2004 CHARTER REVIEW COMMITTEE

Final Report and Recommendations to the Tacoma City Council

May 18, 2004
May 18, 2004

The Honorable Mayor Baarsma and Members of the Tacoma City Council  
747 Market Street, Room 1200  
Tacoma, WA 98402

Dear Mayor Baarsma and Council Members:

The Charter Review Committee was formed by Resolution No. 35924 in August of 2003 to review the City Charter and make recommendations for change as the Committee deemed necessary. Enclosed is the Final Report and Recommendations of the Charter Review Committee to the Tacoma City Council.

In an effort to conduct a thorough review of the City Charter, the Committee formed six sub-committees: preamble, initiative and referendum, ethics, human resources, public utilities, and finance/expenditures. The full Committee retained two topics, government structure and sale of waterfront property, for study by the group as a whole.

Each sub-committee received information, studied the Charter and examined options for changes and improvements to Charter language. Members were instructed to include gender neutral language and concepts of good governance, public access and accountability in their review and recommendations. Each sub-committee made recommendations to the full Committee, where proposed amendments were adopted, modified, or failed to receive approval of the majority.

The full Committee held 18 meetings, with the sub-committees meeting an additional 37 times. Between the full Committee meetings and the sub-committee meetings, we heard from 32 different presenters. We encouraged and invited public comment at each of our meetings and held two public hearings, both of which were televised on TV Tacoma. In total, we received testimony from over 50 members of the public and received close to 50 pieces of correspondence.

The Committee members made themselves available to meet with every neighborhood council and other community and labor organizations. The weekly Charter Review Committee meetings were audio cast live, and I appeared on Cityline twice to discuss the work of the Committee.
After considering more than 45 possible changes to the Charter, 23 proposed amendments received the support of a majority of Committee members. In addition to these recommendations, we have forwarded several suggestions, including areas of concern that the Charter Review Committee considered significant enough to warrant further study but could not be accomplished within this Committee’s allotted time, were beyond the scope of the Committee’s review, or are not recommendations for changes to the Charter. We have also included, for information purposes, the proposed recommendations to the Charter that did not receive the support of a majority of members and therefore were not adopted by the Committee. Minority reports from several members have also been provided. Please note that a majority of the Committee members concur with the minority report regarding term limits for the City Manager position. A motion to reconsider this item was not made in a timely fashion, thus, the only option was for a minority report to be submitted on this topic.

The Committee understands that the City Council may want to limit the number of amendments submitted to voters. When requested to do so, the Committee explicitly declined to place any prioritization on the recommendations to the City Council. As the Council reviews the recommendations, you will note that some are “tone-setting” in nature, some have legal implications, some provide more clarity for city workers and residents, and still others do a mixture of the three. This may help the City Council prioritize, and to arrive at a consensus, for ballot placement of the proposed amendments.

At one of our first meetings, Mayor Baarsma emphasized that no limitations had been placed on our review of the City Charter. We took this charge seriously and felt free throughout our review to examine and make recommendations on any issue we identified as important. While there may not be unanimity on every recommendation, I believe that all of the Committee members have a much deeper understanding of the Charter now than we did when we began the process. It is our hope that many of these recommendations can be woven into the fabric of the Charter and our community.

On behalf of the members of the Committee, thank you for the opportunity to participate in this review.

Sincerely,

Laurie A. Jinkins, Chair
Charter Review Committee
Laurie Jinkins, Chair
Selwyn S.C. Walters, Vice Chair

Carolyn L. Davidson
Robert Denomy
Patrick Erwin
Steven C. Galbraith
Pat Hammond
Andréa Hardy
Dr. Charles Horne
Rev. David C. Isom
Kimberlie Lelli
Charles McKenna
Elvin J. Vandeberg
Stephen Wamback
Krystal L. Wood
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## MINORITY REPORTS:

Submitted by:

- Dr. Charles Horne
  
- Steve Galbraith
  
- Robert Denomy
  
- Pat Hammond
Proposed Amendments to the Tacoma City Charter
CHARTER OF THE CITY OF TACOMA

PREAMBLE

AMENDMENT #1

CURRENT CHARTER LANGUAGE:

Preamble
We, the people of the City of Tacoma, a city of the first class of the State of Washington, pursuant to the authority granted by the Constitution and Laws of the State of Washington, and in order to avail ourselves of all powers granted such cities and to obtain the benefits of local self-government, do hereby enact this charter.

RECOMMENDED LANGUAGE:

We, the people of the City of Tacoma, a city of the first class of the State of Washington, pursuant to the authority granted by the Constitution and Laws of the State of Washington, and in order to avail ourselves of all powers granted such cities and to obtain the benefits of local self-government, do hereby enact this charter.

Tacoma, Washington, with its clear views of Mount Rainier and the glistening waters of Puget Sound, is the "City of Destiny." It is a community recognized as a livable and progressive international city, regarded for the richness of its multicultural population, and its natural setting.

Therefore, we the people of Tacoma, pursuant to the authority granted by the constitution and laws of the State of Washington, in order to:

- provide high-quality, innovative, and cost-effective municipal services,
- enhance the lives of our citizens and the vitality of our neighborhoods and businesses,
- develop a vibrant, diversified economy,
- sustain the natural beauty of our environment,
- provide for accountability and ethics in public service,
- foster social harmony and cohesion; and
- assure equality of opportunity for every resident

ordain and establish this Charter.¹

RATIONALE FOR CHANGE:

The preamble to the Charter is an introductory statement, an explanation, or a declaration about the authority, purpose, or intent for enacting the Charter. It is an eloquent statement of purpose that exhorts and explains how the city must be managed. The preamble to the charter underscores the goals, values, and aspirations the people of Tacoma have for the city and its administration, and adds color, texture and shading to the substantive provisions that follow.

¹ The Charter Review Committee vote was unanimous.
ARTICLE II
THE LEGISLATIVE BRANCH

AMENDMENT #2

CURRENT CHARTER LANGUAGE:

Removal from or Forfeiture of Office

Section 2.5 – Any councilman may be removed from office by recall as provided by law.

RECOMMENDED LANGUAGE:

Section 2.5 – Any councilman member of the City Council and any other elected officer of the City of Tacoma,\(^2\) may be removed from office by recall as provided by law.

RATIONALE FOR CHANGE:

This allows for the recall of all elected officials, not only Council Members.

\(^2\) The Charter Review Committee vote was unanimous.
CURRENT CHARTER LANGUAGE:

Procedure of the Council
Section 2.8 - The Council shall meet at such times and places as it may determine, provided it shall hold regular periodic meetings, not oftener than once a week, at least forty-six (46) times each calendar year. Special meetings shall be called by the City Clerk on the written request of the Mayor or any three Council members. Such request shall state the subject or subjects to be considered at such meeting, and no other subject shall be considered thereat. Each Council member shall be given such notice that may be required by State law, but in no event less than twelve hours’ notice, of the time and place of such special meetings. All meetings of the council shall be public as prescribed by State law. (Amendment approved by vote of the people November 6, 1979.)

RECOMMENDED LANGUAGE:

Section 2.8 - The Council shall meet at such times and places as it may determine by ordinance, provided it shall hold regular periodic meetings, not oftener than once a week, at least forty-six (46) times each calendar year. Special meetings shall be called by the City Clerk on the written request of the Mayor or any three Council members. Such request shall state the subject or subjects to be considered at such meeting, and no other subject shall be considered thereat. Each Council member shall be given such notice that may be required by State law, but in no event less than twelve hours’ notice, of the time and place of such special meetings. All meetings of the council shall be public as prescribed by State law.

RATIONALE FOR CHANGE:

This will assure that a minimum number of Council meetings are held each year, but allows the City Council flexibility in determining the number of times to meet, especially considering the formation of the new Council Committees.

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3 By Council Rules, regular meetings of the City Council are scheduled for 5:00 p.m. each Tuesday.
4 RCW 42.30.080 establishes the procedure for emergency meetings pursuant to the Open Public Meetings Act.
5 The Charter Review Committee vote was unanimous.
CURRENT CHARTER LANGUAGE:

Procedure of the Council

Section 2.9 - Subject to the limitations imposed by law and by this charter, the Council shall establish its own rules and order of business. It shall keep a journal of its proceedings which shall be a public record. Five councilmen shall be a quorum for the transaction of business, but in the absence of a quorum, the members present may adjourn the meeting to a later date. The Council shall have the authority to punish its members and others for disorderly or otherwise contemptuous behavior in its presence and to compel the attendance of its members and witnesses, and the production of papers and things, before the council.

RECOMMENDED LANGUAGE:

Section 2.9 - Subject to the limitations imposed by law and by this charter, the Council shall establish its own rules and order of business. It shall keep a journal of its proceedings which shall be a public record. Five councilmen shall be a quorum for the transaction of business, but in the absence of a quorum, the members present may adjourn the meeting to a later date. The Council shall have the authority to punish its members and others for disorderly or otherwise contemptuous behavior in its presence and to compel the attendance of its members and witnesses, and the production of papers and things, before the council. The Council shall have authority to appoint up to two full-time equivalent unclassified employees, serving at the pleasure of the Council.

RATIONALE FOR CHANGE:

The presenter from Municipal Research and Service Center, as well as others, emphasized the importance of an active, involved City Council. As the City Council has a heavy workload, the addition of staff to assist with addressing citizens concerns, and to assist with items such as policy research, should enhance their effectiveness. Some committee members felt that it was important that the Council have an independent source of information, with staff members accountable only to the Council.

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6 RCW 42.30.090 establishes the procedure for adjourning meetings pursuant to the Open Public Meetings Act.
7 RCW 42.30.090 establishes the procedure for adjourning meetings pursuant to the Open Public Meetings Act.
8 The Charter Review Committee voted 7 to 6 in favor of this recommendation.
ARTICLE II  
THE LEGISLATIVE BRANCH  
AMENDMENT #5

CURRENT CHARTER LANGUAGE:

Legislation
Section 2.13 - Every ordinance shall, within ten days after its passage, be published once in the official newspaper of the city. Ordinances passed as emergency measures, or relating to local improvements and assessments and authorization of bonds therefore, or adopting annual budgets, or levying annual taxes, or making appropriations shall take effect immediately after publication. Ordinances granting a franchise, right, or privilege, or authorizing the issuance of revenue bonds in an amount exceeding five million dollars, shall not become effective until after the expiration of thirty days from the date of publication. All other ordinances shall take effect only after the expiration of ten days from publication, subject always to the provisions of this charter concerning referendum.

RECOMMENDED LANGUAGE:

Section 2.13 - A summary of every ordinance shall, within ten days after its passage, be published once in the official newspaper of the city. Ordinances passed as emergency measures, or relating to local improvements and assessments and authorization of bonds therefore, or adopting annual budgets, or levying taxes, or making appropriations shall take effect immediately after publication. Ordinances granting a franchise, right, or privilege, or authorizing the issuance of revenue bonds in an amount exceeding five million dollars, shall not become effective until after the expiration of thirty days from the date of publication. All other ordinances shall take effect only after the expiration of ten days from publication, subject always to the provisions of this charter concerning referendum.

