

MINUTES OF THE REGULAR MEETING OF THE COSTA MESA CHARTER COMMITTEE

August 14, 2013

1. CALL TO ORDER

The meeting was called to order at 6:00 p.m. in the Emergency Operations Center, at Costa Mesa City Hall, 77 Fair Drive, Costa Mesa, California.

PRESENT: FACILITATORS: Dr. Kirk Bauermeister, Dr. Mike Decker
CHARTER COMMITTEE MEMBERS: Ron Amburgey, Brett Eckles, William Fancher, Thomas Graham, Gene Hutchins, Kerry McCarthy, Mary Ann O'Connell, Henry Panian, Tom Pollitt, Lee Ramos, Andrew Smith, Kevin Tobin, Harold Weitzberg
LEGAL COUNSEL: Kimberly Hall Barlow, Yolanda Summerhill

ABSENT: Andrew Smith

2. PLEDGE OF ALLEGIANCE - Dr. Bauermeister

3. MOMENT OF SILENCE – Dr. Bauermeister

4. WELCOME - Dr. Bauermeister

5. PUBLIC COMMENTS

Jay Humphrey, Costa Mesa, stated that appropriate safeguards need to be incorporated into the Charter, to avoid what happened in the cities of Vernon and Marysville.

Tamar Goldmann, Costa Mesa, requested to know how the Committee is addressing the suggestions of the residents and provided written suggestions.

6. REVIEW OF MINUTES

Committee Member O'Connell made a correction on page 4 of the July 24, 2013 minutes clarifying that she was asking a question and not making a statement.

Committee Member Weitzberg made a correction on page 2 of the July 24, 2013 minutes clarifying that he said "I recommended that the Committee should get started on developing the new Charter and stop looking back at Measure V."

Committee Member Hutchins made a correction on page 3 of the July 24, 2013 minutes clarifying that he said "the City Council is losing power because power is being transferred to the voters to approve any increase and pension benefits."

Committee Member Pollitt clarified that the homework assignment needed to be included in the minutes.

City Clerk Green recommended the minutes to be revised and brought back to the next meeting.

CONSENSUS: The July 24, 2013 minutes will be reviewed at the August 28, 2013 Charter Meeting.

7. CHARTER ISSUE: PUBLIC CONTRACTS

Committee Member Pollitt inquired on selling City property in a Charter City vs. a General Law City, and asked if three people on the City Council could vote to sell property.

Legal Counsel Barlow commented that the City Council can vote to sell property if they have gone through the proper process.

Questions from the Public was added to the Parking Lot.

Committee Member Eckles suggested that the Committee Members submit their homework, questions, and research ahead of schedule to give the facilitator's time to review before the meetings and that Committee Members be prepared to discuss the issues.

Legal Counsel Barlow reminded the Committee that the decision making process has to be done publicly.

Committee Member O'Connell agreed with Committee Member Eckles suggestion if it does not take away from the process and the public's viewing of the process.

Presentation by Public Works Director Munoz regarding:

- Role of public services
- Contract award process
- Alternative bidding procedures
- Contractor requirements
- Contracting Flexibility

Committee Member Pollitt inquired how the process would change if Costa Mesa became a Charter City.

Public Works Director Munoz commented that would be a decision of the Committee.

Legal Counsel Barlow clarified that any changes would only be for local funded contracts.

Public Works Director stated examples of local funded sources:

- Drainage fee fund
- General fund
- Park development fund
- Traffic impact fees fund

Committee Member Weitzberg inquired if the local fund dollars are being coupled with other dollars to complete a project.

Legal Counsel Barlow stated that if local funds were coupled with restricted grant funds that had restrictions, the restrictions would apply.

Discussion ensued regarding local funding and grants, prevailing wage, bidding process, and awarding of contracts.

Legal Counsel Barlow explained that the City of Costa Mesa has a City Manager form of government which means that the City Council gives direction to the City Manager who then gives direction to the City Staff and that the City has a provision in an ordinance that restricts Council Members from communicating with City Staff.

Public Services Director Munoz stated that he cannot disclose negotiations to the City Council. He further explained that a non collusion affidavit assures the City that a job does not go to the Mayor's Cousin, and that two bidders cannot get together to conspire on a bid. A non-collusion affidavit assures no tampering with bids.

Committee Member O'Connell inquired if the Committee did not add specific language in the Charter could the process be changed by an ordinance? She also inquired that if the Committee was silent in the Charter what changes and protections would the City have?

Legal Counsel Barlow responded that the City would apply General Law if the Charter was silent on an item.

