SUBJECT: CONSIDERATION OF A RESOLUTION PRESENTED BY THE CHARTER ADVISORY COMMITTEE “. . . ESTABLISHING A FACT FINDING AD HOC COMMITTEE”

SOURCE: CITY MANAGER

The Charter Advisory Committee considered at significant length including district elections or an alternative approach as an aspect of their Charter revision consideration. In conclusion of this consideration, the Committee submitted to the Council a resolution recommending the establishment of a fact-finding committee regarding this matter.

Included for the Council’s consideration is a copy of the resolution along with excerpts from minutes regarding the issue.

The only matter upon which staff comment is submitted is the final provision of the resolution, “. . . the committee shall have the power to obtain information deemed essential by the committee including the expenditure of money for such purposes.”

The City Manager recommends that this provision be modified to indicate that such expenditures may only be pursuant to a budget approved in advance by the Council. Money has not at this time been budgeted for this purpose and when the Committee’s budget is presented, it would have to be correlated with current expenditures with adjustments made to maintain a balanced budget. Further, the spending would have to be consistent with the Charter provision which is currently that the Council must approve any expenditure of $500 or more.

REQUEST

The Charter Advisory Committee requests the adoption of the resolution as presented.

RECOMMENDATION

The City Manager recommends that the final provision of the Resolution be modified to indicate that expenditures may only be made pursuant to a budget and that they should be coordinated through the City’s normal purchasing process.

ATTACHMENTS: Proposed CCRAC Resolution
Excerpts of CCRAC Minutes of June 12 and June 26
“That the committee recommend that the City Council adopt a resolution addressing the perceived lack of diversity and disenfranchisement of certain groups or blocks of voters or neighborhoods by calling for the verification and quantification of such perception and identification of feasible alternatives in a manner substantially as follows:

RESOLUTION NO. _____-2002

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ESTABLISHING A FACT FINDING AD HOC COMMITTEE

WHEREAS, there is a perception that there is a lack of diversity on the City Council created by the process in which the City Council is elected by the voters; and

WHEREAS, there is a perception that a group, or groups, of eligible voters are being denied the opportunity to express their preferences for candidates to represent them on the City Council by the process in which the City Council is elected by the voters; and

WHEREAS, the range of possible and potential solutions is large and complex and may create future problems; and

WHEREAS, the perception, whether valid or invalid, is adversely affecting the sense of participation by eligible voters in the City of Porterville;

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby establishes a citizen committee comprised of 15 registered voters of the City of Porterville for the purpose of investigating the substance behind the perception of lack of diversity on the City Council and the possible disenfranchisement of any group or groups of voters, identifying feasible solutions, and recommending a course of action for adoption by the City Council; and

BE IT FURTHER RESOLVED, that the selection of the committee members be equally distributed among the current voting precincts of the City of Porterville and that, to the extent feasible, each and every potential political minority whether identified by ethnicity, economic status, educational standing, or other perceived or actual separate status shall be represented; and
BE IT FURTHER RESOLVED, that the committee shall examine the advantages and disadvantages of at large elections as compared to the various forms of district elections, the advantages and disadvantages of a five-member council as compared to some odd number greater or less than five, or any other alternative that appears reasonable and feasible; and

BE IT FURTHER RESOLVED, that the committee shall have the power to obtain information deemed essential by the committee including the expenditure of money for such purposes."

Adopted this __________ day of _________________, 2002.

_____________________________
Gordon T. Woods, Mayor

ATTEST:

_____________________________
John Longley, City Clerk
CHARTER REVIEW ADVISORY COMMITTEE MEETING
PORTERVILLE POLICE DEPARTMENT BRIEFING ROOM
350 N. MAIN STREET, SUITE A
June 12, 2002 - 6:00 P.M.

Advisory Committee Members Present: Gary Mekeel, Pete Martinez, Ron Irish, Herbert Bonds, Rudy Roman, Pete McCracken, David Hebebrand, Adela Alba, Teresa de la Rosa, Patricia Young, Cassandra Garcia and Kelly Focke.

Advisory Committee Members Absent: Larry Sullivan, Carmen Eoff and Stephanie Gelobter.