RATIONALE FOR CHANGE:

Ordinance Summaries: The City can reduce costs by printing only a summary of the ordinance. The summary would include instructions on how to obtain a full copy of the ordinance. The committee felt that this was an appropriate step, since every citizen would still have the ability to obtain a copy of any ordinance. The city currently spends approximately $60-$80k per year in publication costs. The Tacoma Daily Index, and not the Tacoma News Tribune, is the official newspaper of the city.

Franchises and Revenue Bonds > $5 million – 30 Day Requirement : A franchise cannot be granted or a revenue bond issued without going thru the public hearing process – 1st and 2nd readings – then final approval by the City Council; keeping the 30 day requirement results in missed opportunities due to interest rate fluctuations. The above change balances the need for public input, yet provides flexibility in locking in on a favorable interest rate.

9 The Charter Review Committee voted 7 to 5 in favor of this recommendation.
ARTICLE II
THE LEGISLATIVE BRANCH
AMENDMENT #6

CURRENT CHARTER LANGUAGE:

Initiative and Referendum

Section 2.18 - Any proposed ordinance or amendment to an existing ordinance may be submitted to the Council by petition signed by registered voters equal in number to at least ten percent (10%) of the total vote cast in the last preceding councilmanic election. All petitions circulated with respect to any proposed ordinance shall be uniform in character, shall contain the proposed ordinance in full, shall set forth the name and address of each person signing, shall be in form prescribed by the City Clerk, may be approved in advance as to form by the City Attorney, and shall be filed with the City Clerk. (Amended by vote of the people September 18, 1973.)

Section 2.19 - Upon the filing of such petition the City Clerk shall forthwith verify the sufficiency of the signatures thereto.10 If he finds them insufficient he shall forthwith notify the person filing the same, and twenty days shall be allowed for completion thereof. If he finds them sufficient he shall forthwith transmit the same with his report to the Council, which shall take final action thereon within thirty days.

Section 2.20 - The Council may enact or reject any initiative ordinance, but shall not amend or modify the same. If it shall reject any such ordinance, or shall within thirty days fail to take final action thereon, the same shall be submitted to the qualified electors for their approval or rejection at the next general municipal election occurring not less than fifty days thereafter, under a ballot title prepared therefor by the City Attorney.

Section 2.21 - If, prior to the date when any ordinance shall take effect, a petition signed by qualified electors equal in number to at least ten percent of the total vote cast in the last preceding councilmanic election shall be filed with the City Clerk and certified as to sufficiency of signatures, as in the case of an initiative ordinance, such ordinance shall be suspended from taking effect. The Council shall immediately reconsider the same, and, if it does not repeal such ordinance, it shall submit such ordinance to the qualified electors for their approval or rejection at the next general municipal election, occurring not less than fifty days thereafter, under a ballot title prepared by the City Attorney. Excluded from this referendum provision are those ordinances which take effect immediately after publication, as provided in Section 2.13 of this charter.11

10 RCW 29.07.010 provides for the procedure for the verification of signatures for the initiative and referendum process.
11 Initiative and referendum not restricted to "legislative" matters but extends to "administrative" or "executive" matters. Ex rel Leo (1935) 184 W 160, 49 P2d 1113. Whether ordinance is emergent and exempt from referendum is judicial question. Ex rel Gray (1948) 29 W2d 799, 189 P2d 637.
ARTICLE II
THE LEGISLATIVE BRANCH

AMENDMENT #6 (continued)

RECOMMENDED LANGUAGE:

Note: Tacoma City Charter Sections 2.18 through 2.21 entitled “Initiative and Referendum” and Tacoma City Charter Section 9.6 entitled “Amendments” are hereby removed in their entirety and replaced by new Sections 2.18 through 2.21 entitled “Powers of the People”.

Initiative and Referendum
Section 2.18 - Any proposed ordinance or amendment to an existing ordinance may be submitted to the Council by petition signed by registered voters equal in number to at least ten percent (10%) of the total vote cast in the last preceding councilmanic election. All petitions circulated with respect to any proposed ordinance shall be uniform in character, shall contain the proposed ordinance in full, shall set forth the name and address of each person signing, shall be in form prescribed by the City Clerk, may be approved in advance as to form by the City Attorney, and shall be filed with the City Clerk. (Amended by vote of the people September 18, 1973.)

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Section 2.20 - The Council may enact or reject any initiative ordinance, but shall not amend or modify the same. If it shall reject any such ordinance, or shall within thirty days fail to take final action thereon, the same shall be submitted to the qualified electors for their approval or rejection at the next general municipal election occurring not less than fifty days thereafter, under a ballot title prepared therefor by the City Attorney.

Section 2.21 - If, prior to the date when any ordinance shall take effect, a petition signed by qualified electors equal in number to at least ten percent of the total vote cast in the last preceding councilmanic election shall be filed with the City Clerk and certified as to sufficiency of signatures, as in the case of an initiative ordinance, such ordinance shall be suspended from taking effect. The Council shall immediately reconsider the same, and, if it does not repeal such ordinance, it shall submit such ordinance to the qualified electors for their approval or rejection at the next general municipal election, occurring not less than fifty days thereafter, under a ballot title prepared by the City Attorney. Excluded from this referendum provision are those ordinances which take effect immediately after publication, as provided in Section 2.13 of this charter.

12 RCW 29.07.010 provides for the procedure for the verification of signatures for the initiative and referendum process.
13 Initiative and referendum not restricted to “legislative” matters but extends to “administrative” or “executive” matters. Ex rel Leo (1935) 184 W 160, 49 P2d 1113. Whether ordinance is emergent and exempt from referendum is judicial question. Ex rel Gray (1948) 29 W2d 799, 189 P2d 637.
Powers of the People

Section 2.18 - The City Council shall commence a review of this charter no less frequently than once every ten years, by appointing citizens to a charter review committee, or by the election of a board of freeholders in the manner provided in state law. The charter review committee, which shall be provided with sufficient staff and budget to perform a comprehensive review, shall report any recommended amendments to the City Council. The City Council may accept, reject or modify the recommended amendments and may submit any recommended charter amendments to the voters in the manner provided in state law. The recommendations of a board of freeholders shall be placed before the voters in the manner provided in state law. Nothing in this section shall limit the right of citizens to initiate amendments to this charter in any other manner allowed by state law.

Section 2.19 - Amendments to this charter may be submitted to the voters by the City Council or by initiative petition of the voters in the manner provided by the state constitution and laws.

Section 2.20 - Citizens of Tacoma may by initiative petition ask the voters to approve or reject ordinances or amendments to existing ordinances, subject to any limitation on topics in state law, by the following process:

a) The petitioners shall file an Initiative Petition with the City Clerk.
b) Upon receipt, the City Clerk shall forward the petition to the City Attorney.
c) Within ten (10) working days of receipt, the City Attorney shall review the petition with the petitioner, and if the petition is proper in terms of form and style, the City Attorney will write a concise, true, and impartial statement of the purpose of the measure, not to exceed twenty-five (25) words in length. The statement will be phrased in the form of a positive question.
d) The City Attorney shall transmit this concise statement to the City Clerk as the official ballot title.
e) The City Clerk shall assign an initiative number to the ballot title and notify the petitioner that the ballot title becomes final and signature gathering may begin in five (5) working days if there is no judicial review.
f) Persons dissatisfied with the ballot title prepared by the City Attorney may seek judicial review by petitioning the Pierce County Superior Court within five (5) working days of the City Attorney having transmitted the ballot title to the City Clerk. The Court shall endeavor to promptly review the statements and render a decision as expeditiously as possible. The decision of the Court is final.
g) Petitions must include the final, approved ballot title, initiative number, the full text of the ordinance, or amendment to existing ordinance, that the petitioners seek to refer to the voters, and all other text and warnings required by State Law.
h) Petitioners have one hundred and eighty (180) calendar days to collect signatures from registered voters.
ARTICLE II
THE LEGISLATIVE BRANCH

AMENDMENT #6 (continued)

RECOMMENDED LANGUAGE (continued)

i) The number of valid signatures shall be equal to ten percent (10 %) of the votes cast in the last Mayoral election.

j) The City Clerk shall verify the sufficiency of the signatures on the petition. If the petition is validated, the City Council may enact or reject the Initiative, but shall not modify it. If it rejects the Initiative or within thirty (30) calendar days fails to take final action on it, the City Council shall submit the proposal to the people at the next Municipal or General Election that is not less than ninety (90) days after the date on which the signatures on the petition are validated.

Section 2.21 - Citizens of Tacoma may ask that ordinances passed by the City Council, except for ordinances which take effect immediately as allowed in Section 2.13 of the Charter, or as otherwise prohibited by State Law, be referred to the voters for approval or rejection by the following process:

a) The petitioner shall file a Referendum Petition with the City Clerk not later than ten (10) calendar days after the City Council approved the ordinance.

b) The filing of a Referendum Petition, and progression by the petitioner through the steps outlined as follows, causes the suspension of the effective date of the ordinance.

c) Upon receipt, the City Clerk shall forward the petition to the City Attorney.

d) Within five (5) working days of receipt, the City Attorney will review the petition with the petitioner, and if the petition is proper in terms of form and style, the City Attorney writes a concise, true, and impartial statement of the purpose of the measure, not to exceed twenty-five (25) words in length. The statement will be phrased in the form of a positive question.

e) The City Attorney shall transmit this concise statement to the City Clerk as the official ballot title.

f) The City Clerk shall assign a referendum number to the ballot title and notify the petitioner that the ballot title becomes final and signature gathering may begin in five (5) working days if there is no judicial review.

g) Persons dissatisfied with the ballot title prepared by the City Attorney may seek judicial review by petitioning Pierce County Superior Court within five (5) working days of the City Attorney having transmitted the ballot title to the City Clerk. The Court shall endeavor to promptly review the statements and render a decision as expeditiously as possible. The decision of the Court is final.

h) Petitions must include the final approved ballot title, referendum number, the full text of the ordinance that the petitioners seek to refer to the voters, and all other text and warnings required by State Law.

i) Petitioners have thirty (30) calendar days to collect signatures from registered voters.

j) The number of valid signatures shall be equal to ten percent (10 %) of the votes cast in the last Mayoral election.
ARTICLE II
THE LEGISLATIVE BRANCH

AMENDMENT #6 (continued)

k) **The City Clerk shall verify the sufficiency of the signatures on the petition. If the petition is validated, the City Council shall immediately reconsider the ordinance, and if it does not repeal the ordinance, submit the proposal to the people at the next Municipal or General Election that is not less than ninety (90) days after the date on which the signatures on the petition are validated.**

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**RATIONALE FOR CHANGE:**

The Charter currently does not provide for a regular review process for the Charter. The committee members agreed that the Charter should be reviewed on a regular basis and not (only) because of crises or personality conflicts.

Because of the current organizational structure of the Charter, it is difficult to follow the process outlined for filing initiatives. Timelines do not correlate to established election cycles; and in the case of the referendum, the timelines in the Charter would be nearly impossible to achieve.

