings with the ad hoc committee, the Committee made recommended revisions which were primarily administrative in nature. The recommendations were not moved forward.
12/2008 to 11/2010 <i>Duration: 23 months</i>	Charter Review Commission	15 Appointees: <i>7 Individual Council Appointees and 8 At-Large Appointees</i> 1 Consultant	In December 2008, Council Member Bohr submitted an H-Item proposing a Charter Amendment Committee. Staff led a Study Session and recommended the formation of a 15 member committee. In June-July 2009, the City received 45 applications for the 8 at-large positions and interviewed approximately half. Appointments for all 15 members followed thereafter. In June 2010, select revisions proposed by the Commission were approved and placed on the November 2010 Ballot.	November 2010 Election Results: <u>Approved</u> Measure N - Huntington Beach Charter Amendments <u>Failed</u> Measure O - Huntington Beach Infrastructure Fund Section 617 Amendment
4/2002 to 5/2002 <i>Committee was not formed</i>	Citizen's Committee to Study Councilman Districts via Charter Amendment	7 Individual Council Appointees 1 Consultant	In April 2002, City Council directed the City Attorney to examine the possibility of forming a Committee. The Committee was formed and initially proposed reducing the number of Council seats to 5 and to establish districts.	The Committee was not formed, following discussion at a May 2002 City Council Meeting. Some Council Members opposed a Committee due to the potential cost.

History - Huntington Beach Charter Revision Committees
September 7, 2021

Date Range: From Committee Formation to Ballot Measure	Name	Committee Structure	Timeline	Outcome
11/1981 to 2/1982 <i>Duration: 3 months</i>	Charter Revision Committee	7 Appointees <i>(comprised of Former Mayors)</i>	The Committee presented its recommended Charter revisions to the City Council in November 1981. Records do not indicate what those recommendations entailed.	Following a Study Session in December 1981, the City Council conducted a Public Hearing in January 1982, but chose not to take further action on the revision. The Committee was later thanked for their work and dissolved in February 1982.
9/1976 to 6/1978 <i>Duration: 21 months</i>	City Charter Revision Committee	9 Appointees 1 Consultant	Following the Committee's formation in September 1976, Appointees met several times to present several proposed revisions including consecutive term limits for Council, their compensation, and converting certain elected positions into appointive ones. Study Sessions and Hearings were conducted throughout the Winter 1977-78. With the help of a consultant, ballot measures for the recommendations were prepared for the June 1978 Ballot.	June 6, 1978 Election Results: <u>Approved</u> 1. Prop D - Housekeeping Revisions 2. Prop E - Consecutive Term Limits for Council <u>Failed</u> 1. Prop F - Compensation for City Council 2. Prop G-J - Appointive Attorney, Treasurer and Clerk
4/1973 to 11/1973 <i>Duration: 6-7 months</i>	Charter Revision Advisory Committee	7 At Large Appointees	Following the Committee's formation in April 1973, Appointees proposed a Charter revision to convert the Clerk, Attorney, and Treasurer positions into appointed positions. The recommendation was approved by the Council in August 1973 and placed on the November 1973 ballot.	November 6, 1973 Election Results: <u>Failed</u> Props A-C: Appointive Attorney, Treasurer, Clerk
2/1971 to 6/1972 <i>Duration: 16 months</i>	Charter Revision Committee	6 Appointees and 4 Alternates	Following the Committee's formation in February 1971, the Appointees recommended providing compensation for the Council, Clerk, & Treasurer as provided by the CA Gov't Code. The recommendation was approved by the Council in December 1971 and placed on the June 6, 1972 ballot.	June 6, 1972 Election Results: <u>Failed</u> Measure D - Compensation for Council, Clerk, Treasurer
11/1969 <i>Committee was not formed</i>	Charter Revision Committee	N/A	In November 1969, Mayor Green suggested a Charter Revision Committee. Following further discussion, the recommendation was tabled after deciding revisions should be vetted by the City Admin and Attorney instead.	65)
3/1965 to 8/1965 <i>Duration: 5 months</i>	Citizens' Charter Revision Committee	15 At Large Appointees 1 Legal Consultant	Following its formation in March 1965, the Committee recommended reformatting the Council so it consists of 1 Mayor at-large and 6 members by district. The City Council approved the recommendation to be placed on the August 1965 ballot.	August 10, 1965 Election Results: <u>Failed</u> Proposed Charter Amendment: Reformat the Council to consist of 1 mayor voted at large and 6 members by district.

ATTACHMENT 3

CHARTER REVISION COMMITTEE WORKPLAN

**2021-22 Charter Revision Committee
Work Plan**

Phase	No.	Mtg Date	Work Plan Activity	Status
Phase 1 Administrative Changes	1	12/3/2021	Committee introductions and orientation	Complete
	2		Regulatory requirements for citizen-led boards and committees	Complete
	3		Role and Purpose of the Charter Revision Committee	Complete
	4		Finalize Committee calendar and meeting cadence	Complete
	5	12/16/2021	Chair and Vice Chair Elections	Complete
	6		Committee's voting rules to approve a motion for City Council consideration	Complete
	7		Review the City Charter; understand the types of issues relegated to the Charter vs. other arenas and municipal tools	Complete
	8		Review 2010 Charter revisions; review initial City Departmental Recommendations	Complete
	9		Categorize simpler Charter items in Phase 1; items requiring substantial debate to Phase 2; all other matters to Phase 3	Complete
	10		Review, amend (as needed), and adopt the Committee draft workplan	Complete
	11		Review, amend (as needed), and finalize draft tracking sheet to manage Committee motions and actions	Complete
	12	1/13/2022	Review staff/consultant report and research on Phase 1 Items and City Departmental Recommendations	Complete
	13		Discuss Phase 1 Items and Departmental Recommendations; preliminarily approve one or more via straw vote	Complete
	14		Review Phase 2 items and direct staff to provide research and additional information for the next meeting	Complete
Phase 2 Substantial Changes	15	1/27/2022	Review and deliberate on Phase 2 issues; preliminary approve one or more via straw vote	Complete
	16	2/10/2022	Review and deliberate on Phase 2 issues; preliminarily approve one or more via straw vote	Complete
	17	2/24/2022	Review and deliberate on Phase 2 issues; preliminary approve one or more via straw vote	Complete
	18	3/10/2022	Review and deliberate on Phase 2 issues; preliminarily approve one or more via straw vote	Complete
	19	3/24/2022	Review and deliberate on Phase 2 issues; preliminary approve one or more via straw vote	Complete
Phase 3 Review and Take Final Votes	21	4/14/2022	Deliberate on all straw votes and conduct final votes on each. Instruct staff to prepare a final report for the Committee's consideration.	Complete
	23	4/26/2022	Continue conducting final votes on remaining items. Instruct staff to prepare a final report for the Committee's consideration.	Complete
	24	5/2/2022	Staff will publicly notice the 5/12/22 agenda packet with the final report.	Complete
	25	5/12/2022	Review and consider for approval the final report for submission to City Council.	Complete
Phase 4 Council Review	26	6/7/2022	1st City Council Meeting to consider Committee's final recommendations; consolidate with November General Election	
	27	6/21/2022	(If needed) 2nd Public Hearing of the City Council	
	28	July	Consultant, staff and City Attorney's Office will prepare ballot measure language for submittal to the County Registrar's Office	
Phase 5	29	11/8/2022	November General Election	

ATTACHMENT 4

CHARTER REVISION COMMITTEE TRACKING SHEET

#	Date	Proposal By	Phase	Section	Proposed Discussion Item	Date	Proposed Revisions and Draft Recommendations (with Motions)	Straw Vote	Date	Final Recommendations (with Motions)	Final Vote
1	12/16/2021	Consultant	1	300 (1st para-graph only)	When Huntington Beach adopted a new Charter in 1966 (which is more substantial than a charter amendment) it was necessary to restart the clock on the years when elected positions would be up for election. Consultant proposes to use more contemporary language rather than referencing past years.	1/13/2022	Consultant proposes the following modification: <i>"Four members of the City Council shall be elected at the general municipal election in even numbered years held in 1966, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election in alternating even numbered yearsheld in 1968, and each fourth year thereafter.....A City Clerk and City Treasurer shall be elected at the general municipal election held in the same even numbered years that three member of the City Council are elected 1968, and each fourth year thereafter. A City Attorney shall be elected in the same even numbered years that four members of the City Council are elected 1966, and each fourth year thereafter."</i> Staff recommends keeping the years to use for historical reference. Mulvihill made a motion for staff to return with modified revisions; seconded by McKeon. The modification would potentially reset the years to be more contemporary, while still referencing the inception of the current Charter for historical reference. Wording might include "consistent with the process established in the new Charter in 1966 and reaffirmed in 2022."	7-0	4/14/2022	<i>(This recommendation only affects the first paragraph of Section 300)</i> "Section 300. CITY COUNCIL, ATTORNEY, CLERK AND TREASURER. TERMS. The elective officers of the City shall consist of a City Council of seven members, a City Clerk, a City Treasurer and a City Attorney, all to be elected from the City at large at the times and in the manner provided in this Charter and who shall serve for terms of four years and until their respective successors qualify. Subject to the provisions of this Charter, the members of the City Council in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified. Consistent with the staggered election process established in the new Charter in 1966 and reaffirmed in 2022, four members of the City Council shall be elected at the general municipal election held in 1966 2022, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in 1968-2024, and each fourth year thereafter. No person shall be elected as a member of the City Council for more than two consecutive terms and no person who has been a member for more than two years of a term to which some other person was elected a member shall be elected to the City Council more than one further consecutive term. Subject to the provisions of this Charter, the City Clerk, City Treasurer and City Attorney in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and the qualification of their successors. Consistent with the staggered election process established in the new Charter in 1966 and reaffirmed in 2022, a City Clerk and City Treasurer shall be elected at the general municipal election held in 1968 2024 and each fourth year thereafter. A City Attorney shall be elected in 1966 2022, and each fourth year thereafter."	7-0
2	12/16/2021	Staff	1	300 (2nd para-graph only)	The 2nd paragraph of this section uses the term "cast lots" which is an outdated phrase that is not commonly-used in local government. The term could be replaced with the phrase "by random drawing process as determined by the City Manager."	1/13/2022	Staff recommends removing archaic language such as "casting of lots". Ray moved to re-include "City Manager" in the section; seconded by Miller. The amended language reads as: <i>"The term of each member of the City Council, the City Clerk, the City Treasurer and the City Attorney shall commence on the first regular City Council Meeting Monday following the certification of the election. Ties in voting among candidates for office shall be settled by random drawing process conducted during a public meeting by the City Manager."</i>	4-3	4/14/2022	<i>(This recommendation only affects the second paragraph of Section 300)</i> "Section 300. CITY COUNCIL, ATTORNEY, CLERK AND TREASURER. TERMS. <i>"The term of each member of the City Council, the City Clerk, the City Treasurer and the City Attorney shall commence on the day of the first Monday regular City Council meeting following the certification of the election. Ties in voting among candidates for office shall be settled by the casting of lots random drawing process conducted by the City Manager during the first regular City Council meeting following the certification."</i> ----- Footnote: On 4/14/22, Committee requested info on the timing of the election results and its impacts on the timing of a random drawing in the case of a tie. It was learned that the County provides the City with certified election results (including ties) all at once. This would allow the random drawing process to occur at the same meeting when all new Council Members and elected officials are sworn in. The tie breaker could occur first, allowing the prevailing candidate to be sworn in with all other new members at the same time.)	7-0
3	12/16/2021	Staff	1	303(a)	The Charter states that the Council shall hold regular meetings twice a month. However, meetings are canceled on occasion and as needed, and the Charter should lay out the process to do so. Under current practice, either the City Council majority or the City Manager cancels meetings as needed, and that practice is proposed to be included in this section.	1/13/2022	The proposed modification to Section 303(a) is as follows: <i>"The City Council shall hold regular meetings at least twice each month unless canceled by the Mayor or majority of the City Council. Regular meetings shall be held at such time as it shall fix by ordinance or resolution and may adjourn or re-adjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment and when so adjourned each adjourned meeting shall be a regular meeting for all purposes....."</i> Ray makes a motion to leave the language as is with a request for staff to propose language that reduces the use of adjourn/re-adjourn as is noted in the 2nd half of 303(a); seconded by Mulvihill.	7-0	4/14/2022	"Section 303. MEETINGS AND LOCATION. (a) Regular Meetings. The City Council shall hold regular meetings at least twice each month at such time as it shall fix by ordinance or resolution and may adjourn or re-adjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment. and when so adjourned-e Each re- adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment, such meeting shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday such regular meeting shall be held on the next business day."	7-0
4	12/16/2021	Staff	1	303(b)	Special meetings can be called at any time by the Mayor or majority of the Council. It is understood that Council majority decisions to call a special meeting are administrative actions that do not violate the Brown Act, because they are not decisions on substantive matters. To avoid confusion, staff recommends clarifying this section to explain the difference.	1/13/2022	The proposed modification to Section 303(b) is as follows: <i>"(b) Special Meetings. A special meeting may be called at any time by the Mayor, or by a majority of the members of the City Council. Calling of such meeting by a majority of the City Council is an administrative matter and shall not constitute collective concurrence or a serial meeting for Brown Act purposes. by Written notice must be provided to each member of the City Council and to each local newspaper of general circulation, radio or television station requesting notice in writing."</i> <u>Motion 1:</u> Mulvihill made a motion to maintain the Charter language in 303(b) as is; Thompson seconded. <u>Motion 2:</u> McKeon made a motion for staff to provided modifications as needed to add "current technology" in sections that reference communication methods; seconded by Miller.	<u>Motion 1:</u> 7-0 <u>Motion 2:</u> 7-0	4/14/2022	"Section 303. MEETINGS AND LOCATION. (b) Special Meetings. A special meeting may be called at any time by the Mayor, or by a majority of the members of the City Council, by written notice to each member of the City Council and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally, or by mail, or by current technology at least twenty-four hours before the time of such meeting as specified in the notice. <i>The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting. If any person entitled to such written notice files a written waiver of notice with the City Clerk, it may be dispensed with. This notice requirement shall be considered fulfilled as to any person who is actually present at the meeting at the time it convenes. In the event of an emergency affecting the public peace, health or safety, a special meeting may be called as provided in this section with less than twenty-four hours written notice by the Mayor Pro Tem in the Mayor's absence or by any member of the City Council in the absence of both the Mayor and Mayor Pro Tem provided that the nature of the emergency is set forth in the minutes of the meeting."</i>	7-0
5	12/16/2021	Staff	1	303(d)	This section references "executive sessions" which is a term that has long been replaced with "closed sessions".	1/13/2022	Staff recommends removing outdated, unused language, whenever possible. The proposed change to Section 303(d) (1st sentence) replaces "executive sessions" with "closed sessions": <i>"All regular and special meetings of the City Council shall be open and public, and all persons shall be permitted to attend such meetings, except that the provisions of this section shall not apply to executive- closed sessions."</i> Motion made by Thompson to accept staff's recommendation; seconded by Benton.	7-0	4/14/2022	"Section 303. MEETINGS AND LOCATION. (d) Open Meetings. All regular and special meetings of the City Council shall be open and public, and all persons shall be permitted to attend such meetings, except that the provisions of this section shall not apply to executive- closed sessions. Subject to the rules governing the conduct of City Council meetings, no person shall be denied the right to be heard by the City Council."	7-0

#	Date	Proposal By	Phase	Section	Proposed Discussion Item	Date	Proposed Revisions and Draft Recommendations (with Motions)	Straw Vote	Date	Final Recommendations (with Motions)	Final Vote
6	12/16/2021	Staff	1	303(b) 304(a)	Both sections require Council meeting notices to be delivered to each Council Member either personally or by mail. However, staff recommends including "current technology" as a third and more expedient and updated option.	1/13/2022	Staff proposes adding "current technology" as a notification method to Council: 303(b) - "A special meeting may be called at any time by the Mayor, or by a majority of the members of the City Council, by written notice or current technology to each member of the City Council and to each local newspaper of general circulation, radio or television requesting notice in writing. Such notice must be delivered personally, or by mail or by current technology at least twenty-four hours before the time of such meeting as specified in the notice." "Section 304. QUORUMS, PROCEEDINGS AND RULES OF ORDER. (a) Quorum. A majority of the members of the City Council shall constitute a quorum to do business but a lesser number may adjourn from time to time. In the absence of all the members of the City Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. The City Clerk shall cause written notice of a meeting adjourned by less than a quorum or by the City Clerk to be delivered personally, or by mail or by current technology to each Council member at least twenty-four hours before the time to which the meeting is adjourned, or such notice may be dispensed with in the same manner as specified in this Charter for dispensing with notice of special meetings of the City Council." Ray made a motion to table this item, pending further discussion and approval of staff potential modifications on Item 4; seconded by Thompson.	7-0	4/14/2022	"Section 303. MEETINGS AND LOCATION. (b) Special Meetings. A special meeting may be called at any time by the Mayor, or by a majority of the members of the City Council, by written notice or current technology to each member of the City Council and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally, or by mail or by current technology at least twenty-four hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting. If any person entitled to such written notice files a written waiver of notice with the City Clerk, it may be dispensed with. This notice requirement shall be considered fulfilled as to any person who is actually present at the meeting at the time it convenes. In the event of an emergency affecting the public peace, health or safety, a special meeting may be called as provided in this section with less than twenty-four hours written notice by the Mayor Pro Tem in the Mayor's absence or by any member of the City Council in the absence of both the Mayor and Mayor Pro Tem provided that the nature of the emergency is set forth in the minutes of the meeting." "Section 304. QUORUMS, PROCEEDINGS AND RULES OF ORDER. (a) Quorum . A majority of the members of the City Council shall constitute a quorum to do business but a lesser number may adjourn from time to time. In the absence of all the members of the City Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. The City Clerk shall cause written notice of a meeting adjourned by less than a quorum or by the City Clerk to be delivered personally, or by mail or by current technology to each Council member at least twenty-four hours before the time to which the meeting is adjourned, or such notice may be dispensed with in the same manner as specified in this Charter for dispensing with notice of special meetings of the City Council."	7-0
7	12/16/2021	Staff	1	311(d) 601 604	Retitle "Director of Finance" as "Chief Financial Officer" which is the current title for this position.	1/13/2022	Staff recommends replacing the "Director of Finance" title with "Chief Financial Officer" in Sections 311(d), 601, and 604 to align with all titles in the City's Organizational Chart. Ray made a motion to approve the recommended language; Thompson/Mulhivill seconded. Approved 7-0.	7-0	4/14/2022	"Section 311. CITY TREASURER. POWERS AND DUTIES. (d) Prepare and submit to the Director of Finance Chief Financial Officer monthly written reports of all receipts, disbursements and fund balances, and shall file copies of such reports with the City Manager and City Council." "Section 601. ANNUAL BUDGET, PREPARATION BY THE CITY MANAGER. At such date as the City Manager shall determine, each board or commission and each department head shall furnish to the City Manager, personally, or through the Director of Finance Chief Financial Officer, estimates of the department's, board's or commission's revenue and expenditures for the ensuing fiscal year, detailed in such manner as may be prescribed by the City Manager. In preparing the proposed budget, the City Manager shall review the estimates, hold conferences thereon with the respective department heads, boards or commissions as necessary, and may revise the estimates as may be deemed advisable" "Section 604. ANNUAL BUDGET. FURTHER CONSIDERATION AND ADOPTION. At the conclusion of the public hearing the City Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable and on or before the last day of the fiscal year it shall adopt the budget with revisions, if any, by the affirmative vote of at least a majority of the total members of the Council. Upon final adoption, the budget shall be in effect for the ensuing fiscal year. Copies thereof, certified by the City Clerk, shall be filed with the City Manager, Director of Finance Chief Financial Officer, City Treasurer and the person retained by the City Council to perform the post audit function, and a further copy shall be placed, and shall remain on file in the office of the City Clerk where it shall be available for public inspection. The budget so certified shall be reproduced and copies made available for the use of the public and of departments, offices and agencies of the City."	7-0
8	12/16/2021	Mulvihill	1	312(c)	The process of filling unscheduled vacant City Council seats	3/10/2022	Discussion ensued regarding the following syntax change: <i>"(c) Replacement. In the event-# the City Council shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, the City Council shall forthwith cause an election to be held to fill such vacancy for the remainder of the unexpired term."</i> Mulvihill move to approve the change above; Ray seconded.	7-0	4/14/2022	"Section 312. VACANCIES, FORFEITURES AND REPLACEMENT. (c) Replacement. In the event it the City Council shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, the City Council shall forthwith cause an election to be held to fill such vacancy for the remainder of the unexpired term."	7-0

