

MINUTES OF THE REGULAR MEETING OF THE COSTA MESA CHARTER COMMITTEE

JULY 24, 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: Kimberly Hall Barlow

2. PLEDGE OF ALLEGIANCE - Dr. Kirk Bauermeister

3. MOMENT OF SILENCE – Dr. Kirk Bauermeister

4. WELCOME - Dr. Bauermeister

Consensus: End of the Charter Meeting at 8:45 p.m. unless there is a consensus of the Committee to continue another fifteen minutes.

5. PUBLIC COMMENTS

Jim Adams, Council Representative of Los Angeles/Orange County and Construction Trades Council, requested that the Committee consider using language that would require the payment of prevailing wage on construction work funded by the City of Costa Mesa and provided the Committee Members with a DVD regarding prevailing wage.

Sheila Pfafflin, Costa Mesa, stated that the Charter Committee does not have to produce a Charter and that she supports the protections of a General Law City.

Mike Harmanos, Costa Mesa, reported an error in the April 17, 2013 agenda report regarding prevailing wages and cautioned not to rely on the accuracy of the agenda reports.

Robin Leffler, Costa Mesa, requested a community needs assessment before discussing what should go into the Charter.

Martin H. Millard, Costa Mesa, commented that the Charter Committee has been charged by the City Council to draft a Charter, and then to let the voters decide.

6. REVIEW OF MINUTES

MOTION/SECOND: Committee Member O'Connell/ Committee Member Ramos

The July 10, 2013 minutes were approved as presented.

7. DISCUSSION ON MOMENT OF SILENCE

Dr. Bauermeister read the memo from the CEO's office which was included in the agenda packet.

MOTION: Committee Member Pollitt

For the Committee to adopt the same rules of order as the City Council for a Moment of Solemn Expression.

SECOND: Committee Member Amburgey, for discussion.

Dr. Bauermeister stated that the Committee is not doing motions, seconds, and voting because the Committee is using a consensus model. If a Committee Member would like to address the topic of the Moment of Solemn Expression they would need to talk to CEO Thomas Hatch.

Committee Member Pollitt commented that he would speak to CEO Thomas Hatch.

8. AGENDA OVERVIEW

Dr. Bauermeister reviewed the topics on the agenda and the process.

9. CHARTER ISSUE: PUBLIC CONTRACTS

Committee Member Fancher recommends that the Committee use Measure V as a starting point to build the new Charter.

Committee Member O'Connell recommends that the Committee create the Charter using a clean slate.

Committee Member McCarthy commented that if the Committee uses the old Charter as a starting point than that may give the public a reason to vote against the new Charter; and agreed that it might be best to wipe the slate clean.

Committee Member Hutchins commented that the reason we have the Committee is due to the city having an unfunded liability; caused by the two previous City Councils who made a decision to expand the pension benefit and cost the City 14-15 million dollars in unfunded liability that the City is liable for. He also commented that the Committee should use Measure V as a starting point.

Committee Member Weitzberg recommended that the Committee should get started on developing the new Charter and stop looking back at Measure V.

Committee Member Panian stated that he agrees with Committee Member Hutchins about the unfunded liability, but the Committee should focus on the topic of public contracts at this meeting.

Presentation by Legal Counsel Yolanda Summerhill regarding:

- Public contracting overview
- General law city
- Awarding the contract
- Uniform Construction Cost Accounting Act
- Charter cities and public contracting

Committee Member Panian inquired on the change order process and it was added to the Parking Lot.

Committee member Hutchins spoke on the \$175,000 threshold, and if the contract is above that threshold then City Council approval is required.

Legal Counsel Summerhill explained the 5% and 10% retention requirements.

Committee Member Eckles inquired on a Senate Bill that changed the retention requirements.

Legal Counsel Summerhill explained that with a \$5,000 threshold and a lowest responsible bidder, that agreement would be awarded by the City Council.

Committee Member Hutchins commented that one of the problems we had with the prior Charter was that there was worry that the City Council would be given more power and then maybe they could do things that the citizens wouldn't really want to have done within the City. He further inquired, how does the law control a City Council in that case, where you're trying to control contracts that you really wouldn't want to have performed and maybe contractors chosen that you wouldn't really feel are fair?

Legal Counsel Summerhill stated that the City Council must choose the lowest responsible bidder and that the public contract process is very well guarded.

Committee Member Smith requested input from the Public Works Director.

Committee Member O'Connell commented that the threshold number be tied to an index.

Committee Member McCarthy commented that the threshold be tied to a percentage of the budget.

Committee Member Pollitt recommended the UCCAA threshold.

Break 7:25 to 7:35

Discussion ensued regarding the topic of maintenance and repair work of streets and sewers being exempt from public contracting.

Consensus: Public Works Director to provide input on public contracting and transparency at the next meeting.

Discussion ensued on transparency

Committee Member Fancher commented on the viewing of bids.

City Clerk Green stated that with the current process bids are released thirty days in advance to all the trade journals, posted to the website, and published in the Daily Pilot.

Committee Member Fancher is in support of bids to become public once they are awarded.

Committee Member O'Connell supports the process leading up to the decision of awarding the bid being made available to the public; and for public agencies to give cause for rejecting a bid.

Discussion ensued regarding bidding procedures, transparency, and the UCCAA.

Committee Member McCarthy stated that the lowest bidder should always be awarded the bid.

Committee Member Pollitt recommended that the Committee use wording that is similar to the current City ordinance for the Charter.

Committee Member Weitzberg read the following clause from Measure V, "The City Council should only establish by an ordinance or resolution all standards, procedures, rules, or regulations to regulate all aspects of bidding an award, and performance of any Public Works Contract", and commented that using the Measure V language is not the right way to move forward.

Dr. Decker reviewed the following key issues of the Committee:

- Concerns on Firewall Protection
- Current process regarding transparency is acceptable with a few additions.

Legal Counsel Summerhill clarified that a Charter is more difficult to amend than a resolution or an ordinance.

Committee Member O'Connell inquired if a change in the Charter needs to be by a vote of the people and not the City Council?

Legal Counsel Summerhill nodded yes.

Committee Member Hutchins commented that the Charter should not change the way that the City operates, and that the Committee can make a few additions.

Committee Member Panian requested that when a contract is awarded a City Council member should be present to oversee the process.

Committee Member Fancher supports the UCCAA.

Committee Member Eckles supports the UCCAA and that the wording can be amended.

Legal Counsel Summerhill clarified that different parts of the UCCAA can be taken and modified.

10. INFORMATION REQUESTS

Committee Member Tobin requested to have the actual wording from the UCCAA.

11. MEETING SUMMARY

- Public Comments
- Passed the July 10, 2013 minutes
- Discussed Public Contracts
- Discussed as a committee to have the City Clerk and Public Works Director explain the public contract process

Dr. Bauermeister requested for each Committee Member to return to the August 14, 2013 Charter Meeting with wording that they think will help the Public Works Contracts become more transparent.

12. AGENDA BUILDING FOR AUGUST 14, 2013

Consensus of the Committee for the following topics to be on the August 14, 2013 agenda: Call to Order; Pledge of Allegiance; Moment of Silence; Welcome; Public Comments; Review of Minutes; Charter Issue: Public Contracts: Transparency and Openness, Quality, Retention, Firewall, Prevailing Wage & Names and Boundaries ; Information Requests; Meeting Summary; Agenda Building; and Adjourn.

13. **ADJOURNMENT** at 8:50 P.M.



CITY CLERK