In reviewing the issues of recall, initiative and referendum, the committee advocates making the “Powers of the People” more explicit in the Charter. This is accomplished by proposing these three elements of direct democracy by grouping them into one section in the Charter. Additionally, the changes do away with the frequently archaic and bureaucratic language currently found in the Charter, and replace it with language that is easier to understand. Substantively, we propose the creation of a step-by-step procedure, which establishes clear points of contact, deadlines, signature gathering requirements and due process, to enact the initiative or referendum process in Tacoma.

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14 The Charter Review Committee vote was unanimous on these sections.
ARTICLE III
THE ADMINISTRATIVE BRANCH
AMENDMENT #7

CURRENT CHARTER LANGUAGE:

The City Manager

Section 3.1 - The Council shall appoint a chief administrative officer of the city government who shall be entitled City Manager, and who shall serve at the pleasure of the Council. Both his appointment and removal shall require the affirmative vote of five members of the Council. The Manager shall be selected on the basis of his training, experience, and other administrative qualifications for the office and without regard to his place of residence at the time of appointment, but during his tenure of office he shall reside within the city limits. Neither the Mayor nor any councilman shall be eligible for the position of City Manager within two years after the expiration of his latest term. (Amendment approved by vote of the people September 18, 1973.)

RECOMMENDED LANGUAGE:

Section 3.1 - The Council shall appoint a chief administrative officer of the city government who shall be entitled City Manager, and who shall serve at the pleasure of the Council. Both his appointment and removal shall require the affirmative vote of five members of the Council, provided that the term of service of any City Manager shall not exceed ten consecutive years. The Manager shall be selected on the basis of his training, experience, and other administrative qualifications for the office and without regard to his place of residence at the time of appointment, but during his tenure of office he shall reside within the city limits. The Council shall review the City Manager’s performance annually and every two years shall reconfirm the appointment of the City Manager by the affirmative vote of five members of the Council in a public meeting. Neither the Mayor nor any councilman shall be eligible for the position of City Manager within two years after the expiration of his latest term. The Council may directly retain the services of an individual or organization to assist the Council in conducting a search for a City Manager and conducting performance reviews of the City Manager.

RATIONALE FOR CHANGE:

The Committee believed it was important to assure that the City Manager never accumulated more power than the City Council Members. A ten-year term was chosen because it is equivalent to the maximum term any Council Member may serve.

The annual performance of the City Manager will ensure that the City Council is responsive to the efficiency and effectiveness of the highest, non-elected official for the City. The Council will be accountable to the citizens by publicly reaffirming the appointment of the City Manager every two years. The authority to retain the services of an individual or organization will give the City Council the ability to achieve the annual job evaluation requirement, and to recruit and hire a City Manager, with professional advice and assistance, if necessary.

15 The Charter Review Committee voted 7 to 6 in favor of this recommendation. MINORITY REPORTS SUBMITTED
16 The Charter Review Committee vote was unanimous on performance reviews; 12 to 1 in favor of reconfirming the City Manager. MINORITY REPORT SUBMITTED
17 The Charter Review Committee vote was unanimous.
CURRENT CHARTER LANGUAGE:

Council-Manager Relationships

Section 3.4 - The Manager shall have the power to appoint and remove, subject to the civil service provisions of this charter and except as otherwise provided in this charter or by state law, all officers and employees of the city under his jurisdiction, or may at his discretion authorize the head of a department or office responsible to him to appoint and remove subordinates in such department or office.

RECOMMENDED LANGUAGE:

Section 3.4 - The Manager shall have the power to appoint and remove, subject to the civil service provisions of this charter and except as otherwise provided in this charter or by state law, all officers and employees of the city under his jurisdiction, or may at his discretion authorize the head of a department or office responsible to him to appoint and remove subordinates in such department or office, provided that any proposed appointment of the head of a department or office by the City Manager shall be subject to confirmation by the Council.18

RATIONALE FOR CHANGE:

The confirmation by the City Council of department directors, who are chosen by the City Manager, will establish increased responsibility and accountability to the City Council.

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18 The Charter Review Committee voted 11 to 2 in favor of this recommendation.
ARTICLE III
THE ADMINISTRATIVE BRANCH

AMENDMENT #9

CURRENT CHARTER LANGUAGE:

Administrative Organization\(^{19}\)

**Section 3.11** – Within the framework established by this charter, the administrative service of the city government shall be divided into such offices, departments, and divisions as provided by ordinance upon recommendation of the City Manager. Such ordinance shall be known as the “Administrative Code.”

RECOMMENDED LANGUAGE:

**New Section 3.11 - Office of Management, Budget & Analysis (OMBA):** OMBA shall compile for the Director of Finance, City Manager and Council the estimates for the general government budget and the budget for capital outlay and perform other duties as may be prescribed by ordinance or otherwise by law.\(^{20}\)

**Section 3.12** - Within the framework established by this charter, the administrative service of the city government shall be divided into such offices, departments, and divisions as provided by ordinance upon recommendation of the City Manager. Such ordinance shall be known as the “Administrative Code.”

RATIONALE FOR CHANGE:

The compilation of the budget has been carried out by the Office of Management, Budget & Analysis (OMBA) since 2000. Moving this section to Article III, The Administrative Branch, will more accurately reflect current practice. The City Manager is ultimately responsible for proposing a preliminary budget to the Council. Under the proposed change, the City Manager would have Charter authority to create OMBA and appoint its director. Refer to Article VII, Section 7.5.

\(^{19}\) See Chapter 1.06

\(^{20}\) The Charter Review Committee voted 10 to 2 in favor of this recommendation.
ARTICLE III
THE ADMINISTRATIVE BRANCH
AMENDMENT #10

CURRENT CHARTER LANGUAGE:

The Public Utility Board
Section 4.8 - There is hereby created...shall be appointed for a term of five years. Members of the Board shall be removed only for cause by the Mayor and Council and only after charges have been filed and published and the member has been given a reasonable opportunity to defend himself in an open public hearing before the Council. Vacancies shall be filled for the unexpired term in the same manner as provided for regular appointments.

Civil Service Board
Section 6.11 – (b) An appointed Board Member may be removed from office by the City Council for cause, after notice and public hearing, if that member is found to have knowingly violated the oath of office she or he took under this Charter (Section 6.4).

RECOMMENDED LANGUAGE:

New Section 3.13 - The City Council may remove any appointed member of any City board, commission, or board of trustees, for cause, after notice and public hearing, if that member is found to have knowingly violated the oath of office she or he took under this charter (Section 6.4) or has committed any acts specified in state law as grounds for the recall and discharge of an elective public officer. The City Council, in its discretion, may allow a hearings examiner to hear such a matter. Recommendation of a hearings examiner shall be subject to review by the City Council. The City Council's final decision shall be based on the evidence in the record. A record of the proceedings shall be made.21

Section 4.8 - There is hereby created...shall be appointed for a term of five years. Members of the Board shall be removed only for cause by the Mayor and Council and only after charges have been filed and published and the member has been given a reasonable opportunity to defend himself in an open public hearing before the Council. Vacancies shall be filled for the unexpired term in the same manner as provided for regular appointments.

Section 6.11 – (b) An appointed Board Member may be removed from office by the City Council for cause, after notice and public hearing, if that member is found to have knowingly violated the oath of office she or he took under this Charter (Section 6.4).

RATIONALE FOR CHANGE:

This new section allows language to include all members of appointed boards, commissions or boards of trustee. The current Charter only includes language for Utility and Civil Service Board members. The sections would need to be changed to reflect the new proposed amendment, as shown below.

21 The Charter Review Committee voted 10 in favor, with one abstention, for this recommendation.
ARTICLE IV
PUBLIC UTILITIES

AMENDMENT #11

CURRENT CHARTER LANGUAGE:

The Public Utility Board

Section 4.8 - There is hereby created a Public Utility Board to be composed of five members, appointed by the Mayor and confirmed by the City Council, for five-year terms; provided, that in the appointment of the first Board, on the first day of the month next following the taking of office by the first Council under this charter, one member shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, and at the expiration of each of the terms so provided for, a successor shall be appointed for a term of five years. Members of the Board shall be removed only for cause by the Mayor and Council and only after charges have been filed and published and the member has been given a reasonable opportunity to defend himself in an open public hearing before the Council. Vacancies shall be filled for the unexpired term in the same manner as provided for regular appointments.

RECOMMENDED LANGUAGE:

Section 4.8 - There is hereby created a public utility board to be composed of seven members, appointed by the Mayor and confirmed by the City Council, for five year terms; provided that in the appointment of the first Board, on the fifth day of the month next following the taking of office by the first Council under this charter, one member shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, and at the expiration of each of the terms so provided for, a successor shall be appointed for a term of five years; and further provided that in the appointment of the first additional Board members following the Charter amendment increasing the size of the board, one member shall be appointed for a term of three years, and one member shall be appointed for a term of five years, and at the expiration of each of the terms so provided for, a successor shall be appointed for a term of five years. Members of the Board shall be removed only for cause by the Mayor and Council and only after charges have been filed and published and the member has been given a reasonable opportunity to defend himself in an open public hearing before the Council Vacancies shall be filled for the unexpired term in the same manner as provided for regular appointments.

RATIONALE FOR CHANGE:

Board size always represents a compromise between efficiency in securing decisions (small size) and inclusion of diverse experience and expertise (large size.) Tacoma's Public Utility Board is smaller than most such boards, and would benefit from the broader experience and expertise made possible with two more members.

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22 The Charter Review Committee vote was unanimous on this section.
23 Please refer to the proposed new Section 3.13 (previous page of this report) for proposed changes to this portion of Section 4.8.
CURRENT CHARTER LANGUAGE:

Powers and Duties of the Public Utility Board

Section 4.11 - All matters relating to system expansion and the making of additions and betterments thereto or extensions thereof, the incurring of indebtedness, the issuance of bonds, and the fixing of rates and charges for utility services under the jurisdiction of the Board shall be initiated by the Board, subject to approval by the Council, and executed by the Board; provided, that all rates and charges for utility services shall be reviewed and revised or reenacted by the Board and Council at intervals not exceeding five years and beginning with the year 1954.

RECOMMENDED LANGUAGE:

Section 4.11 - All matters relating to system expansion and the making of additions and betterments thereto or extensions thereof, the incurring of indebtedness, the issuance of bonds, and the fixing of rates and charges for utility services under the jurisdiction of the Board shall be initiated by the Board, subject to approval by the Council, and executed by the Board; provided, that all rates and charges for utility services shall be reviewed and revised or reenacted by the Board and Council at intervals not exceeding five years and beginning with the year 1954. The Board, subject to confirmation by the Council, shall set the compensation of employees whose compensation is not determined by a collective bargaining agreement.24

RATIONALE FOR CHANGE:

This is added to strengthen the hand of Utilities in moving towards market (comparable public utilities) rate compensation for managers and professionals, but still continues to have Council approval.

24 The Charter Review Committee vote was 10 to 1 in favor of this recommendation.
ARTICLE V
NOMINATIONS AND ELECTIONS

AMENDMENT #13

CURRENT CHARTER LANGUAGE:

Election of Councilmen – Numbered Positions

Section 5.4 – Before the general municipal election to be held in the year 1975, the Council shall divide the city into five election districts so that each district shall comprise as nearly as possible one-fifth of the population of the city; provided, that the territory comprised in any voting precinct of such district shall remain compact and shall not be divided by the lines of said district. The Council shall change the lines of the election districts, in the time and manner as prescribed by state law.