#	Date	Proposal By	Phase	Section	Proposed Discussion Item	Date	Proposed Revisions and Draft Recommendations (with Motions)	Straw Vote	Date	Final Recommendations (with Motions)	Final Vote
9	12/16/2021	Miller, Ray, Mulvihill	1	313	Examine this section to make sure it is robust enough to continue preventing nepotism and conflict of interest in the City.	1/13/2022	At this time, the City maintains a robust system of ordinances, resolutions, and internal administrative regulations that strive to prevent nepotism and conflict of interest in the City: Personnel Rules 16-2 and 16-3 state that persons related by blood or marriage within the third degree shall not report to the same supervisor nor supervise one another; such persons shall not be employed in positions which provide them access to confidential and privileged info which should not be available to the other related party. Administrative Regulation 411 adds: 1) no appointing authority shall appoint to any paid temporary or permanent position within the City's service, a member of the immediate family of the City Manager or Director; 2) no person may be appointed, promoted, reduced, transferred or reassigned to a position in which that person is within the direct line of supervision of a relative nor shall such relatives have the same immediate supervisor. Ray moved to continue discussion, allowing members of the committee to bring up items of concern in the future if needed. Seconded by Thompson.	7-0	4/14/2022	NO CHANGES TO SECTION 313: "Section 313. CONFLICT OF INTEREST, NEPOTISM. (a) Conflict of Interest. The City Council shall adopt or approve rules and regulations regulating conflicts of interest and promoting fair dealing in all City business. (b) Nepotism. The City Council shall not appoint to a salaried position under the City government any person who is a relative by blood or marriage within the third degree of any one or more of the members of such City Council, nor shall the City Manager or any department head or other officer having appointive power appoint any relative of such person or of any Council member within such degree to any such position. <i>This provision shall not affect the employment or promotional status of a person who has attained a salaried position with the City prior to the existence of a situation contemplated by this provision; however, Council members or officers with appointive powers in such a situation shall disqualify themselves from all decisions affecting the employment and promotional status of such person."</i>	7-0
10	12/16/2021	Staff	1	403 (2nd para-graph)	Council must maintain by ordinance a comprehensive personnel system for the City. Staff recommends including "by resolution" as an alternative mechanism that might be more appropriate and efficient in certain circumstances.	1/13/2022	The proposed modification to Section 403 is as follows: <i>"The City Council shall maintain by ordinance or resolution a comprehensive personnel system for the City. The City Manager and any officers designated as elective by the Charter shall be exempt. The system shall consist of the establishment of minimum standards of employment and qualifications for the various classes of employment and procedures to be followed in advancement, demotion, suspension and discharge of employees included within the system, as the City Council shall determine to be for the best interest of the public service. The ordinance or resolution shall designate the appointive officers and employees who shall be included within the system. By subsequent ordinances or resolutions the City Council may amend the system or the list of appointive officers and employees included within the system. The system shall comply with all other provisions of this Charter."</i> However, it should be noted that resolutions are not codified in the Municipal Code and may be more difficult to track over time. If this Charter revision was approved, staff would recommended the Administrative Services Department to continue to maintain robust records. Mulvihill proposes to leave the section as is; seconded by McKeon.	7-0	4/14/2022	NO CHANGES TO SECTION 403: "Section 403. PERSONNEL. In addition to the City Council, a City Clerk, a City Treasurer, a City Attorney and City Manager, the officers and employees of the City shall consist of such other officers, assistants, deputies and employees as the City Council may provide by ordinance or resolution. The City Council shall establish such reasonable compensation and fringe benefits as are appropriate by ordinance or resolution for such offices, officials and employees except as herein provided. <i>The City Council shall maintain by ordinance a comprehensive personnel system for the City. The City Manager and any officers designated as elective by the Charter shall be exempt. The system shall consist of the establishment of minimum standards of employment and qualifications for the various classes of employment and procedures to be followed in advancement, demotion, suspension and discharge of employees included within the system, as the City Council shall determine to be for the best interest of the public service. The ordinance shall designate the appointive officers and employees who shall be included within the system. By subsequent ordinances the City Council may amend the system or the list of appointive officers and employees included within the system. The system shall comply with all other provisions of this Charter.</i> <i>It shall be the duty of all department heads, whether appointed or elected, to assist and cooperate with the City Manager in administering the affairs of the City in the most efficient, fiscally responsible, and harmonious manner consistent with the duties as prescribed by law, City Charter, or by ordinance."</i>	7-0
11	12/16/2021	Ray	1	801(a)	Determine whether the word "must" should replace "shall" to denote a mandatory action.	1/13/2022	Ray asked if the words "must" and "shall" have the same meaning. Staff confirmed they do and recommends no changes to Section 801(a) at this time. Ray made a motion to adopt staff's recommendation; seconded by McKeon.	7-0	4/14/2022	NO CHANGES TO SECTION 801(a): "Section 801. DEFINITIONS. Unless the provisions or the context otherwise requires, as used in this Charter: (a) "Shall" is mandatory, and "may" is permissive. (b) "City" is the City of Huntington Beach and "department," "board," "commission," "agency," "officer," or "employee" is a department, board, commission, agency, officer or employee, as the case may be, of the City of Huntington Beach. (c) "County" is the County of Orange. (d) "State" is the State of California. (e) The masculine includes the feminine and the feminine includes the masculine. (f) The singular includes the plural and the plural the singular. (g) "Person" includes firm and corporation."	7-0
12	12/16/2021	Mircheff	1	804	As written, the Charter requires the Council to consider convening a charter review committee every 10 years but does not require the Council to always convene one. Committee wishes to examine the intent of this section and determine if it needs to be modified.	1/13/2022	While a ten year review by a Committee is desirable, it may not always be necessary or feasible. This section permits the Council to consider its needs and take into account key factors such as staff time, costs for consulting and ballot initiatives, and other ways to enact revisions. However, the Committee can recommend other changes to this section including requiring the Council to conduct some level of review if it is not done through a Committee, including a staff-level review. Ray made a motion for staff to develop modified language for this section that includes a set interval of time that resets after the last revision and/or committee formation.	7-0	4/14/2022	"Section 804. CHARTER REVIEW. The City Council shall determine if there is a need to convene a citizen's Charter Review Commission to conduct a review of the City Charter no less frequently than every ten years from the most recent formal Charter review conducted by a Charter Revision Commission, City Council, or City staff. "	7-0

#	Date	Proposal By	Phase	Section	Proposed Discussion Item	Date	Proposed Revisions and Draft Recommendations (with Motions)	Straw Vote	Date	Final Recommendations (with Motions)	Final Vote
13	12/16/2021	Thompson	1	Through-out	Consider transitioning away from the use of gender references such as masculine and feminine pronouns (i.e. he, she) towards gender neutral words.	1/13/2022	Staff recommendations to modify both sections include: Section 303(c) - <i>"If, by reason of fire,flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place within the City as is designated by the Mayor, or, if he the Mayor should fail to act, by a majority of the members of the City Council."</i> Section 400(d) - <i>"After furnishing the City Manager with written notice of the intended removal, the City Council may suspend the City Manager from duty, but his the City Manager's compensation shall continue until removal as herein provided.</i> Section 801(e) - <i>"The masculine includes the feminine and the feminine includes the masculine."</i> Thompson moved to adopt the recommendation; seconded by Ray.	7-0	4/14/2022	"Section 303. MEETINGS AND LOCATION. (c) Place of Meetings. All regular meetings shall be held in the Council Chambers of the City or in such place within the City to which any such meeting may be adjourned. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place within the City as is designated by the Mayor, or, if he the Mayor should fail to act, by a majority of the members of the City Council." "Section 400. CITY MANAGER. COMPOSITION, TERM, ELIGIBILITY, REMOVAL. (d) Removal. The City Manager shall not be removed from office during or within a period of ninety days next succeeding any municipal election at which a member of the City Council is elected. At any other time the City Manager may be removed only at a regular meeting of the City Council and upon the affirmative vote of a majority of the members of the City Council. At least thirty days prior to the effective date of removal, the City Manager shall be furnished with a written notice stating the Council's intentions and, if requested by the City Manager, the reasons therefor. Within seven days after receipt of such notice, the City Manager may by written notification to the City Clerk request a public hearing before the City Council, in which event the Council shall fix a time for a public hearing which shall be held at its regular meeting place before the expiration of the thirty-day period above referred to. The City Manager shall appear and be heard at such hearing. After furnishing the City manager with written notice of the intended removal, the City Council may suspend the City Manager from duty, but his the City Manager's compensation shall continue until removal as here in provided. In removing the City Manager, the City Council shall use its uncontrolled discretion and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of which is to allow the City Council and the City Manager to present to each other and to the public all pertinent facts prior to the final action of removal." "Section 801. DEFINITIONS. Unless the provisions or the context otherwise requires, as used in this Charter: (a) "Shall" is mandatory, and "may" is permissive. (b) "City" is the City of Huntington Beach and "department," "board," "commission," "agency," "officer," or "employee" is a department, board, commission, agency, officer or employee, as the case may be, of the City of Huntington Beach. (c) "County" is the County of Orange. (d) "State" is the State of California. (e) The masculine includes the feminine and the feminine includes the masculine. (f) The singular includes the plural and the plural the singular. (g) "Person" includes firm and corporation."	7-0
14	12/16/2021	Staff	2	612	Staff will present their assessment of working within the guidelines of Measure C for Committee discussion.	1/27/2022	Staff posed several questions for the Committee's consideration. 1. Section 612(b): Should the Committee consider expanding the list of exempt projects? Mulvihill made a motion that this question was a bridge too far for the Committee and not to consider it further; seconded by McKeon. Approved 7-0. 2. Section 612(b): Should Measure C apply to public-private partnership projects with recreational use? Mulvihill made a motion that this question was a bridge too far for the Committee and not to consider it further; seconded by Mircheff. Approved 7-0. 3. Section 612(b): Should the Committee consider if the replacement or reconstruction of existing structures and buildings should be subject to voter approval, if their intended use remains unchanged? Mircheff moved that this item was worth supporting; Ray asked for draft language that could be incorporated into Section 612. Mulvihill made an amended motion for staff to draft language for consideration; seconded by Mircheff. Approved 7-0. 4. Section 612(b): Should the Committee consider if the expansion of existing structures and buildings should be subject to voter approval? Mulvihill moved that this question was a bridge too far for the Committee and not to consider it further; seconded by Benton. Approved 6-1, with Mircheff voting no. 5. Section 612(a): Should this Committee consider if Section 612(a) should modify or remove the phrase "or operated by the City"? Mircheff moved that this question was worth considering and for staff to prepare draft language for consideration; seconded by Ray. Approved 5-2 with McKeon and Mulvihill voting no.	See votes in the previous column	4/14/2022 (tabled to the next meeting) 4/26/2022	"Section 612. PUBLIC UTILITIES AND PARKS AND BEACHES. (a) No public utility or park or beach or portion thereof now or hereafter owned or operated by the City shall be sold, leased, exchanged or otherwise transferred or disposed of unless authorized by the affirmative votes of at least a majority of the total membership of the City Council and by the affirmative vote of at least a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted." "(b) No golf course, driving range, road, building over three thousand square feet in floor area nor structure costing more than \$161,000.00 may be built on or in any park or beach or portion thereof now or hereafter owned or operated by the City unless authorized by the affirmative votes of at least a majority of the total membership of the City Council and by the affirmative vote of at least a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted after the appropriate environmental assessment, conceptual cost estimate, and reasonable project description has been completed and widely disseminated to the public. Effective January 1, 2011, and each year thereafter, the maximum cost will be adjusted by the Consumer Price Index for the Los Angeles-Riverside-Orange County area." (c) Section 612(a) and 612(b) shall not apply; (1) to libraries or piers; (2) to any lease, franchise, concession agreement or other contract where; - the contract is to perform an act or provide a service in a public park or beach AND - such act was being performed or service provided at the same location prior to January 1, 1989 AND - the proposed lease, franchise, concession agreement or other contract would not increase the amount of parkland or beach dedicated to or used by the party performing such act or providing such service. (3) to above ground public works utility structures under 3,000 square feet; (4) to underground public works utility structures if park or beach use is not impeded; (5) to any public works construction, maintenance or repair mandated by state or federal law that does not negatively impact recreational opportunities; or (6) to renewable energy projects that do not negatively impact recreational opportunities; or (7) to the replacement of existing equipment or infrastructure that does not exceed its current footprint or height by more than 10% and also maintains its current use. (d) If any section, subsection, part, subpart, paragraph, clause or phrase of this amendment, or any amendment or revision of this amendment, is for any reason held to be invalid or unconstitutional, the remaining sections, subsections, parts, subparts, paragraphs, clauses or phrases shall not be affected but shall remain in full force and effect."	7-0

2021-22 Charter Revision Committee
Tracking Document
Final Votes

KEY:
Text in **blue**: proposed additions
Text with **strike outs**: proposed deletions

#	Date	Proposal By	Phase	Section	Proposed Discussion Item	Date	Proposed Revisions and Draft Recommendations (with Motions)	Straw Vote	Date	Final Recommendations (with Motions)	Final Vote
15	12/16/2021	Miller	2	302	Discuss the current compensation amount for City Council Members	1/27/2022	Consultant provided a cross-comparison of City Council compensation across multiple cities in Orange County, as well as similarly sized cities in Los Angeles County. Based on his research, the comparison shows the total compensation of Huntington Beach Council Members were average, but on the lower end of average. He also indicated that adjustments to compensation were traditionally made via City ordinance, which provides greater flexibility versus a Charter amendment. Ray moved to table this item and revisit it in the future if needed; seconded by Benton.	6-1	4/14/2022	NO CHANGES TO SECTION 302: <i>"Section 302. COMPENSATION. The members of the City Council including the Mayor shall receive as compensation for their services as such a monthly salary in the sum of One Hundred Seventy-five Dollars per month. In addition, each member of the City Council shall receive reimbursement on order of the City Council for Council authorized traveling and other expenses when on official duty upon submission of itemized expense accounts therefor. In addition, members shall receive such reasonable and adequate amounts as may be established by ordinance, which amounts shall be deemed to be reimbursement to them of other routine and ordinary expenses, losses and costs imposed upon them by virtue of their serving as City Councilpersons."</i>	7-0
16	12/16/2021	Ray	2	300, 310-311	Review the roles and responsibilities, qualifications and process of electing the City Clerk and City Treasurer	2/10/2022 2/24/2022	Miller moved to make the minimum qualifications be met at the time of the election. Thompson proposed amending that to the time of filing. Miller seconded. Staff will return with proposed language for final vote.	6-1	4/14/2022	<i>"Section 310. CITY CLERK. POWERS AND DUTIES. To become and remain eligible for City Clerk, the person elected or appointed shall have a Bachelor's Degree in business, public administration, or a related field, and hold a certification as a Municipal Clerk or obtain such certification within the first three years in office at the time of filing one's candidacy for election or application for appointment. The City Clerk shall have the power and shall be required to:"</i> <i>"Section 311. CITY TREASURER. POWERS AND DUTIES. To become and remain eligible for City Treasurer, the person elected or appointed shall, at the time of filing one's candidacy for election or application for appointment, have a minimum of five years of financial and/or treasury experience and have either:</i> <i>A Master's Degree in accounting, finance, business, or public administration; or</i> <i>A Bachelor's Degree in accounting, finance, business, or public administration with certification by the California Municipal Treasurer's Association, or their successor, within three years of election or appointment."</i>	6-1
17	12/16/2021	Ray	2	300, 310-311	Review the roles and responsibilities, qualifications and process of electing the City Clerk and City Treasurer	2/10/2022 2/24/2022	Mulvihill moved not to impose term limits for the elected City Clerk and Treasurer positions; seconded by Miller.	7-1	4/14/2022 and 4/26/2022	NO CHANGES TO SECTION 300: <i>"Section 300. CITY COUNCIL, ATTORNEY, CLERK AND TREASURER. TERMS. The elective officers of the City shall consist of a City Council of seven members, a City Clerk, a City Treasurer and a City Attorney, all to be elected from the City at large at the times and in the manner provided in this Charter and who shall serve for terms of four years and until their respective successors qualify. Subject to the provisions of this Charter, the members of the City Council in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified. Four members of the City Council shall be elected at the general municipal election held in 1966, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in 1968, and each fourth year thereafter. No person shall be elected as a member of the City Council for more than two consecutive terms and no person who has been a member for more than two years of a term to which some other person was elected a member shall be elected to the City Council more than one further consecutive term. Subject to the provisions of this Charter, the City Clerk, City Treasurer and City Attorney in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and the qualification of their successors. A City Clerk and City Treasurer shall be elected at the general municipal election held in 1968, and each fourth year thereafter. A City Attorney shall be elected in 1966, and each fourth year thereafter.</i> <i>The term of each member of the City Council, the City Clerk, the City Treasurer and the City Attorney shall commence on the first Monday following the certification of the election. Ties in voting among candidates for office shall be settled by the casting of lots.</i> <i>If no candidate meets the qualifications for office of the City Clerk, City Treasurer, or City Attorney, the City Council shall fill that position by appointment until the next municipal general election in which a qualified candidate is elected."</i>	5-2
18	12/16/2021	Ray	2	300, 310-311	Review the roles and responsibilities, qualifications and process of electing the City Clerk and City Treasurer	2/10/2022 2/24/2022	Mircheff moved to transition both the City Clerk and Treasurer roles to appointed ones; seconded by Ray.	5-2	4/26/2022	<i>"Section 300. CITY COUNCIL, ATTORNEY, CLERK AND TREASURER. TERMS. The elective officers of the City shall consist of a City Council of seven members, a City Clerk, a City Treasurer and a City Attorney, all to be elected from the City at large at the times and in the manner provided in this Charter and who shall serve for terms of four years and until their respective successors qualify. Subject to the provisions of this Charter, the members of the City Council in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified. Four members of the City Council shall be elected at the general municipal election held in 1966, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in 1968, and each fourth year thereafter. No person shall be elected as a member of the City Council for more than two consecutive terms and no person who has been a member for more than two years of a term to which some other person was elected a member shall be elected to the City Council more than one further consecutive term. Subject to the provisions of this Charter, the City Clerk, City Treasurer and City Attorney in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and the qualification of their successors. A City Clerk and City Treasurer shall be elected at the general municipal election held in 1968, and each fourth year thereafter. A City Attorney shall be elected in 1966, and each fourth year thereafter.</i> <i>The term of each member of the City Council, the City Clerk, the City Treasurer and the City Attorney shall commence on the first Monday following the certification of the election. Ties in voting among candidates for office shall be settled by the casting of lots.</i> <i>If no candidate meets the qualifications for office of the City Clerk, City Treasurer, or City Attorney, the City Council shall fill that position by appointment until the next municipal general election in which a qualified candidate is elected."</i>	5-2

#	Date	Proposal By	Phase	Section	Proposed Discussion Item	Date	Proposed Revisions and Draft Recommendations (with Motions)	Straw Vote	Date	Final Recommendations (with Motions)	Final Vote
19	12/16/2021	Mircheff Miller Ray	2	300, 304, 309	Review the roles and responsibilities, qualifications and process of electing the City Attorney	2/10/2022 2/24/2022	Ray moved to ask if the City Attorney position should be converted into an appointed one; seconded by Mircheff. Staff will return with proposed language to address the straw votes above.	4-2-1	4/26/2022	"Section 300. CITY COUNCIL, ATTORNEY, CLERK AND TREASURER. TERMS. <i>The elective officers of the City shall consist of a City Council of seven members, a City Clerk, and a City Treasurer and a City Attorney, all to be elected from the City at large at the times and in the manner provided in this Charter and who shall serve for terms of four years and until their respective successors qualify. Subject to the provisions of this Charter, the members of the City Council in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified. Four members of the City Council shall be elected at the general municipal election held in 1966, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in 1968, and each fourth year thereafter. No person shall be elected as a member of the City Council for more than two consecutive terms and no person who has been a member for more than two years of a term to which some other person was elected a member shall be elected to the City Council more than one further consecutive term. Subject to the provisions of this Charter, the City Clerk, and City Treasurer and City Attorney in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and the qualification of their successors. A City Clerk and City Treasurer shall be elected at the general municipal election held in 1968, and each fourth year thereafter. A City Attorney shall be elected in 1966, and each fourth year thereafter.</i> <i>The term of each member of the City Council, the City Clerk, and the City Treasurer and the City Attorney shall commence on the first Monday following the certification of the election. Ties in voting among candidates for office shall be settled by the casting of lots.</i> <i>If no candidate meets the qualifications for office of the City Clerk, or City Treasurer, or City Attorney, the City Council shall fill that position by appointment until the next municipal general election in which a qualified candidate is elected."</i>	5-2
20	12/16/2021	Mircheff Miller Ray	2	304, 309	Review the roles and responsibilities of the City Attorney	3/10/2022	Based on his research, Consultant indicated that the terms surrounding outside counsel appear in various city charters; however when those charters provide exceptions, usually they address conflict of interest. He suggested that the Committee could clarify 304(b) of when it is appropriate for Council to hire outside counsel, much in the same manner. Mircheff asked Consultant for sample language to build that provision. Ray moved this request, seconded by Thompson.	6-1	4/26/2022	"Section 304. QUORUMS, PROCEEDINGS AND RULES OF ORDER. <i>(b) Proceedings. The City Council shall judge the qualification of its members as set forth by the Charter. It shall judge all election returns. Each member of the City Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the City Council. The City Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. They shall be served and complied with in the same manner as subpoenas in civil actions. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable. The City Council shall have control of all legal business and proceedings and all property of the legal department, and may employ other attorneys to take charge of or may contract for any prosecution, litigation or other legal matter or business. In cases where there is a disagreement between the City Council and the City Attorney about the presence of a conflict of interest, the issue shall be decided by the City Council, and the decision of the City Council shall be final."</i>	6-1
21	12/16/2021	Benton	2	309	Review the roles and responsibilities of the City Attorney	3/10/2022	Benton proposed a new provision in Section 309: <i>"the City Attorney shall not participate in a matter in which they know or should know that they have a conflict of interest"</i> that would also reference the process in 304(b). Moved by Benton; seconded by Mulvihill. The action also directed staff to return with proposed language for further consideration	6-1	4/14/2022 and 4/26/2022	"Section 309. CITY ATTORNEY. POWERS AND DUTIES. <i>To become and remain eligible for City Attorney the person elected or appointed shall have graduated from a law school accredited by the American Bar Association, be an attorney at law, duly licensed as such under the laws of the State of California, shall have been engaged in the practice of law in this State for at least five years prior to their election or appointment. The City Attorney shall have the power and may be required to:</i> <i>(a) Represent and advise the City Council and all City officers in all matters of law pertaining to their offices.</i> <i>(b) Prosecute on behalf of the people any or all criminal cases arising from violation of the provisions of this Charter or of City ordinances and such state misdemeanors as the City has the power to prosecute, unless otherwise provided by the City Council.</i> <i>(c) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee, or former City officer or employee, in any or all civil actions or proceedings in which such officer or employee is concerned or is a party for any act arising out of their employment or by reason of their official capacity.</i> <i>(d) Attend all regular meetings of the City Council, unless excused, and give their advice or opinion orally or in writing whenever requested to do so by the City Council or by any of the boards or officers of the City.</i> <i>(e) Approve in writing the form of all contracts made by and all bonds and insurance given to the City.</i> <i>(f) Prepare any and all proposed ordinances and City Council resolutions and amendments thereto.</i> <i>(g) Devote such time to the duties of their office and at such place as may be specified by the City Council.</i> <i>(h) Perform such legal functions and duties incident to the execution of the foregoing powers as may be necessary.</i> <i>(i) Maintain the records of their office in compliance with all city records and retention policies and applicable laws.</i> <i>(j) Surrender to their successor all books, papers, files, and documents pertaining to the City's affairs.</i> <i>(k) Assist and cooperate with the City Manager consistent with Section 403 of the City Charter.</i> <i>(l) Provide advice related to compliance with the City Charter, Municipal Code, and all applicable law to all elected and appointed officials of the City.</i> <i>(m) Recuse from participating in any matters in which they have or may have a conflict of interest.</i> <i>(n) The City Council shall have control of all legal business and proceedings and all property of the legal department, and may employ other attorneys to take charge of or may contract for any prosecution, litigation or other legal matter or business."</i>	6-1