Staff Members Present: John Longley, Gary Irish, Georgia Hawley and City Attorney, Julia Lew.

Members of the Audience: None

Approval of Minutes
Teresa de la Rosa asked that the minutes reflected that the cost of a study to determine compliance with the Federal Voting Rights Act was $5,000 to $25,000.

It was moved by Ron Irish, seconded by Teresa de la Rosa that the Minutes of the June 5, 2002 meeting be approved as corrected. The motion carried unanimously.

Oral Communications
There were no Oral Communications.

Pat Young and Kelly Focke came in at this point.

Old Business

1. DEBRIEFING REGARDING THE DISTRICTS DISCUSSION AND ACTION BY CHAIR

Gary McKeel presented a letter to the committee members asking them to reconsider leaving the discussion of District elections. He was uncomfortable with the way they left the meeting last time. He stated that the issue of trying to find a way to provide a vehicle for the City to be more representative in all its institutions and providing the public with more of a voice was the most important thing they could have to do.

Pete Martinez came in at 6:11 p.m.

Gary Mekeel stated that he would like to know if there was anyone else in the room interested in continuing the discussion. He stated that they could move the City from where it was today to somewhere closer to where they would like to see it.

Pete McCracken stated that it looked like Gary was moving to reconsider their action on the district elections. He stated that he would like to renew his original objection that it was beyond the scope of the committee as directed by the Council. He stated that he did believe this deserves discussion.

Cassandra Garcia came in at 6:15 p.m.

Pete McCracken stated that there were options like cumulative votes. He stated that he had reviewed the
election results of the last ten years. There were a wide variety of candidates, and one minority candidate elected twice. They had from 34% to 16% voter turnout, and from eight candidates for four seats to four candidates for two seats. The results of the candidates in each precinct matches the overall outcome of the election. There does not seem to be a precinct voting differently than the other precincts. The problem was voter turnout, and getting people to run. 800 votes could have taken the last place vote getter and put them in first place in the last election—that was only 10% of the registered voters in the City. Rather than trying to correct the mechanism, the problem was with voter turnout and not doing something in the campaign.

Ron Irish asked Gary Mekeel what he was asking the committee to do–look at apathy and correct it through the Charter. He felt this was a community problem. Was Gary looking more into a mechanism to offset apathy, or was he trying to cure apathy.

Teresa de la Rosa stated that she appreciated Gary’s concerns, and she understood because she had her own thoughts, but she also tended to be practical. Did they want to reconsider their action and did they want to look at district elections. She stated that they were in a good position to make a recommendation to Council that there was a problem. She felt that if they reopened the issue the committee response would be the same. She stated that she was not concerned that the citizens would feel that the committee could not come to an agreement, because they did look at the matter. It could always be looked at again later.

Cassandra Garcia stated that she agreed that this needed to be done correctly, and not set the City up for litigation. They should still recommend to the City Council to investigate the matter.

Teresa de la Rosa strongly suggested to the Chair that Council know they struggled with the issue, and it was a difficult issue, and make them aware how strongly they feel about the recommendation.

John Longley stated that the Committee would define how the committee recommendations were presented. He assumed that they would prepare a document and then the Chair and Vice Chair would attend the Council meeting and present it on behalf of the committee.

Pat Young echoed that it was a practical motion last time—they were running out of time and did not have enough background and information on districting. They risked not being able to complete what they had been working on. She stated that on June 6 there was an article in the Fresno Bee about the City of Reedley considering district elections. She gave everyone a copy of the article. She stated that she felt she was being characterized for her comments during this discussion at the last meeting.

Ron Irish asked if they were talking about districts because of the division of the Hispanic and Caucasian community, or was it about apathy overall. He stated that if that was what they were going to consider, then he wanted to hear a professional on the other end.

Pete McCracken stated that he didn’t mean that they were not capable of discussing this and coming to a decision—he felt it was beyond the scope of the committee. He stated that they were probably the more aware group of people in the City concerning this issue, even more than the Council. There were legal issues to be considered about discussing this further, and he felt like Mr. Irish, the City has one problem that is apparent—voter apathy.

