



# Unresolved Issues from the 2007 Charter Review Commission

Rules Committee  
May 18, 2011

# Background



- On March 9, 2011 the Rules Committee held preliminary discussions on the possibility of making changes to the City's Charter.
- At that meeting the IBA and City Attorney were directed to work together to determine which unresolved issues from the 2007 Charter Review Report should be discussed further and to return to the Rules Committee with an overview in April.

# Background



- In January of 2007, the Mayor requested that the City Council assist in forming a Charter Review Committee.
- Each member of the City Council was asked to recommend an individual to represent each district.
- For six months the Committee and three Subcommittees held 51 meetings and developed a list of eleven recommendations for changes proposed for the 2008 Ballot.
- Many of the eleven recommendations with changes by the City Council were included on the June 2008 Ballot and passed by the voters.

# Background



- In addition to the eleven recommendations, the Committee also identified three changes for future ballots and eleven items for a future charter committee or commission.
- IBA Report 11-24 provides an overview and recommendations, if warranted, for these items.
- The IBA provided an advanced copy of our report to City Attorney's Office for their review and comments.

# Background



- In developing this report, the IBA requested the City Clerk provide an estimate from the Registrar of Voters for including an item on an upcoming ballot. The City Clerk provided our office with the following very conservative estimates for a ***single, five-page ballot*** measure:
  - Consolidated with the June 2012 Election \$843,000 - \$845,000
  - Consolidated with the November 2012 election: \$318,000 - \$320,000
  - Stand-alone polls election: \$2.8 million - \$3.4 million

# Appoint Process for Boards, Commissions, Committees, and other Governmental Agencies



- The Committee recommended amending Charter §265 to allow the Mayor to submit nominees for consideration when controlling law vests the power to appoint City representatives to boards, commissions, committees and governmental agencies in the City Council or a City Official other than the Mayor
- The Committee's concern was that under the new form of government the Mayor was removed "from any role in appointing the City's representatives to outside organizations."

# Appoint Process for Boards, Commissions, Committees, and other Governmental Agencies



- Since the change in the form of government, the subject of appointment authority to boards, commissions, corporations, and agencies has been well researched by the City Attorney's office.
- Appointments to boards and commissions are included in Charter Sections 41, 43, and 265.
- In addition to the City Charter sections, the appointments to boards and commissions is also governed by City Council Policy 000-13 which establishes a uniform procedure for the appointments and confirmation of members of commissions, boards, committees, authorities, districts, and councils.

# Appoint Process for Boards, Commissions, Committees, and other Governmental Agencies



## **IBA Recommendation:**

- Update Council Policy 000-13 to reflect current form of government.



# Authorize Mayor to act as CEO for organizations established by Federal or State Law



- This proposed charter change by the Committee was in response to the Mayor being removed from the redevelopment process as a result of the change in the form of government.

## **IBA Recommendation:**

- The IBA does not recommend that any Charter amendments concerning redevelopment be placed on the ballot until the State budget proposal has been resolved and the Redevelopment Ad-Hoc Committee has completed its work.

# Amend Section 265 to allow the Mayor to appoint the Personnel Director



- The Personnel Department is governed by the Civil Service Commission which is appointed by the Mayor and confirmed by the City Council.
- The main responsibilities of the Personnel Department is to provide supervision over the selection, promotion, and removal of all classified employees and maintain a competitive merit system that provides equal opportunity for all applicants.
- The Personnel Department is headed by the Personnel Director who is appointed by the Civil Service Commission.

# Amend Section 265 to allow the Mayor to appoint the Personnel Director



- The Charter Review Committee proposed a change to the City's Charter based on other Strong Mayor Cities where the Mayor has the authority to appoint their Personnel Director.
- The proponents of this recommendation pointed out that the Personnel Director was an anomaly in that it is the only officer appointed by the Civil Service Commission and believed that the proposed language would clarify that the executive branch of the City is under the control of the Mayor as Chief Executive and not to diffuse responsibility.

# Amend Section 265 to allow the Mayor to appoint the Personnel Director



- The opponents of the recommended change, including the Personnel Director at the time, stated that the Personnel Director's role is to maintain the function of ensuring that City workers have an unbiased and impartial person with whom they can discuss working conditions and issues and that if the Personnel Director served at the pleasure of the Mayor, his or her impartiality would not be assured.
- The current Personnel Director agrees with the statements of the previous Director.

# Amend Section 265 to allow the Mayor to appoint the Personnel Director



## **IBA Recommendation:**

- The IBA agrees with the former and current Personnel Directors that the City's structure allows classified staff the opportunity to discuss working conditions and issues with a neutral department. The IBA does not recommend further action on this item.

# Committee items needing Further Study



- Appointment of the City Attorney
  - **IBA Recommendation:** No recommendation for this item
- Automatic Charter Review
  - **IBA Recommendation:** The Mayor and City Council at any time can elect to create a charter review committee and/or direct the City Attorney to undertake a review of the charter for obsolete sections.
  - At a possible cost of \$318,000 - \$3.4 million to put an item on the ballot and given that the Mayor and City Council already have the authority to review the charter or create a review committee when needed, we recommend no further action on this item.