#	Date	Proposal By	Phase	Section	Proposed Discussion Item	Date	Proposed Revisions and Draft Recommendations (with Motions)	Straw Vote	Date	Final Recommendations (with Motions)	Final Vote
22	12/16/2021	Mircheff Miller Ray	2	300, 304, 309	Review the roles and responsibilities, qualifications and process of electing the City Attorney	2/10/2022 2/24/2022	Mircheff moved to ask the question on whether the City should raise the qualifications for the City Attorney position; seconded by Miller. Staff will return with proposed language to address the straw votes above.	6-1	4/26/2022	"Section 309. CITY ATTORNEY. POWERS AND DUTIES. To become and remain eligible for City Attorney the person elected or appointed shall have graduated from a law school accredited by the American Bar Association, be an attorney at law, duly licensed as such under the laws of the State of California, shall have been engaged in the practice of municipal law in this State for at least five-ten years prior to their election or appointment. The City Attorney shall have the power and may be required to: (a) Represent and advise the City Council and all City officers in all matters of law pertaining to their offices. (b) Prosecute on behalf of the people any or all criminal cases arising from violation of the provisions of this Charter or of City ordinances and such state misdemeanors as the City has the power to prosecute, unless otherwise provided by the City Council. (c) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee, or former City officer or employee, in any or all civil actions or proceedings in which such officer or employee is concerned or is a party for any act arising out of their employment or by reason of their official capacity. (d) Attend all regular meetings of the City Council, unless excused, and give their advice or opinion orally or in writing whenever requested to do so by the City Council or by any of the boards or officers of the City. (e) Approve in writing the form of all contracts made by and all bonds and insurance given to the City. (f) Prepare any and all proposed ordinances and City Council resolutions and amendments thereto. (g) Devote such time to the duties of their office and at such place as may be specified by the City Council. (h) Perform such legal functions and duties incident to the execution of the foregoing powers as may be necessary. (i) Surrender to their successor all books, papers, files, and documents pertaining to the City's affairs. (j) Assist and cooperate with the City Manager consistent with Section 403 of the City Charter. (k) Provide advice related to compliance with the City Charter to all elected and appointed officials of the City."	6-1
23	12/16/2021	Mircheff Miller Ray	2	300, 304, 309	Review the roles and responsibilities, qualifications and process of electing the City Attorney	2/10/2022 2/24/2022	Ray moved to pose the question of whether the City should set term limits for the City Attorney, if the role remains elected; seconded by Mircheff. Staff will return with proposed language for consideration.	4-3	4/14/2022 and 4/26/2022	"Section 300. CITY COUNCIL, ATTORNEY, CLERK AND TREASURER. TERMS. The elective officers of the City shall consist of a City Council of seven members, a City Clerk, and a City Treasurer and a City Attorney, all to be elected from the City at large at the times and in the manner provided in this Charter and who shall serve for terms of four years and until their respective successors qualify. Subject to the provisions of this Charter, the members of the City Council in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified. Four members of the City Council shall be elected at the general municipal election held in 1966, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in 1968, and each fourth year thereafter. No person shall be elected as a member of the City Council or as a City Attorney for more than two consecutive terms and no person who has been a member for more than two years of a term to which some other person was elected a member shall be elected to the City Council more than one further consecutive term. Subject to the provisions of this Charter, the City Clerk, and City Treasurer and City Attorney in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and the qualification of their successors. A City Clerk and City Treasurer shall be elected at the general municipal election held in 1968, and each fourth year thereafter. A City Attorney shall be elected in 1966, and each fourth year thereafter. The term of each member of the City Council, the City Clerk, and the City Treasurer and the City Attorney shall commence on the first Monday following the certification of the election. Ties in voting among candidates for office shall be settled by the casting of lots. If no candidate meets the qualifications for office of the City Clerk, or City Treasurer, or City Attorney, the City Council shall fill that position by appointment until the next municipal general election in which a qualified candidate is elected."	4-3
24	12/16/2021	All	2	312	Review the process of filling unscheduled, vacant City Council seats	3/10/2022 3/24/2022	On 3/10/22, McKeon moved for staff and consultant to provide samples of charters that fill vacancies by appointment, until the next General Election when a permanent candidate would be voted to fill the remainder of the term of that vacancy; seconded by Thompson. On 3/24/22, consultant returned with sample charters and recommended language.	6-1	4/14/2022 and 4/26/2022	"Section 312. VACANCIES, FORFEITURES AND REPLACEMENT. (a) Vacancies. A vacancy in the City Council or in any other office designated as elective by this Charter, from whatever cause arising, shall be filled by appointment by the City Council with at least four affirmative votes . (b) Forfeiture. If a member of the City Council is absent from all regular meetings of the City Council for a period of thirty consecutive days from and after the last regular City Council meeting attended by such member, unless by permission of the City Council expressed in its official minutes, the office shall become vacant. If an elected City officer pleads guilty or no contest to or is convicted of a felony or any crime of moral turpitude, or ceases to be an elector of the City, the office shall become vacant. The City Council shall declare the existence of such vacancy. Any elective officer of the City who shall accept or retain any other elective public office, except as provided in this Charter, shall be deemed thereby to have vacated the office under the City Government. (c) Replacement. In the event it shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, the City Council shall forthwith cause an election to be held to fill such vacancy for the remainder of the unexpired term. If the City Council fills the vacancy by appointment, such appointee shall hold office until an election to fill the remainder of the unexpired term at the next general municipal election. Should the appointment occur after the filing deadline for the next general municipal election, the seat shall be deemed vacant upon the certification of the general municipal election, and the vacancy shall be filled in accordance with Sections 312(a) and 312(c)."	6-1

#	Date	Proposal By	Phase	Section	Proposed Discussion Item	Date	Proposed Revisions and Draft Recommendations (with Motions)	Straw Vote	Date	Final Recommendations (with Motions)	Final Vote
25	2/24/2022	All	2	803	Review regulations under the Property Rights Protection Measure	3/24/2022	Residents asked the Committee to consider exempting mobile home parks from Section 803. Thompson moved to leave Section 803 as is; Ray seconded.	6-1	4/14/2022	NO CHANGES TO SECTION 803: "Section 803. PROPERTY RIGHTS PROTECTION MEASURE. <i>(a) The City shall not enact or enforce any measure which mandates the price or other consideration payable to the owner in connection with the sale, lease, rent, exchange or other transfer by the owner of real property. Any such measure is hereby repealed.</i> <i>(b) The word "mandates" as used in subsection (a) includes any measure taken by ordinance, resolution, administrative regulation or other action of the City to establish, continue, implement or enforce any control or system of controls on the price or other terms on which real property in the city may be offered, sold, leased, rented, exchanged or otherwise transferred by its owner. The words "real property" as used in subsection (a) refer to any parcel of land or site, either improved or unimproved, on which a dwelling unit or residential accommodation is or may be situated for use as a home, residence or sleeping place.</i> <i>(c) This Section 803 shall not apply to:</i> <i>(1) any real property which contains serious health, safety, fire or building code violations, excluding those caused by disasters, for which a civil or criminal citation has been issued by the City and remains unabated for six months or longer;</i> <i>(2) any real property owned by a public entity, and real property where the owner has agreed by contract with the public entity, including the City and any of its related agencies, to accept a financial contribution or other tangible benefit including without limitation, assistance under the Community Redevelopment Law;</i> <i>(3) any planning or zoning power of the City as relates to the use, occupancy or improvement of real property and to any real property which the City or any of its related agencies may acquire by eminent domain, purchase, grant or donation;</i> <i>(4) any power of the City to require a business license for the sale or rental of real property, whether for regulation or general revenue purposes;</i> <i>(5) any dwelling unit or accommodation in any hotel, motel or other facility when the transient occupancy of that dwelling unit or accommodation is subject to a transient occupancy tax; or</i> <i>(6) to impair the obligation of any contract entered into prior to the enactment of this Section 803 or otherwise required by State law."</i>	6-1

ATTACHMENT 5

PROPOSED 2022 CITY CHARTER WITH REDLINES

CITY OF HUNTINGTON BEACH

CITY CHARTER



Incorporated, February 17, 1909

(Election February 9, 1909; 94 votes cast for incorporation and 25 votes against)

CHARTER AMENDMENTS

Effective Dates

Charter Election Certified - Res. 773 Results 5/3/37.....	5/17/37
Amendments.....	2/2/40
Amendments.....	1/29/47
Amendments.....	1/27/49
Amendments.....	5/9/49
Revised.....	5/1/50
New Charter.....	2/10/66
Amendments.....	1/18/71
Amendments.....	6/5/75
Amendments.....	12/10/76
Amendments.....	7/17/78
Amendments..(Consolidation November).....	12/9/82
Amendments.....	12/7/84
Amendments.....	12/7/90
Amendments.....	4/22/02
Revised.....(Certified by the Secretary of State 1/6/11).....	12/6/10
Amendments...(Certified by the Secretary of State 12/30/14).....	12/1/14

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CHARTER

We, the people of the City of Huntington Beach, State of California believe fiscal responsibility and the prudent stewardship of public funds is essential for confidence in government, that ethics and integrity are the foundation of public trust and that just governance is built upon these values. Through the enactment of this Charter as the fundamental law of the City of Huntington Beach under the Constitution of the State of California, we do hereby exercise the privilege of retaining for ourselves, the benefits of local government, by enacting the laws, rules, regulations and procedures set forth herein pertaining to the governance and operation of our City.

It is incumbent upon those who govern and make decisions for and on behalf of the City of Huntington Beach to legally, as well as morally, abide by the provisions of this Charter, in its strictest sense, to assure the continued success and well-being of our fair City.

ARTICLE I INCORPORATION AND POWERS OF THE CITY

Section 100. NAME. The municipal corporation now existing and known as the City of Huntington Beach shall remain and continue to exist as a municipal corporation under its present name of "City of Huntington Beach."

Section 101. SEAL. The City shall have an official seal which may be changed from time to time by ordinance. The present official seal shall continue to be the official seal of the City until changed in the manner stated.

Section 102. BOUNDARIES. The boundaries of the City shall continue as now established until changed in the manner authorized by law.

Section 103. POWERS OF CITY. The City shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter or in the Constitution of the State of California.

Section 104. CONSTRUCTION. The general grant of power to the City under this Charter shall be construed broadly in favor of the City. The specific provisions enumerated in this Charter are intended to be and shall be interpreted as limitations upon the general grant of power and shall be construed narrowly. If any provisions of this Charter, or the application thereof to any person or circumstance is held invalid, the remainder of the Charter and the application of such provision to other persons or circumstances, shall not be affected thereby.

Section 105. INTERGOVERNMENTAL RELATIONS. The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States or any agency thereof.

ARTICLE II FORM OF GOVERNMENT

Section 200. COUNCIL-MANAGER FORM OF GOVERNMENT. The municipal government provided by this Charter shall be known as the Council-Manager form of government.

ARTICLE III ELECTIVE OFFICES

Section 300. CITY COUNCIL, ~~ATTORNEY, CLERK AND TREASURER~~. TERMS. The elective officers of the City shall consist of a City Council of seven members, ~~a City Clerk, a City Treasurer and a City Attorney~~, all to be elected from the City at large at the times and in the manner provided in this Charter and who shall serve for terms of four years and until their respective successors qualify. Subject to the provisions of this Charter, the members of the City Council in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified. **Consistent with the staggered election process established in the new Charter in 1966 and reaffirmed in 2022,** four members of the City Council shall be elected at the general municipal election held in ~~1966~~ **2022**, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in ~~1968~~ **2024**, and each fourth year thereafter. No person shall be elected as a member of the City Council **or as a City Attorney** for more than two consecutive terms and no person who has been a member for more than two years of a term to which some other person was elected a member shall be elected to the City Council more than one further consecutive term. Subject to the provisions of this Charter, the City Clerk, City Treasurer and City Attorney in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and the qualification of their successors. **Consistent with the staggered election process established in the new Charter in 1966 and reaffirmed in 2022,** ~~a City Clerk and City Treasurer shall be elected at the general municipal election held in 1968~~ **2024**, and each fourth year thereafter. ~~A City Attorney shall be elected in 1966~~ **2022**, and each fourth year thereafter.

The term of each member of the City Council, ~~the City Clerk, the City Treasurer and the City Attorney~~ shall commence on the **day of the first Monday regular City Council meeting** following the certification of the election. Ties in voting among candidates for office shall be settled by ~~the casting of lots~~ **random drawing process conducted by the City Manager during the first regular City Council meeting following the certification.**

~~If no candidate meets the qualifications for office of the City Clerk, City Treasurer, or City Attorney, the City Council shall fill that position by appointment until the next municipal general election in which a qualified candidate is elected.~~

Section 301. POWERS VESTED IN CITY COUNCIL. All powers of the City shall be vested in the City Council except as otherwise provided in this Charter.

Section 302. COMPENSATION. The members of the City Council including the Mayor shall receive as compensation for their services as such a monthly salary in the sum of One Hundred Seventy-five Dollars per month. In addition, each member of the City Council shall receive reimbursement on order of the City Council for Council authorized traveling and other expenses when on official duty upon submission of itemized expense accounts therefor. In addition, members shall receive such reasonable and adequate amounts as may be established by ordinance, which amounts shall be deemed to be reimbursement to them of other routine and ordinary expenses, losses and costs imposed upon them by virtue of their serving as City Councilpersons.

Section 303. MEETINGS AND LOCATION.

(a) **Regular Meetings.** The City Council shall hold regular meetings at least twice each month at such time as it shall fix by ordinance or resolution and may adjourn ~~or re-adjourn~~ any regular meeting to a date and hour certain which shall be specified in the order of adjournment. ~~and when so adjourned~~ **Each re-adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment, such meeting shall be held at the hour for**

~~holding regular meetings.~~ If at any time any regular meeting falls on a holiday such regular meeting shall be held on the next business day.

(b) **Special Meetings.** A special meeting may be called at any time by the Mayor, or by a majority of the members of the City Council, by written notice **or current technology** to each member of the City Council and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally, ~~or~~ by mail **or by current technology** at least twenty-four hours before the time of such meeting as specified in the notice.

The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting. If any person entitled to such written notice files a written waiver of notice with the City Clerk, it may be dispensed with. This notice requirement shall be considered fulfilled as to any person who is actually present at the meeting at the time it convenes. In the event of an emergency affecting the public peace, health or safety, a special meeting may be called as provided in this section with less than twenty-four hours written notice by the Mayor Pro Tem in the Mayor's absence or by any member of the City Council in the absence of both the Mayor and Mayor Pro Tem provided that the nature of the emergency is set forth in the minutes of the meeting.

(c) **Place of Meetings.** All regular meetings shall be held in the Council Chambers of the City or in such place within the City to which any such meeting may be adjourned. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place within the City as is designated by the Mayor, or, if ~~he~~ **the Mayor** should fail to act, by a majority of the members of the City Council.

(d) **Open Meetings.** All regular and special meetings of the City Council shall be open and public, and all persons shall be permitted to attend such meetings, except that the provisions of this section shall not apply to ~~executive~~ **closed** sessions. Subject to the rules governing the conduct of City Council meetings, no person shall be denied the right to be heard by the City Council.

(e) **Dissemination of Information.** The City Council shall adopt rules to ensure thorough and timely dissemination of information via current technology by resolution.

Section 304. QUORUMS, PROCEEDINGS AND RULES OF ORDER.

(a) **Quorum.** A majority of the members of the City Council shall constitute a quorum to do business but a lesser number may adjourn from time to time. In the absence of all the members of the City Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. The City Clerk shall cause written notice of a meeting adjourned by less than a quorum or by the City Clerk to be delivered personally, ~~or~~ by mail **or by current technology** to each Council member at least twenty-four hours before the time to which the meeting is adjourned, or such notice may be dispensed with in the same manner as specified in this Charter for dispensing with notice of special meetings of the City Council.

(b) **Proceedings.** The City Council shall judge the qualification of its members as set forth by the Charter. It shall judge all election returns. Each member of the City Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the City Council. The City Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. They shall be served and complied with in the same manner as subpoenas in civil actions. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable. The City Council shall have control of all legal

business and proceedings and all property of the legal department, and may employ other attorneys to take charge of or may contract for any prosecution, litigation or other legal matter or business. **In cases where there is a disagreement between the City Council and the City Attorney about the presence of a conflict of interest, the issue shall be decided by the City Council, and the decision of the City Council shall be final.**

(c) **Rules of Order.** The City Council shall establish rules for the conduct of its proceedings and evict or prosecute any member or other person for disorderly conduct at any of its meetings. Upon adoption of any ordinance, resolution, or order for payment of money, or upon the demand of any member, the City Clerk shall call the roll and shall cause the ayes and noes taken on the question to be entered in the minutes of the meeting.

Section 305. PRESIDING OFFICER. At the Council meeting at which any Council member is installed following any general or special municipal election, and at any time when there is a vacancy in the office of Mayor, the City Council shall meet and shall elect one of its members as its presiding officer, who shall have the title of Mayor. The Mayor may make and second motions and shall have a voice and vote in all its proceedings. The Mayor shall be the official head of the City for all ceremonial purposes; shall have the primary but not the exclusive responsibility for interpreting the policies, programs and needs of the City government to the people, and as occasion requires, may inform the people of any major change in policy or program; and shall perform such other duties consistent with the office as may be prescribed by this Charter or as may be imposed by the City Council. The Mayor shall serve in such capacity at the pleasure of the City Council.

Section 306. MAYOR PRO TEMPORE. The City Council shall also designate one of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. The Mayor Pro Tempore shall perform the duties of the Mayor during the Mayor's absence or disability or at the Mayor's request.

Section 307. NON-INTERFERENCE WITH ADMINISTRATION. Except as otherwise provided in this Charter, no member of the City Council shall order, directly or indirectly, the appointment by the City Manager, or by any of the department heads in administrative service of the City, of any person to any office or employment, or removal therefrom. Except for the purpose of investigation and inquiry, the members of the City Council shall deal with the administrative service under the jurisdiction of the City Manager solely through the City Manager, and no member of the City Council shall give orders to any subordinate of the City Manager, either publicly or privately.

No elected department head or staff of the Office of the elected department head shall be a member of the management negotiation team for the purposes of negotiations of memorandums of understanding with the employee bargaining units.

Section 308. OFFICIAL BONDS. The City Council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officials or employees who are required by this Charter or by ordinance to give such bonds. All bonds shall be executed by responsible corporate surety, shall be approved as to form by the City Attorney, and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City. A blanket bond may be used if it provides the same protection as the required separate bond would provide.

In all cases wherein an employee of the City is required to furnish a faithful performance bond, there shall be no personal liability upon, or any right to recover against, the employee's superior officer or other officer or employee or the bond of the latter, unless such superior officer, or other officer or employee is a party to the act or omission, or has conspired in the wrongful act directly or indirectly causing the loss.

Section 309. CITY ATTORNEY. POWERS AND DUTIES. To become and remain eligible for City Attorney the person elected or appointed shall have graduated from a law school accredited by the American Bar Association, be an attorney at law, duly licensed as such under the laws of the State of California, shall have been engaged in the practice of law in this State for at least ~~five~~ **ten** years prior to their election or appointment. The City Attorney shall have the power and may be required to:

(a) Represent and advise the City Council and all City officers in all matters of law pertaining to their offices.

(b) Prosecute on behalf of the people any or all criminal cases arising from violation of the provisions of this Charter or of City ordinances and such state misdemeanors as the City has the power to prosecute, unless otherwise provided by the City Council.

(c) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee, or former City officer or employee, in any or all civil actions or proceedings in which such officer or employee is concerned or is a party for any act arising out of their employment or by reason of their official capacity.

(d) Attend all regular meetings of the City Council, unless excused, and give their advice or opinion orally or in writing whenever requested to do so by the City Council or by any of the boards or officers of the City.

(e) Approve in writing the form of all contracts made by and all bonds and insurance given to the City.

(f) Prepare any and all proposed ordinances and City Council resolutions and amendments thereto.

(g) Devote such time to the duties of their office and at such place as may be specified by the City Council.

(h) Perform such legal functions and duties incident to the execution of the foregoing powers as may be necessary.

(i) Maintain the records of their office in compliance with all city records and retention policies and applicable laws.

~~(j)~~ **(j)** Surrender to their successor all books, papers, files, and documents pertaining to the City's affairs.

~~(k)~~ **(k)** Assist and cooperate with the City Manager consistent with Section 403 of the City Charter.

~~(l)~~ **(l)** Provide advice related to compliance with the City Charter, **Municipal Code, and all applicable law** to all elected and appointed officials of the City.