The City Clerk shall designate, by consecutive numbers commencing with number one and ending with number five, all positions on the Council to be nominated by district and shall further designate, by consecutive numbers commencing with number six and ending with number eight, all positions on the Council to be elected at large, and all of such designations shall thereafter be permanent and the positions so designated shall thereafter be considered as separate offices for election purposes.

The qualified electors of each election district, and they only, shall nominate from among their number candidates for the office of council member of such election district to be voted for at the following general election.

The qualified electors of the city shall nominate from among their number candidates for the office of council member at large to be voted for at the following general election.

The two candidates having the highest vote totals for each Council position shall be certified as having been nominated and shall run for that position in the general election. Council members nominated by district shall be elected by all of the qualified voters of the district, and the person receiving the highest number of votes for the office of council member for the position for which he/she is a candidate shall be declared duly elected.

Council members nominated at large shall be elected by all of the qualified voters of the City. The person receiving the highest number of votes for the office of council member for the position for which he/she is a candidate shall be declared duly elected. On expiration of the present term of office, council positions nominated by council district shall be elected by the qualified voters in that district.

In the event any council member nominated from a district shall, after election, move or reside outside the district from which he/she was nominated, he/she shall, by virtue thereof, be deemed to have forfeited his/her office, and his/her seat shall become vacant and shall be filled in the manner provided herein for the filling of vacancies. (Amendment approved by vote of the people November 3, 1992.)
ARTICLE V
NOMINATIONS AND ELECTIONS

AMENDMENT #13 (continued)

RECOMMENDED LANGUAGE:

Election of Councilmen Council Members—Numbered Positions

Section 5.4 – Before the general municipal election to be held in the year 1975, the Council shall divide the city into five election districts so that each district shall comprise as nearly as possible one-fifth of the population of the city; provided, that the territory comprised in any voting precinct of such district shall remain compact and shall not be divided by the lines of said district. The Council shall change the lines of the election districts, in the time and manner as prescribed by state law.

The City Clerk shall designate, by consecutive numbers commencing with number one and ending with number five, all positions on the Council to be nominated by district and shall further designate, by consecutive numbers commencing with number six and ending with number eight, all positions on the Council to be elected at large, and all of such designations shall thereafter be permanent and the positions so designated shall thereafter be considered as separate offices for election purposes.

The qualified electors of each election district, and they only, shall nominate elect from among their number candidates for persons to the office of council member of such election district, to be voted for at the following general election.

The qualified electors of the city shall nominate elect from among their number candidates for persons to the office of council member at large, to be voted for at the following general election.

The two candidates having the highest vote totals for each Council position shall be certified as having been nominated and shall run for that position in the general election. Council members nominated by district shall be elected by all of the qualified voters of the district, and the person receiving the highest number of votes for the office of council member for the position for which he/she is a candidate shall be declared duly elected.

Council members nominated at large shall be elected by all of the qualified voters of the City. The person receiving the highest number of votes for the office of council member for the position for which he/she is a candidate shall be declared duly elected. On expiration of the present term of office, council positions nominated by council district shall be elected by the qualified voters in that district.

In the event any council member nominated elected from a district shall, after election, move or reside outside the district from which he/she was nominated, he/she shall, by virtue thereof, be deemed to have forfeited his/her office, and his/her seat shall become vacant and shall be filled in the manner provided herein for the filling of vacancies.

RATIONALE FOR CHANGE:

The Committee wanted to adopt language that would give the City Council the flexibility to use any voting method authorized by law.
ARTICLE VI
CITY OFFICERS AND PERSONNEL

AMENDMENT #14

CURRENT CHARTER LANGUAGE:

Unclassified Service

Section 6.1 - The civil service of the City is hereby divided into the classified and unclassified services. The unclassified service shall consist of (a) officers elected by the people and persons appointed to fill vacancies in elective offices; (b) the members and boards and commissions; (c) officers appointed by the Mayor and Council or by boards and commissions, as provided by law or by this charter; (d) all department heads, one confidential secretary for the City Manager and one for the Director of Utilities, and such other principal officers and assistants to department heads as the Council may prescribe by the affirmative vote of not less than six members; (e) not more than three administrative assistants or aides to the City Manager; (f) professional personnel in the office of the City Attorney; (g) persons employed in a professional or scientific capacity to conduct a special inquiry, investigation, or examination; and (h) persons employed on special projects or programs of limited duration, including but not limited to special major construction projects, projects or programs financed by grant-in-aid agreements with either federal or state governments, etc., and (i) event workers in Public Assembly Facilities.

RECOMMENDED LANGUAGE:

Section 6.1 - The civil service of the City is hereby divided into the classified and unclassified services. The unclassified service shall consist of (a) officers elected by the people and persons appointed to fill vacancies in elective offices; (b) the members and boards and commissions; (c) officers appointed by the Mayor and Council or by boards and commissions, as provided by law or by this charter; (d) all department heads, one confidential secretary for the City Manager and one for the Director of Utilities, and such other principal officers and assistants to department heads as the Council may prescribe by the affirmative vote of not less than six members; (e) not more than three administrative assistants or aides to the City Manager; (f) professional personnel in the office of the City Attorney; (g) persons employed in a professional or scientific capacity to conduct a special inquiry, investigation, or examination; (h) persons employed on special projects or programs of limited duration, including but not limited to special major construction projects, projects or programs financed by grant-in-aid agreements with either federal or state governments, etc., (i) event workers in Public Assembly Facilities and (j) such professional and administrative personnel and personnel who work with confidential information as the Council may prescribe by a majority vote.  

(Ratifications approved by vote of the people September 18, 1973 and November 3, 1992.)

RATIONALE FOR CHANGE:

This allows for expansion of the unclassified service to three separate categories; professionals, administrative personnel, and any personnel who work with confidential information. Generally, the committee considers professional staff to include positions such as attorneys, engineers and accountants. Administrative personnel, conforming to other language in the Charter, are considered managerial positions, and not positions that are clerical in nature. The most cited reference of “personnel who work with confidential information” would include staff who work with financial information, some human resources professionals and those in the budget office.

25 The Charter Review Committee vote was 9 to 5 in favor of this recommendation. MINORITY REPORT SUBMITTED
ARTICLE VI
CITY OFFICERS AND PERSONNEL
AMENDMENT #15

CURRENT CHARTER LANGUAGE:

Eligibility for Employment
Section 6.3 - No person shall be eligible for employment in the city service who is not a citizen of the United States; provide that as to laborers this requirement may be waived by the Personnel Officer when laborers who are citizens are not available. No person shall be eligible to employment in the classified service who is not a resident of the city at the time of his appointment, and all officers and employees of the city appointed after this charter takes effect shall reside within its corporate limits during their period of employment in the city service; provided, that the Civil Service Board may waive such residence requirements for employees in the classified service and the City Council may waive such residence requirements for appointive employees in the unclassified service when such waiver is deemed to be for the best interests of the city for such reasons and under such conditions as may be prescribed in the personnel rules. No officer or employee in the city service shall hold any other public office, except in the National Guard, Organized Reserve, or as a Notary Public.

RECOMMENDED LANGUAGE:

Section 6.3 - No person shall be eligible for employment in the city service who is not a citizen of the United States; provided that as to laborers this requirement may be waived by the Personnel Officer when laborers who are citizens are not available. A person seeking employment in the city service who either resides within the City of Tacoma’s corporate limits, or resides within the utilities service areas and is applying for a position serving those areas, and who competes in an open competitive examination for employment, shall receive preference points added to his or her total passing score earned in the examination. To obtain the residency preference, a candidate’s home address will be subject to verification. No person shall be eligible to employment in the classified service who is not a resident of the city at the time of his appointment, and all officers and employees of the city appointed after this charter takes effect shall reside within its corporate limits during their period of employment in the city service; provided, that the Civil Service Board may waive such residence requirements for employees in the classified service and the City Council may waive such residence requirements for appointive employees in the unclassified service when such waiver is deemed to be for the best interests of the city for such reasons and under such conditions as may be prescribed in the personnel rules. No officer or employee in the city service shall hold any other public office, except in the National Guard, Organized Reserve, or as a Notary Public, engage in a business, transaction, or professional activity, or incur an obligation of any nature, that is in conflict with the discharge of the officer’s or employee’s official city duties or is adverse to the interests of the City.

26 The Charter Review Committee vote was 9 to 5 in favor of this recommendation.
27 The Charter Review Committee vote was unanimous.
RATIONALE FOR CHANGE:

The Committee did not want to prohibit people who live outside of Tacoma from working for the City, but did believe that City residents should be given a preference in obtaining employment.

Regarding the holding of other offices, the current exceptions in Section 6.3 are too narrowly drawn. The proposed new language conforms to Chapter 42.52 RCW (Ethics in Public Service) and specifically, RCW 42.52.020.
ARTICLE VI  
CITY OFFICERS AND PERSONNEL  

AMENDMENT #16

CURRENT CHARTER LANGUAGE:

Pecuniary Interest
Section 6.6 - No officer or employee of the city shall be beneficially interested, directly or indirectly, in any contract, sale, lease, or purchase with or for the use of the city; or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested therein. Violation of any provision of this section shall work a forfeiture of the office of the person violating the same and the contract sale, lease, or purchase shall be void.

RECOMMENDED LANGUAGE:

Section 6.6 - No officer or employee of the City shall be beneficially interested, have a financial interest, directly or indirectly, in any contract, sale, lease, or purchase with or for the use of the City; or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially who is financially interested therein. Provided, however, an officer or employee does not have a prohibited interest if the officer or employee has a remote interest as defined by state law. Violation of any provision of this section shall may work a forfeiture of the office of the person violating the same and the contract sale, lease, or purchase shall be void.\(^28\)

RATIONALE FOR CHANGE:

The existing reference is overly broad and too subjective. Financial interest is objective, with measurable application. These definitions are also better suited to the use of the “remote interest” exception. The current City Charter, state law and the Tacoma Municipal Code all differ from one another regarding this issue; this change has been made to clarify pecuniary interest.

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\(^{28}\) The Charter Review Committee vote was unanimous on this entire section.
AMENDMENT #17

CURRENT CHARTER LANGUAGE:

Political Activity
Section 6.8 - No person holding a position in the classified service shall take any part in campaigns involving the election of any city official, further than to cast his vote and to express privately his opinions.\textsuperscript{29}

RECOMMENDED LANGUAGE:

Section 6.8 - No person holding a position in the classified service shall take any part in campaigns involving the election of any city official, further than to cast his vote and to express privately his opinions.\textsuperscript{30} No elected officer or employee of the City of Tacoma shall hold another City of Tacoma office. No elected officer of the City of Tacoma shall hold another elected public office.\textsuperscript{31}

RATIONALE FOR CHANGE:

The committee took the opportunity to delete a section of the Charter that is contrary to state law, and replace it with language that allows employees and elected officials the opportunity to participate in other civic activities, if they choose, while prohibiting multiple office holdings.

\textsuperscript{29} The decision of Bellevue Fire Fighters v Bellevue, 100 Wn 2d 748 supersedes this section.