# Committee items needing Further Study



- **Budgetary Authority**

- The Committee noted that the City Charter is silent on the matter of mid-year course corrections to the budget and that many City Charters establish a clear process for handling of intra and inter-departmental mid-year transfers.
- **IBA Recommendation:** The IBA supports including a charter amendment that would enable the City Council the authority to make mid-year budget adjustments based on a set of established criteria.

# Committee items needing Further Study



- **City Investment Policies**

- After reviewing other cities reserve policies and finding that the City of San Diego's Charter did include some provisions for reserves, the Subcommittee on Financial Reform examined the broader issue of whether the City's investment policies needed modification or adjustment.
- **IBA Recommendation:** The City already has a thorough review process for its investment policy that is required by state law, the IBA does not recommend further action on this item.



# Committee items needing Further Study



- **Filling Vacancies**

- At the request of the City Council, the Subcommittee on Duties of Elected Officials looked into the matter of filling vacancies in City offices. The Subcommittee reviewed other cities charters for processes but did not have a recommendation.
- **IBA Recommendation:** The IBA believes that the processes for filling a Council seat vacancy a Mayoral vacancy as outlined in the Charter are clear and as recent history has shown, these processes have enabled the City to move forward quickly when needed. The IBA does not recommend further action on this item.

# Committee items needing Further Study



- **Independent Budget Analyst Status**

- The Subcommittee on Interim Strong Mayor recommended clarifying that the Office of the Independent Budget Analyst's Duties include providing policy advice to the City Council and also the status of the office if the Strong Mayor-Strong Council form of government expired.
- **IBA Recommendation:** The IBA does not recommend further action on this item.

# Committee items needing Further Study



- **Integration of Strong Mayor Concept into the City Charter**
  - Charter Article XV Section 260 integrates the changes related to the Strong Mayor-Strong Council into the overall charter which still retains many of the titles from the Council-Manager form of government including “City Manager”.
  - **IBA Recommendation:** The IBA agrees with the findings of the Subcommittee on Interim Strong Mayor that the issue of integration of the Strong Mayor-Strong Council into the Charter should be considered, especially with the form of government now being permanent. However, this could be cost prohibitive.

# Committee items needing Further Study



- **Intergovernmental Relations**

- After researching other cities intergovernmental relations processes, the Subcommittee on Interim Strong Mayor noted questions that were not addressed in the City's Charter.
- Although the City's Charter does not specifically address these questions, the City's Municipal Code does. San Diego Municipal Code Section 22.1901- Department of Intergovernmental Relations outlines the responsibilities of the Department Director and the department
- **IBA Recommendation:** The IBA does not have a recommendation for this item.

# Committee items needing Further Study



- **Mayor's Role in Closed Session**

- The Subcommittee on Interim Mayor noted that when the Mayor was removed from the Council as a component of the change in the form of government, this created an “anomalous situation for handling the kinds of things that are done in closed session.”
- Charter Section 265 (6) states that the Mayor attend and be heard at any closed session meeting of the Council, but not the right to vote at such meetings. When present, the Mayor shall preside over closed session.
- **IBA Recommendation:** No further Action Required

# Committee items needing Further Study



- **Possibility of Opting into CalPERS**

- The Subcommittee on Financial Reform briefly looked at the possibility of opting into the CalPERS retirement System.
- **IBA Recommendation:** No further action required

- **Timing of Budget Process**

- The Subcommittee on Interim Strong Mayor was concerned that some of the hard deadlines that the charter established for the budget were difficult to meet.
- **IBA Recommendation:** No further action required

# IBA Suggested Item for Review



- **Environmental Growth Fund**

- Charter includes restrictions or limitations that reduce general revenue sources that would otherwise flow to the General Fund.
- One such revenue source is franchise fees the City receives for the transmission and distribution of gas, electricity and steam within the City of San Diego.
- Per the City Charter, 25% of moneys derived from these revenues are placed in the Environmental Growth Fund (EGF).
- EGF used for the purpose of preserving and enhancing the environment and two-thirds is to be used for debt service for bonds for acquisition.
- If no such bonds are outstanding, then those moneys shall be used for the purpose of preserving and enhancing the environment of the City.

# IBA Suggested Item for Review



- **Environmental Growth Fund (Cont.)**
  - EGF bond obligations have been paid off.
  - EGF funds have been directed to the support existing eligible General Fund Park and Recreation Programs and capital projects.
  - Over time, the General Fund has become reliant on the EGF to maintain Park & Recreation services.
  - If the City intends to continue to use the EGF to support General Fund park maintenance and similar functions, then consideration should be given to seeking a possible Charter change.



# Conclusion



- IBA recommends the following:
  - Update Council Policy 000-13 regarding the processes for Appointment to Boards and Commission to reflect the current form of government.
  - Move forward with a charter amendment that would enable the City Council to make mid-year budget adjustments based on established criteria.
  - Elimination of existing revenue restrictions related to the Environmental Growth Fund.
- We also recommend that the Mayor and past members of the 2007 Charter Committee be provided an opportunity at a later Rules Committee, if desired, to express their ideas on future charter amendments.



# Questions?