(m) Recuse from participating in any matters in which they have or may have a conflict of interest.

(n) The City Council shall have control of all legal business and proceedings and all property of the legal department, and may employ other attorneys to take charge of or may contract for any prosecution, litigation or other legal matter or business.

Section 310. CITY CLERK. POWERS AND DUTIES. To become and remain eligible for City Clerk, the person elected or appointed shall, **at the time of filing one's candidacy for election or application for appointment**, have a Bachelor's Degree in business, public administration, or a related field, and hold a certification as a Municipal Clerk ~~or obtain such certification within the first three years in office~~. The City Clerk shall have the power and shall be required to:

(a) Attend all meetings of the City Council, unless excused, and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the City Council in records that shall bear appropriate titles and be devoted to such purpose.

(b) Maintain separate records, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the Clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter.

(c) Maintain separate records of all written contracts and official bonds.

(d) Keep all records in their possession properly indexed and open to public inspection when not in actual use.

(e) Be the custodian of the seal of the City.

(f) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of official records.

(g) Be ex officio Assessor, unless the City Council, has availed itself, or does in the future avail itself, of the provisions of the general laws of the State relative to the assessment of property and the collection of City taxes by county officers, or unless the City Council by ordinance provides otherwise.

(h) Have charge of all City elections.

(i) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

(j) Assist and cooperate with the City Manager consistent with Section 403 of the City Charter.

The City Clerk may, subject to the approval of the City Council, appoint such deputy or deputies to assist them or act for them, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

Section 311. CITY TREASURER. POWERS AND DUTIES. To become and remain eligible for City Treasurer, the person elected or appointed shall, **at the time of filing one's candidacy for election or application for appointment**, have a minimum of five years of financial and/or treasury experience, and have either:

A Master's Degree in accounting, finance, business, or public administration; or

A Bachelor's Degree in accounting, finance, business, or public administration with certification by the California Municipal Treasurer's Association, or their successor, within three years of election or appointment.

The City Treasurer shall have the power and shall be required to:

(a) Receive on behalf of the City all taxes, assessments, license fees and other revenues of the City, or for the collection of which the City is responsible, and receive all taxes or other money receivable by the City from the County, State or Federal governments, or from any court, or from any office, department or agency of the City.

(b) Have and keep custody of all public funds belonging to or under control of the City or any office, department or agency of the City government and deposit or cause to be deposited all funds coming into their hands in such depository as may be designated by resolution of the City Council, or, if no such resolution be adopted, then in such depository designated in writing by the City Manager, and in compliance with all of the provisions of the State Constitution and laws of the State governing the handling, depositing and securing of public funds.

(c) Pay out moneys only on proper orders or warrants in the manner provided for in this Charter.

(d) Prepare and submit to the ~~Director of Finance~~ **Chief Financial Officer** monthly written reports of all receipts, disbursements and fund balances, and shall file copies of such reports with the City Manager and City Council.

(e) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

(f) Assist and cooperate with the City Manager consistent with Section 403 of the City Charter.

The City Treasurer may, subject to the approval of the City Council, appoint such deputy or deputies to assist them or act for them, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

Section 312. VACANCIES, FORFEITURES AND REPLACEMENT.

(a) **Vacancies.** A vacancy in the City Council or in any other office designated as elective by this Charter, from whatever cause arising, shall be filled by appointment by the City Council **with at least four affirmative votes.**

(b) **Forfeiture.** If a member of the City Council is absent from all regular meetings of the City Council for a period of thirty consecutive days from and after the last regular City Council meeting attended by such member, unless by permission of the City Council expressed in its official minutes, the office shall become vacant. If an elected City officer pleads guilty or no contest to or is convicted of a felony or any crime of moral turpitude, or ceases to be an elector of the City, the office shall become vacant. The City Council shall declare the existence of such vacancy. Any elective officer of the City who shall accept or retain any other elective public office, except as provided in this Charter, shall be deemed thereby to have vacated the office under the City Government.

(c) **Replacement.** In the event ~~if~~ **the City Council** shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, the City Council shall forthwith cause an election to be held to fill such vacancy for the remainder of the unexpired term. **If the City Council fills the vacancy by appointment, such appointee shall hold office until an election to fill the remainder of the unexpired term at the next general municipal election. Should the appointment occur after the filing deadline for the next general municipal election, the seat shall be deemed vacant upon the certification of the general municipal election, and the vacancy shall be filled in accordance with Sections 312(a) and 312(c).**

Section 313. CONFLICT OF INTEREST, NEPOTISM.

(a) **Conflict of Interest.** The City Council shall adopt or approve rules and regulations regulating conflicts of interest and promoting fair dealing in all City business.

(b) **Nepotism.** The City Council shall not appoint to a salaried position under the City government any person who is a relative by blood or marriage within the third degree of any one or more of the members of such City Council, nor shall the City Manager or any department head or other officer having appointive power appoint any relative of such person or of any Council member within such degree to any such position.

This provision shall not affect the employment or promotional status of a person who has attained a salaried position with the City prior to the existence of a situation contemplated by this provision; however, Council members or officers with appointive powers in such a situation shall disqualify themselves from all decisions affecting the employment and promotional status of such person.

**ARTICLE IV
APPOINTIVE OFFICES AND PERSONNEL**

Section 400. CITY MANAGER. COMPOSITION, TERM, ELIGIBILITY, REMOVAL.

(a) **Composition.** There shall be a City Manager who shall be the chief administrative officer of the City.

(b) **Term.** The City Manager shall be appointed by the affirmative vote of at least a majority of the members of the City Council and shall serve at the pleasure of the City Council; provided, however, that the person occupying the office shall not be removed from office except as herein provided.

(c) **Eligibility.** The City Manager shall be chosen on the basis of executive and administrative qualifications, with special reference to actual experience in and knowledge of accepted practice as regards the duties of the office as herein set forth. No person shall be eligible to be appointed City Manager or Acting City Manager while serving as a member of the City Council nor within one year following the termination of membership on the City Council.

(d) **Removal.** The City Manager shall not be removed from office during or within a period of ninety days next succeeding any municipal election at which a member of the City Council is elected. At any other time the City Manager may be removed only at a regular meeting of the City Council and upon the affirmative vote of a majority of the members of the City Council. At least thirty days prior to the effective date of removal, the City Manager shall be furnished with a written notice stating the Council's intentions and, if requested by the City Manager, the reasons therefor. Within seven days after receipt of such notice, the City Manager may by written notification to the City Clerk request a public hearing before the City Council, in which event the Council shall fix a time for a public hearing which shall be held at its regular meeting place before the expiration of the thirty-day period above referred to. The City Manager shall appear and be heard at such hearing. After furnishing the City Manager with written notice of the intended removal, the City Council may suspend the City Manager from duty, but ~~his~~ **the City Manager's** compensation shall continue until removal as herein provided. In removing the City Manager, the City Council shall use its uncontrolled discretion and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of which is to allow the City Council and the City Manager to present to each other and to the public all pertinent facts prior to the final action of removal.

Section 401. POWERS AND DUTIES. Except as otherwise provided in this Charter, the City Manager shall be responsible to the City Council for the proper administration of all affairs of the City. Without limiting this general grant of powers and responsibilities, the City Manager shall have the power and be required to:

- (a) Appoint, promote, demote, suspend or remove department heads, officers and employees of the City except elective officers and the Chief of Police. The Chief of Police shall not be appointed or removed until the City Manager shall first have reviewed such appointment or removal with the City Council and have received approval for such appointment or removal by a majority vote of the full City Council.
- (b) Prepare the budget annually, submit it to the City Council, and be responsible for its administration upon adoption.
- (c) Prepare and submit to the City Council as of the end of each fiscal year, a complete report on the finances of the City, and annually or more frequently, a current report of the principal administrative activities of the City.
- (d) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.
- (e) Maintain a centralized purchasing system for all City offices, departments and agencies.
- (f) Prepare, administer and enforce rules and regulations recommended to and adopted by the City Council governing the contracting for, purchase, inspection, storage, inventory, distribution and disposal of all supplies, materials and equipment required by any office, department or agency of the City government.
- (g) Be responsible for the compliance by the City with the laws of the State pertaining to the City, the provisions of this Charter and the ordinances, franchises and rights of the City.

Subject to policy established by the City Council, exercise control of all administrative offices and departments of the City and of all appointive officers and employees, and prescribe such general rules and regulations as deemed necessary or proper for the general conduct of the administrative offices and departments of the City under their jurisdiction.

- (h) Perform such other duties consistent with this Charter as may be required by the City Council.

Section 402. ACTING CITY MANAGER. During any temporary absence or disability of the City Manager, the City Manager shall appoint one of the other officers or department heads of the City to serve as Acting City Manager. In the event the City Manager fails to make such appointment, such appointment may be made by the City Council.

Section 403. PERSONNEL. In addition to the City Council, a City Clerk, a City Treasurer, a City Attorney and City Manager, the officers and employees of the City shall consist of such other officers, assistants, deputies and employees as the City Council may provide by ordinance or resolution. The City Council shall establish such reasonable compensation and fringe benefits as are appropriate by ordinance or resolution for such offices, officials and employees except as herein provided.

The City Council shall maintain by ordinance a comprehensive personnel system for the City. The City Manager and any officers designated as elective by the Charter shall be exempt. The system shall consist of the establishment of minimum standards of employment and qualifications for the various classes of

employment and procedures to be followed in advancement, demotion, suspension and discharge of employees included within the system, as the City Council shall determine to be for the best interest of the public service. The ordinance shall designate the appointive officers and employees who shall be included within the system. By subsequent ordinances the City Council may amend the system or the list of appointive officers and employees included within the system. The system shall comply with all other provisions of this Charter.

It shall be the duty of all department heads, whether appointed or elected, to assist and cooperate with the City Manager in administering the affairs of the City in the most efficient, fiscally responsible, and harmonious manner consistent with the duties as prescribed by law, City Charter, or by ordinance.

Section 404. RETIREMENT SYSTEM. The City shall participate in a retirement system.

Section 405. BOARDS, COMMISSIONS AND COMMITTEES. The City Council shall establish such boards, commissions and committees as are deemed necessary for the orderly functioning of the City. All such boards, commissions and committees shall report directly to the City Council.

ARTICLE V ORDINANCES AND RESOLUTIONS

Section 500. REGULAR ORDINANCES. ENACTMENT, ADOPTION, PUBLICATION, AMENDMENT, WHEN EFFECTIVE AND CODIFICATION.

(a) **Enactment.** In addition to such other acts of the City Council as are required by this Charter to be taken by ordinance, every act of the City Council establishing a fine or other penalty, or granting a franchise, shall be by ordinance. The enacting clause of all ordinances shall be substantially as follows: "The City Council of the City of Huntington Beach does ordain as follows:" No order for the payment of money shall be adopted or made at other than a regular or adjourned regular meeting. Upon introduction, an ordinance shall be read by title only. Unless a higher vote is required by other provisions of this Charter, the affirmative vote of at least four of the City Council shall be required for the enactment of any ordinance or for the making or approving of any order for the payment of money. All ordinances shall be signed by the Mayor and attested by the City Clerk.

(b) **Adoption.** A regular ordinance shall be adopted only at a regular or adjourned regular meeting held no less than five days after its introduction. In the event that any ordinance is altered after its introduction, it shall be finally adopted only at a regular or adjourned regular meeting held no less than five days after the date it was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

(c) **Publication.** The City Clerk shall cause each ordinance to be posted in three places designated by the City Council within the City and to be published by title with a brief summary at least once within fifteen days after its adoption in a daily, semiweekly or weekly newspaper, published in the County or the City and circulated in the City, which is selected by the City Council for that purpose. Current technology shall be used to ensure the widest possible dissemination.

(d) **Amendment.** The amendment of any section or subsection of an ordinance may be accomplished solely by the re-enactment of such section or subsection at length, as amended.

(e) **When Effective.** Every ordinance shall become effective thirty days from and after the date of its adoption, except the following, which shall take effect upon adoption:

- (1) An ordinance calling or otherwise relating to an election;

- (2) An improvement proceeding ordinance adopted under some special law or procedural ordinance relating thereto;
- (3) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of property taxation, or levying the annual tax upon property.
- (4) An emergency ordinance adopted in the manner provided in this Charter.

(f) **Codification.** Detailed regulations pertaining to any subject and comprehensive codifications of valid ordinances may be adopted by reference, with the same effect as an ordinance, in the manner set forth herein; however, such regulations and codifications need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the City Clerk prior to adoption. Ordinances codified shall be repealed as of the effective date of the codification. Amendments to the code shall be enacted by ordinance.

Section 501. EMERGENCY ORDINANCES. Any ordinance declared by the City Council to be necessary as an emergency measure for the immediate preservation of the public peace, health, or safety, and containing a statement of the reasons for its urgency, may be adopted in the manner provided in Section 500 except that such emergency ordinance may be introduced, enacted and adopted at one and the same regular or special meeting and shall take effect immediately upon adoption if passed by at least five affirmative votes. An emergency ordinance shall expire automatically after 120 days.

Section 502. RESOLUTIONS. The City Council may act by resolution or minute order in all actions not required by this Charter to be taken by ordinance.

Section 503. PUBLISHING OF LEGAL NOTICES. The City Council shall cause to be published all legal notices and other matters required to be published by law in a daily, semiweekly or weekly newspaper published in the County or the City and circulated in the City which is selected by the City Council for that purpose and using current technology. No defect or irregularity in proceedings taken under this section shall invalidate any publication where it is otherwise in conformity with this Charter or law or ordinance.

ARTICLE VI FISCAL ADMINISTRATION

Section 600. FISCAL YEAR. The fiscal year of the City shall be as set forth by resolution of the City Council.

Section 601. ANNUAL BUDGET, PREPARATION BY THE CITY MANAGER. At such date as the City Manager shall determine, each board or commission and each department head shall furnish to the City Manager, personally, or through the ~~Director of Finance~~ **Chief Financial Officer**, estimates of the department's, board's or commission's revenue and expenditures for the ensuing fiscal year, detailed in such manner as may be prescribed by the City Manager. In preparing the proposed budget, the City Manager shall review the estimates, hold conferences thereon with the respective department heads, boards or commissions as necessary, and may revise the estimates as may be deemed advisable.

Section 602. ANNUAL BUDGET. SUBMISSION TO THE CITY COUNCIL. The City Manager shall submit the proposed budget to the City Council at least thirty days prior to the beginning of each fiscal year. After reviewing the proposed budget and making such revisions as it may deem advisable, the City Council shall hold a public hearing thereon at least fifteen days prior to the beginning of each fiscal year and shall cause to be published a notice thereof not less than ten days prior to said hearing. Copies of

the proposed budget shall be available for inspection by the public in the office of the City Clerk at least ten days prior to said hearing.

Section 603. ANNUAL BUDGET. PUBLIC HEARING. At the time so advertised or at any time to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the proposed budget, at which interested persons desiring to be heard shall be given such opportunity.

Section 604. ANNUAL BUDGET. FURTHER CONSIDERATION AND ADOPTION. At the conclusion of the public hearing the City Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable and on or before the last day of the fiscal year it shall adopt the budget with revisions, if any, by the affirmative vote of at least a majority of the total members of the Council. Upon final adoption, the budget shall be in effect for the ensuing fiscal year. Copies thereof, certified by the City Clerk, shall be filed with the City Manager, ~~Director of Finance~~ **Chief Financial Officer**, City Treasurer and the person retained by the City Council to perform the post audit function, and a further copy shall be placed, and shall remain on file in the office of the City Clerk where it shall be available for public inspection. The budget so certified shall be reproduced and copies made available for the use of the public and of departments, offices and agencies of the City.

Section 605. ANNUAL BUDGET APPROPRIATIONS. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments, offices and agencies for the respective objects and purposes therein named; provided, however, that the City Manager may transfer funds from one object or purpose to another within the same department, office or agency. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

At any public meeting after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by the affirmative vote of at least a majority of the total members of the City Council.

Section 606. DETERMINATION OF CITY TAX RATE. The City Council shall prescribe by ordinance for the assessment, levy and collection of taxes upon property which is taxable for municipal purposes. If the City Council fails to fix the rate and levy taxes on or before August 31 in any year, the rate for the next preceding fiscal year shall thereupon be automatically adopted and a tax at such rate shall be deemed to have been levied on all taxable property in the City for the current fiscal year.

Section 607. TAX LIMITS.

(a) The City Council shall not levy a property tax for municipal purposes in excess of One Dollar annually on each One Hundred Dollars of the assessed value of taxable property in the City, except as otherwise provided in this section, unless authorized by the affirmative vote of a majority of the electors voting on a proposition to increase such levy at any election at which the question of such additional levy for municipal purposes is submitted to the electors. The number of years that such additional levy is to be made shall be specified in such proposition.

(b) There shall be levied and collected at the same time and in the same manner as other property taxes for municipal purposes are levied and collected, as additional taxes not subject to the above limitation, if no other provision for payment thereof is made:

1. A tax sufficient to meet all liabilities of the City of principal and interest of all bonds and judgments due and unpaid, or to become due during the ensuing fiscal year, which constitute general obligations of the City; and

2. A tax sufficient to meet all obligations of the City for the retirement system in which the City participates, due and unpaid or to become due during the ensuing fiscal year.

(c) Special levies, in addition to the above and not subject to the above limitation, may be made annually, based on City Council approved estimates, for the following specific purposes, but not to exceed the following respective limits for those purposes for which limits are herein set forth, to wit: parks and recreation and human services not to exceed \$0.20 per One Hundred Dollars; Libraries not to exceed \$0.15 per One Hundred Dollars; promotional interests and cultural affairs not to exceed \$0.07 per One Hundred Dollars; and civil defense and disaster preparedness not to exceed \$0.03 per One Hundred Dollars. The proceeds of any special levy shall be used for no other purpose than that specified.

Section 608. VOTE REQUIRED FOR TAX MEASURES. No tax, property tax, or other measure whose principal purpose is the raising of revenue, or any increase in the amount thereof, shall be levied, enacted or established except by ordinance adopted by the affirmative vote of at least five (5) members of the City Council; provided, however, that any tax levied or collected pursuant to Section 607(b) of this Charter shall be exempt from the minimum voting requirement of this section.

This section shall not apply to any license, permit, or any other fee or charge whose principal purpose is to pay or reimburse the City for the cost of performing any regulatory function of the City under its police power in connection with the City's duty to preserve or maintain the public peace, health, safety and welfare.

This section shall not apply to any user or service fee or charge provided such fee or charge is directly related to such use or service, is charged to the user or person receiving such service, and is to pay or reimburse the City for the costs of providing such use or service.

This section shall not apply to any fee or charge relating to any franchise or proprietary function of the City.

Section 609. REAL ESTATE TRANSFER TAX. The City Council shall not levy a tax on the transfer or conveyance of any interest in real property unless authorized by the affirmative vote of a majority of the electors voting on a proposition submitted to the electors to authorize such tax at a general or special election.

Section 610. BONDED DEBT LIMIT. The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of 12 percent of the total assessed valuation, for purposes of City taxation, of all the real and personal property within the City.

No bonded indebtedness which shall constitute a general obligation of the City may be created unless authorized by the affirmative vote of the majority required by law of the electors voting on such proposition at any election at which the question is submitted to the electors.

Section 611. REVENUE BONDS. Bonds which are payable only out of such revenues, other than taxes, as may be specified in such bonds, may be issued when the City Council by ordinance shall have established a procedure for the issuance of such bonds. Such bonds, payable only out of revenues, shall not constitute an indebtedness or general obligation of the City. No such bonds payable out of revenues shall be issued without the assent of the majority of the voters voting upon the proposition for issuing the same at an election at which such proposition shall have been duly submitted to the registered voters of the City.

It shall be competent for the City to make contracts and covenants for the benefit of the holders of any such bonds payable only from revenues and which shall not constitute a general obligation of the City for

the establishment of a fund or funds, for the maintaining of adequate rates or charges, for restrictions upon further indebtedness payable out of the same fund or revenues, for restrictions upon transfer out of such fund, and other appropriate covenants. Money placed in any such special fund for the payment of principal and/or interest on any issue of such bonds or to assure the application thereof to a specific purpose shall not be expended for any other purpose whatever except for the purpose for which such special funds were established and shall be deemed segregated from all other funds of the City and reserved exclusively for the purpose for which such special fund was established until the purpose of its establishment shall have been fully accomplished.

Section 612. PUBLIC UTILITIES AND PARKS AND BEACHES.

(a) No public utility or park or beach or portion thereof now or hereafter owned or operated by the City shall be sold, leased, exchanged or otherwise transferred or disposed of unless authorized by the affirmative votes of at least a majority of the total membership of the City Council and by the affirmative vote of at least a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted.

(b) No golf course, driving range, road, building over three thousand square feet in floor area nor structure costing more than \$161,000.00 may be built on or in any park or beach or portion thereof now or hereafter owned or operated by the City unless authorized by the affirmative votes of at least a majority of the total membership of the City Council and by the affirmative vote of at least a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted after the appropriate environmental assessment, conceptual cost estimate, and reasonable project description has been completed and widely disseminated to the public. Effective January 1, 2011, and each year thereafter, the maximum cost will be adjusted by the Consumer Price Index for the Los Angeles-Riverside-Orange County area.