\textsuperscript{30} The decision of Bellevue Fire Fighters v Bellevue, 100 Wn 2d 748 supersedes this section.

\textsuperscript{31} The Charter Review Committee vote was unanimous.
CURRENT CHARTER LANGUAGE:

Investment of Funds
Section 7.4 - There shall be a Finance Committee, composed of the Mayor, Director of Finance, and City Treasurer, which shall control the investment of city funds and moneys in the manner prescribed by state law and city ordinance. Said committee shall also have powers and duties assigned by state law to municipal boards of investment.

RECOMMENDED LANGUAGE:

Section 7.4 - There shall be an Investment Finance Committee, composed of the Mayor, Director of Finance, and City Treasurer, which shall control the investment of city funds and moneys in the manner prescribed by state law and city ordinance. Said committee shall also have powers and duties assigned by state law to municipal boards of investment.

RATIONALE FOR CHANGE:

The committee deals exclusively with the investment of City funds. As a result, the name of the committee should be updated to more accurately reflect its role.

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32 The Charter Review Committee vote was unanimous.
ARTICLE VII  
GENERAL FINANCE  

AMENDMENT #19

CURRENT CHARTER LANGUAGE:

Department of Finance
Section 7.5 - There shall be a Department of Finance headed by a Director of Finance, who shall be appointed by the City Manager on the basis of his administrative abilities and experience in accounting, budgeting, and financial control. The Director of Finance, whose duties shall include those of a controller, shall have charge of the administration of the financial affairs of the city and, except as otherwise provided by law and by this charter, he shall:

(a) Compile for the City Manager and Council the estimates for the general government budget and the budget for capital outlay.

RECOMMENDED LANGUAGE:

Section 7.5 - There shall be a Department of Finance headed by a Director of Finance, who shall be appointed by the City Manager on the basis of his administrative abilities and experience in accounting, budgeting, and financial control. The Director of Finance, whose duties shall include those of a controller, shall have charge of the administration of the financial affairs of the city and, except as otherwise provided by law and by this charter, he shall:

(a) Review for concurrence compile for the City Manager and Council the estimates for the general government budget and the budget for capital outlay prepared by OMBA.

RATIONALE FOR CHANGE:

The City Manager is ultimately responsible for proposing a preliminary budget to the Council. In addition, the Director of Finance would concur with the budget estimates prepared by OMBA.

33 The Charter Review Committee voted 10 to 2 in favor of this recommendation. MINORITY REPORT SUBMITTED
CURRENT CHARTER LANGUAGE:

Receipt, Custody, and Disbursement of Funds
Section 7.8 - The City Treasurer shall deposit all city funds in one or more banks in the City of Tacoma, in the manner prescribed by law and ordinance or by resolution of the Council.

RECOMMENDED LANGUAGE:

Section 7.8 - The City Treasurer shall deposit all city funds in one or more banks in the City of Tacoma, in the manner prescribed by law and ordinance or by resolution of the Council.

RATIONALE FOR CHANGE:

The City of Tacoma has deposited funds with banks that have branches located within the city limits. However, no lock box services are available in Tacoma. The nearest lock box service is in Seattle. Deleting reference to “one or more banks in the City of Tacoma,” will give the City more flexibility, and options for banking services. Under the proposed change, the City can deposit funds in banks in the manner prescribed by state law for public entities. This will allow the City to use banking services outside of the city limits.

34 The Charter Review Committee vote was unanimous.
CURRENT CHARTER LANGUAGE:

Receipt, Custody, and Disbursement of Funds
Section 7.9 - No disbursement shall be made from any funds of the city except by check or warrant signed by the Treasurer. Each check shall be based upon a voucher or payroll audited by the Director of Finance and certified for payment as a duly authorized obligation of the city.

RECOMMENDED LANGUAGE:

Section 7.9 - Disbursements of city funds No disbursement shall be made from any funds of the city except by check or warrant signed by the Treasurer only. Each check shall be based upon a voucher, or payroll or other audited by the Director of Finance and certified for payment as a duly authorized obligation of the city. 35

RATIONALE FOR CHANGE:

The City is making an increasing number of payments by Account Clearing House (ACH) and other electronic (i.e. paperless) disbursements. The above change would maintain the segregation of duties between the Treasurer and the Director of Finance, and allow for a broad range of electronic processing.

35 The Charter Review Committee vote was unanimous.
CURRENT CHARTER LANGUAGE:

Independent Audit

Section 7.14 - The Council shall provide for an annual audit, survey, report and analysis of such books, records, accounts, functions or performance records of the City and its various departments as the Council, in its discretion, may deem proper, by certified public accountants who are in no way connected with the City government. Any such audit, survey, report or analysis shall be filed with the City Council and shall be open to public inspection. This independent audit shall be conducted in part on an annual basis so that at the end of each five-year period, books, account and transactions of all departments of the City of Tacoma shall be covered thereunder. (Adopted by vote of the people September 15, 1970.)

RECOMMENDED LANGUAGE:

Section 7.14 - The Council shall provide for an annual independent fiscal audit by the State Auditor’s office as prescribed by state law, survey, report and analysis of such books, records, accounts, functions or performance records of the City and its various departments as the Council, in its discretion, may deem proper, by certified public accountants who are in no way connected with the City government. Any such audit, survey, report or analysis shall be filed with the City Council and shall be open to public inspection. This independent audit shall be conducted in part on an annual basis so that at the end of each five-year period, books, account and transactions of all departments of the City of Tacoma shall be covered thereunder.

RATIONALE FOR CHANGE:

This section insures the City is held to credible standards of fiscal integrity; currently the State Auditor does conduct an audit every year. At a minimum, the State Auditor has to conduct an audit every three years (See RCW43.09.260). The above change names the State Auditor as the independent auditor. The audit is to be conducted on an annual basis and the results of the audit are a matter of public record.

36 The Charter Review Committee vote was unanimous.
ARTICLE IX
MISCELLANEOUS PROVISIONS

AMENDMENT #23

CURRENT CHARTER LANGUAGE:

Disposal of City Property
Section 9.1 – Except as otherwise provided in this charter or in state law, the sale, lease or disposal of real or personal property belonging to the City shall be upon authorization of the Council; provided that machinery or equipment may be leased from day to day on written agreement therefore approved by the City Manager or Director of Utilities, as the case may be, and filed with the Director of Finance. Any lease of real or personal property for a period longer than five (5) years shall contain provisions for reevaluation and adjustment of rentals at intervals not to exceed five (5) years. The City shall never authorize the sale or disposition of any waterfront property belonging to the City and, subject to the provisions of state law, shall not lease the same for a period longer than thirty years at any one time. All conveyances, contracts, and leases shall be executed by the Mayor and attested by the City Clerk. (Amendment approved by vote of the people September 18, 1973.)

RECOMMENDED LANGUAGE:

Disposal of City Property
Except as otherwise provided in this charter or in state law, the sale, lease or disposal of real or personal property belonging to the City shall be upon authorization of the Council; provided that machinery or equipment may be leased from day to day on written agreement therefore approved by the City Manager or Director of Utilities, as the case may be, and filed with the Director of Finance; provided further that, the lease of real or personal property for a term of less than a one year period without renewal shall not require authorization of the Council. Any lease of real or personal property for a period longer than five (5) years shall contain provisions for reevaluation and adjustment of rentals at intervals not to exceed five (5) years. The City shall never authorize the sale or disposition of any waterfront property belonging to the City unless public access along the waterfront is retained, and, subject to the provisions of state law, shall not lease the same waterfront property for a period longer than thirty years at any one time. All conveyances, contracts for sale, and leases longer than a one year period, of land owned by the City, shall be executed by the Mayor and attested by the City Clerk. (Amendment approved by vote of the people September 18, 1973.)

RATIONALE FOR CHANGE:

Adding language to allow renewal of leases covering less than a one year period, without Council authorization, is a practical change to avoid requiring Council’s involvement on every short term lease. Removing the restricting of disposition of all waterfront property allows the City to have some flexibility in deciding how it wants to develop its waterfront, while maintaining public access. The Charter Review Committee voted unanimously on this section, with the exception of the item which has the footnote; this was a vote of 10 to 1 in favor of this recommendation.

37 The Charter Review Committee voted unanimously on this section, with the exception of the item which has the footnote; this was a vote of 10 to 1 in favor of this recommendation.
2004 Charter Review Committee

Suggestions to the Tacoma City Council
Consideration of placing on the ballot, in the next two years, non-substantive changes to the Charter, which would change the Charter only with regards to incorporating gender-neutral, and current, updated language, and removing archaic language. The committee voted 10 to 1 in favor of this recommendation.

The Committee does not intend this to be a recommendation for another Charter Review Committee to be established, but rather a project that could be accomplished with existing staff members.

The current Charter has language this is out of date, as well as gender biased; following are a few examples of those areas:

**Section 3.6** – The City Attorney shall be legal advisor to the City Council, Manager, and all officers, departments, and boards of the city in matters relating to city affairs. He shall represent the city in litigations in which the city is interested; shall provide written legal opinion on official matters when requested by the Council, Manager, commissions, boards, or other city officers; shall review for legal correctness contracts, bonds, franchises, and other instruments in which the city is concerned; and perform such other duties as may be prescribed for him by ordinance or otherwise by law.

**Section 5.4** – Before the general municipal election to be held in the year 1975, the Council shall divide the city into five election districts so that each district shall comprise as nearly as possible one-fifth of the population of the city; provided, that the territory comprised in any voting precinct of such district shall remain compact and shall not be divided by the lines of said district. The Council shall change the lines of the election districts, in the time and manner as prescribed by state law.

**Section 6.11** – (a) There shall be a Civil Service Board….

When each of the current six-year terms expires, the term of that office will convert to a four-year term, beginning in 1974, then to continue as a four-year term. The initial appointee terms will be as follows: The appointee of the civil service employees shall serve a four-year term beginning in 1974; the appointee of the City Manager and Utilities Director shall initially be for two years beginning in 1974 and will be four years with the second appointment.
Consideration of an Office of Ombudsman, Independent Auditor, or Ethics Board. Recommend that this matter be referred to the City Council’s Government Performance & Finance Committee for further action. The committee voted 8 in favor, 2 opposed and 1 abstention on this recommendation.

There are certain obvious benefits to having an independent person, or board of disinterested parties, available for review of ethical issues as may arise. There are however, practical considerations, which require further analysis beyond the scope of this Committee’s term.

The present Tacoma Municipal Code section, addressing “Ethics” is TMC 1.46, et seq. The Code provisions allow complaints to be filed and heard by four designated officers, namely, the City Manager, Public Works Director, Hearings Examiner or City Attorney.

Each of these officers may be presented with a potential conflict of interest, depending on the nature of the ethical issue under review. A good example is immediately apparent when any of these officials are asked to review the conduct of a Council Member. An independent auditor, ombudsman or ethics board is considered less likely to be unduly influenced in this context.

