

**SPECIAL JOINT MEETING
OF THE
SACRAMENTO CITY COUNCIL,
SACRAMENTO COUNTY BOARD OF SUPERVISORS,
AND
AD-HOC CHARTER COMMISSION**

MONDAY FEBRUARY 26, 1990

2:00 P.M.

**BOARD OF SUPERVISORS CHAMBERS
COUNTY ADMINISTRATION BUILDING, SUITE 1450
700 H STREET
SACRAMENTO, CALIFORNIA**

I HEREBY CALL a Special Meeting of the Sacramento City Council to meet jointly with the Sacramento County Board of Supervisors and the Ad-Hoc Charter Commission, at the date, time and location specified above, for the purpose of considering and acting upon matters relating to Mayor/Council - Separation of Powers.

Members of the Public are invited to attend the public hearing and present their comments.

ISSUED: This 23rd day of February, 1990.



ANNE RUDIN
MAYOR

ATTEST:



VALERIE A. BURROWES
CITY CLERK

SACRAMENTO AD-HOC CHARTER COMMISSION

1010 8th Street, Sacramento, CA 95814 * 440-5600

February 15, 1990

TO: Honorable Members, Sacramento County Board of Supervisors
Honorable Mayor and Members, Sacramento City Council

FROM: Roy Brewer, Chairman

SUBJECT: SEPARATION OF POWERS

At the joint meeting on January 10, two issues produced the greatest amount of discussion and debate. The first related to the proper balance of powers between the Mayor and the Council of Supervisors. The second to the proper balance of power between the Metro government and the Local Community Councils (LCC's). To Commissioners, this is not at all surprising as these were the two issues which we also spent the greatest amount of time discussing. Finding the proper balance of power in these two areas has been a delicate and difficult task.

This Commission is not the first group to struggle with these questions. In 1787, the participants at the Federal Convention struggled with these same two issues. In fact, they spent the majority of their time that summer debating the proper balance of power between the legislative and executive branches, as well as the proper balance of power between the states and the federal government. The balance they finally struck has lasted over 200 years. Furthermore, the adoption of the Constitution did not end the debate regarding the balance of power, and not everyone was happy with the consensus that came from that convention, but it did provide a workable structure that has withstood the test of time.

This is not meant to imply that this Commission has the wisdom of our founders, but we do feel that we have struck the proper balance of power between the Mayor and Council, and between the LCC's and the Metro government. Our process is still ongoing, and only time, and a vote of the people, will tell if the product of this Commission will bear the same fruit as the Constitutional founders, but the process and concerns are indeed similar.

The subjects for the first two workshops will address these two crucial issues. Workshops three and four are scheduled to examine more technical aspects of the Charter associated with special districts and the personnel provisions of the Charter. In this workshop, the goal is to address the proper balance of powers between the Mayor and Council.

The Commission has already spent countless hours of debate to arrive at the model contained in the draft Charter, and while we recognize that it is not the only alternative available, we feel comfortable that we have struck the right balance in these two areas.

The purpose of this report is to help give each of the two legislative bodies some background regarding the facts and rationale of the Commission's current consensus on the balance of powers. Specifically, this report will include:

- a brief review of the powers granted to the Mayor and Council of Supervisors;
- a description of the Commission's rationale for arriving at the mix of powers outlined;
- a section which describes in more detail the rationale for having the Mayor sit independent of the Council; and,
- a section which describes in more detail the veto power and the Commission's rationale for this decision.

I reiterate the Commission's willingness to amend the Charter should change be necessary. Therefore, we request that each legislative body adopt, by motion, recommendations for changing provisions in the draft Charter, and forward the same to the Commission for future deliberation.

Upon completion of this workshop, I suspect that you all will have a greater appreciation of the delicate task that the Commission has faced, and hopefully, a greater understanding of, and agreement with, the consensus we have reached.

