# MINUTES OF THE REGULAR MEETING OF THE COSTA MESA CHARTER COMMITTEE

**January 8, 2014**

## 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.
LEGAL COUNSEL: Kimberly Hall Barlow

ABSENT: Yolanda Summerhill, Kevin Tobin, and Harold Weitzberg.

## 2. PLEDGE OF ALLEGIANCE - Dr. Bauermeister

## 3. MOMENT OF SILENCE – Dr. Bauermeister

## 4. WELCOME - Dr. Bauermeister

## 5. PUBLIC COMMENTS

Geoff West thanked the Committee Members for their commitment to the Charter.

## 6. REVIEW OF MINUTES

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

The minutes of the December 11, 2013 Charter Meeting were approved.

## 7. MEETING SUMMARY

Dr. Bauermeister provided an overview of the items that the Committee would be addressing throughout the meeting.

## 8. CHARTER ISSUE

### GOVERNANCE: COMPENSATION OF COUNCIL MEMBERS AND BENEFITS

Dr. Bauermeister reviewed the straw votes from the November 13, 2013 meeting regarding Council Member Compensation:

- (8 Ayes – 2 Noes) Future Council Members shall not receive a pension.
- (8 Ayes – 2 Noes) The City Council shall receive health care benefits.

- (10 Ayes - 1 Noes) Elected officials are entitled to a fixed stipend of XX dollars per month.

Committee Member comments regarding City Council compensation:

- The cost of the Council Members compensation may be in excess to the data provided because they do not include pension costs.

- Inquiry regarding the City of Fountain Valley's total Council compensation.

City Clerk Green responded that the City of Fountain Valley has adopted an ordinance that excludes future elected officials from membership in the retirement system, as well as adopting resolutions which have eliminated healthcare benefits.

- During the last meeting it was said that there was an issue with healthcare because the Council Members were viewed by law as employees.

Legal Counsel Hall-Barlow commented that the Council Members are considered employees for certain purposes and non-employees for other purposes.

- Disagree with the middle section of paragraph 5 on item 8A where it is stated that a Council Member can be considered full time depending on the amount of time that is spent on his/her duties to the City.

Legal Counsel Hall-Barlow commented that under the ACA (Affordable Care Act) the total number of hours is calculated, it depends on the full time equivalency. It is difficult to truly track the hours of Council Members.

- Is it possible to restrict the hours Council Members work within a time period?

Legal Counsel Hall-Barlow responded that there may be significant first amendment issues with telling an elected official how many hours that they can spend doing their job.

**MOTION/SECOND**: Committee Member Pollitt/Committee Member McCarthy

**Consensus**: (9 Ayes, 2 Noes): Each Council Member shall receive an annual stipend of $25,000. Optional benefits shall be deducted from this amount.
Ayes: Committee Members: Amburgey, Eckles, Fancher, Graham, Hutchins, McCarthy, Panian, Pollitt, and Smith.
Noes: Committee Members: O'Connell and Ramos.
Absent: Committee Members: Tobin and Weitzberg.

Committee Member comments regarding Council Member compensation continued:

- Support provision, which is a set amount with an index, for general law cities.

Legal Counsel Hall-Barlow stated the provision bases compensation depended on the size of a city.

- The City Council Members work hard and earn their money; if there is a cut within the compensation and a cap on the amount of hours, the Council Members may think that the City does not expect much out of them because they are being limited.

- Set an amount but do not put hours into the language.

- Prefer indexed fund because it would be favorable in which it would attract people from all economic levels within the City.

- City Council candidates do not take into account what it will cost to become a Council Member.

Legal Counsel Hall-Barlow explained the statute regarding Council Member Compensation.

**Consensus**: (10 Ayes, 1 Noes): Each Council Member shall receive an annual stipend of $25,000. Optional benefits shall be deducted from this amount.
Ayes: Committee Members: Amburgey, Eckles, Fancher, Graham, Hutchins, McCarthy, Panian, Pollitt, Ramos, and Smith.
Noes: Committee Member O'Connell. (Prefers the stipend include indexing).
Absent: Committee Members: Tobin and Weitzberg.

**FINANCIAL: BUDGET RESERVES**

Dr. Bauermeister reviewed the straw vote from the December 11, 2013 meeting regarding Budget Reserves: (5 Ayes - 7 Noes): Do Budget Reserves need to be addressed in the Charter?

Language provided by Interim Finance Director Dunivent: The City shall have a reserve policy that includes targets for reserves, what they can be used for, and plan how to achieve that targeted reserve funding. This policy should be periodically reviewed by the Council.