**DUTIES OF AN OMBUDSMAN COULD INCLUDE THE FOLLOWING:**

1. Provide review and enforcement of all potential ethics code violations for city employees and elected officials.
2. Perform audits, independent investigation and/or evaluation of City departments.
3. Provide review and advise the Council regarding certain City contracts where the Council requires advice that is independent of the City Attorney.
4. Provide review, advice and oversight of law enforcement.
5. Provide ethics training and education to City staff and the community.
6. Provide advisory opinions on potential ethical matters in advance of action taken.
7. Provide citizen “watch dog” function regarding ethical issues.
8. Provide an opportunity for filing “anonymous” complaints.
9. Recommend changes in City governance and solve recurring problems.

**ISSUES WHICH ARISE INCLUDE THE FOLLOWING:**

1. The cost associated with an independent office of this nature (estimated at $250,000+)
2. Are that many ethical matters presented on a sufficiently regular basis to justify establishing this office? Full time? Part time?
3. Can the functions of this office be performed in conjunction with sharing of services with other communities? (Possible interlocal agreement with King County? Seattle? Pierce County? Other local municipalities (i.e., University Place, Lakewood, Fircrest and/or Edgewood)?
4. Should this be an elected or appointed position? If appointed, who should appoint? Who should remove? Simple majority of council (or) a super majority?
5. Elected position may be overly zealous in pursuit of potential ethical issues.
6. Should this be a fixed term of office (or) subject to will of the council, or voters?
SUGGESTION #3

Consideration of appointing a committee with the charge to study and recommend the form of utilities governance best suited to ensuring long-term, reliable, low cost utility services to the people of Tacoma. The committee voted unanimously on this recommendation.

The Public Utilities Sub-committee and the full Charter Review Committee did not have the time to study and come to an appreciation of all the implications of changing how Public Utilities is governed. Some of the sub-committee members were interested in the idea of much greater independence for Public Utilities. Also we were interested in the implications of transferring all or part of Environmental Services to Public Utilities.
SUGGESTION #4

Consideration of appointing an independent board to review the city’s compliance with Section 6.1 (Unclassified Service), with the board providing a report to the Council within six months, documenting any unclassified positions that are not authorized by Section 6.1. The committee voted 9 to 5 in favor of this recommendation.

There was significant testimony before the Human Resources Sub-Committee and the full Charter Review Committee alleging that a large number of classified positions have been moved to unclassified status over the past ten years, contrary to Charter requirements. The committee did not wish to undertake an investigation of this concern, but felt it serious enough for the City Council to study it further.
SUGGESTION #5

Recommend that Council consider using Instant Runoff Voting for election of council members once it becomes legal in the State of Washington. The committee voted 8 to 4 in favor of this recommendation.

Instant Runoff Voting is a method of voting that determines a majority winner in a single election, no matter how many candidates are running. It combines a regular election, and a runoff election between the top candidates, into one election, thereby saving tax dollars.

The Washington Legislature enacted a statute authorizing the use of Instant Runoff Voting during this year’s session. It has been signed by the Governor and will become effective in July, 2004. Additionally, there is currently an initiative campaign, Initiative 318, which has been launched, that would implement Instant Runoff Voting in all federal and state elections in Washington and would thus facilitate Instant Runoff Voting. Even if this campaign fails to gather enough signatures this year it will serve to educate the public about the benefits of Instant Runoff Voting.
SUGGESTION #6

Recommend that Council consider the creation of a Charter Review Committee, with the limited purpose to review and make recommendations to update the City’s human resource policies.

The committee members expressed a desire to update the current human resources policies based on information received from a variety of sources during their review of the City Charter. Establishing “due process” for certain appointed positions was cited, as well as the conversion of positions from classified to unclassified.  

38 MINORITY REPORT SUBMITTED
Proposed Charter Amendments that did not receive a majority vote or otherwise resulted in no proposed recommendations to the Charter
FAILED PROPOSALS

PROPOSED CHARTER AMENDMENTS THAT DID NOT RECEIVE A MAJORITY VOTE BY THE CHARTER REVIEW COMMITTEE, OR OTHERWISE RESULTED IN NO PROPOSED CHANGES TO THE CHARTER

GOVERNMENT STRUCTURE

The Charter Review Committee meeting of February 26, 2004 was structured to assist the committee in determining if the current Council/Manager form of government should be retained, be changed to a Mayor/Council form of government, or retained with modifications to the current structure.

A series of questions were asked of the members, in the form of motions, on the two different forms of government being considered: the Council/Manager and the Mayor/Council. In addition, there was also a series of questions regarding the structure of the Council. Copies of the questions asked ("decision trees") are attached for your information.

The Charter Review Committee recommended continuing the current Council/Manager form of government, with some modifications.39

The following are the results of the questions regarding the Mayor/Council form of government that was not recommended, and also questions regarding the Council structure that did not move forward.

MAYOR/COUNCIL STRUCTURE:

These questions were asked as affirmative motions, based on the assumption that these recommendations would take place if the Committee were to recommend the Mayor/Council form of government structure to the City Council.

1. Should the term limit for the Mayor be limited to the same terms as members of the City Council, which is two (2) four-year terms, up to ten (10) years maximum as Mayor?
   The motion failed by a vote of 3 in favor, with 10 opposed.

2. Should there be a term limit for the Mayor?
   The motion passed unanimously.

3. Should the length of office be extended or shortened?
   The committee voted to refer this to a sub-committee, which consequently did not decide on this matter due to the decision to keep the current government structure.

4. Should the Mayor be provided the authority to veto legislation?
   The motion passed unanimously.

39 The Charter Review Committee vote was 10 to 3 in favor of this recommendation. MINORITY REPORT SUBMITTED
5. Should the Council be provided with the authority to override a mayoral veto by a two-thirds (2/3) vote?
   The motion passed unanimously.

6. Should the Mayor be authorized to hire a City Administrator?
   This motion failed by a vote of 6 in favor and 7 opposed.

7. Should the Council have the right to confirm/deny confirmation of all department directors appointed by the Mayor?
   This motion passed with a vote of 10 in favor and 3 opposed.

8. Should the Council positions be reduced to seven (7) positions, consisting of the existing five (5) District positions and two (2) At-Large positions?
   This motion passed by a vote of 7 in favor and 6 opposed.

COUNCIL STRUCTURE

1. Should the City Charter require a full-time Council?
   This motion was tabled until a recommendation for a form of government had been decided upon. The Agenda Sub-Committee again brought this item to the table, and voted unanimously in opposition of any changes to this section of the Charter.

2. Should term limits for Council be changed?
   This motion was tabled until a recommendation for a form of government had been decided upon. The Agenda Sub-Committee again brought this item to the table, and voted unanimously in opposition of any changes to this section of the Charter.

3. Should the Council remain with four (4) At-Large positions (one being the Mayor) and five (5) District positions?
   The Charter Review Committee vote was 9 in favor, 3 in opposition and 1 abstention.

4. Should there be a recommendation to the Council that both forms of government be placed on the ballot in November, giving the citizens the opportunity to choose between the forms of government?
   The Charter Review Committee vote was 3 in favor and 10 in opposition.
FAILED PROPOSALS

COUNCIL - MANAGER STRUCTURE

Should term limits be applied to the City Manager position?

NO

YES

How long? (To committee for final recommendation)

Should Council be required to review the City Manager's performance?

NO

YES

How often? (To committee for final recommendation)

Should Council be required to reconfirm the appointment of the City Manager, at regular intervals, with a public vote?

NO

YES

Should the Council retain the right to terminate the City Manager at anytime during the Manager's term of office?

NO

YES

Should Council retain the right to confirm/deny confirmation of all department directors appointed by the Manager?

NO

YES
FAILED PROPOSALS

MAYOR - COUNCIL STRUCTURE

- Should current term-limits for Mayor be changed? [YES/NO]
  - Should length of office be extended, shortened or limits eliminated? [Extended?/Shortened?/Eliminated]
    - Extended? [YES/NO]
      - Should the Mayor be provided the authority to veto legislation? [YES/NO]
        - Should the Council be provided with the authority to override a mayorial veto by a two-thirds (2/3) vote? [YES/NO]
          - Should the Mayor be authorized to hire a City Administrator? [YES/NO]
            - Should the Charter outline qualifications for the City Administrator? [YES/NO]
              - Should the Council have the right to confirm/deny confirmation of the City Administrator? [YES/NO]
                - Should the Council retain the right to confirm/deny confirmation of all department heads appointed by the Mayor? [YES/NO]
FAILED PROPOSALS

COUNCIL STRUCTURE

Should the Charter require a full-time Council?

NO

YES

Should the number of meetings be increased or decreased?

Increased

Decreased

How Many Meetings? (To committee for final recommendation)

Should current term limits for Council be changed?

YES

NO

Should length of office be extended, shortened or limits eliminated?

Extended?

Shortened?

Eliminated

Length of office - (To committee for final recommendation)

Should Council be authorized to hire staff?

NO

YES

What limits should be placed on Council hiring of staff? (To committee for final recommendation)

Should the Charter section requiring Council to meet 46 times a year be changed?

NO

YES

Should the Council remain with 3 At-Large positions and 5 District positions?

NO

YES

Should At-Large positions be increased or decreased?

Increased

Decreased

How Many Meetings? (To committee for final recommendation)

Should District positions be increased or decreased?

Increased

Decreased

How Many Meetings? (To committee for final recommendation)

Remain the same

Remain the same
FAILED PROPOSALS

OTHER PROPOSED RECOMMENDATIONS THAT FAILED TO RECEIVE A MAJORITY VOTE:

ARTICLE IV- PUBLIC UTILITIES

CURRENT CHARTER LANGUAGE:

Section 4.17 Administrative Organization

The Department of Public Utilities shall use the services of the City’s General Government finance department, purchasing agent, law department, human resources/personnel department, and other City departments, offices, and agencies, except as otherwise directed by the City Council. (Amendment approved by vote of the people November 3, 1992.)

PROPOSED LANGUAGE:

The Department of Public Utilities shall use the services of the City’s General Government finance department, purchasing agent, law department, human resources/personnel department, and other City departments, offices, and agencies, except as otherwise directed by the City Council. **The City Manager and the Director of Public Utilities shall jointly appoint the Director of Finance and the Director of Human Resources subject to the confirmation procedures of this Charter. The City Council and the Public Utilities Board may jointly direct the consolidation of other departments, offices or agencies.**

The Charter Review Committee vote was 3 in favor, 7 in opposition and 1 abstention.
CURRENT CHARTER LANGUAGE:

Section 6.1 - Unclassified Service

The civil service of the City is hereby divided into the classified and unclassified services. The unclassified service shall consist of (a) officers elected by the people and persons appointed to fill vacancies in elective offices; (b) the members and boards and commissions, as provided by law or by this charter; (d) all department heads, one confidential secretary for the City Manager and one for the Director of Utilities, and such other principal officers and assistants to department heads as the Council may prescribe by the affirmative vote of not less than six members; (e) not more than three administrative assistants or aides to the City Manager; (f) professional personnel in the office of the City Attorney; (g) persons employed in a professional or scientific capacity to conduct a special inquiry, investigation, or examination; and (h) persons employed on special projects or programs of limited duration, including but not limited to special major construction projects, projects or programs financed by grant-in-aid agreements with either federal or state governments, etc., and (i) event workers in Public Assembly Facilities.