Gary Mekeel stated that he was not trying to change the apathy of the voter, he was interested in pursuing the framing of what the issues and interests are. He stated that Pete Martinez summarized very eloquently what some perceptions were in the community. Districting was only one solution. There were a number of solutions that get at the fundamental issues of access, value, voice, and an inclusiveness in the political process—those were the issues that someone said districting would solve. He stated that maybe there were
other things that the Charter would address—another vehicle that could accomplish what was needed. He stated that he worked in a setting where there were a number of advisory groups that they include. Maybe somewhere in the language they sent to the City Council there were other things they could be saying to the City.

Pete McCracken stated that twice within a short period of time the Council has had the opportunity to address the questions of diversity on the Council, and twice a non-minority candidate has been chosen to fill an empty seat with 60% voting yes and 40% voting no. He stated that he still felt that district elections would take away 4/5's of everyone’s voting privilege and restrict it to a narrow point.

Gary Mekeel stated that he was not advocating for district elections, but advocating for the concepts and issues behind it. He stated that there were hundreds of other ways to make it more inclusive.

Ron Irish stated that he and Rudy had talked about solving some of the problem with more people on the Council.

Pat Young spoke about the Council meeting held last Saturday, and stated that what was being proposed was more communication with the community.

Ron Irish stated that he had looked at the 1995 Strategic Plan, and apathy was on the list back then.

David Hebebrand stated that he was trying to see what they talked about on the perceptions. He stated that he didn’t understand why some people say they are not represented.

Rudy Roman stated that a good example was the letter to the editor.

Pete McCracken stated that speaking of voter apathy—when the last person was appointed to the Council, not one of the three people nominated, or any of their supporters, were present, and only three or four people from the public were in attendance. Pete stated that if the gentleman that wrote the letter to the editor that once again the City did not get an Hispanic appointment, and really felt it was a problem, why wasn’t he there, and five, fifteen, or five hundred people supporting their candidate.

Teresa de la Rosa stated that she was surprised when people say they didn’t know the feeling of being disfranchised. People feel others do not care and what they say has no effect—it was not just lack of diversity, it brings other issues. They needed to look at voting blocks. She stated that she would go back to the same issue they were discussing—if they were going to discuss district elections, then let’s do it, or they could leave it as it is. But if they pursued it, then they needed to be dedicated to looking at a study.

Adela Alba stated that when she talked to some Latino members who had won elected positions in the City, most felt that they were voted in by other than Hispanic votes. She stated that she always voted for the candidate that had the best interests of the City at heart. She stated that she was not even sure if she could say that another Latino would support a Latino.

Herb Bonds stated that they were talking about quick fixes. They needed to get to the core and know where they were going, how to get there, and what to do. He stated that he was not sure this committee was equipped to do all the research to get the information they needed. They needed professional help.

Gary Mekeel stated that he felt that where they left this was at the core. He stated that he was in favor of looking at the question of why they do not have diversity. He asked the committee if it was their desire for them to go before the Council and speak eloquently about districting and also talk about the need for the City to roll up its sleeves and look at its voting practices. They needed to figure out what the issues are.
Teresa de la Rosa asked Mr. Mekeel if he was saying that the action the committee took last time was not well-thought out. She stated that they could find out how to rescind that action.

Gary Mekeel stated that he just wanted to know if the entire committee feels that was the end of the discussion—to make a recommendation to Council.

Pete McCracken spoke about Councils, Boards and Commissions being influenced by the number of people in the audience regarding an issue. He stated that what the committee did last week—he felt it was a complex issue and they were basically suggesting that the Council might continue this same group past this, but they were handing it back to the Council because they did not have the time or have a budget to do a study or a budget for the staff to provide information, and perhaps they should not be doing it in public according to the City Attorney. Part of the decision to pass the motion was on the advice of the City Attorney that they were getting in areas of liability.

Pat Young read the motion on this issue from the last minutes.

Gary Mekeel questioned the committee about their willingness to reopen the issue.

Pete McCracken spoke on the Roberts Rules of Order procedure to reconsider the motion.

Gary Mekeel stated that the discussion was ended as there was no motion to reconsider.