(c) Section 612(a) and 612(b) shall not apply;

- (1) to libraries or piers;
- (2) to any lease, franchise, concession agreement or other contract where;
 - the contract is to perform an act or provide a service in a public park or beach
AND
 - such act was being performed or service provided at the same location prior to January 1, 1989 AND
 - the proposed lease, franchise, concession agreement or other contract would not increase the amount of parkland or beach dedicated to or used by the party performing such act or providing such service.
- (3) to above ground public works utility structures under 3,000 square feet;
- (4) to underground public works utility structures if park or beach use is not impeded;
- (5) to any public works construction, maintenance or repair mandated by state or federal law that does not negatively impact recreational opportunities; ~~or~~
- (6) to renewable energy projects that do not negatively impact recreational opportunities; **; or**

- (7) **to the replacement of existing equipment or infrastructure that does not exceed its current footprint or height by more than 10% and also maintains its current use.**

(d) If any section, subsection, part, subpart, paragraph, clause or phrase of this amendment, or any amendment or revision of this amendment, is for any reason held to be invalid or unconstitutional, the remaining sections, subsections, parts, subparts, paragraphs, clauses or phrases shall not be affected but shall remain in full force and effect.

Section 613. EXECUTION OF CONTRACTS. Except as hereinafter provided, the City shall be bound by a contract only if it is made in writing, approved by the City Council and signed on behalf of the City by the Mayor and City Clerk or by a City officer designated by the City Council and only upon the direction of the City Council. Exceptions to this procedure are as follows:

(a) By ordinance or resolution the City Council may authorize the City Manager or other officer to bind the City, with or without a written contract, for the acquisition of equipment, materials, supplies, labor, services or other items included within the budget approved by the City Council, and may impose a monetary limit upon such authority.

(b) By ordinance or resolution, the City Council may provide a method for the sale or exchange of personal property not needed in the City service or not fit for the purpose for which intended, and for the conveyance of title thereto.

(c) Contracts for the sale of the products, commodities or services of any public utility owned, controlled or operated by the City may be made by the manager of such utility or by the head of the department or City Manager upon forms approved by the City Manager and at rates fixed by the City Council.

Section 614. CONTRACTS ON PUBLIC WORKS. Except as hereinafter expressly provided, every contract involving an expenditure as set forth by ordinance of the City Council for the construction or improvement (excluding maintenance and repair) of public buildings, works, streets, drains, sewers, utilities, parks and playgrounds, and each separate purchase of materials or supplies for the same, where the expenditure required for such purchase shall exceed the amount set by ordinance, shall be let to the lowest responsible bidder after notice by publication in accordance with Section 503 by two or more insertions, the first of which shall be at least ten days before the time for opening bids.

The City Council may reject any and all bids presented and may readvertise in its discretion. After rejecting bids, or if no bids are received, or without advertising for bids if the total amount of the contract or project is below the amount set by ordinance, the City Council may declare and determine that in its opinion, the work in question may be performed better or more economically by the City with its own employees, or that the materials or supplies may be purchased at lower price in the open market, and after the adoption of a resolution to this effect by the affirmative vote of a majority of the total members of the City Council, it may proceed to have said work done or such materials or supplies purchased in the manner stated without further observance of the provisions of this section.

All public works contracts exceeding the amount set by ordinance may be let and purchases exceeding the amount set by ordinance may be made without advertising for bids if such work or the purchase of such materials or supplies shall be deemed by the City Council to be of urgent necessity for the preservation of life, health, or property and shall be authorized by at least five affirmative votes of the City Council.

Projects for the extension, replacement or expansion of the transmission or distribution system of any existing public utility operated by the City or for the purchase of supplies or equipment for any such

project or any such utility may be excepted from the requirements of this section by the affirmative vote of a majority of the total members of the City Council.

Section 615. GRANTING OF FRANCHISES. The City Council shall by ordinance regulate the granting of franchises for the City.

Section 616. INDEPENDENT AUDIT. The City Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm annually provided that the designation for any particular fiscal year shall be made no later than thirty days after the beginning of such fiscal year. As soon as practicable after the end of the fiscal year, a final audit and report shall be submitted by such accountant to the City Council, one copy thereof to be distributed to each member. Additional copies of the audit shall be placed on file in the office of the City Clerk where they shall be available for inspection by the general public, and a copy of the financial statement as of the close of the fiscal year shall be published in the official newspaper.

Section 617. INFRASTRUCTURE FUND.

(a) All revenue raised by vote of the electors or imposed by vote of the City Council on or after March 5, 2002, by a measure which states that the revenue to be raised is for the purpose of infrastructure, as said term is defined in this paragraph, shall be placed in a separate fund entitled "Infrastructure Fund." The term "Infrastructure" shall mean long-lived capital assets that normally are stationary in nature and normally can be preserved for significantly greater number of years. They include storm drains, storm water pump stations, alleys, streets, highways, curbs and gutters, sidewalks, bridges, street trees, landscaped medians, parks, beach facilities, playgrounds, traffic signals, streetlights, block walls along arterial highways, and all public buildings and public ways. Interest earned on monies in the Infrastructure Fund shall accrue to that account. Monies in said Fund shall be utilized only for direct costs relating to infrastructure improvements or maintenance, including construction, design, engineering, project management, inspection, contract administration and property acquisition. Monies in said Fund shall not be transferred, loaned or otherwise encumbered for any other purpose.

(b) Revenues placed in the Infrastructure Fund shall not supplant existing infrastructure funding. The average percentage of general fund revenues utilized for infrastructure improvements and maintenance, for the five- (5) year period of 1996 to 2001, is and was 14.95%. Expenditures for infrastructure improvements and maintenance, subsequent to 2001, shall not be reduced below 15% of general fund revenues based on a five- (5) year rolling average.

(c) The City Council shall by ordinance establish a Citizens Infrastructure Advisory Board to conduct an annual review and performance audit of the Infrastructure Fund and report its findings to the City Council prior to adoption of the following fiscal-year budget.

ARTICLE VII ELECTIONS

Section 700. GENERAL MUNICIPAL ELECTIONS. General municipal elections shall be held in the city on the first Tuesday after the first Monday in November in each even-numbered year.

Section 701. SPECIAL MUNICIPAL ELECTIONS. All other municipal elections that may be held by authority of this Charter, or of any law, shall be known as special municipal elections.

Section 702. PROCEDURE FOR HOLDING ELECTIONS. All elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exists or hereafter may be amended, for the holding of municipal elections, so far as the same are not in conflict with this Charter.

Section 703. INITIATIVE, REFERENDUM AND RECALL. There are hereby reserved to the electors of the City the powers of the initiative and referendum and of the recall of municipal elective officers. The provisions of the Elections Code of the State of California, as the same now exists or hereafter may be amended, governing the initiative and referendum and the recall of municipal officers, shall apply to the use thereof in the City so far as such provisions of the Elections Code are not in conflict with the provisions of this Charter.

Section 704. NOMINATION PAPERS. Nomination papers for candidates for elective municipal office must be signed by not less than twenty nor more than thirty electors of the City.

ARTICLE VIII MISCELLANEOUS

Section 800. TRANSITION. Elective officers and elective officers whose offices are made appointive of the City shall continue to hold such offices until the completion of their current terms and the election or appointment and qualification of their respective successors under this Charter. All boards, commissions and committees presently in existence shall continue to act in accordance with their original grant of authority until such time as the City Council adopts appropriate ordinances pertaining to their activities or for one year, whichever occurs first. All lawful ordinances, resolutions, rules and regulations, and portions thereof, in force at the time this Charter takes effect and not in conflict or inconsistent herewith, are hereby continued in force until the same shall have been duly repealed, amended, changed or superseded by proper authority.

Section 801. DEFINITIONS. Unless the provisions or the context otherwise requires, as used in this Charter:

- (a) "Shall" is mandatory, and "may" is permissive.
- (b) "City" is the City of Huntington Beach and "department," "board," "commission," "agency," "officer," or "employee" is a department, board, commission, agency, officer or employee, as the case may be, of the City of Huntington Beach.
- (c) "County" is the County of Orange.
- (d) "State" is the State of California.
- ~~(e) The masculine includes the feminine and the feminine includes the masculine.~~
- ~~(f)~~ ~~(e)~~ The singular includes the plural and the plural the singular.

(~~g~~ **f**) "Person" includes firm and corporation.

Section 802. VIOLATIONS. The violation of any provision of this Charter shall be a misdemeanor.

Section 803. PROPERTY RIGHTS PROTECTION MEASURE.

(a) The City shall not enact or enforce any measure which mandates the price or other consideration payable to the owner in connection with the sale, lease, rent, exchange or other transfer by the owner of real property. Any such measure is hereby repealed.

(b) The word "mandates" as used in subsection (a) includes any measure taken by ordinance, resolution, administrative regulation or other action of the City to establish, continue, implement or enforce any control or system of controls on the price or other terms on which real property in the city may be offered, sold, leased, rented, exchanged or otherwise transferred by its owner. The words "real property" as used in subsection (a) refer to any parcel of land or site, either improved or unimproved, on which a dwelling unit or residential accommodation is or may be situated for use as a home, residence or sleeping place.

(c) This Section 803 shall not apply to:

- (1) any real property which contains serious health, safety, fire or building code violations, excluding those caused by disasters, for which a civil or criminal citation has been issued by the City and remains unabated for six months or longer;
- (2) any real property owned by a public entity, and real property where the owner has agreed by contract with the public entity, including the City and any of its related agencies, to accept a financial contribution or other tangible benefit including without limitation, assistance under the Community Redevelopment Law;
- (3) any planning or zoning power of the City as relates to the use, occupancy or improvement of real property and to any real property which the City or any of its related agencies may acquire by eminent domain, purchase, grant or donation;
- (4) any power of the City to require a business license for the sale or rental of real property, whether for regulation or general revenue purposes;
- (5) any dwelling unit or accommodation in any hotel, motel or other facility when the transient occupancy of that dwelling unit or accommodation is subject to a transient occupancy tax; or
- (6) to impair the obligation of any contract entered into prior to the enactment of this Section 803 or otherwise required by State law.

Section 804. CHARTER REVIEW. The City Council shall determine if there is a need to convene a citizen's Charter Review Commission to conduct a review of the City Charter no less frequently than every ten years **from the most recent formal Charter review conducted by a Charter Revision Commission, City Council, or City staff.**

Section 805. SAFE AND SANE FIREWORKS. It shall be lawful to possess, sell, display, use or discharge within the City, those fireworks that are defined and classified as Safe and Sane Fireworks

PROPOSED CHARTER AS RECOMMENDED BY THE CHARTER REVISION COMMITTEE (MAY 2022)

Text in **blue** = proposed additions * Text with ~~double strike outs~~ = proposed deletions

(a.k.a. “state-approved fireworks”) in the California State Fireworks Law (sections 12500 et seq. of the Health and Safety Code and the relevant sections of Code of Regulations Title 19, Subchapter 6) subject to regulation by City Council.

ATTACHMENT 6

CHARTER REVISION COMMITTEE MINUTES



Catherine Jun, Office of the City Manager
Raphael Sonenshein, Consultant

CYNTHIA BENTON, Board Member
CASEY MCKEON, Board Member
SCOTT MILLER, Board Member
DAMON MIRCHEFF, Board Member
LEONIE MULVIHILL, Board Member
CHARLES RAY, Board Member
DIANNE THOMPSON, Board Member

1. CALL TO ORDER.

Meeting was called to order at 5:33pm.

2. SWEARING IN OF MEMBERS AND ROLL CALL.

Committee Members – All present

Staff – Jun, Sonenshein, and Assistant City Manager Travis Hopkins

3. PUBLIC COMMENTS

Comment received from Victor Leipzig, who expressed uncertainty that the Charter needed revision.

4. REGULATORY GUIDANCE

- Brown Act
- AB 1234
- California Public Records Act

This item was presented by Assistant City Attorney Michael Vigliotta, who went over each regulation and received clarifying questions from Members.

5. WELCOME & ORIENTATION.

Introductions were made by each Committee member and staff.

Sonenshein provided an in depth explanation of the Charter review process and its purpose. Sonenshein recommended focusing on the timeline and the ultimate goal of working together to review and potentially recommend revisions to parts of the Charter. He reminded the Committee that the Charter does not serve to address every municipal matter but provides the overarching structure upon which the government will function. Sonenshein received clarifying questions from Members.

6. COMMITTEE GOALS AND TIMELINE

Jun presented a proposed timeline to the Committee and opened up discussion to identify the meeting cadence/frequency needed to stay on track. Committee members agreed to meet twice a month in order to finalize potential revisions and present them to the City Council by Spring 2022. The goal is to place them on the ballot for the November 2022 elections.

The Committee agreed to meet on the 2nd and 4th Thursday of each month at 6PM, beginning in

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January 2022. The Committee also agreed to meet for a second time this month on December 16 at 6PM.

7. MEETING LOGISTICS

- Meeting structure and format (with facilitation from Consultant)
- Preferred meeting frequency, dates, and times
- Chair and Vice Chair positions

Bullet points 1-2 were addressed under Item 6. Sonenshein then discussed the importance of the Chair and Vice Chair positions and explained the nomination and voting process which will take place during the December 16 meeting.

Sonenshein and Jun then took questions about the meeting structure and format and staff provided assurance that a work plan will be provided, outlining the process and timeline to get to the goal.

Sonenshein and Jun also received requests for additional research and information which will be presented at the December 16 meeting.

8. PROPOSED AGENDA ITEMS FOR THE NEXT MEETING

Committee members requested a review of the draft workplan.

9. STAFF COMMENTS / DISTRIBUTION OF INFORMATION

- Board Binder
 - o Required documents
 - o City's policies and regulations related to Boards and Commissions

Jun asked the Committee to review and turn in certifications for training in AB 1234, Harassment Prevention, and staff policies.

10. ADJOURNMENT

The next regularly scheduled meeting of the Charter Revision Committee is Thursday, December 16 at 6PM. An agenda will be posted 72 hours prior to the next meeting on <https://huntingtonbeach.legistar.com/Calendar.aspx>.



Catherine Jun, Office of the City Manager
Raphael Sonenshein, Consultant

DAMON MIRCHEFF, Chair
CHARLES CJ RAY, Vice Chair
CYNTHIA BENTON, Board Member
CASEY MCKEON, Board Member
SCOTT MILLER, Board Member
LEONIE MULVIHILL, Board Member
DIANNE THOMPSON, Board Member

1. CALL TO ORDER

Meeting was called to order at 6:10pm.

2. ROLL CALL

All Committee Members and staff present.

3. PUBLIC COMMENTS

NONE.

4. APPROVAL OF MINUTES FROM DECEMBER 1, 2021.

Motion made to approve the minutes as is by Mulvihill and seconded by Ray. Minutes approved unanimously by the Committee.

5. ELECTION OF CHAIR AND VICE CHAIR

Nominations for Chair:

- *Mulvihill nominated Mircheff as Chair*
- *Thompson nominated herself as Chair*

Mircheff was voted as Chair with 6 votes.

Nominations for Vice Chair:

- *Mulvihill nominated Ray as Vice Chair*
- *Benton nominated Thompson as Vice Chair*
- *McKeon nominated himself for Vice Chair*

Ray was voted as Vice Chair with 6 votes.

6. DISCUSSION

a. Charter Revision Committee's Voting Process

Dr. Sonenshein recommended that the Committee consider utilizing a straw vote system to initially approve items, before they are brought back to the Committee towards the end of their timeline for final consideration and approval. All items that are approved will be included in the list of recommended revisions that will be considered by the Council.

Mircheff and Ray asked clarifying questions; Mulvihill expressed support for the straw vote process. Ray made a motion to adopt the straw vote policy; Thompson seconded. The matter was approved 7-0.

Following that discussion, Thompson made a motion to require a 4-3 majority to approve a straw vote. Mulvihill seconded. The matter was approved 7-0.

b. Walk Through of the Current City Charter

This Walk Through was led by Dr. Sonenshein, who clarified the differences between a

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charter and non-charter issue and also described each section and its purpose.

The Committee engaged in various discussions to decide which Sections should be added to the Workplan for future discussion and debate.

c. Review 2010 Charter Recommendations

Dr. Sonenshein, as the former consultant of the 2009-10 Charter Review Committee, explained the history behind Measure N and O, a series of revisions that were placed on the November 2010 ballot for voter approval.

McKeon requested staff's opinion (Finance, Treasury, Public Works) regarding the Infrastructure Fund. Jun stated that their opinion will be provided by the next meeting.

d. Committee Review and Approval of the Draft Work Plan and Tracking Sheet

Mulvihill made a motion to approve the Workplan with consideration given to providing enough time in between the issuance of staff's final report to the Committee and when the Committee will take action on it. Staff will make the adjustment and bring the workplan back to the Committee for review.

Per Mulvihill's request, staff will build in additional time (at least 5 business days/7 days) for the public to review the final report on 4/19 and when Committee takes action on it.

e. Review City Staff Charter Recommendations

The Committee has asked for the recommendations to be incorporated into the tracking document.

f. Member Suggestions for Major Topics of Deliberation

None at this time.

7. COMMITTEE MEMBER COMMENTS

Ray made a motion asking for staff to include running agenda items for discussion at every meeting, including adjustments and approval of the Workplan and Tracking documents and Discussion of Key Charter Items. The motion was seconded by McKeon and approved by the Committee (7-0).

8. STAFF AND CONSULTANT COMMENTS

None

9. ADJOURNMENT

The Committee meeting adjourned at 7:58pm.

The next regularly scheduled meeting of the Charter Revision Committee is on Thursday, January 13 at 6:00PM. An agenda will be posted 72 hours prior to the next meeting on:

<https://huntingtonbeach.legistar.com/Calendar.aspx>.



DAMON MIRCHEFF, Chair
CHARLES CJ RAY, Vice Chair
CYNTHIA BENTON, Board Member
CASEY MCKEON, Board Member
SCOTT MILLER, Board Member
LEONIE MULVIHILL, Board Member
DIANNE THOMPSON, Board Member

Catherine Jun, Office of the City Manager
Raphael Sonenshein, Consultant

1. **CALL TO ORDER.** *Meeting called to order at 6:03pm.*
2. **ROLL CALL.** *All Committee Members were in attendance, except Mr. Miller who joined the meeting at 6:10pm. Assistant City Manager Travis Hopkins, Staff Liaison Jun, and Consultant Sonenshein were also in attendance.*

3. **PUBLIC COMMENTS**

Individuals wishing to provide a comment on agendized or non-agendized items may do so via Zoom by clicking on the "Raise Hand" button. Individuals will be called upon when it is their turn to speak. Each speaker will receive 3 minutes to make public comment.

Amory Hanson asked the Committee to keep the phrase "casting of lots" (per Recommendation 1 in Attachment 2). He also felt that the City Clerk should oversee the random drawing process alluded to in Recommendation 2. Lastly, Hanson asked the Committee to adjourn as he felt the virtual meeting was not an appropriate forum for a public meeting.

4. **APPROVAL OF MINUTES FROM DECEMBER 16, 2021.**

Ray moved to clarify Section 6d which appeared incompletd and to continue this item on January 27, 2022; motion was seconded by Mulvihill. Approved 7-0.

5. **DISCUSSION**

- a) Presentation from Consultant on the Role of the Committee and the Public, followed by discussion

Dr. Sonenshein spoke about the ways in which Members may like to represent the Committee to members of the public who inquire about their scope of work. Dr. Sonenshein recommended using these interactions as an opportunity to focus the public on the Committee's progress, which promotes a thorough, engaging and transparent review of the Charter.

Sonenshein reiterated that Members' opinions are important and can be shared during these interactions. When sharing opinions, the Committee may wish to remind the public that opinions (and votes) can change over time and after extensive deliberation. What remains constant will be the process, which should be shared with the public.

6. **CONSENT CALENDAR: POTENTIAL PHASE 1 CHARTER REVISIONS**

- a) Staff/Consultant Report on potential Phase 1 Charter revisions

See Attachment 2 for a full listing of potential revisions. Committee decided to review each revision one by one, rather than via Consent Calendar.

1. *Item 1: Mulvihill, Benton, McKeon prefer to leave the dates in Section 300 as is, because it provides historical context. Ray and Thompson prefer to remove the years to create a more timeless document. McKeon, Mulvihill and Mircheff felt that potentially updating the years to be more contemporary may provide a middle ground. Sonenshein suggested resetting the years to 2022 and referencing the inception of the Charter for historical purposes. See*

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Attachment 2 for motions and votes.

Mulvihill made a motion for staff to prepare modifications based on Sonenshein's suggestion; seconded by McKeon. Approved 7-0.

2. *Item 2: Thompson, McKeon, and Mulvihill felt that the City Clerk should conduct the random drawing. Mircheff opined it should be the City Manager, as written in the staff report, since the City Manager is a neutral party. Mulvihill pointed out that the City Manager works for the Council, which might create a conflict. Thompson then suggested conducting the random drawing at the first regular City Council meeting, instead of the first Monday following the certification of the election. The members agreed.*

Based on the discussion above, Mulvihill made a motion for the following language, seconded by Thompson:

*"The term of each member of the City Council, the City Clerk, the City Treasurer and the City Attorney shall commence on **the first regular City Council Meeting** ~~Monday~~ following the certification of the election. Ties in voting among candidates for office **shall be settled by random drawing process conducted during a public meeting by the City Manager.** ~~the casting of lots.~~" The item was approved 7-0.*

Ray then made a motion to re-include "City Manager" in the language above; seconded by Miller:

*"The term of each member of the City Council, the City Clerk, the City Treasurer and the City Attorney shall commence on **the first regular City Council Meeting** ~~Monday~~ following the certification of the election. Ties in voting among candidates for office **shall be settled by random drawing process conducted during a public meeting by the City Manager.** ~~the casting of lots.~~" The item was approved 4-3.*

3. *Item 3: Mulvihill stated there is already language in the Charter regarding adjournment processes and felt that modification to add a cancelation process to Section 303(a) was not needed. Cancelation, particularly ones that can be predicted, are a form of adjournment to the next following regular meeting. McKeon and Ray agreed and felt less was more. Mircheff also had concerns it provided the City with too much leeway to cancel meetings without good reason.*

Thompson asked if staff can revisit the wording, particularly the use of adjournment and re-adjournment in this section.