Powers of the Council of Supervisors

One important component of the Charter regarding the separation of powers that is often ignored is the substantial powers that reside with the Council of Supervisors. While the Mayor, as drafted, does have more direct participation over certain policy decisions, it is clear that the true power in the Charter resides with the legislative body. In fact, absolutely no ordinance or resolution can be passed, no money appropriated, no appointment confirmed, nor any official action taken without the consent of a majority of the eleven member Council of Supervisors. The Mayor can lead in policy areas and can speak and use Charter and political tools to persuade the Council, but unless he/she works with the Council, the Mayor is powerless. Thus, in reality, while many people have spoken about the increased powers of the Mayor, the truth is that the Mayor as drafted acts only as a check on the substantial power of the Council of Supervisors.

A review of the Charter powers granted to the Council of Supervisors is as follows:

- the Council can pass ordinances, resolutions or motions subject to Mayoral veto;
- the Council must approve the City/County budget subject to a general veto or line item veto by the Mayor;
- the Council can override any Mayoral veto. General vetoes require eight votes to override. Vetoes of individual appropriations in the budget (line-item vetoes) or vetoes of collective bargaining agreements require only seven votes;
- the Council must ratify the appointment of the CAO, the City/County Attorney, the Affirmative Action Officer, and appointments to all City/County boards and commissions. In essence, every appointment of the Mayor is subject to Council confirmation (with the exception of his/her own staff);
- the Council must approve any Mayoral action to remove the CAO or City/County Attorney, and can act unilaterally to remove these officials with an eight vote super-majority;
- the Council is responsible for setting the salaries of all officials in the City/County. The only exceptions are their own salaries and the Mayor's which are set by Charter;
- the Council is responsible for filling all vacancies for elected officials who vacate their office with less than two years remaining on their term;
- the Council is responsible for reapportionment of the Supervisorial districts, subject to Mayoral veto;
- the Council can investigate any department or official of the government; and,
- all latent power lies with the Council. This means that any power not specifically granted to another official in the Charter shall reside with the Council.

In essence, the true power to act on behalf of the residents of the City/County resides with the Council of Supervisors. Nothing can take place without their concurrence. Thus, the powers of the Council are similar to those of the Board of Supervisors and the City Council. The Commission has not reduced the power or influence of the legislative branch, instead, we have simply added a check on that power that speaks for a majority of the citizens of the City/County.

Powers of the Mayor

The Mayor, as drafted, will have more structural powers than the current Mayor of the City of Sacramento. Yet, this Mayor is not a classic "strong-Mayor" as has been portrayed many times. Instead, the Mayor has been drafted to be a strong leader who can be elected City/County wide on the basis of a policy agenda, and then have some policy tools to help him/her carry out the voter approved mandate. He/she is meant to be the focal point and lightning rod for debates over the direction and future of the City/County. While Council candidates will certainly address issues of City/County importance in their campaign, their first goal will likely be, and should be, the concerns of the residents of their district. Thus, the Mayor will be the only at-large elected official that will deal with all political and governmental aspects of the City/County.

To realize the goals of providing for a strong policy leader and voice for the community, the Commission has arrived at Mayor with the following powers:

- the Mayor recommends the appointment of the CAO, the City/County Attorney, the Affirmative Action Officer, and members to all boards and commissions. All of these appointments are subject to Council confirmation;
- the Mayor can recommend firing the CAO as well as the City/County Attorney, and such recommendations require Council approval to actually implement. Members of boards and commissions and the Affirmative Action Officer serve at the will of the Mayor;
- the Mayor can veto almost all actions of the Council of Supervisors. This gives the Mayor a substantial voice in the policies of the City/County, but each veto can be overridden by the Council;
- the Mayor can line-item veto individual appropriations in the budget. This veto is also subject to override by the Council;
- the Mayor will receive the budget prepared by the CAO and have the opportunity to formally comment and make recommendations on the budget before the commencement of final budget hearings by the Council of Supervisors;
- the Mayor will present a State of the City/County address before the commencement of budget hearings to once again detail the needs and actions of the City/County;
- the Mayor is entitled to speak before the Council on any item in any public session;
- the Mayor is the official spokesperson for the City/County. This means that the Mayor represents the City/County in all matters before the State and Federal Governments, as well as speaking on behalf of the City/County before private or community groups;
- the Mayor is entitled to submit ordinances and resolutions before the Council for their consideration;
- the Mayor can appoint any member of Council that he/she chooses to be acting Mayor while he/she is out of the City/County; and,

- the Mayor sits independently from the Council of Supervisors. This gives the Mayor the ability to speak and act independently of the Council, providing a check on that body.

