

COMMUNICATIONS
FROM CHARTER
COMMITTEE MEMBERS

Communications received regarding miscellaneous proposed language on Saturday March 1, 2014 at 10:41 P.M.

1. I am not sure we have an ordinance or we have outlined what an affirmative vote is. I am thinking it should be a 3 person affirmative vote to pass a resolution.
2. General law powers - conflict of law. When there is a conflict between State and local affairs the Charter shall be able to control their municipal affairs.
3. Interpretation - The Charter's intent is to be permissive rather than exclusive and limiting. The Charter should be liberally and broadly construed in favor of the City to govern over municipal affairs.
4. Prohibition of Property Transfer Tax - Transaction, sales, etc. should not be imposed unless approved by a supermajority vote of the people, not council members. The intent is to limit councils from imposing new taxes on the City unless there is a vote by the people.
5. Council Meetings - City Council should notice its meetings and have meetings in accordance with the general laws of the State of California. All rules should follow the State of CA regarding location, notice and conduct of meeting.
6. Council Hiring - Only people that the Council have a say in hiring is the CEO and City Attorney. These people should be hired/fired in accordance to the general law of the State of CA.
7. Elections - Municipal elections should be held in accordance with general state law. City shall follow the Elections Code of the State of CA and any other applicable general law. Recall procedures should also follow general state law.
8. Finally regarding compensation, do we have to call this out on a specific line in the initiative since the compensation is changing?

**Communications received regarding proposed pension language on Thursday
March 6, 2014 at 8:12 A.M.**

I have attached a consolidated pension provision that is a little cleaner than the two separate provisions handed out at our last meeting. The issue still remains - will one paragraph stating "no defined retirement benefit increases without voter approval" cover all issues related to defined benefit increases. I don't think so.

Can "new" employees receive an increase in their benefits when they have never before received benefits? It seems they can receive benefits that are an increase as compared to the most recently hired employee before them ... but not when compared with their own benefits, since they did not have benefits before they were hired.

Can one paragraph cover increased benefits to existing employees and a "retroactive" application? Yes, but that would mean the voters would be given only one choice ... the worse choice - an increase + retroactive application of the increase. If we want to give the voter the choice of (1) an increase with no retroactive application or (2) an increase + retroactive application. It seems we need two paragraphs to offer the voter two choices or three choices (no increase). The Pension Oversight Committee were strong about wanting a separate vote for retroactive application.

Do we need the comprehensive impact analysis paragraph? I am not sure what the law requires. So that voters understand the City's exposure, they need alternate calculations using a lower earnings / discount rate and a higher earnings / discount rate to understand how critical it is that CalPERS do their job and keep earnings high (what they base their projections on). Everyone at the POC meeting wanted the comprehensive analysis defined and fully available to everyone before the City Council meeting that would authorize a vote. So it seems the Financial Impact Report should be part of the overall provision.

CHARTER COMMITTEE

DEFINED RETIREMENT BENEFITS

Provision 1 – No Increase in Defined Retirement Benefits or Retroactive Application of Benefit Increases, Unless Approved By Voters

Existing Employees -

On or after the effective date of this Charter the City shall not increase any pension or other defined retirement benefit payable to an employee or officer of the City, unless such increase is approved by a 2/3rds majority of the voters at a general election. A defined retirement benefit includes any pension, deferred compensation, health insurance, or other post employment compensation or benefit, including a defined retirement benefit that was previously reduced.

New Employees or Existing Employees Changing Job Categories -

On or after the effective date of this Charter the City shall not offer or grant to a new employee or officer of the City or to an existing employee making a permanent transfer to another category of City employment, any pension or other defined retirement benefit greater than the pension or other defined retirement benefit given to the most recently hired employee participating in the same category of City employment and pension or other defined retirement plan, unless such increase is approved by a 2/3rds majority of the voters at a general election.

No Retroactive Application -

Any increase in an employee or officer pension or other defined retirement benefit shall not be applied "retroactively" back to an employee's date of hire or any other prior date, unless approved as a separate ballot issue by a 2/3rd's majority of the voters at a general election.

Exempt Benefit Increases and Retroactive Applications -

Any increase in pension benefits or other defined retirement benefits or a "retroactive" application of an increased benefit, authorized prior to the effective date of this Charter in a valid and binding Memorandum of Understanding ("MOU") or contract or mandated by law, is exempt from this provision.

Financial Impact Report -

Prior to authorizing a vote by citizens to consider a proposed increase in defined retirement benefits or a "retroactive" application of a proposed increase in defined benefits, the City Council shall have an impartial comprehensive financial analysis prepared that fully describes the financial impacts on the City. The financial impacts shall include the annual pension contributions, annual cost, liability, unfunded liability, actuarial estimates of the preceding categories using an earnings / discount rate 10%

lower and separately 10% higher than the rate used by the California Public Employees Retirement System or "CalPERS" at the time the actuarial estimates are calculated, and any other risk to the City of such a proposed increase in benefits or "retroactive" application of a proposed increase in benefits ("Financial Impact Report"). The Financial Impact Report shall be prepared by an independent licensed and certified Actuary or Certified Public Accountant having continuous experience in the actuarial and accounting fields during the previous five (5) years. At least 14 days prior to the City Council authorizing a vote at a general election the Financial Impact Report shall be fully published on the City's website with the ability to be electronically copied by the public and available to the public at the Office of the City Clerk for inspection. The financial impact on the City shall be impartially described in the voting materials as allowed by law.

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Question to Members – Defined retirement benefits represent a significant cost, liability and risk ... which may continue over 60 years or more after an employee is hired. The retroactive application of a proposed increase in benefits is dangerous, as it results in an immediate increase in unfunded liability, since in most all cases there will have been no funding in the past for the now proposed higher benefits. Question - Should voter approval be a 2/3rds majority, 60% majority, or just a majority?

Gene Hutchins
3/6/14