Ray moved to leave the language as is with a request for staff to propose other language that reduces the overuse of adjourn/re-adjourn as is noted in the 2nd half of 303(a); seconded by Mulvihill. Approved 7-0.

4. *Item 4: Mulvihill believes the recommended modification is not necessary since the Attorney General already clarifies that the majority of Council calling a special meeting does not violate the Brown Act. She also stated that this guidance is also supported by case law.*

Mulvihill made a motion to maintain the Charter language in 303(b) as is; Thompson seconded. Approved 7-0.

McKeon moved to ask staff to add "current technology" wherever the Charter mentions communication methods, as appropriate; seconded by Miller. Staff will return with the revisions at a later date. Approved 7-0.

5. *Item 5: Committee members generally agreed that it was appropriate to update "executive*

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sessions” with “closed sessions”. Thompson moved to accept the recommended language; seconded by Benton. Approved 7-0.

6. *Item 6: Ray moved to table this item pending approval of the motion made on Item 4. Seconded by Thompson. Approved 7-0.*
7. *Item 7: Members generally agreed with the recommended changes. Mulvihill noted that “Chief Financial Officer” was also in the Municipal Code which is why it would be prudent to approve the recommendation. Motion made by Ray; seconded by Thompson/Mulvihill. Approved 7-0.*
8. *Item 8: Jun has a list of ordinances and regulations that supplement Charter Section 313 and will send them to the Committee. Ray recommended including a requirement for Council to revisit the nepotism and conflict of interest policies and regulations on an annual basis. Vigliotta made some clarifying points. Ray moved to continue discussing this item, allowing members to share items of concern; seconded by Thompson. Approved 7-0.*
9. *Item 9: Mulvihill felt that personnel systems should be approved by ordinance only since they have full force of the law and are codified. McKeon agreed. Mulvihill moved to leave Section 403 as is; seconded by McKeon. Approved 7-0.*
10. *Item 10: Ray felt satisfied with the confirmation that the word “shall” was the same as “must” and moved to leave Section 801(a) as is; seconded by McKeon. Approved 7-0.*
11. *Item 11: Thompson felt that the proposed changes were satisfactory and helped make the Charter more contemporary. Thompson moved to accept the changes; seconded by Ray. Approved 7-0.*
12. *Item 12: Ray felt that convening a Charter Review should be mandatory at least once every 10 years and felt that the language should be clarified to support that. McKeon felt that the language was fine as is and gave the City flexibility, particularly if a review may not be urgent or necessary at that time. Mulvihill felt that the Council should have the discretion to convene a committee but believed they should make that determination in a public meeting. Ray moved to develop modified language that would include a set interval of time that resets after the last committee formation or revision. Seconded by Mulvihill. Approved 7-0.*
13. *Research Item 1 – Staff explained the purpose and goals of the Infrastructure Fund in Section 617. Committee felt that staff’s presentation was sufficient for now and decided to table further deliberation on this section.*
14. *Research 2 – Mulvihill felt satisfied with the information presented and felt that it did not need additional deliberation. The Committee concurred.*
 - ~~a) Review and conduct straw vote on Phase 1 Charter revisions; pull items for further deliberation, as needed~~
 - ~~b) Deliberate and conduct straw vote on pulled Phase 1 Charter Revisions~~

7. COMMITTEE DECISION: SCHEDULING OF PHASE 2 ITEMS FOR DELIBERATION

The Committee agreed to agendaize a discussion of Section 612: Measure C and Section 302: City Council Compensation for deliberation for the 1/27/22 Committee Meeting.

8. PROPOSED UPDATES TO COMMITTEE DOCUMENTS AND CALENDAR, AS NEEDED

None.

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9. COMMITTEE MEMBER COMMENTS

Ray stated that he appreciates this group, their time, and their process.

10. STAFF AND CONSULTANT COMMENTS

None.

11. ADJOURNMENT. *The Committee Meeting adjourned at 8:57pm.*

The next regularly scheduled meeting is on Thursday, January 27 at 6:00p. An agenda will be posted 72 hours prior to the next meeting on: huntingtonbeach.legistar.com/Calendar.aspx



DAMON MIRCHEFF, Chair
CHARLES CJ RAY, Vice Chair
CYNTHIA BENTON, Board Member
CASEY MCKEON, Board Member
SCOTT MILLER, Board Member
LEONIE MULVIHILL, Board Member
DIANNE THOMPSON, Board Member

Catherine Jun, Office of the City Manager
Raphael Sonenshein, Consultant

1. CALL TO ORDER. *Meeting commenced at 6:03pm.*

2. ROLL CALL. *All Members present.*

3. PUBLIC COMMENTS

No public comments were given.

4. APPROVAL OF MINUTES FROM DECEMBER 16, 2021 AND JANUARY 13, 2022

Mulvihill moved to approve the December 16, 2021 minutes; seconded by Benton. Approved 7-0.

Mulvihill moved to approve the January 13, 2022 minutes with the following changes proposed by Committee members; Benton seconded the motion. Approved 7-0.

- o *Mulvihill: Item 6(a)(8) – Add the “Chief Assistant City Attorney” title for staff member Vigliotta.*
- o *Mulvihill: Item 6(a)(9) – Remove the word “only” and the phrase “have full force of the law and” in the first sentence.*
- o *Mircheff: Item 5(a), second paragraph – Replace “process” with “progress” in the last sentence.*
- o *Mircheff: Item 6(a)(2), first paragraph. Replace “neutral” with “non-elected” party.*

5. CHAIR AND VICE CHAIR ANNOUNCEMENTS

Mircheff thanked the Committee for remaining committed to the discussions had at the 1/13/22 meeting. Mircheff and Ray also announced they will make an informal presentation about the Committee’s scope of work, timeline and goals during the 2/1/22 City Council meeting.

6. PHASE 2 POTENTIAL CHARTER REVISIONS FOR DELIBERATION

Jun introduced staff members who would be available for Q&A during one or more presentation items:

Chief Financial Officer, Dahle Bulosan; Director of Public Works, Sean Crumby; Assistant City Manager, Travis Hopkins; Director of Community Development, Ursula Luna-Reynosa; Assistant Chief Financial Officer, Sunny Rief; Director of Community and Library Services, Chris Slama; Chief Assistant City Attorney, Michael Vigliotta

a) Section 612: Measure C

Jun and Slama presented on the history of Measure C and staff’s experience working within its guidelines today. Mulvihill requested clarification on the differences between the 1990 ballot measure language and Measure M, which is now reflected in Section 612 in the 2010 Charter. Jun and Mulvihill reviewed the difference as it relates to the dollar threshold, and Jun clarified that the Committee will be considering and potentially revising the language in the 2010 Charter.

Following the presentation, Committee members asked various questions surrounding the Measure. Mircheff, Jun and Sonenshein rounded up the discussion with recommendations to focus on the three sets of questions that were listed in the presentation. The Committee returned to the questions and

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made the following decisions:

1a. Section 612(b): Should the Committee consider expanding the list of projects exempt from Measure C?

Mulvihill made a motion that this question was a bridge too far for the Committee and not to consider it further; seconded by McKeon. Approved 7-0.

1b. Section 612(b): Should Measure C apply to public-private partnership projects with a recreational use?

Mulvihill made a motion that this question was a bridge too far for the Committee and not to consider it further; seconded by Mircheff. Approved 7-0.

2a. Section 612(b): Should the Committee consider if the replacement or reconstruction of existing structures and buildings should be subject to voter approval, if their intended use remains unchanged?

Mircheff moved that this item was worth supporting; Ray asked for draft language that could be incorporated into Section 612. Mulvihill made an amended motion for staff to draft language for consideration; seconded by Mircheff. Approved 7-0.

2b. Section 612(b): Should the Committee consider if the expansion of existing structures and buildings should be subject to voter approval?

Mulvihill moved that this question was a bridge too far for the Committee and not to consider it further; seconded by Benton. Approved 6-1, with Mircheff voting no.

3. Section 612(a): Should this Committee consider if Section 612(a) should modify or remove the phrase “or operated by the City”?

Mircheff moved that this question was worth considering and for staff to prepare draft language for consideration; seconded by Ray. Approved 5-2 with McKeon and Mulvihill voting no.

Staff will return with draft language for items 2a and 3 and provide examples for both items to provide greater context during the Committee's consideration.

Mircheff and Mulvihill also requested the correct index for the dollar threshold that is in the Section.

b) Section 302: City Council Compensation

Sonenshein provided an overview of his Council Compensation Comparison Memo. He opined that the matter of Council compensation may be handled more effectively and efficiently by City ordinance, rather than the Charter. Currently, the Charter appears to set a compensation that does not keep up with cost of living increases or with other cities' compensations for their respective Councils. However, Sonenshein shed light on other forms of Huntington Beach Council compensation set by ordinance and brings total wages closer to the average for comparable Councils in OC and LA Counties.

Mulvihill stated the presentation was helpful and further discussion would not be necessary for her. Miller expressed that this item had always been a philosophical matter, as he wanted to understand if current Council compensation, as set by the Charter, was insufficient and could potentially discourage some qualified individuals from running for City Council. Mircheff agreed, but did not feel certain that any meaningful compensation change could or should be achieved through the Charter, particularly when ordinances were another viable tool to address it.

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Ray moved to table this item and revisit it in the future if needed; seconded by Benton. Approved 6-1-0 with Miller voting against.

7. SCHEDULING OF ADDITIONAL PHASE 2 ITEMS

Following discussion, the Committee tentatively scheduled a discussion of the following items for the 2/10/22 meeting:

- a) Sections 309-311 (primary discussion item)*
- b) Section 300 (secondary discussion item; may be adjourned to the 2/24/22 meeting if there is insufficient time to finish.)*

The Committee also scheduled a discussion of Section 312 for the 2/24/22 meeting.

Ray moved to approve the schedule above; seconded by Benton. Approved 7-0.

8. PROPOSED UPDATES TO COMMITTEE DOCUMENTS AND CALENDAR, AS NEEDED

None

9. COMMITTEE MEMBER COMMENTS

McKeon expressed a desire to invite the City Attorney, Treasurer and Clerk to answer questions or provide a presentation about their roles at the 2/10 meeting. After some brief discussions among members, Sonenshein recommended that the 3 elected representatives attend for a Q&A session and leave during Committee deliberations regarding their roles.

10. STAFF AND CONSULTANT COMMENTS

Jun noted that the Committee may be approached by the media regarding their scope of work. She asked that all media requests be forwarded to the Public Information Office (via Jun), which will work with the Committee to provide a comprehensive response, if deemed necessary.

Sonenshein noted that the Committee is right on schedule and engaging in thorough conversations about the Charter.

11. ADJOURNMENT

Mircheff moved to adjourn the meeting at 8:31pm; seconded by Miller; approved 7-0.

The next regularly scheduled meeting is on Thursday, February 10, 2022 at 6:00p. An agenda will be posted 72 hours prior to the next meeting on: huntingtonbeach.legistar.com/Calendar.aspx

INTERNET ACCESS TO THE AGENDA AND STAFF REPORT MATERIAL IS AVAILABLE PRIOR TO THE MEETING AT: <https://huntingtonbeach.legistar.com/> MEETING ASSISTANCE NOTICE: In accordance with the Americans with Disabilities Act, services are available to members of our community who require special assistance to participate in public meetings. If you require special assistance, 48-hour prior notification will enable the City to make reasonable arrangements for an assisted listening device for the hearing impaired, American Sign Language interpreters, a reader during the meeting and/or large print agendas. Contact the City Manager's Office at 714-536-5553 for more information, or request assistance from the recording secretary at the meeting.



DAMON MIRCHEFF, Chair
CHARLES CJ RAY, Vice Chair
CYNTHIA BENTON, Board Member
CASEY MCKEON, Board Member
SCOTT MILLER, Board Member
LEONIE MULVIHILL, Board Member
DIANNE THOMPSON, Board Member

Catherine Jun, Office of the City Manager
Raphael Sonenshein, Consultant

1. **CALL TO ORDER.** *The meeting was called to order by Chair Mircheff at 6:03pm.*
2. **ROLL CALL.** *All 7 members were present.*
3. **PUBLIC COMMENTS.** *None were offered.*
4. **APPROVAL OF MINUTES FROM JANUARY 27, 2022**

Mulvihill asked to clarify Item 6(a) (2nd Sentence) by adding the phrase "Measure M, which is now reflected in..." before the word "Section". Mircheff moved to approve the minutes as amended; seconded by Benton; approved unanimously.

5. **CHAIR AND VICE CHAIR ANNOUNCEMENTS**

Mircheff updated the Committee on the public comments that he and Vice Chair Ray made during the 2/1/22 City Council meeting. During public comments, both shared the Committee's scope of work, timeline, and collaborative efforts. Ray noted tonight that meetings have been productive and respectful. Mircheff also brought up a housekeeping item for Members to bring all research requests to the Board before they are assigned to staff. Ray expressed that this will ensure requests are coming from the Committee as a whole rather than one individual. Mircheff also reminded the Committee to direct media requests to Jun, if any.

6. **PHASE 2 POTENTIAL CHARTER REVISIONS FOR DELIBERATION**

- a) Sections 300, 310 & 311: Role of the City Clerk and City Treasurer and the process of electing these positions
- b) Sections 300 & 309: Role of the City Attorney and the process of electing this position

Jun gave a presentation on the 3 elected positions and how they were addressed in past Charter amendments. Members asked several clarifying questions about the info. McKeon asked for a copy of the presentation, which Jun assured she will send out after the meeting.

City Treasurer Alisa Backstrom provided an overview of her role and responsibilities. Afterwards, Mulvihill asked about the working relationship between the City Treasurer (CT) and Chief Financial Officer (CFO). Backstrom explained that the CT is in charge of investing the City's pooled funds and ensuring the City has liquidity; she also provides financial projections. CFO prepares the budget, receives/administers funds and ensures proper accounting. Miller asked who makes the investment decisions. Backstrom confirmed that she makes those decisions for pooled funds, but not certain others like certain pension funds. Ray asked about checks and balances in these roles; Backstrom felt the elected role allows her to make decisions in the best interest of the community without any undue pressure from appointed officials, if any. Ray asked if Backstrom's autonomy is critical to her position. Backstrom agreed and opined that it allows her to utilize her best judgment to the benefit of the community. Mircheff asked if the minimum qualifications for the CT role that are listed in the Charter are adequate today. Backstrom felt that making them any more specific would limit the pool of candidates, but recommended requiring a CCMT designation as a public fund investment manager to ensure candidates are knowledgeable in the field.

Afterwards, City Clerk Robin Estanislau provided an overview of her roles and responsibilities. Miller

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noted the significant breadth of duties and their qualifications and asked how the City would handle their retirement or an unscheduled vacancy. Estanislau stated that the City can appoint a temporary Clerk or rely on current Clerk staff who should be trained to step in. Backstrom and Estanislau noted that they initially came into their roles via an interview process for an unscheduled vacancy and were later voted in. Benton asked if the Clerk advises individuals on the procedures for placing measures on the ballot. Estanislau clarified that they provide individuals with information established by the State election codes and answer questions as needed, will educate citizens who want to put a measure on the ballot, and work with them on the process. If unable to answer questions, Estanislau seeks out advice from the County Clerk or the City Attorney and shares it with the citizen making the inquiry. Ray asked Estanislau and Backstrom about how an appointed role will affect the position. Estanislau felt that it would expand the pool of qualified applicants, but an elected role could provide the the public with more assurance that someone is working directly for the people. Mircheff mentioned well-reported threats against elected officials and whether or not that gives Estanislau concerns about how elections are administered. Estanislau said they did not affect her ability to do her job effectively. Mircheff concluded presentations and thanked Estanislau and Backstrom for their time.

City Attorney (CA) Michael Gates provided an overview of his roles and responsibilities. Miller asked if the minimum requirements should be bolstered to require experience in municipal law. Gates felt that passing the bar exam presumes knowledge in all areas of the law. To further bolster the requirements could limit the candidate pool. He noted there are municipal law experts and other specialists on staff, and his office can contract with outside attorneys to fill in any other gaps. Miller asked who the CA naturally checks and balances. Gates said it could include almost anyone. Ray asked if there's a better role (appointed or elected) to serve the community and the City. Gates says elected is better, but he understands there are pros and cons to both. Ray questioned that if the City received advice from an elected CA, does that presuppose that is the best advice that can be provided to the City. Gates replied that his office has many staff and consultants to review the CA's advice before it is issued. Mircheff asked whether Section 304(b) it conflicts in any way with Section 309. Gates admits it presents a conflict on the face of it. However, Gates stated the Court of Appeal has already weighed in on this issue, claiming the CC can select an attorney but that attorney works for the CA. Mircheff asked if Section 304(b) should be subordinate to 309. He also asked for clarification on the Court of Appeals decision. Mircheff asked why the CC can employ the outside attorney but has no purview over him or her. Gates confirmed that the CC can employ the attorney, but that attorney is hired for his office's benefit and use. Mircheff asks if the Charter would benefit from adding a provision on reconciliation methods when CC and CA have an impasse. CA feels it would not; there will always be conflict and the most recent one was framed by Gates as a "power grab by the City Council" that cannot be resolved by the Charter. Miller pointed out that the Court of Appeals case that Gates cited was an unpublished decision that should not be cited, per established law, which Gates countered and disagreed with. Thompson then asked who can fire an attorney that was hired by the CC. Gates opined that the guideline is not in the charter but he would likely have that ability. Mulvihill asked if the City Manager is in charge of all appointed staff, would he not also be in charge of the outside staff attorney. Gates stated that would not be the case.

Sonenshein acknowledge the lack of clarity in 304 and suggested staff should return in 2 weeks with additional research. Ray moved to table tonight agenda's item and adjourn in 2 weeks and direct staff to research items relevant to the agenda items; Mulvihill seconded. Approved 7-0.

Ray requested more info on Section 304. Micheff moved to include the Section in next week's discussions.

Mulvihill requested copies of all past Charters.

7. SCHEDULING OF REMAINING POTENTIAL CHARTER REVISIONS

No changes were made to the current workplan schedule.

8. PROPOSED UPDATES TO COMMITTEE DOCUMENTS AND CALENDAR, AS NEEDED

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None

9. COMMITTEE MEMBER COMMENTS

Ray thanked McKeon for his idea to invite the 3 elected officials for Q&A and felt it was worthwhile. Miller felt grateful to have incredibly qualified officials, but felt it may not always be the case in the future which is why Charter amendments in their roles and election processes warrant a closer look. Mulvihill felt this discussion was very necessary for her and is thankful to delay deliberation to the 2/24 meeting where she and others may hopefully be in a position to make motions and straw votes. She also thanked McKeon for his great suggestion to invite the 3 elected officials tonight.

10. STAFF AND CONSULTANT COMMENTS

None.

11. ADJOURNMENT

Ray moved to adjourn; Miller seconded. Approved 6-0-1 with Benton retiring early. Meeting adjourned at 8:31pm.



DAMON MIRCHEFF, Chair
CHARLES CJ RAY, Vice Chair
CYNTHIA BENTON, Board Member
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SCOTT MILLER, Board Member
LEONIE MULVIHILL, Board Member
DIANNE THOMPSON, Board Member

Catherine Jun, Office of the City Manager
Raphael Sonenshein, Consultant

1. **CALL TO ORDER.** *Called to order at 6:11 p.m.*
2. **ROLL CALL.** *All members present with the exception of Ray who arrived at 6:30pm.*
3. **PUBLIC COMMENTS.** *None provided*
4. **APPROVAL OF MINUTES FROM FEBRUARY 10, 2022**
Mulvihill asked to remove a second period on page 2, first paragraph to clarify the second paragraph of page two (second to last sentence). Benton also asked to add a sentence on the first paragraph, page 2 that clarifies how City Clerk Estanislau provides individuals with information about placing a measure on a ballot. McKeon also asked that page 2 be clarified to show Gates countered Miller's statement about unpublished decisions. Mircheff moved as amended; Thompson seconded. 6-0-1, with Ray absent.
5. **CHAIR AND VICE CHAIR ANNOUNCEMENTS**
Mircheff proposed keeping the motions for the Clerk and Treasurer together since they're more similar in nature and taking an initial temperature check on all considerations under Agenda Item 6. Benton asked for time to consider the Clerk's role as it relates to providing advice that may appear legal. Mircheff understood but recommended agendizing that discussion for a future meeting. Benton was amenable to that suggestion.
6. **PHASE 2 POTENTIAL CHARTER REVISIONS FOR DELIBERATION (INCLUDING BUT NOT LIMITED TO MOTIONS AND STRAW VOTES ON THE FOLLOWING ITEMS):**
 - a) Sections 300 and 310: Election vs. appointed, qualifications, and terms of the City Clerk
 - b) Sections 300 and 311: Election vs. appointed, qualifications, and terms of the City Treasurer

Mircheff conducted the following "temperature checks" to identify focus areas for discussion tonight:

Should the Clerk and Treasurer positions be appointed? (3 yes, 2 no, 1 split, 1 abstain):

MIRCHEFF Yes; RAY Yes; BENTON Split (appointed for Clerk; elected for Treasurer); MCKEON, No; MILLER, Yes; MULVIHILL, Abstain; THOMPSON, No

Should the City increase the minimum qualifications for Clerk and Treasurer? (3 yes, 4 no)

MIRCHEFF, Yes; RAY, Yes; BENTON, Yes; MCKEON, No; MILLER, No; MULVIHILL, No; THOMPSON, No

Should the City set term limits for the Clerk and Treasurer? (5 no, 2 yes)

MIRCHEFF, No; RAY, No; BENTON, Yes; MCKEON, No; MILLER, No; MULVIHILL, No; THOMPSON, Yes

Discussion ensued:

Miller felt that our current Clerk and Treasurer were very qualified; increasing their minimum qualifications would make our existing pool of candidates too small. Benton stated that elected positions are preferred by the community based on past votes. Mircheff says these positions are technical, non-partisan and do not require someone to espouse a policy perspective to effectively perform their duties. Appointments also allow the City to increase the minimum qualifications without shrinking the candidate pool. Ray added that he had the same concerns and opined that being elected does not mean the candidate was the best person for the job. McKeon asked who would be the appointer? Sonenshein clarified that it would be the City Council. Thompson noted that even an appointed official can be pressured by outside influences, which would include the Council. She was confident there was good succession planning in the Clerk's Office, and as such, is fine with maintaining the elected positions. McKeon agrees with Thompson on the political pressure and feels it is important to give voters the opportunity to vote for their local officials. Ray

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acknowledged McKeon's argument and the importance of having choice.