A close review of the above powers indicates that the Mayor's powers are mostly as a recognized leader and spokesperson for the City/County. Much of the power stems from the strong political base of a City/County constituency, and the Charter attempts to reinforce this strong base. Yet, the Mayor's powers are clearly subject to approval by the Council.

Further, one power the Mayor does not have also needs to be stated. Specifically, the Mayor has no direct say over the appointment of department heads and other City/County administrative officials. The CAO is responsible for the administration of City/County departments. Thus, any fears of a spoils system developing, or any fears of an erosion of the civil service system, are unfounded.

Commission Rationale

In creating a Mayor with the above powers, the Commission achieved the following goals:

- provide a policy leader who has the backing of a majority of all City/County voters to guide the direction of policy for the future of the community;
- provide for an official who can speak for the entire City/County before the state and federal government, business groups, and the citizens;
- provide a focal point for the concerns of the citizens at-large;
- ensure that this leader has the policy and administrative tools to carry out the agenda upon which he or she was elected;
- ensure that the proper and professional administration of the City/County continues under the high standards that both the City and County currently enjoy; and,
- provide an independent check on the powers of the Council of Supervisors.

The Commission has drafted a Mayoral concept that can provide a strong policy leader and speaker for the community. In addition, the administration will continue to be professionally managed. Furthermore, with the appointment powers granted, and especially the veto power, the Mayor will have some substantial structural tools to help him/her implement the agenda that was implicitly endorsed by the election. In addition, the Charter provides for an independent office, separate from the Council, to help achieve the policy goals and provide a check on the Council.

The separation from the Council and the veto power seem to be causing the most concern among your two bodies. I would like to address these areas in more detail.

Separation of Powers

Concerns have been expressed that an independent Mayor could result in a dysfunctional system. The concerns seem to fall into two categories:

- that an independent Mayor will set the tone for a conflict ridden government in which the two branches constantly clash over policy decisions. In the worst case scenario, some perceive that

this could lead to a policy standoff in which problems are simply not addressed, which in turn could lead to a breakdown in consensus government; and,

- that an independent Mayor will not be exposed to the debate, public testimony and compromise that result from the legislative process, especially in complex policy areas such as budgeting or collective bargaining agreements. Thus, the Mayor will arguably be making policy decisions in a vacuum.

The Commission addressed these concerns at great length, and concluded that the likelihood of these events occurring in the proposed system is no greater than in the present system. First, regarding conflict, the Commission does not believe that the separation will result in a conflict ridden and stalemated government. To the contrary, we feel that the proposed separation will mandate greater consensus and cooperation among the two branches, which should result in better policy making. As has been already stated, the Mayor can take no action on his/her own. For the Mayor to realize any of his/her policies goals, he/she **must** work with the Council. To ignore the wishes of Council would be futile. Instead, any Mayor who wishes to have any success in implementing his/her policies must find common ground with at least a majority of the Council of Supervisors. The Commission feels that this forces the Mayor, elected at-large, and the Council of Supervisors, elected by district, to participate in the art of consensus building. **Greater cooperation and consensus building is the much more likely result.** If a Mayor does not cooperate and work with the Council, that Mayor will become ineffective, will thus lose any influence over policies of the government, and will suffer the consequences at the next election. Likewise, a Council that does not cooperate with the Mayor will have to answer to the electorate for thwarting the will of the popularly elected Mayor. The system thus provides both branches an incentive to cooperate and reach consensus on policy matters.

This does not mean to imply that conflicts will not occur. In fact, the Commission agrees that this system does plant the seeds for occasional conflict in major policy areas. But, in a political system with the diversity of interests and viewpoints such as Sacramento, conflict can actually be a very positive feature and result in better policy making. It forces the participants to recognize other viewpoints and arrive at a decision by consensus. We feel that this is healthy, productive, and good government. A lack of conflict in government does not signify an effective government.