Language provided by Committee Member Hutchins: The City shall maintain cash reserves for the purpose of funding significant unexpected events of risk or opportunity. Such events could include a major economic downturn, a major natural disaster, a catastrophic infrastructure failure, or the purchase of real estate having significant importance to the community, all as determined by a super-majority of the City Council. The City shall perform a review of such possible events not more than every five years and the City Council shall determine the appropriate amount of such cash reserves. The minimum level of cash reserves shall be 50% of the City's general fund gross revenue which shall be achieved by 2024. A super-majority of the City Council shall have the right to extend this date by 5 years.

**MOTION/SECOND**: Committee Member Pollitt/Committee Member O'Connell

**Consensus**: (7 Ayes, 4 Noes): Do not include Reserves in the Charter.
Ayes: Committee Members: Eckles, Fancher, O'Connell, Panian, Pollitt, Ramos, and Smith.
Noes: Committee Members: Amburgey, Graham, Hutchins, and McCarthy.
Absent: Committee Members: Tobin and Weitzberg.

Committee Member comments regarding Reserves:

- We had reserves but they were put in place by an ordinance which did not help the financial problem that the City experienced. The City needs more reserves in order to protect itself from another possible recession.

- Should not put money into reserves, when there are expenses that need to be paid.

- Costa Mesa shall be a City that aggressively saves, where financial responsibility is a hallmark.

- Support Committee Member Hutchins language being placed in the preamble except for the last two sentences as that would hamstring the City.

- Remove the 50%; the key is that every five years the City Council will determine what level of Reserve is appropriate.

- Support Interim Director Dunivent's language in the preamble; it does not hamstring the Council and it is sound advice of how the City should be run.

- It would be a major problem to handcuff the City's funds.

- A super-majority would determine whether or not a reserve should be used.

**Consensus**: (10 Ayes, 1 Noes): Language shall be included in the preamble regarding Budget Reserves.
Ayes: Committee Members: Amburgey, Eckles, Graham, Hutchins, McCarthy, O'Connell, Panian, Pollitt, Ramos, and Smith.
Noes: Committee Member Fancher.
Absent: Committee Members: Tobin and Weitzberg.

Committee Member comments regarding Reserves continued:

- Was there ever a policy at all about reserves?

- Currently, a $14 million policy by ordinance for reserves.

- There was no regular review of the reserves.

- The retroactive raise was the event that created the unfunded pension liability. Need to guard against that happening again.

- The City did not plan for the recession; before that point the reserves were substantial.

- The blame cannot all be on the recession.

- There should be language in the preamble that makes it clear that the City must maintain reserve funds to be determined by the City Council by ordinance or resolution.

- Reserve language should be in the Charter because Council overspent; it would force them to save money.

- The Council Members change. Previously a wealthy City but can have a Council that over spends. It is important to have in the Charter to include a line item in the budget.

- The key is that the City Council does a review every five years.

- The City currently reviews the Reserve level; what would be the benefit of putting language in the Charter if the City is already doing it?

- The pension issue was a mistake by the City Council.

- Put the COIN ordinance in the Charter; that would prevent the pension mistake from happening again.

**Consensus**: (8 Ayes, 2 Noes, 1 Abstain): To include the following Reserve language in the Preamble: The City shall maintain cash reserves for the purpose of funding significant unexpected events of risk or opportunity. Such events could include a major economic downturn, a major natural disaster, a catastrophic infrastructure failure, or the purchase of real estate having significant importance to the community, all as determined by a super-majority of the City Council. The City shall perform a review of such possible events not more than every five years and the City Council shall determine the appropriate amount of such cash reserves.
Ayes: Committee Members: Amburgey, Fancher, Graham, Hutchins, McCarthy, Panian, Pollitt, and Ramos.
Noes: Committee Members: Eckles and O'Connell.
Abstain: Committee Member Smith.
Absent: Committee Members: Tobin and Weitzberg.

BREAK 7:20 P.M. – 7:30 P.M.

**FINANCIAL: PROPERTY TAX INEQUITY**

Dr. Bauermeister reviewed the straw vote from the December 11, 2013 meeting regarding Property Tax Inequity: (1 Support, 5 Oppose, 6 More Information)

Interim Finance Director Dunivent shared the responses to questions that the Committee Members inquired during the December 11, 2013 Charter Meeting:

- Based on the assessors data 14% of City parcels are currently assessed at a base year of 1975; includes all parcels not just residential.

- Were not able to obtain information regarding the amount of residences passed onto relatives.

- There are 25,174 assessor parcels in the City.

- The median value of owner occupied housing units is $592,400.

- There are 1,681 commercial properties in the City.

- The average median household income was $65,373.

Committee Member comments regarding property tax inequity.

- Impressed with the amount of data that was obtained.

- The largest share of property taxes supports school districts and schools should never be shorted.