PROPOSED LANGUAGE:

Additional proposed language for this subsection:

1. Officers or employees violating this section of the Charter by creating unclassified positions not defined by this section shall forfeit their office or employment.

2. At its first meeting in 2005, the City Council shall appoint an independent board to review the city’s compliance with Section 6.1 of this Charter. The board shall provide a full report to the Council no later than June 1, 2005, documenting any unclassified positions that are not authorized by Section 6.1.

The Charter Review Committee vote was 4 in favor and 10 in opposition.
CURRENT CHARTER LANGUAGE:

Section 6.7 - Discriminatory Actions

No applicant for employment and no appointed officer or employee shall be discriminated against in any personnel decision on the basis of religion, race, national origin, political affiliation, sex, age, or the presence of any sensory, mental or physical handicap; provided, however, that affirmative action may be used to remedy prior discrimination in the employment and promotion of City appointed officers and employees.

PROPOSED LANGUAGE:

No applicant for employment and no appointed officer or employee shall be discriminated against in any personnel decision on the basis of religion, race, national origin, political affiliation, sex, age, sexual orientation or the presence of any sensory, mental or physical handicap; provided, however, that affirmative action may be used to remedy prior discrimination in the employment and promotion of City appointed officers and employees.

The Charter Review Committee vote was 0 in favor, 13 in opposition and 1 abstention.

NOTE: The vast majority of the committee members expressed support for prohibiting discrimination based on sexual orientation, however, based on requests from the lesbian/gay/bisexual/transgender community, this proposal failed. The community members expressed thanks for the Charter Review Committee’s consideration of this recommendation, but felt that this issue was decisively decided in the 2002 election and re-opening the matter serves no useful purpose.
ARTICLE VI- CITY OFFICERS AND PERSONNEL

CURRENT CHARTER LANGUAGE:

Section 6.11 (c) - Civil Service Board

The Board shall provide for its own organization and the rules of the conduct of meetings; provided, that all meetings be public to the extent required by state law and that three members shall constitute a quorum. Said Civil Service Board members shall serve without pay. The Board, in its discretion, may allow a hearings examiner to hear any adjudicatory matter which would be properly presented to the Board. Recommendation of a hearings examiner may be reviewed by the Board at the request of either party under rules adopted by the Civil Service Board. The Board’s final decision must be based on evidence in the record. A record of the proceedings shall be made. Neither the personnel director nor his or her staff shall serve as hearings examiner.

PROPOSED LANGUAGE:

The board shall provide for its own organization and the rules of the conduct of meetings; provided, that all meetings be public to the extent required by state law and that three members shall constitute a quorum. Said Civil Service Board members shall serve without pay. The Board shall have the power to appoint and remove an attorney to serve as the Board’s legal counsel. The Board shall also have the power to appoint and remove such staff members as it deems necessary to assist in the performance of the Board’s official responsibilities. The Board, in its discretion, may allow a hearings examiner to hear any adjudicatory matter which would be properly presented to the Board. Recommendation of a hearings examiner may be reviewed by the Board at the request of either party under rules adopted by the Civil Service Board. The Board’s final decision must be based on evidence in the record. A record of the proceedings shall be made. Neither the personnel director nor his or her staff shall serve as hearings examiner.

The Charter Review Committee vote was 6 in favor, 7 in opposition and 1 abstention.
CURRENT CHARTER LANGUAGE:

Section 6.12 (d) - Powers and Duties of the Civil Service Board

The Civil Service Board shall have the power and shall be required:
To hear appeals from any action suspending for more than thirty days, reducing in rank or pay, or discharging any employee in the classified service, and further to hear appeals on any and all other controversies or matters arising out of or in connection with the Civil Service and Personnel Rules. The findings and decisions of the Board shall be reduced to writing and shall be final and binding upon all parties concerned.

PROPOSED LANGUAGE:

To hear appeals from any action suspending for more than thirty days, reducing in rank or pay, or discharging any employee in the classified service, and further to hear appeals on any and all other controversies or matters arising out of or in connection with the Civil Service and Personnel Rules. The findings and decisions of the Board shall be reduced to writing and shall be final and binding upon all parties concerned provided those findings and decisions are not in conflict with collective bargaining agreements in effect and applying to the individual or group presenting the appeal.

The Charter Review Committee vote was 4 in favor and 10 in opposition.
CURRENT CHARTER LANGUAGE:

Section 6.15 - Special Provision Relating to Examinations

All examinations shall be impartial and shall deal with the duties and requirements of the positions to be filled; they may be oral, written, or based on observed performance or educational and experience record, or any combination thereof. Positions requiring unusual technical or professional qualifications may be filled without competitive examination upon approval of the Civil Service Board. Unskilled laborers may be appointed in the order of priority of application, after such tests of fitness as the Personnel Officer may prescribe; provided, that preference in such employment shall be given to honorably discharged veterans. The Personnel Officer may develop an apprenticeship program for the recruitment and promotion of employees in the skilled trades.

PROPOSED LANGUAGE:

All examinations shall be impartial and shall deal with the duties and requirements of the positions to be filled; they may be oral, written, or based on observed performance or educational and experience record, or any combination thereof. Positions requiring unusual technical or professional qualifications may be filled without competitive examination upon approval of the Civil Service Board. Unskilled laborers may be appointed in the order of priority of application, after such tests of fitness as the Personnel Officer may prescribe; provided, that preference in such employment shall be given to honorably discharged veterans. **The Personnel Officer may shall further develop and utilize an apprenticeship program for the recruitment and promotion of employees in the skilled trades.**

The Charter Review Committee vote was 7 in favor and 8 in opposition.
Other proposed recommendations for this Article, for which specific language had not been drafted, included:

Section 6.11 - Civil Service Board

Change to have the Council appoint the three members, who are now elected by the city at large.

The Charter Review Committee vote was 6 in favor and 8 in opposition.

Section 6.14 - Personnel Rules

Change to provide that the City Council shall make and amend the personnel rules.

The Charter Review Committee vote was 7 in favor and 8 in opposition.
2004 Charter Review Committee

Minority Reports
MEMORANDUM

From: Dr. Charles A. Horne
Concurring Members: Pat Hammond, Andrea Hardy, Selwyn S.C. Walters
To: Tacoma Charter Review Committee, Tacoma City Council and Citizens
Date: April 12, 2004
Subject: Minority Committee Member Report

Background:

It was with great civic pride that I consented and was selected to serve on the Tacoma Charter Review Committee along with fourteen other colleagues from diverse backgrounds, expertise and political persuasions. My willingness to serve was born out of my desire to participate in what could be a significant challenge on behalf of the citizens of this great community. I had no pre-conceived notions as to the most appropriate form of government for Tacoma or the magnitude of problems inherent in our past or present city structure.

As I took on the task of preparing for the opportunity to serve, a tremendous amount of information was compiled, reviewed and analyzed to better assess the direction in which I felt the City should go.

There were many attempts by concerned citizens, organizations and public officials to favor one form over the other. Many of these recommendations were driven by personal motivation and not an in-depth look at the pros and cons of changing or maintaining the structure and leadership style of City government.

My approach to this arduous task was to look at the structure and related actions, past and present, from a systemic and organizational perspective without concentrating on personalities or politicizing. It is my considered opinion to recommend a governmental structure that will allow for effective and efficient governance now and into the future.

Organizationally, the City of Tacoma would be better served when there are clear lines of departure and engagement. This is to say that there should be distinctive roles, duties and responsibilities of an Executive Office, Legislative Office, Legal Department and Operational Component. Given this structure, full accountability, integrity and efficiencies with economies of scale can be better realized to the benefit of our citizens, employees and Leadership.

As a result of the extensive research, input from citizens and personal observations, I conclude that the current form of Government (Council-Manager) has many worthy accomplishments to its credit and while it is the most common form of government in the land, it is not the most viable, effective and least cumbersome structure to take the City of Tacoma into the Twenty-First (21st) Century.

We need and must have decisive leadership at the Executive Branch with sharing and collaboration around a common vision and mission.
Recommendations

I strongly recommend that the City of Tacoma amends its charter to adopt a Strong Mayor form of government, only as long as the specific checks and balances delineated below are given to the City Council. The Strong Mayor form of government suggested herein is not meant to replace an arcade and failing system with a more corrupt, patronizing and expansive system, envisioned by opponents of a Strong Mayor. Rather, the Strong Mayor form of government I recommend allows the Mayor to articulate a vision, to have a professional manager to help implement the vision, and a City Council vested with certain powers to hold the Mayor’s increased powers in check. Some argue that the Council-Manager form of government can work if the personality of the Mayor is that of a “strong leader.” As set forth above, I do not believe that the City of Tacoma is best served if our recommendations consider the personalities of any public officials. I am, instead, suggesting a structural change to insure that our Strong Mayor form of government is not driven by a personality but is, instead, driven by a process.

Under the Strong Mayor form of government below, the traditional responsibilities of a professional Chief Operating Officer would remain. The Chief Operating Officer would retain the power to enforce that the City Charter and Ordinances are enforced, exercise control over all departments, appoint all department heads, assist the Mayor in preparing the budget, establish financial and accounting records, establish a central purchasing system, advise the Mayor of the City’s financial affairs, and perform such other duties as prescribed by the Charter or required of him/her by the Mayor. It is important that the Chief Operating Officer retain these traditional duties so that the City may continue to be well-managed in an efficient and productive manner.

Consistent with other successful Mayoral forms of government, I feel that the Mayor, as a single official elected citywide, must be given the authority to compel legislative action and subdue, by veto, any action conceived which has as its results the denigration of effective governance.

The Mayor should be considered not only as a presiding and ceremonial officer, but as the leader in setting agendas. Local governance must rely upon a popularly elected Mayor, authority to perform must be provided and power to initiate action must be included.

Specifically, I recommend the following changes to our form of government, to be voted on in the November city-wide elections, but not to be implemented until the next city-wide mayoral election four years from now.
**Mayor**

| The City of Tacoma should adopt a Strong Mayor form of government |
| The Mayor would not sit as a voting member of the City Council |
| The Mayor would be recognized as the executive head of City government as the Chief Executive Officer (CEO) |
| The Mayor would be assigned responsibility for human relations leadership in the community. |
| In full collaboration with the Council, the Mayor would be required to develop an annual municipal legislative program for presentation to the Council and would be authorized to develop and propose other legislative proposal to the Council from time to time. |
| The Mayor would have oversight of the preparation of the proposed annual city budget, and would submit the same to the council for their deliberation and approval. |
| The Mayor would not directly supervise any City department. [A professional City Manager as Chief Operating Officer (COO) would directly supervise all operations of City departments.] |
| The Mayor would be authorized to appoint members of boards, commissions and permanent committees. Said appointments would be confirmed by a majority of the Council. |
| The Mayor would be given the power of veto in all matters which must be passed by the City Council; the mayor must exercise his/her veto within (10) days of passage of a measure, otherwise the measure becomes effective without his/her signature; the Council shall have thirty (30) days from the date of veto to override it by two-thirds (2/3) majority. |
| The Mayor would be elected at large. Council Persons representations would be reduced to 5 Districts and elected by the people of respective districts. |
| The Mayor would establish liaison between the Chief Operating Officer and the Council, fostering a sense of cohesion among Council members and educating the public about the needs and prospect of the City. |
| The Mayor would hire and fire City Administration, City Attorney and City Clerk, subject to the approval of the majority of the City Council. |

Dr. C.A. Horne
Charter Review Committee Member
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Date: April 28, 2004

To: Tacoma City Council

From: Steve Galbraith

Subject: Charter Review Committee - Minority Report

The Charter Review Committee determined early in its deliberations to propose changes that it thought would strengthen the City Council. The need to strengthen the Council was probably inferred from an analysis of recent controversies such as the Cosmos plan, the streetlight shut-off as well as the Brame murder/suicide. The City Club/Municipal League analysis likely had some influence as well. Clearly, the Council is the ultimate authority in the City Government. It is reasonable to want to ensure that that primacy is a functional reality. In any event, the Committee felt structural change was needed. Five Charter changes affecting the Council/Manager relationship were approved by the Committee.