Discussion ensued regarding the Charter being silent on public contracts.

Committee Member Ramos inquired if the Committee is silent on the requirements of this topic would amendments to the requirements be allowed.

Public Works Director Munoz responded that amendments can be made that are more stringent, and also assured the Committee Members that the current system for public contracts is working very well.

Public Works Director Munoz explained why and how a bid could be rejected.

Committee Member Weitzberg commented on how the Committee Members should focus on whether or not to incorporate this current system of public contracts into the Charter. He also requested a poll from the Committee Members on the current system.

POLL: Keep the current system of public contracting or change.

Change: Committee Members: Eckles, Graham, Hutchins, Tobin, McCarthy, Panian, Pollitt, and Ramos.

Current: Committee members: Amburgey, Fancher, O'Connell, and Weitzberg.

Absent: Committee Member Smith

Break 7:55 p.m. – 8:05 p.m.

COMMENTS FROM COMMITTEE MEMBERS WHO SUPPORT A CHANGE TO THE CURRENT SYSTEM

Committee Member Ramos commented that the public needs to be made more aware of the public contracts process.

Committee Member Pollitt commented that the City Council Members should have more flexibility to establish rules regarding contracts.

Committee Member Eckles commented that he would like to keep the UCCAA rules, but not be mandated by their changes, also that the City should have autonomy.

Public Works Director Munoz commented that the City is required to abide by the UCCAA minimums.

Committee Member Panian spoke on the topic of Labor Compliance, and that it is a process to ensure transparency, accountability, and safeguards. He further explained that it is the hiring of a third party to investigate the contractor to determine whether the contractor is following the non-discrimination clause and the non-collusion clause.

Committee Member Hutchins commented that the City should have the option to require or not to require prevailing wage.

Committee Member Graham commented that the public needs to be made more aware of the public contracts process.

Committee Member McCarthy commented that she was also concerned about autonomy. She also stated that the City Council should have the ability to put forth adherence to the UCCAA.

Committee Member Tobin stated that he currently likes what the City is doing but they could add a few changes to bring transparency to a higher level, and he also suggested a checklist for all subcontractors not, just 1%.

Committee Member Weitzberg commented that the current system is operating effectively and it does not need to be changed.

Committee Member Tobin commented that the City is operating effectively as of now but it is due to the fact that there are a lot of really good people working for the City, but that may not always be the case. He added that the City should secure what is already being implemented and make it difficult to change unless there is an overwhelming amount of support from the public.

Committee Member O'Connell commented that the Charter should not micro-manage the future expert employees on how to do their jobs.

Committee Member Ramos commented that the public are not effectively being told how to view the awarding of bids.

Dr. Decker responded that this concern is a value not a law.

Committee Member Weitzberg commented that the Committee Members need to focus on what they would like to effectively change.

Committee Member Panian commented that the public needs to be better informed about the public contract process.

Committee Member O'Connell commented that the issue of the public being informed is not a Charter issue, it is more of a marketing issue.

Dr. Bauermeister summarized the six issues that have been brought forth in regards to transparency and requested language pertaining to these six issues. Also requested Committee Members to begin reviewing openness.

Consensus: The Committee Members will bring language for transparency and begin reviewing openness.

8. INFORMATION REQUESTS

9. MEETING SUMMARY

- Minutes from July 24, 2013 are going to be updated
- Efficiency and Committee Member input
- Addressed the parking lot:
 - Invited Public Works Director Munoz to the Charter Meeting.
 - Addressed the threshold issue
 - Public Works Director provided his opinion on the threshold
 - Addressed firewall
 - Addressed the rejection of bids.
 - The Committee Members have homework.

Legal Counsel Barlow requested that the Committee decide on a name and the boundaries for the City.

Consensus: Approval of the City Name of Costa Mesa and the current City Boundaries.

10. AGENDA BUILDING FOR AUGUST 28, 2013

Consensus of the Committee for the following topics to be on the August 28, 2013 agenda: Call to Order; Pledge of Allegiance; Moment of Silence; Welcome; Public Comments; Review of Minutes; Charter Issue: City Name and Boundaries, Public Contracts: Transparency and Openness, Quality, Retention, Firewall, Prevailing Wage & Governance: Districting, Equal Representation, Polarization, Local Control, Minority, Compensation, Firewall; Discussion of Chair and Vice Chair; Information Requests; Meeting Summary; Agenda Building; and Adjourn.

11. ADJOURNMENT at 8:59 P.M.

Brenda Green
CITY CLERK