- What we decide here could be a model for other agencies.

- The City should be diversified in their income sources.

- Fear of losing revenue stream.

**Consensus**: (2 Ayes, 8 Noes, 1 Abstain) Add language in Charter regarding property tax inequity.
Ayes: Committee Members: Amburgey and Panian
Noes: Committee Members: Eckles, Graham, Hutchins, McCarthy, Pollitt, O'Connell, Ramos, and Smith.
Abstain: Committee Member Fancher.
Absent: Committee Members: Tobin and Weitzberg.

**CHARTER REVIEW**

Two Proposals regarding the Charter Review:

A. Every 10 years, the City Council may form a Charter Review Committee to review the existing City Charter and determine whether any amendments, modifications or repeal of its provisions are necessary.

B. Every ten years, the City Council shall hold a public hearing to consider the need for a comprehensive review of the existing Charter and shall determine whether or not to appoint a Charter Review Committee to consider and propose amendments to the existing Charter. Within 12 months after its creation, or such other time period as may be specified by the City Council, the Charter Review Committee shall present to the City Council any proposed amendments to the Charter. The City Council shall act upon the recommendations of the Charter Review Committee before the last day to place the proposed amendments on the ballot at the next regular general election. The City Council may, at its discretion, appoint a Charter Review Committee at any time.

Committee Member comments regarding the Charter Review:

- On proposal A change the word "may" to "will" or "shall".

The Committee agrees to change the word "may" to "shall" in proposal 1.

- Support proposal A; also like the flexibility of the last sentence of proposal B.

- Support the idea of not making a change every 10 years, but there will be a review on the Charter every 10 years.

- Support proposal B because minimally every 10 years there can be a change; should not change too often because it is expensive and it holds the Council accountable.

- The highest voter turn out is during the presidential election; consider an 8 or 12 year interval rather than 10.

**Consensus**: (10 Ayes, 1 Noes): Every 10 years, the City Council shall form a Charter Review Committee to review the existing City Charter and determine whether any amendments, modifications or repeal of its provisions are necessary. The City Council may, at its discretion, appoint a Charter Review Committee at any time.
Ayes: Committee Members: Amburgey, Eckles, Fancher, Graham, Hutchins, McCarthy, Panian, Pollitt, Ramos, and Smith.
Noes: Committee Members O'Connell.
Absent: Committee Members: Tobin and Weitzberg.

**UNFUNDED PENSION LIABILITY**

Committee Member Hutchins stated that the Pension Oversight Committee was working on a report for the City Council but has not yet reached the point of providing a recommendation to the Charter Committee.

Interim Finance Director Dunivent commented that the Charter Committee can have the Chair of the Pension Oversight Committee make a presentation on the ideas and recommendations that have been considered regarding the unfunded pension liability.

**Consensus** (10 Ayes, 1 Noes) Invite Jeff Arthur the Chair of the Pension Oversight Committee to give a presentation regarding the unfunded pension liability.
Ayes: Committee Members: Amburgey, Eckles, Fancher, Graham, Hutchins, McCarthy, O'Connell, Panian, Ramos, and Smith.
Noes: Committee Members Pollitt.
Absent: Committee Members: Tobin and Weitzberg.

Committee Member comments regarding unfunded pension liability:

- The easiest solution to the pension problem is to give all new employees a 401K plan.

- The COIN ordinance could be put into the Charter.

- I would like to hear what Jeff Arthur has to say; we will get a better understanding of why we are in this situation and how we can get out of it.

- It would be helpful to get the additional information from those who have been working on the issue.

- There are three pieces to the pension issue; CalPERS is forcing us to have higher minimums; put future hires on defined contributions instead of defined benefits; and the government could change pensions.

Dr. Bauermeister requested that the Committee Members send in any questions that they may have regarding unfunded pension liabilities.

**9. INFORMATION REQUESTS - None**

**10. AGENDA BUILDING FOR December 11, 2013**

Consensus of the Committee for the following topics to be on the January 22, 2014 agenda: Call to Order; Pledge of Allegiance; Moment of Silence; Welcome; Public Comments; Review of Minutes; Meeting Summary; Charter Issue: Outsourcing; Sale of City Owned Real Estate; Unfunded Pension Liability; COIN; Communications received from Committee Members; Information Requests; Committee Member Comments and Adjourn.

**11. COMMITTEE MEMBER COMMENTS**

Committee Member Amburgey commented that he wished there had been better luck with the property tax issue.

Committee Member Panian commented that he was satisfied with the process.

Committee Member Smith commented that he appreciated the hard work of all the Committee Members.

**12. ADJOURNMENT** at 8:17 P.M.

Brenda Green

**BRENDA GREEN**
**CITY CLERK**