Mircheff moved the discussion towards the qualifications question and stated he was in favor of increasing those qualifications. Miller feels that he is not in a position to appropriately identify those qualifications. Mulvihill echoed those sentiments and felt that the basic requirements are sufficient now and in the future. Thompson asked about the possibility of including general language that allows the Council to set those requirements through an internal procedure instead. Mircheff felt that anyone who wins the position should already have the required training and qualifications by day one of the job.

Mircheff moved on to the question of term limits. Miller felt that they were not in the spirit of democracy since they limit voters from voting for their preferred individual, regardless of how long he or she has been in the position. Ray, McKeon, Benton and Mulvihill agreed. Thompson pondered on the idea that many incumbents are reelected by rote, but was fine not moving forward with term limits. Mircheff could see Thompson's point and how that might stifle growth or encourage complacency. To that point, Ray expressed that an appointed role could encourage that type of growth.

Mircheff moved on to conducting straw votes on the matters above::

*Mircheff moved to transition both roles to an appointed one; seconded by Ray. (5 yes, 2 no)
MIRCHEFF Yes; RAY Yes; BENTON Yes; MCKEON No; MILLER Yes; MULVIHILL Yes; THOMPSON No*

*Miller moved to make the minimum qualifications be met at the time of the election. Thompson proposed amending that to the time of filing. Miller agreed and seconded. (6 yes, 1 no)
MIRCHEFF Yes; RAY Yes; BENTON Yes; MCKEON No; MILLER Yes; MULVIHILL Yes; THOMPSON Yes*

*Mulvihill moved **not** to impose term limits; seconded by Miller. (7 yes, 0 no)
MIRCHEFF Yes; RAY Yes; BENTON Yes; MCKEON Yes; MILLER Yes; MULVIHILL Yes; THOMPSON Yes*

c) Sections 300, 304, & 309: Election vs. appointed, qualifications, and terms of the City Attorney

Miller addressed City Attorney Gates' assertion that he can use the O'Connor v Hutton Court of Appeals decision to make a case regarding his role. Miller asked to clarify that it was an unpublished opinion that should be not used in that manner. McKeon countered. Mircheff moved the discussion forward to other items on the agenda.

Mircheff proposed a temperature check on the following discussion items:

*Should the City Attorney position (CA) be appointed? (4 yes, 2 no, 1 abstain)
MIRCHEFF Yes; RAY Abstain; BENTON Yes; MCKEON No; MILLER Yes; MULVIHILL Yes; THOMPSON No*

*Should the minimum qualifications for CA be increased? (6 yes, 1 no)
MIRCHEFF Yes; RAY Yes; BENTON Yes; MCKEON No; MILLER Yes; MULVIHILL Yes; THOMPSON No*

*Should the City set term limits for an elected CA? (6 no, 1 yes)
MIRCHEFF No; RAY No; BENTON No; MCKEON No; MILLER No; MULVIHILL Yes; THOMPSON No*

Jun presented the Legal Services Ad Hoc Subcommittee's memo with proposed recommendations. Sonenshein felt that the memo was well-thought out and respectful of the Committee's process. Sonenshein would like to take each of these recommendations and find parallels in other Charters for discussion.

McKeon asked who addresses any conflicts of interest. Mircheff answered that it is a judge. Ray and Mulvihill emphasized that it is a duty of the attorney to disclose any conflicts and recuse him or herself at all times. Regarding the Subcommittee's request to clarify conflict of interest, Miller, Mircheff and Ray indicated it is necessary to clarify in the Charter in order to minimize ambiguity, gridlock and improve city function – even if other codes or law already explain it in depth.

Sonenshein asked the Committee for guidance on what he and Jun should research in regards to the memo. Mulvihill asked about how other cities handle conflict of interest. Sonenshein reaffirmed that it seems conflict

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of interest and the process of determining its existence and handling it are a primary matter for the Committee. Thompson felt Recommendations 3 (records retention) and 6 are similar and combining them together makes sense. Thompson felt Item 7 should be included in the final recommendation and Miller agreed. Mulvihill wants staff's take on 309(a) and 309(k) to see if we really need to address (k) as a separate subsection.

Mircheff directed discussion the question of whether or not the City Attorney should be appointed.

Mulvihill says attorneys are obligated to provide competent and impartial advice and move away from conflict. She doesn't feel politics should play a role and was deeply troubled by the CA's recent threats of litigation on the city. In that vein, she feels that all 3 positions should be appointed, but also feels that many of the issues faced can also be addressed through the recommendations to 304(b) in the memo. She feels they're equally plausible and defensible, but the question of elected or appointed is potentially divisive and prefers to avoid that path. Ray said that one of the reasons he abstained from the elected/appointed position question - while he has an issue with the current CA's behavior which has been to strong arm the City/Council – his client. The attorney never gets to dictate what they want. Ray believes this issue can be fixed with an appointment process, but thinks clarifying 304 and 309 may be an equally good way to achieve that as well. Thompson clarified that she does think a vote to make the position appointed will be seriously divisive. She thinks the memo recommendations help address the conflict without a divisive measure and that we should be making changes with the position and not an individual in mind. Mircheff agrees that there's more than one way to tackle this issue including reconciling 304 and 309, which may be a more successful path. Miller asked to point out that HB is the only city in the County with an elected attorney. He also said that bringing an appointed position to the November ballot would fail. He thinks reconciling the sections would accomplish more.

Ray recommends on Section 309 (first para), the "City Atty shall have the power and may be required to...." Mircheff wondered if there are other Charters that states upfront what it must be and (SONENSEHIN HAD MORE INFO). Mulvihill agrees that 309 needs to be improved. Ray says if 309 was reconciled, he'd have no issue with keeping the CA an elected position.

Mircheff moved on to qualifications of the CA. He noted that the CA works on a specialized area of law and raises to mind whether the CA should have some measure of experience in that law. Mulvihill shares that sentiment, but struggles to find the best way to describe that experience. She wonders if there are examples from other Charters.

Mircheff moved on to the question of term limits for the CA. Mulvihill chimed in stating that she does not like term limits. But as a municipal lawyer in HB, there are certain obstacles to running for an office and it's difficult to overcome the incumbent attorney's advantage.

Ray moved, asking if the CA should be an appointed position? Seconded by Mircheff. (4 yes, 2 no, 1 abstain) MIRCHEFF Yes; RAY Abstain; BENTON Yes; MCKEON No; MILLER Yes; MULVIHILL Yes; THOMPSON No

Mircheff moved, asking if the City should raise the qualifications for CA? Seconded by Miller. (6 yes, 1 no) MIRCHEFF Yes; RAY Yes; BENTON Yes; MCKEON No; MILLER Yes; MULVIHILL Yes; THOMPSON Yes

Ray moved, asking if the City should set term limits for an elected CA. Seconded by Mircheff. (4 yes, 3 no) MIRCHEFF Yes; RAY No; BENTON Yes; MCKEON No; MILLER Yes; MULVIHILL Yes; THOMPSON No

7. SCHEDULING OF OTHER POTENTIAL CHARTER REVISIONS

Jun will add another meeting to continue the discussion of the three elected positions and shift the work plan accordingly.

8. PROPOSED UPDATES TO COMMITTEE WORKPLAN, TRACKING DOCUMENT AND OTHER MATERIALS, AS NEEDED

The Committee agreed to add a discussion of Section 803 to a future agenda.

9. COMMITTEE MEMBER COMMENTS

Ray apologized for being late to the meeting due to extenuating circumstances. Mircheff thanked the Committee for another productive meeting.

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10. STAFF AND CONSULTANT COMMENTS

None.

11. ADJOURNMENT .

The meeting adjourned at 8:43pm to the next regularly scheduled meeting on Thursday, March 10, 2022 at 6:00p.



DAMON MIRCHEFF, Chair
CHARLES CJ RAY, Vice Chair
CYNTHIA BENTON, Board Member
CASEY MCKEON, Board Member
SCOTT MILLER, Board Member
LEONIE MULVIHILL, Board Member
DIANNE THOMPSON, Board Member

Catherine Jun, Office of the City Manager
Raphael Sonenshein, Consultant

1. **CALL TO ORDER.** *Called to order at 6:03PM.*

2. **ROLL CALL.** *All members in attendance.*

3. **PUBLIC COMMENTS**

Amory Hanson suggested revisions to Section 312 and Victor Leipzig suggested revisions to Section 300.

4. **APPROVAL OF MINUTES FROM FEBRUARY 24, 2022**

Thompson requested the following revisions under Section 6(c): "...that Miller asked to clarify ~~that~~ that it was an unpublished opinion...." and "Thompson clarified that she ~~doesn't~~ does think a vote to make the position appointed will be seriously divisive."

Mulvihill requested the following revision under Section 6(c): "Mulvihill wants staff's take on 309(a) and 309(k) ~~and to see~~ if we really need to address (k) as a separate subsection."

Mircheff moved to approve the minutes as amended above; seconded by Benton. Approved 7-0.

5. **CHAIR AND VICE CHAIR ANNOUNCEMENTS**

Mircheff confirmed with the Committee that they received two supplemental communication items (see the agenda packet).

6. **PHASE 2 POTENTIAL CHARTER REVISIONS FOR DELIBERATION (INCLUDING BUT NOT LIMITED TO MOTIONS AND STRAW VOTES ON THE FOLLOWING ITEMS):**

- a) Sections 300, 304, & 309: Presentation and analysis for potential amendments relating to the City Attorney position and employment and control of legal counsel

Sonenshein provided an overview of his research into various city charters that may have provisions similar or in direct conflict with the Charter recommendations made by the Legal Services Ad Hoc Subcommittee on February 24, 2022. Sonenshein's research included an assessment of San Francisco's Charter and a conflict of interest provision that permits the use of a retired judge to determine if the City Attorney (CA) has a conflict. Sonenshein also opined that addressing conflict of interest in a similar manner could potentially reduce some of the ambiguity or conflicts between these Sections.

Mulvihill began discussion and opined that the Committee should not interpret outside memos and interpretations and instead, focus on the ambiguities in the Charter itself and identify areas that should be clarified. She felt that clarifying 304(b) and 309 was necessary and could be achieved with a few changes. Mircheff agreed. McKeon asked for clarification on some members' concerns with 304(b). Mulvihill clarified that she had no issues with that section; rather she had an issue with an interpretation of the section that the City Council (CC) could not hire an outside attorney to manage cases in which the CA had a conflict of interest but did not recuse himself or herself from it. Miller reiterated that it would be imperative to clarify these sections to avoid disputes between the CC and CA. Ray emphasized that all attorneys can offer opinions but cannot force the hand of the client. Thompson provided history on when and how the last sentence in 304(b) was added to the Charter. Benton stated that clarification was necessary. McKeon expressed concern that allowing CC to hire outside counsel would circumvent the power of the CA. Mircheff replied that defining the terms of how and when that happens would be key to avoiding that situation.

Sonenshein said that the terms surrounding outside counsel appear in various charters; however when those charters provide exceptions, usually they address conflict of interest. He said the Committee could stipulate

**Charter Revision Committee
Minutes – March 10, 2022**

304(b) in the same manner. Mircheff asked Sonenshein if he could provide sample language to build that provision. Ray made a motion for Sonenshein to provide a sample provision; seconded by Thompson. Approved 6-1 with McKeon voting no.

Benton proposed adding a new provision in section 309: “the CA shall not participate in a matter in which they know or should know that they have a conflict of interest” and reference the process in 304(b). Moved by Benton; seconded by Mulvihill. Approved 6-1 with McKeon voting no.

b) Section 312: Vacancies, forfeitures and replacement

Mulvihill did not have any recommended changes; Benton concurred. McKeon explained that the appointment process should be modified if the term of the vacant position has several years remaining. In this situation, he feels the voters should have a say in the selection process (by appointing either the first runner up or conducting a special election). Miller preferred a special election process, but hesitated over the time and cost to conduct one. Ray suggested that any vacant position with 2 or more years remaining should be appointed until the next General Election at which point the position would be voted on by the electorate. The term of that elected position would remain unchanged. McKeon moved for staff and consultant to find charter samples to achieve this; seconded by Thompson. Approved 6-1 with Mulvihill voting no.

*Discussion ensued on Section 312(c) and a syntax change. Mulvihill move to make the following revision; Ray seconded: “(c) Replacement. In the event ~~if~~ **the City Council** shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, the City Council shall forthwith cause an election to be held to fill such vacancy for the remainder of the unexpired term.” Approved 7-0.*

7. SCHEDULING OF OTHER POTENTIAL CHARTER REVISIONS

Committee discussed the merits of reviewing Section 803 and decided to place it on the 3/24/22 agenda. Committee asked Jun to provide a synopsis of the mobile home situation that led to a citizen request to review this section. Jun will provide the synopsis to the Committee at least 1 week in advance of the meeting.

Benton also requested information on whether or not the City Clerk is permitted to provide legal advice. Vigliotta committed to provide information to the Committee at the next meeting.

8. PROPOSED UPDATES TO COMMITTEE WORKPLAN, TRACKING DOCUMENT AND OTHER MATERIALS, AS NEEDED

9. COMMITTEE MEMBER COMMENTS

McKeon asked staff to add the supplemental communications into the record. Also, per McKeon’s request, the April 28, 2022 Committee meeting will be moved to April 26 due to a scheduling conflict.

Ray voiced that one supplemental communication, a memo from CA Gates was inappropriate.

10. STAFF AND CONSULTANT COMMENTS

Sonenshein commended the Committee for their excellent process. Jun asked members to keep their schedules flexible in the coming weeks to accommodate additional meetings that will help them stay on schedule, if needed.

11. ADJOURNMENT. *Meeting adjourned at 8:23pm to the next regularly scheduled meeting on March 24, 2022 at 6:00p.*

**Charter Revision Committee
March 24, 2022
6:00 PM - Regular Meeting
MINUTES**



**City of Huntington Beach
2000 Main St. (Rm. B7) & Zoom**

DAMON MIRCHEFF, Chair
CHARLES CJ RAY, Vice Chair
CYNTHIA BENTON, Board Member
CASEY MCKEON, Board Member
SCOTT MILLER, Board Member
LEONIE MULVIHILL, Board Member
DIANNE THOMPSON, Board Member

Catherine Jun, Office of the City Manager
Raphael Sonenshein, Consultant

1. CALL TO ORDER. *Called to order at 6:01pm.*

2. ROLL CALL. *All members present.*

3. PUBLIC COMMENTS

The following individuals spoke in favor of exempting mobile home parks from Section 803 and adopting a rent stabilization ordinance: Tim Geddes, Jean Farrins, Carol Rohr, Marion <surname not provided>, Daniel Pantano, Judy Hennessey, Gene Holtz, Serena Taylor, Richard Smith, Sheila Lugenbuehl, Gina Alexander, Joanne P., Amory Hanson, Michael Lugenbuehl, Allison Plum, David Reynoso, Rod Hardy, Mika <surname not provided>, Ruben Peterson, Cooper <surname not provided>, Karen Sybrandt, Karen <surname not provided>, Ada Hand

The following individuals spoke against amending Section 803: Valerie Avila, Lia Beesley, Julie Paule

4. APPROVAL OF MINUTES FROM MARCH 10, 2022

Mircheff asked to correct the public comments minutes to read "Amory Hanson suggested revisions to Section 312 and Victor Leipzig suggested revisions to Section 300." Mulvihill moved to approve as amended; seconded by Thompson. Approved 7-0.

5. CHAIR AND VICE CHAIR ANNOUNCEMENTS. *None*

6. PHASE 2 POTENTIAL CHARTER REVISIONS FOR DELIBERATION (INCLUDING BUT NOT LIMITED TO MOTIONS AND STRAW VOTES ON THE FOLLOWING ITEMS):

a) Section 803: Property Rights Protection Measure

Mulvihill explained that while she doesn't recommend a carve out to exempt mobile home parks, it shouldn't preclude a debate from occurring in other forums. Benton disagreed and felt it was a relevant issue to debate tonight. While Miller felt that the Committee should be able to deliberate on it, he was reluctant due to its complexity and unknown implications at this time. Thompson felt that the Mobile Home Advisory Board (MHAB) was the more appropriate body to address this issue. Mircheff stated that the possibly unknown impacts of the exemption and the amount of time that would be required to understand them gives him some reservations about taking up the matter, particularly since the committee does not have an extended amount of time. Ray echoed that statement. Hopkins mentioned that the MHAB will be discussing this issue at an upcoming meeting. Sonenshein sensed there are 3 possible motions at this time: recommend the exemption, oppose it, or pass it on to a more appropriate body. Thompson moved not to pursue any amendments and allow other bodies to consider it; Ray seconded. Approved 6-1 (Benton voting no).

b) Section 312: Vacancies, Forfeitures and Replacement

Sonenshein presented his research and a proposed amendment, based on the Committee's direction given on 3/10/22. The proposed amendment was based on language in Placentia's charter and could be added to the end of Section 312(c):

"If the City Council fills the vacancy by appointment, such appointee, shall hold office until their successor is elected at the next general municipal election to serve for the remainder of any unexpired term."

McKeon disagreed with this language. He felt that the cleanest way to address this issue is to conduct a special election. He acknowledged that the cost for the special election could be high but was worth it for this matter. Thompson understood McKeon's sentiments, but felt that a special election wouldn't garner sufficient voter turnout for a matter of such importance. Mircheff echoed Thompson's concern and preferred utilizing the general election option to maximize voter turnout. McKeon opined that if the matter was important enough for voters, they would turn out for a special election regardless. He felt that it was the most expedient way to deal with a vacancy. Ray noted that preparing for a special election still causes delays in filling the vacancy and felt that the proposed amendment presents a compromise. A few changes to the proposed amendment were floated, with Thompson recommending:

"If the City Council fills the vacancy by appointment, such appointee shall hold office until an election to fill the remainder of the unexpired term at the next general municipal election."

Mulvihill moved to approve the amended language; seconded by Thompson. Approved 6-1 (McKeon voting no).

Miller then moved to add the following additional language immediately after; seconded by Mircheff:

"Should the appointment occur after the filing deadline for the next general municipal election, the seat shall be deemed vacant upon the certification of the general municipal election, and the vacancy shall be filled in accordance with Sections 312(a) and 312(c)."

After some discussion that the language should be refined and brought back at the 4/14/22 meeting, the Committee voted to consider it further 4-3 (Thompson, Benton, McKeon voting no).

c) Section 310: City Clerk. Powers and Duties

Benton initially asked whether or not the City Clerk has the ability to provide legal advice per Section 310. Chief Assistant City Attorney Vigliotta pointed out that the Clerk, as the elections official, has a whole host of duties per the Elections Code but cannot provide interpretations of the Code or legal advice. Benton felt that fact should be made clearer in the Charter. However, the Committee chose not to make any motions to do so at this time.

7. SCHEDULING OF OTHER POTENTIAL CHARTER REVISIONS

Benton asked whether or not the Committee should discuss the remaining recommendations that were in the Legal Services Ad Hoc Subcommittee's memo. No motions were made.

8. PROPOSED UPDATES TO COMMITTEE WORKPLAN, TRACKING DOCUMENT AND OTHER MATERIALS, AS NEEDED. None

9. COMMITTEE MEMBER COMMENTS. None

10. STAFF AND CONSULTANT COMMENTS. None

11. ADJOURNMENT. The meeting adjourned at 8:18 p.m.

**Charter Revision Committee
April 14, 2022
6:00 PM - Regular Meeting
MINUTES**



**City of Huntington Beach
2000 Main St. (Rm. B7) & Zoom**

DAMON MIRCHEFF, Chair
CHARLES CJ RAY, Vice Chair
CYNTHIA BENTON, Board Member
CASEY MCKEON, Board Member
SCOTT MILLER, Board Member
LEONIE MULVIHILL, Board Member
DIANNE THOMPSON, Board Member

Catherine Jun, Office of the City Manager
Raphael Sonenshein, Consultant

1. CALL TO ORDER. *Called to order at 6:03pm.*

2. ROLL CALL. *All members present.*

3. PUBLIC COMMENTS

None

4. APPROVAL OF MINUTES FROM MARCH 24, 2022

Mircheff asked to correct the second to last sentence of Section 6a. in the minutes to read "Sonenshein sensed there are 3 possible motions at this time: recommend the exemption, oppose it, or neither recommend nor oppose a carve out of Section 803." Mulvihill asked to include Valerie Avila, Lia Beasley, and Serena Taylor to the Public Comments section in favor of exempting mobile home parks from Section 803. Mircheff moved to approve as amended, seconded by Ray. Approved 7-0.

5. CHAIR AND VICE CHAIR ANNOUNCEMENTS.

Mircheff recommended a process of "temperature check" on each section to see what sections the members would like to move to a vote, and what sections they would like to continue discussions on. He also explained that until this time the votes had been straw votes, the item 6 on the agenda is the final remaining straw vote, and moving forward the Committee is moving on to the final votes on the proposed recommendation. Ray added that members should have their comments and arguments prepared for discussion in the interest of time.