1. ATTORNEY WHITE PAPER LEGAL ISSUES

The City Attorney reviewed her memos regarding prior sections discussed.

Section 22

This revision gives the City Manager some flexibility to appoint someone as city manager pro tem.

Rudy Roman questioned how this would affect the City Council being able to appoint an Acting City Manager if a current City Manager left.

The City Attorney stated that she could add ‘an individual can be appointed to an acting position as well as a regular position as City Manager.’

In answer to committee comments, John Longley stated that when it was an absence, the office was not vacant. When the office was vacant, the Council could appoint an interim City Manager.

The City Attorney stated that she would look at amending the language. She stated that in the Charter when there was a vacancy, there was a process for appointing a City Manager. She stated that she would also remove the words “or employee” in the last paragraph.

Section 60

The City Attorney stated that this Section was changed to be in compliance with State law.
Advisory Committee Members Present: Adela Alba, Carmen Eoff, Kelly Focke, David Hebebrand, Ron Irish, Pete Martinez, Pete McCracken, Gary Mekeel, Rudy Roman, Teresa de la Rosa, Larry Sullivan and Cassandra Garcia.

Advisory Committee Members Absent: Herbert Bonds, Stephanie Gelobter and Patricia Young.

Staff Members Present: John Longley, Gary Irish, Linda Clark and City Attorney, Julia Lew.

Approval of Minutes

It was moved by David Hebebrand, seconded by Rudy Roman that the Minutes of the June 12 meeting be approved. The motion carried unanimously.

Oral Communications

There were no Oral Communications.

Old Business

1. Reconsideration of Motion on Redistricting Recommendation

Pete McCracken introduced two documents relating to this item – one was an amendment to a previous motion, and the other was a substitute motion. He stated these documents represented a summary of the committee’s feelings and concerns regarding this topic.

MOTION:

It was moved by Teresa de la Rosa, seconded by Ron Irish:

“That the committee recommend that the City Council adopt a resolution addressing the perceived lack of diversity and disenfranchisement of certain groups or blocks of voters or neighborhoods by calling for the verification and quantification of such perception and identification of feasible alternatives in a manner substantially as follows:

WHEREAS, there is a perception that there is a lack of diversity on the City Council created by the process in which the City Council is elected by the voters; and

WHEREAS, there is a perception that a group, or groups, of eligible voters are being denied the opportunity to express their preferences for candidates to represent them on the City Council by the process in which the City Council is elected by the voters; and

WHEREAS, the range of possible and potential solutions is large and complex and may create future problems; and

WHEREAS, the perception, whether valid or invalid, is adversely affecting the sense of
participation by eligible voters in the City of Porterville;

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby establishes a citizen committee comprised of 15 registered voters of the City of Porterville for the purpose of investigating the substance behind the perception of lack of diversity on the City Council and the possible disenfranchisement of any group or groups of voters, identifying feasible solutions, and recommending a course of action for adoption by the City Council; and

BE IT FURTHER RESOLVED, that the selection of the committee members be equally distributed among the current voting precincts of the City of Porterville and that, to the extent feasible, each and every potential political minority whether identified by ethnicity, economic status, educational standing, or other perceived or actual separate status shall be represented; and

BE IT FURTHER RESOLVED, that the committee shall examine the advantages and disadvantages of at large elections as compared to the various forms of district elections, the advantages and disadvantages of a five-member council as compared to some odd number greater or less than five, or any other alternative that appears reasonable and feasible; and

BE IT FURTHER RESOLVED, that the committee shall have the power to obtain information deemed essential by the committee including the expenditure of money for such purposes.”

The committee discussed the concerns addressed in the above-stated motion, and the Chairman stated this came about as a result of the committee coming together on the issues.

Pete McCracken, the author of the above-stated motion, wanted the Minutes to reflect that this matter was a summary of the entire committee’s thoughts and concerns relating to this matter.

VOTE: The motion carried unanimously.

2. Consideration of a Seven Member Council

The committee discussed that this matter had been addressed in the above-stated motion.

3. Propose to provide in the Charter, language authorizing the (City) City Council to enter into associations, organizations, joint ventures and joint financing authorities for the purpose of promoting a public purpose in support of public schools and other governmental entities.