Regarding the issue of the Mayor not being exposed to the legislative process and operating in a vacuum, the Commission sees a different outcome. We feel that the independence of the Mayor allows him/her the flexibility to be in the community talking to the people and devising new ways and policies to address their concerns. Should this merger occur, Sacramento would become a city-county with over one million residents: the third largest city in California and approximately the seventh largest city in the Country. It is the view of the Commission that the Mayor of such a city should be spending his or her time meeting with the community, with business and political leaders, and with officials from the state and federal government, and use these meetings to formulate policy recommendations to address the challenges and opportunities facing the community.

Thus, in stark contrast to the view of a leader not in touch with the people or issues, we see a leader with the time to seek out and find the problems and concerns of the citizens, and then formulate and propose solutions for solving these problems. We see a leader out in front of the people, constantly in touch with their concerns. We see a leader proposing solutions to the Council on ways to solve the problems. We see the Mayor as being in the forefront of the legislative process, aware of the pulse of the community, and clearly aware of the issues and concerns of the Council and its citizens.

In addition, the Mayor will constantly be informed of Council actions through his/her staff, the media, through individual contact with Council members as part of the consensus building process, and by the constituencies that they both share. Further, the Mayor can attend Council meetings and address the Council at any time.

In sum, the Commission sees the separation of the Mayor and Council as a way to provide the Mayor more opportunity to be in touch with the community, to be a better advocate for the City/County, and as a tool for creating a structure which will drive consensus building between the views of the majority of the Council of Supervisors, representing individual districts, and the Mayor elected at-large. Conflicts may arise, but the political arena in a democratic society is the proper forum for such conflicts to be addressed. This structure will not create conflict any more than the current structure creates conflict.

Veto Power

The veto power is clearly the strongest tool that is granted to the Mayor. By way of the Charter, it gives the Mayor the ability to cause additional debate on policy issues that run counter to his/her policy agenda. As written, it is not an absolute veto. All veto's can be overridden by an eight vote majority of the Council. The veto requires the Council to formulate a super-majority to go against the policy recommendations of the Mayor who is elected at-large and thus represents the entire community. In areas of appropriation, the veto override is only seven votes. Thus, while the veto is a powerful policy tool, it can be overridden. Veto power gives the Mayor, who speaks for a majority of all City/County residents, a more prominent role in the policy process.

Historically, the use of the veto by federal, state, and municipal actors has been very limited. In fact, it is usually the threat of a veto which is the more powerful tool than its actual use. From a practical vantage point, the threat of the veto usually results in a more consensus laden decision. Hence, the veto can actually aid in consensus building rather than causing a stalemate. Once again, the presence of the veto threat forces consensus to occur. Without the veto power, the Mayor has only his/her political base to affect policy. While this can be formidable, it can also result in a Mayor who was elected to implement an agenda, only to have that agenda thwarted by a Council with a different vision. The veto places the Mayor in a much more influential position to guide policy decisions.

The Commission also felt that including line-item veto is extremely important. As you well know, the budget is as much a policy tool as it is an accounting tool. The budget sets out the programs and policies that will be pursued by the government during the fiscal year. It is probably the single most important piece of policy making done by the government each year. Forcing the Mayor to veto an entire budget, while only objecting to certain parts and expenditures seems extreme and unnecessary. The Commission felt that the more appropriate decision was to enable the Mayor to veto certain portions of the budget, without requiring a veto of the budget in toto. The Commission also recognized the unique character and process used to prepare the budget, the lengthy hearing and preparation process involved, and the delicate balance that exists in any budget. As a result, we felt that overrides of a Mayoral line-item veto should be somewhat easier on individual appropriations than with overrides of other Mayoral vetoes.

A number of questions regarding the breadth of the veto have been raised. County Counsel and some of you have expressed the belief that some Council actions should be exempt from the veto. Presently, all actions of the Council are subject to the veto except those actions calling for elections, emergency ordinances (which already require eight votes to implement), and matters of internal organization to the Council.