6. PHASE 2 POTENTIAL CHARTER REVISIONS FOR DELIBERATION(INCLUDING BUT NOT LIMITED TO MOTION AND STRAW VOTES ON THE FOLLOWING ITEMS):

a) Section 312: Vacancies, Forfeitures and Replacement

Miller would like to review the possible issue when there are more than two vacancies council seats. He noted that there is a potential that the appointment could possibly be performed by three members which is a minority of the full seven member city council. The committee discussed how many council members should be required for appointing multiple vacant seats. McKeon proposed that the special election would resolve the issue. Discussion continued on whether a majority of the seven member council is required or a majority of the quorum at the meeting.

The committee discussed the proposed language in section 312. Thompson moved the proposed language to clarifying the appointments would hold office until the next regularly scheduled election, and language when vacancies occur after the candidate filing deadline incorporating the proposed two sentences in section (c) Replacements. Seconded by Mulvihill. The straw vote passed 6-1 (McKeon - opposed)

7. REVIEW, DISCUSS, AND PROVIDE FINAL RECOMMENDATIONS AND VOTES ON PROPOSED CHARTER REVISIONS

- a) #1 - Section 300. City Council, Attorney, Clerk and Treasurer Terms (first paragraph only): *moved to discussion at the end of Phase 1.*
- b) #2 - Section 300. City Council, Attorney, Clerk and Treasurer Terms (second paragraph only): *moved to discussion at next meeting. Ray requested staff to provide language on timing. Mircheff requested staff to provide timing language specific to last sentence of Section 300.*
- c) #3 - Section 303. Meetings and Location, (a) Regular Meetings: *Mulvihill made motion to pass as amended, Thompson seconds, 7-0 motion passes.*
- d) #4 – Section 303. Meetings and Location, (b) Special Meetings: *Thompson made motion to pass as amended, Mulvihill seconds, 7-0 motion passes.*
- e) #5 - Section 303. Meetings and Location, (d) Open Meetings: *Mulvihill made motion to pass as amended, Thompson seconds, 7-0 motion passes.*
- f) #6 – Section 303(b). Special Meetings & Section 304(a). Quorum: *Mulvihill made motion to pass as amended, Thompson seconds, 7-0 motion passes.*
- g) #7 – Section 311(d). City Treasurer. Powers and Duties, Section 601. Annual Budget, Preparation by the City Manager, and Section 604. Annual Budget. Further Consideration and Adoption: *Mulvihill made motion to pass as amended, Thompson seconds, 7-0 motion passes.*
- h) #8 – Section 312(c). Vacancies, Forfeitures and Replacement: *Thompson made motion to pass as amended, Mulvihill seconds, 7-0 motion passes.*
- i) #9 – Section 313. Conflict of Interest, Nepotism. *Thompson made motion to make no changes to this section, Ray seconds, 7-0 motion passes.*
- j) #10 – Section 403. Personnel: *Mulvihill made motion to make no changes to this section, McKeon seconds, 7-0 motion passes.*
- k) #11 – Section 801. Definitions: *Ray made motion to make no changes to this section, McKeon seconds, 7-0 motion passes.*
- l) #12 – Section 804. Charter Review: *Ray made motion to pass as amended, Thompson seconds, 7-0 motion passes.*
- m) #13 – Section 202. Meetings and Location. (c) Place of Meetings; Section 400. City Manager. Composition, Term, Eligibility, Removal. (d) Removal; and Section 801. Definitions (a-g): *Thompson made motion to pass as amended, Mircheff seconds, 7-0 motion passes.*
- n) Revisiting #1 – Section 300. City Council, Attorney, Clerk and Treasurer Terms (first paragraph only): *Mircheff asks for discussion regarding date references. Asks staff to make amendments, but keep references to original time period for historical significance. Presents new language: "Consistent with staggered elections of Council Members and Elected Officials established in the New Charter from 1966." Motion by Mircheff to make the same changes in both portions of this section as shown in tracking document by, seconded by Thompson, 7-0 motion passes.*

Mircheff: This ends discussion on all Phase 1 items, except #2 - Section 300. City Council, Attorney, Clerk and Treasurer Terms (second paragraph only), which will be moved to next meeting.

- o) *Ray made motion to vote individually on each of the following group of Sections that straw votes*

recommended no changes. This includes items 15, 17, and 25 from the tracking document, Benton seconds, 7-0 passes:

- p) #15 – Section 302. Compensation: *Ray made motion to make no changes to this section, Thompson seconds, 5-2 (Mircheff, Miller - opposed) motion to make no changes passes.*
- q) #17 – Section 300. City Council, Attorney, Clerk and Treasurer. Terms: *Thompson made motion to make no changes to this section, Benton seconds, 7-0 motion to make no changes passes.*
- r) #25 – Section 803. Property Rights Protection Measure (a-c): *Ray made motion to make no changes to this section, Mulvihill seconds, 6-1 (Benton - opposed) motion passes.*
- s) #14 - Section 612. Public Utilities and Parks and Beaches: *Mircheff recommends pushing this to next meeting and asks everyone to study the section. Section moved to next meeting.*
- t) #16 – Section 310. City Clerk. Powers and Duties: *Thompson made motion to pass as amended, Benton seconds, 6-1 (McKeon - opposed), motion passes.*
Section 311. City Treasurer. Powers and Duties: *Thompson made motion to pass as amended, Benton seconds, 6-1 (McKeon - opposed), motion passes.*
- u) #18 – Section 300 (first option). City Council, Attorney, Clerk and Treasurer. Terms: *Ray made motion to move to next meeting, McKeon seconds, 7-0 motion passes.*
- v) #19 – Section 300 (second option). City Council, Attorney, Clerk and Treasurer. Terms: *Mulvihill made motion to move to next meeting, Ray seconds, 7-0 motion passes.*
- w) #20 – Section 304. Quorums, Proceedings and Rules of Order: *Benton requested the further discussion of other situations where Council would need to hire outside counsel. Thompson made motion to move to next meeting, Benton seconds, 7-0 motion passes.*
- x) #21 – Section 309. City Attorney. Powers and Duties: *Mulvihill: Would like the last sentence of Charter Section 304(b) to be added to Section 309. Stated it was removed in 1979, and believes it should be added back in. Benton: Would like to add the following“(i) ...and maintain the records of their office in compliance with all city records and retention policies and applicable laws.” and “(k) ...provide advise related to compliance with City Charter, Municipal Code, and all applicable laws to...”. Benton made motion to move to next meeting, Ray seconds, 5-2 (Mircheff, Miller - opposed), motion passes.*
- y) #22 – Section 309. City Attorney. Powers and Duties: *Ray suggested the committee should first vote on the recommended changes before considering additional issues. McKeon believes adding to the job requirements would limit the applicant pool by “boxing in” potential applicants with “municipal law” experience, and that the decision should be left to the voters. Miller believes that there are minimum standards set for all of the elected officials (besides the City Council), and that it should be uniform. Raphe recommends two options: if the vote is to recommend an appointed City Attorney position, the minimum standard should be changed to reflect municipal law experience. But if the vote is to recommend an elected City Attorney position, the language should remain as is. Motion by Mulvihill to move to next meeting, McKeon seconds, 7-0 motion passes.*
- z) #23 – Section 300 (third option). City Council, Attorney, Clerk and Treasurer. Terms: *Mircheff made motion to adopt language as amended, Mulvihill seconds, 4-3 (Ray, McKeon, Thompson - opposed) motion passes.*

8. PROPOSED UPDATES TO COMMITTEE WORKPLAN, TRACKING DOCUMENT AND OTHER

MATERIALS, AS NEEDED.

The next meeting is scheduled on Tuesday, April 26, 2022.

9. COMMITTEE MEMBER COMMENTS.

Mircheff believes the members have gone as far as they are able on the remaining eight items to bring to next meeting for discussion and vote.

Ray reminds the members that the next meeting is on TUESDAY, April 26, 2022 (instead of the usual Thursday meeting date), and recommends that members be prepared with concise arguments supporting their beliefs to accommodate the available time for debate.

Miller would like to include on the next meeting agenda discussion regarding 312. Vacancies, Forfeitures and Replacement to further discuss adding language that takes into consideration if two or more Council Members leave their seat at the same time.

Mulvihill would like staff to make sure that Item #14 – Section 612. Public Utilities and Parks and Beaches reflect track changes on the tracking document so the members can see what text has been removed and added.

Raphe concluded the evenings discussion pointing out that the votes that were taken tonight have been consequential and shows the hard work and dedication of the members. Also pointed out that moving from straw votes to recorded votes is a big move toward finalizing the recommended Charter revisions, and everyone deserves congratulations.

10. STAFF AND CONSULTANT COMMENTS. None

11. ADJOURNMENT. *The meeting adjourned at 7:58 p.m.*

The next regularly scheduled meeting is on Tuesday, April 26, 2022 at 6:00p. An agenda will be posted 72 hours prior to the next meeting on: huntingtonbeach.legistar.com/Calendar.aspx

**Charter Revision Committee
April 26, 2022
6:00 PM - Regular Meeting
MINUTES**



**City of Huntington Beach
2000 Main St. (Rm. B7) & Zoom**

DAMON MIRCHEFF, Chair
CHARLES CJ RAY, Vice Chair
CYNTHIA BENTON, Board Member
CASEY MCKEON, Board Member
SCOTT MILLER, Board Member
LEONIE MULVIHILL, Board Member
DIANNE THOMPSON, Board Member

Catherine Jun, Office of the City Manager
Raphael Sonenshein, Consultant

1. **CALL TO ORDER.** *Called to order at 6:01pm.*
2. **ROLL CALL.** *All members present with the exception of Miller who arrived two minutes later at 6:03pm.*
3. **PUBLIC COMMENTS**

Gracey Van Der Mark and Austin Edsell asked the Committee to recommend keeping the City Attorney (CA), City Treasurer (CT) and City Clerk (CC) positions elected, instead of appointed.

4. **APPROVAL OF MINUTES FROM APRIL 14, 2022**

Mulvihill requested modifying Item 7(n) to remove the phrase "Mulvihill would like to include "reaffirmed in 2022". Mulvihill also noted that the descriptions of Items 7(p) and 7(q) are reversed. Mircheff noted in Item 4 (line 3) that the word "amend" should be replaced with the phrase "nor oppose". Mulvihill moved to approve the minutes; seconded by Mircheff. Approved 7-0.

5. **CHAIR AND VICE CHAIR ANNOUNCEMENTS**

Mircheff noted that he would like to group tonight's discussion items by type/similarity, rather than moving through them sequentially. He reminded members that they should not feel constrained in changing any of their straw votes during tonight's final votes, if they feel compelled to do so. Ray also reminded members that tonight is not the final stop for these recommendations. Council will need to approve their placement on a ballot where voters will have the final say.

6. **(Item continued from April 14, 2022) REVIEW, DISCUSS, AND PROVIDE FINAL RECOMMENDATIONS AND VOTES ON PROPOSED CHARTER REVISIONS**

Please reference Attachment A for language for each recommendation.

(2) *Section 300: Thompson moved to approve recommended language with minor clarifying adjustments; seconded by Benton. Approved 7-0.*

(14) *Section 612: Mulvihill agrees with the addition of subsection (7) but not striking out the phrase "operated by" in subsections (a) and (b). McKeon agreed but had some reservations about the ambiguity of the 10% figure in subsection (7) and what its final impacts in cost and size could be in a future replacement project. Mircheff expressed understanding for McKeon's concerns. Thompson felt the 10% figure offers flexibility in cases of market changes and unforeseen fluctuations. Mircheff asked if increasing it to 15% would provide even greater flexibility in those situations. Mulvihill stated that she is not opposed to that idea, but Ray felt that 10% was appropriate.*

Ray moved to approve the addition of subsection (7) regarding replacement projects; seconded by McKeon. Approved 7-0.

Ray moved to reject the strike out of "operated by" in subsections (a) and (b); seconded by Thompson. Approved 7-0.

(18) *Section 300 (CT and CC Roles): Mircheff feels the three elected positions are positions of technical*

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expertise that are not partisan in nature. As such, they should be appointed instead, similar to the City Manager, Fire and Police Chief roles. Ray added that the Committee's job is to provide the Council and voters with options; by providing this option, voters have the opportunity to decide this matter for themselves and as such, he supports this revision. McKeon stated that appointments can also be affected by political pressures; that elected roles provide greater autonomy from such pressures. Mulvihill countered that these positions – whether appointed or elected - are regulated by policies and state laws, including whistleblower laws that would prevent or provide recourse in misconduct situations influenced by those pressures; therefore an appointed role would not be disproportionately affected. Thompson believes the Committee's job is to provide recommendations based on what they feel are the needs or deficiencies in the Charter; she doesn't see any regarding these elected positions and prefers to keep them elected.

Mircheff moved to adopt the proposed revisions to convert the CT and CC roles into appointed ones; seconded by Miller. Approved 5-2 with McKeon and Thompson opposed.

- (19) Section 300 (CA Role): Ray felt this change was necessary to make the attorney-client relationship more efficient and less ambiguous; he supports the revision to make the CA an appointed role. Mulvihill agreed. McKeon stated that most Californians have an elected attorney, since most major cities in the State have one. However Miller clarified that a majority of cities do not. Miller feels the role is technical and shouldn't be influenced by political leanings or votes. Benton agreed and felt the Council would be best positioned to identify a qualified CA. Thompson does not want to deny residents the opportunity to vote for this position, since it has traditionally been elected in the City; she also feels this proposal will be divisive.*

Ray moved to adopt the proposed revision to convert the CA role into an appointed one; seconded by Mulvihill. Approved 5-2 with McKeon and Thompson opposed.

- (22) Section 309: Thompson indicated that if the voters make the CA role into an appointed one, adding the proposed revisions that include additional requirements wouldn't be necessary since the City would undertake a recruitment process to identify the most qualified attorney. Ray believes 10 years of experience – not the 5 years as proposed – is necessary to being an effective CA; Miller agreed. Benton felt that whether the position was elected or appointed, the standards should be the same.*

Ray moved to adjust the proposed revision by striking the "municipal" experience requirement for a City Attorney and increasing the years of experience to 10; seconded by Thompson. Approved 6-1 with McKeon opposed.

- (20) Section 304: Mulvihill made a wording change and asked to strike out the provision regarding the retired judge; she believes the CC should have the final say in determining a conflict of interest since they are the client and the Charter states that they have control over legal matters. Miller agreed, emphasizing that this supports the attorney-client relationship. Debate ensued between members.*

Mulvihill moved to incorporate her amendments to the proposed revisions; seconded by Thompson. Approved 6-1 with McKeon opposed.

- (21) Section 309: Benton and Mulvihill asked for syntax adjustments to the proposed revisions. Mulvihill moved to approved the proposed revisions with those adjustments included; seconded by Thompson. Approved 6-1 with McKeon opposed.*

- (24) Section 312: Mulvihill supports the requirements of 4 affirmative votes to fill a vacancy by Council appointment, per subsection (a). Ray moved to approve that addition with an amendment to add "at least" before it; seconded by Mulvihill. Approved 6-1 with McKeon opposed.*

Mulvihill supports the recommended language in subsection (c) to add the general election stipulation. McKeon reiterated that a special election is the cleanest and fairest way to fill a vacancy. Moved by Thompson to approve the recommended language for subsection (c) as is; seconded by

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Benton. Approved 6-1 with McKeon opposed.

7. PROPOSED UPDATES TO COMMITTEE WORKPLAN, TRACKING DOCUMENT AND OTHER MATERIALS, AS NEEDED

Jun reviewed the work plan and the Committee's upcoming milestones. The Committee did not recommend any changes.

8. COMMITTEE MEMBER COMMENTS

Mircheff reminded members that staff will prepare a final report for the Committee's consideration on May 12. He asked members to carefully review it ahead of time. Ray thanked the Committee for their collaborative spirit and work.

9. STAFF AND CONSULTANT COMMENTS

Sonenshein commended the Committee for their hard work.

10. ADJOURNMENT. *Meeting adjourned at 7:57pm to May 12, 2022 at 6:00p.*

**Charter Revision Committee
May 12, 2022
6:00 PM - Regular Meeting
MINUTES**



**City of Huntington Beach
2000 Main St. (Rm. B7) & Zoom**

DAMON MIRCHEFF, Chair
CHARLES CJ RAY, Vice Chair
CYNTHIA BENTON, Board Member
CASEY MCKEON, Board Member
SCOTT MILLER, Board Member
LEONIE MULVIHILL, Board Member
DIANNE THOMPSON, Board Member

Catherine Jun, Office of the City Manager
Raphael Sonenshein, Consultant

Meetings will be conducted both in person and virtually via Zoom until further notice. Committee members and visitors who wish to attend virtually may do so by visiting www.Zoom.us, clicking on the "Join a Meeting" link and inputting Meeting ID: 996 4423 5338. Attendees also have the option to attend telephonically by calling 1-669-900-6833, and entering Meeting ID: 996 4423 5338#.

1. CALL TO ORDER. *Meeting called to order at 6:04pm*

2. ROLL CALL. *All members present.*

3. PUBLIC COMMENTS. *None.*

4. APPROVAL OF MINUTES FROM APRIL 26, 2022

Mulvihill requested spelling corrections to her last name under Items 6(14) and 6(20). Moved by Thompson, seconded by Mulvihill. Approved 7-0.

5. CHAIR AND VICE CHAIR ANNOUNCEMENTS

Mircheff thanked the Committee for reviewing the final report in advance of tonight's meeting. He believed the recommendations in the report represented thoughtful compromises and felt that they would make the Charter stronger. Ray expressed that he enjoyed worked with everyone and expressed gratitude for being part of the Charter review process.

6. CONSIDERATION OF THE COMMITTEE'S FINAL REPORT AND RECOMMENDATIONS TO THE CITY COUNCIL

Recommendations:

- a) Review and approve the Final Report and Recommendations; and
- b) Direct staff to transmit the Final Report and Recommendations to City Council and to place the item on the June 7, 2022 City Council agenda for consideration;
- c) Or do not approve the recommendations above and direct staff accordingly.

In the report under Recommendation 17, Mulvihill asked to replace the word "exclusion" with "exemption". Also, on page 6 (second to last paragraph), Mulvihill asked to remove the word "primary" since the report and recommendations were the Committee's sole objective. In the same paragraph, Mulvihill requested a minor syntax change.

Under Recommendation 6, Thompson felt that adding term limits to the City Attorney position (if it remains elected) does not align with the recommendations to make all elected positions into appointed ones. She suggested removing the recommendation. Mulvihill expressed appreciation for Thompson's point but felt that such a substantive change could likely not be made at this point. Changes would have to be made by the City Council. Mircheff moves to approve the memo (aka final report) as amended; seconded by Thompson. Approved 7-0.

The Committee then began reviewing the proposed, redlined Charter. Mulvihill referenced Section 303(a) and stated that she didn't think the Committee voted to strike out the final sentence. The members agreed and asked staff to undo the strike out, as an administrative correction. Benton pointed to Section 309(m) asked if the word "oneself" should be added after "Recuse". The Committee decided it was not required. McKeon added a minor formatting change to Section 309(i).

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In Section 310, Benton requested a syntax change, moving the amended language closer to the top of the paragraph and removing “or obtain such certification” which was redundant.

Afterwards, members asked clarifying questions about Section 300.

Mulvihill moved to approve memo/final report with recommendations as amended; seconded by Thompson. Approved 6-1 with McKeon opposed.

Miller asked the Committee to consider requesting the Council to form a subcommittee to consider the final report next before reaching the City Council. Most members felt it was a step that would delay the workplan timeline and was not needed. Miller moved to request the formation of a Council subcommittee. No second. Motion failed.

7. DISCUSS AND DETERMINE THE PROCESS OF PRESENTING THE FINAL REPORT TO CITY COUNCIL IN JUNE 2022

Sonenshein proposed a process whereby consultant and staff would introduce the Chair and Vice Chair and speak briefly about the standout moments of the Committee. The Chair and Vice Chair would then walk the Council through the Committee’s process. The Committee decided it was best not to directly answer questions regarding some of the more controversial items, since most of the discussion was documented in the minutes and it would not be fair for 2 members to speak on behalf of all the diverse viewpoints presented during meetings.

8. PROPOSED UPDATES TO COMMITTEE WORKPLAN, TRACKING DOCUMENT AND OTHER MATERIALS, AS NEEDED. None

9. COMMITTEE MEMBER COMMENTS

Mulvihill thanked staff and consultant and expressed appreciation for this opportunity to work with Committee members of this high caliber. Thompson appreciated working with everyone and the support she received. Miller thanked the members and staff as well. He felt that the group’s ability to reach consensus was admirable and wish he could see more of this collaboration throughout our communities. McKeon enjoyed the vigorous debate and felt this was a rewarding experience. He felt that the group was cordial, honest and transparent and thanked staff and members for this unique experience. Benton felt it was a positive experience and that the Committee shared its opinions in a civil manner. She also thanked staff and expressed appreciation for civil servants. Mircheff agreed with Benton. Mulvihill thanked the Chair and Vice Chair for their wonderful work. Ray stated that he was very thankful for this opportunity and thanked members and staff.

10. STAFF AND CONSULTANT COMMENTS

Hopkins thanked Sonenshein for his guidance and Jun for her attention to detail. He acknowledged the Committee for their hard work.

11. ADJOURNMENT. Adjourned at 7:06pm

The next Committee meeting date is to be determined, and future agendas will be posted 72 hours prior to the next meeting on: huntingtonbeach.legistar.com/Calendar.aspx INTERNET ACCESS TO THE AGENDA AND STAFF REPORT MATERIAL IS AVAILABLE PRIOR TO THE MEETING AT: <https://huntingtonbeach.legistar.com/> In accordance with the Americans with Disabilities Act, services are available to members of our community who require special assistance to participate in public meetings. If you require special assistance, 48-hour prior notification will enable the City to make reasonable arrangements for an assisted listening device for the hearing impaired, American Sign Language interpreters, a reader during the meeting and/or large print agendas. Contact the City Manager’s Office at 714-536-5553 for more information, or request assistance from the recording secretary at the meeting.