It is my opinion that media coverage of the Brame case has created a poisonous atmosphere of anger and suspicion that makes radical, unwarranted changes appear reasonable and necessary. In this climate the Committee has gone beyond recommendations that would increase the effectiveness of the Council to changes that would severely weaken the City Manager and make it much more difficult to attract and retain the type of experienced, dynamic manager that Tacoma needs. Of five proposals three range from highly recommended to worth considering and two should be rejected.

First, it is an excellent idea for the Council to formally review the Manager’s performance biennially. Doing so clarifies expectations, enhances communication, and can serve as the Council’s central means of monitoring and controlling the administration of the City. Tacoma’s history of such reviews is hit and miss. Making the Council review of the Manager mandatory will ensure future Councils don’t let it slide. Allowing for the Council to utilize a facilitator can improve the process and relieve some of the burden on the Council.

Second, allowing the Council to directly hire up to two full-time equivalent assistants makes sense. Municipal government is far more complex than in 1952, and there is every reason to expect the trend to continue. It is difficult to do justice to the demands of the Council and work full-time elsewhere. A small staff could be a big help in tracking down information, reviewing analyses, or other tasks between Tuesdays. Making them “direct hires” ensures they will work at the Council’s direction only. It does not imply suspicion of the City’s management; it does recognize organizational realities.
Third, it may be worth considering Council confirmation of department head appointees. This will submit appointees to further scrutiny, and ensures Council involvement, but it may also introduce contention into appointments where none may be justified. There is no reason to think Brame would not have won confirmation and it is not clear that Tacoma has a history of poor appointments. Confirmation may increase the responsiveness of department heads to the Council though it is unclear that is a problem. Especially matched with the next two recommendations, confirmation would tend to erode the authority of the City Manager.

The final recommendations go beyond strengthening the Council to seriously weakening the City Manager. Tacoma, like any other city, benefits from strong, experienced, visionary (and sometimes cautionary) leadership. This leadership has come from many sources and not-the-least important sources have been our City Managers. Tacoma is in a position to attract top candidates to serve as City Manager. Candidates like this have instituted change, worked through difficulties, have learned to lead and learned to work as a team player. They are seasoned and may very well see Tacoma as the capstone of their careers. The Committee’s final two recommendations decrease the likelihood of attracting a really first-rate manager at the top of his/her career.

Requiring a biennial retention vote, the Committee’s fourth recommendation, with the attendant hearing and media enhanced hoo-haw is a nearly surefire way to ensure the best city managers do not last. Vision, change and firmness of purpose attract opposition. It is hard to imagine a poor city manager surviving his/her second mandatory review. Likewise, it is hard to imagine a really good city manager surviving his/her third retention hearing and vote. The Council can fire the manager any time it wants. This proposal is unnecessary and destructive. This is overkill.

However, just in case the city manager does survive, the Committee’s fifth recommendation sets a ten year term limit. It is safe to assume a new city manager will normally need about two years to really master the job - to get to know the ins and outs of local issues and needs, get to know the local stakeholders and the strengths and weaknesses of his/her senior staff, get through his/her first budgeting process. A manager who survives will be a lame duck the last two years, presumably looking for a new job or starting to make early retirement plans. If we take into account that department heads have no term limit and that confirmation tends to build more direct lines to the council, the manager looks lame indeed - all to solve a problem that does not really exist. The Committee proposes to force out an at-will manager after ten years without regard to performance or potential disruption, solving a problem the City has never had. This is overkill. This is nonsense.

As an addendum, if we change the charter to recognize the Office of Management and Budget Analysis, it should be placed under the City Manager where it is now. What started as a move to recognize the reality of the budgeting and analysis processes in existence has evolved into an attempt to remove the function from the direct control of the Manager.
MINORITY REPORT

DATE: May 6, 2004
AUTHOR: Bob Denomy
CONCURRING MEMBERS: Carolyn Davidson, Pat Erwin, Steven Galbraith, Andrea Hardy, Kimberlie Lelli, El Vandeberg, Stephen Wamback, Krystal Wood
TO: Tacoma Charter Review Committee
SUBJECT: Ten year limitation on the City Manager’s term of employment.

INTRODUCTION

The Tacoma Charter Review Committee has adopted a resolution to amend Section 3.1 of the Charter to provide that the term of service for the City Manager shall not exceed ten consecutive years. The Committee Members who join in this Minority Report ("Minority Members") object to this limitation. Two members who presently join in this Minority Report previously voted for the proposed amendment to limit the Manager’s term.

RECOMMENDATION

The Minority Members recommend that the City Council not place a time limitation on the period of employment of the City Manager. This recommendation requires no amendment to the Charter.

COMMENTS

The Charter Review Committee, by separate resolution amending Section 3.1 of the Charter, has already recommended implementation of a new procedure for annual public review of the Manager’s performance and the requirement of a bi-annual affirmative vote of the City Council to continue the Manager’s term of employment. The Minority Members believe that this new process will adequately address issues of accountability for the Manager’s actions and will give assurance to the public that the City continues to retain highly qualified, capable and committed Managers.
The Minority Members believe that an arbitrary time limitation introduces an unnecessary restriction that has nothing to do with the Manager’s actual performance. The limitation may significantly curtail, delay or interfere with progress on important programs and projects, which may happen to extend beyond the Manager’s term. This will, in all likelihood, create a lack of continuity, unnecessary disruption and/or unintended termination of a project that may ultimately have been in the City’s long-term best interests. The new Manager may never be aware of the pending project and certainly will lack the benefit of having present knowledge of any prior work.

Further, the Minority Members believe the term limit will likely discourage well-qualified individuals from entering the pool of available candidates. Research indicates that no other city, either statewide or nationally, imposes a term limit on its manager. If adopted, Tacoma would stand alone on this restriction.

It is true that qualified persons for this position are accustomed to periodic moves, as opportunities arise and circumstances change. In addition, these people must also accept the possibility of being terminated when their policies or decisions conflict with the council’s favor or agenda. With the exception of an acknowledged temporary assignment, however, it does not follow that qualified people will accept a prearranged termination in the distant future, completely unrelated to job performance.
MEMORANDUM

May 11, 2004

TO: Charter Review Committee Members
FROM: Pat Hammond
CONCURRING MEMBERS: Dr. Charles Horne, Rev. David Isom, Kimberlie Lelli, Selwyn S.C. Walters, Krystal Wood

SUBJECT: Minority Report Concerning Proposed New Section 6.1(j)

At the April 15, 2004, meeting of the Charter Review Committee, a majority of the committee voted to recommend new language be added to Section 6.1 of the City Charter, which lists several categories of employees who are exempt from the general requirement in the Charter that all city employees be members of the “classified service”.

At the April 22, 2004, meeting of the Charter Review Committee, a motion to reconsider this recommendation was tabled to our April 29, 2004, meeting. At the April 29, 2004, meeting, eight (8) members of the committee voted in favor of the motion to reconsider. This was one vote short of the 2/3 required to reconsider. As a consequence, the original recommendation from April 15, 2004, is being forwarded to the City Council as part of our final report.

The committee members joining in this minority report urge the Council to reject the proposed language of Section 6.1(j) for the following reasons:

1. **The proposed language is overbroad.** Notwithstanding the possible interpretations suggested by proponents of the new section, the plain meaning of the language is susceptible to broad interpretation. “Administrative” and “Professional” personnel are terms that could easily be applied to a large number of City employees who are currently within the classified service. It is not difficult to imagine a broad interpretation of “confidential information” being employed to maximize the number of positions that could be “converted” to exempt positions, serving at the pleasure of the Executive Branch.

2. **The proposed language has the practical effect of radically overhauling the City’s current Civil Service System.** The Human Resources Subcommittee heard from many witnesses who represented the City, Organized Labor, Unrepresented City Employees and members of the public. After considering arguments that the City should undertake substantial reform of the current Civil Service System, the Subcommittee opted not to make such a recommendation at this time.

By providing an easy way to re-define, or “convert” positions from classified to exempt status, the proposed language would allow the City to substantially reduce the number of City employees who enjoy civil service protections. This would have an
adverse impact on the public interest, insofar as it would expose a higher number of employees to exactly the type of political and other influences that the Civil Service system was designed to guard against. Unless there is actual support for overhauling the Civil Service System, the City should not attempt the same result through clever definitions. This is the sort of fundamental policy shift that should be accomplished only after a full, open and informed public debate. The new language in Section 6.1(j) was adopted by the Committee at the same meeting where it was first vetted (the language was unavailable for review until that meeting), without the benefit of comment from members of the public or other stakeholders.

3. The proposed language fails to address the City’s apparent failure to comply with its own Charter by converting a large number of employees to exempt status. The Human Resources Subcommittee heard from a number of witnesses who described the City’s practice of “conversion”. The term “conversion,” in this context, refers to the City redefining an existing classified position, so that it can now be considered an exempt position. These new exempt positions are not authorized by the City Charter, and violate the City Charter insofar as all employees not listed in Section 6.1 are supposed to be included in the Classified Service.

In one case, Public Works engineers were paid at a higher rate for two years, and then given two weeks to decide whether: (1) they wanted to “opt out” of their civil service status, and keep the higher wage; or (2) retain their civil service status, and return to their lower pay rate. These engineers were also informed that only employees who “opted out” would be eligible for future promotion.

Regardless of whether one agrees with this as a policy matter, it cannot be justified under the current language of Section 6.1. There is simply no existing category in Section 6.1 that would allow for the inclusion of City engineers, engaged in routine engineering work (not “special projects”), as “exempt” employees. The Human Resources Subcommittee was deeply troubled by this practice, which seemed to evidence a disregard for the City’s Charter. As a consequence, the Subcommittee recommended adding an enforcement mechanism to Section 6.1, to establish harsh penalties for any employee or officer who participated in “conversion”. The Subcommittee also recommended mandating an Independent Citizens Review Board, to investigate this problem and report back to the City Council. The former recommendation was rejected by the Charter Review Committee. The latter recommendation was rejected as a Charter Amendment, but was included in the list of suggestions to the City Council.

Section 6.1(j) tacitly endorses “conversion” by providing the perfect mechanism for accomplishing it in the future. As such, it should be rejected.
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