Others have suggested that such issues as the letting of contracts, approval of the general plan, and collective bargaining agreements be excluded. Once again, the Commission grappled with this idea over the course of several meetings. The Commission decided against such exclusions for the following reasons:

- each exclusion takes the Mayor out of the policy leadership role he/she was elected to address. It assumes that the Mayor should somehow not have a voice in all policy matters, and this runs counter to the goals of providing a strong leader;

- while the Commission recognizes the complexities involved in such policy decisions as collective bargaining agreements, the general plan, and the budget, these are also some of the most important policy matters faced by the government. To exclude the Mayor from these areas is to exclude the Mayor from having direct input into the policies which are the most important to the public;
- listing which policies should be excluded could be a cumbersome and lengthy list. It also does not allow for future flexibility in a living document; and,
- the Commission also examined the veto provisions in other city charters and found them to be drafted in a similar manner. Follow up conversations with several officials in these cities indicated that the broad veto powers have not been troublesome or confusing. It is simply assumed that Mayor has, and should have, influence in all ordinances and resolutions.


The Commission decided upon a veto with great breadth. If, in your collective opinion, certain other exceptions to the veto need to be delineated, the Commission needs to know with as much specificity as possible which items you would include.

At the last meeting, Supervisor Grantland Johnson suggested an alternative to the Mayoral veto of collective bargaining agreements. He suggested that the Charter mandate the Mayor be in charge of negotiations for the agreement, and that the Council ratify any negotiated agreement. This is an appropriate way to involve both branches in the process without the use of the veto. We would be interested in hearing your view points on this matter.

Conclusion

Finding the proper balance of powers between the Mayor and Council has been a long and at times arduous process. The Commission consensus presented is the result of that process. We recognize other viewpoints, and will be responsive to reviewing this matter again when we reconvene in April.

It should be reiterated that no structure can guarantee strong or productive leadership. Actual leadership depends to a great extent upon the individual who sits in the office. It has been brought to our attention many times that Mayors in cities with relatively few structural powers have been able to bring about significant policy changes. Likewise, Mayors with very broad powers have at times not provided the leadership that their cities need. Yet, in designing this structure, the Commission could not foresee the individuals who will hold office. The intent has been, and remains, to create a structure which could best aid any Mayor help implement his/her policy agenda. Individuals will use the powers of their office in different ways, but in drafting the powers of the Mayor and Council and the balance of those powers, the Commission concluded that a Mayor's capability to provide the leadership necessary to meet the challenges and opportunities of the community will be significantly enhanced by separating the Mayor from the Council of Supervisors and by providing for a Mayoral veto.

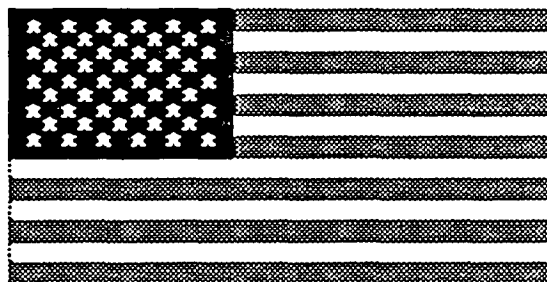


Roy Brewer, Chairman
Sacramento Ad-Hoc Charter Commission

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"EMPOWERING CITIZENS"

**SACRAMENTO
CITIZENS' FORUM**

CITIZENS' CHARTER

"By the People, For the People"

"There is no Political Democracy without Economic Democracy!"

CITIZENS' CHARTER PROCESS

Citizens' Draft: Weekly meetings of Citizens' Committee to write a Citizens' Draft proposal for city/county merger (through Feb. 24th).

Presentation of Citizens' Committee Draft to the joint hearing of the City Council, Board of Supervisors and Ad Hoc on Feb. 26th.

Voter Input: Circulate the Citizens' Draft to obtain voter feedback and suggestions (through April 21st).

Organizational Input: Meet with community organizations to obtain their feedback and suggestions (through April 21st).

Citizens' Convention on April 21st to write finalized Citizens' Charter.

Submit to County Registrar to qualify as initiative.

Grassroots Organizing to obtain the necessary signatures to place on November 1990 Ballot and to pass the Citizens' Charter on Nov. 6th.

WHY THIS PROCESS IS NECESSARY

The Ad Hoc proposal does not provide what it claims to provide. It does not provide:

"balance [of] the need for local control over neighborhood planning issues" and "a better opportunity for citizen involvement and final [?] decision-making in those local community planning matters which impact the neighborhoods"

The Ad Hoc proposal mandates large election districts for mayor and supervisors which allows money to continue to overly influence the political process and decreases the opportunity for a diversity of representation.

THE CITIZENS' CHARTER has a 100-member county council elected from districts of 5,000 voters allowing a neighborhood activist to walk and talk the district to get elected.

"Democracy is not a Spectator Sport!"

"There is no Political Democracy without Economic Democracy!"

THE CITIZENS' CHARTER also has each town or area with a Local Community Council with the elected representatives serving on both the local councils and in the county council.

Last June the Ad Hoc Charter Commission voted to take powers away from the Local Community Councils thus losing support of the Sacramento County Alliance of Neighborhoods.

THE CITIZENS' CHARTER places all power in the consolidated County Council and Local Community Councils of elected neighborhood representatives.

The Ad Hoc's concern about the "not in my back yard" problem revolves in part around an elitist attitude of how to force subsidized housing, etc. on middle income neighborhoods which would also result in dispersing the political power of poor people and their ability to unite to empower themselves in their own neighborhoods.

THE CITIZENS' CHARTER allows each neighborhood to empower itself.

The Ad Hoc process is controlled from above rather than by the citizens and neighborhoods.

THE CITIZENS' CHARTER process is controlled at the grassroots by the citizens and neighborhoods.

"strong elected executive leadership" and a "stronger opportunity for the mayor to be elected upon and implement a political agenda"

The Ad Hoc proposal does not incorporate the mayor in the legislative body as advised by the US Association of Municipal Governments' Local Government Charter Model.

THE CITIZENS' CHARTER has the mayor elected by the county council and from the county council.

The Ad Hoc proposal has an independent Chief Administrative Officer allowing an unelected bureaucrat to undemocratically control the governmental process.

"Democracy is not a Spectator Sport!"

"There is no Political Democracy without Economic Democracy!"

THE CITIZENS' CHARTER has the mayor, with the advise and consent of the majority of the county council, appoint and control the CAO and all department heads.

Our elected representatives with the mandate of the voters should control the bureaucrats not the other way around.

"substantial savings"

The Ad Hoc proposal does not consolidate all districts and boards.

THE CITIZENS' CHARTER does.

The Ad Hoc proposal mandates tying salaries for the mayor and supervisors to that of a California Municipal Court Judge giving the mayor a salary of \$72,200 and a supervisor \$65,500 both completely out of line with the concept of our elected officials as citizen representatives rather than political careerists.

THE CITIZENS' CHARTER ties elected officials salaries to a multiple of the minimum wage with the neighborhood representatives making 300% of the minimum wage for half-time duties or \$17,160, and the mayor 500% for full-time or \$57,200.

The Ad Hoc proposal saves only 4.4% or \$27.2 million of the total merged budget.

THE CITIZENS' CHARTER saves additional funds by eliminating all independent boards further streamlining the bureaucracy and the costs of elections.

The Ad Hoc proposal is overly complicated.

THE CITIZENS' CHARTER is lean and understandable as is our Federal Constitution.

The Ad Hoc proposal which is to placed on the November 1990 ballot delays the elections for the consolidated government until November 1992 and establishes a two-year interim government until Jan. 1, 1993.

The CITIZENS' CHARTER mandates immediate elections in the spring of 1991 and conversion by April 15, 1991.

"Democracy is not a Spectator Sport!"

"There is no Political Democracy without Economic Democracy!"

CITIZENS' CHARTER

1. COUNTY COUNCIL OF REPRESENTATIVES

A 100-member county council elected from districts of 1/100th of the population (about 5,000 voters).

Two-year terms with a two-term limit.

Each town or area with a Local Community Council with the elected representatives serving on both the local councils and in the county council.

2. MAYOR

The mayor elected by the county council and from the county council.

The mayor, with the advise and consent of the majority of the county council, appoint and control the CAO and all department heads.

3. FULL CONSOLIDATION

Consolidate all districts and boards.

4. SALARIES

Ties elected officials salaries to a multiple of the minimum wage with the neighborhood representatives making 300% of the minimum wage or \$17,160 for part-time duties and the mayor 500% for full-time or \$57,200.

5. IMPLEMENTATION

Mandates immediate elections with an early March 1991 primary, a run-off in early April and implementation on April 15, 1991.

"Democracy is not a Spectator Sport!"