REPORT TO COUNCIL
City of Sacramento

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<u>Report</u>
January 19, 2010

Honorable Mayor and
Members of the City Council

Title: Sacramento Charter Review Committee Supplemental Report No. 2

Location/Council District: Citywide

Recommendation: This report transmits Supplemental Report No. 2 of the Sacramento Charter Review Committee, as required by Council Resolution R2009-559.

Contact/Presenter: William H. Edgar, Chair, Charter Review Committee, (916) 392-4909

Attachment
1   Supplemental Report No. 2

2009 Sacramento
Charter Review Committee

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Supplemental Report No. 2
Ranked Choice Voting/Ethics Commission

January 2010

COMMITTEE REPORT

Pursuant to R2009-559, the Sacramento Charter Review Committee transmitted its Final Report on governance related issues to the City Council on November 3, 2009. The resolution also required the Committee issue two supplemental reports in December 2009 and January 2010.

Supplemental Report No. 1 focused on the responsibilities and income of the Mayor and Council Members and was presented to the City Council on December 3, 2009. As the Committee is expected to sunset by January 26, 2010, Supplemental Report No. 2 represents the Committee's final work and addresses ranked choice voting (also known as instant runoff voting) and ethics commission.

The Committee has received considerable informational material and expert testimony related to the issues of ranked choice voting and ethics. During the course of Committee discussions on these issues, and notwithstanding the significant amount of material already reviewed by the Committee, it became apparent that these issues deserved additional study. Given the forthcoming sunset date of the Committee, it is not possible to conduct the thorough review of these issues in a way the City Council deserves. Each issue is complex and has the ability to be designed/implemented in a variety of ways.

Ranked Choice Voting

In a ranked choice voting (RCV) system, voters indicate their favorite candidate as well as their runoff choices (e.g. a priority ranking). In a typical ranked choice system, a candidate who wins a majority of first preference votes is elected, and the election is over. However, if the candidate receiving the most first choice votes has only a plurality of support, the lowest ranked candidate is eliminated. All voters who had supported that candidate have their second choice votes distributed, and a second tally is taken. This process continues until there is a candidate receiving more than 50 percent support, who is declared the winner. The system is designed to conduct only one election, so no run-off election is necessary. Proponents of such a system suggest this saves money (by eliminating the need for a runoff election), reduces influence of special interests, and ensures a candidate is supported by a majority of voters.

RCV is applicable to single-member district elections, which is how the City of Sacramento has elected its City Council members since 1970. Currently in Sacramento, a candidate must be elected with a majority of the vote. Consistent with the system of non-partisan municipal elections in California, if there are more than two candidates in a race and no candidate receives a majority of the vote, there is a separately scheduled run-off election. In Sacramento, the first round is typically scheduled in conjunction with the statewide consolidated primary election, and the run-off election is scheduled in conjunction with the consolidated general election in November. This contrasts with some other cities, which schedule a stand-alone run-off election. This run-off system also contrasts with some single-member district elections where the top vote-getter in one round is the winner, regardless of whether the candidate receives a majority of the vote. The Sacramento Municipal Utility District (SMUD) and Sacramento City Unified School District (SCUSD) elections are examples of plurality systems experienced by Sacramento voters.

The Committee has learned there are threshold questions related to software compatibility and state certification that must be resolved before it would be appropriate to consider transition to such a voting system. Moreover, additional dialogue and research would be necessary in order to determine a voting methodology suitable for Sacramento, as well as necessary public education efforts to reduce voter confusion that could occur if such a system is implemented. The Committee believes there is merit in further studying the value of transitioning to such a system. The following are considerations to aid in further study:

- There was some Committee and public interest in examining at-large systems, using both traditional balloting and some proportional voting systems. To stay focused on the charge of the City Council resolution and for time considerations, the Committee's main focus remained on RCV.

  o With RCV, voters choose more than one candidate. Instead of voting for just one candidate, voters indicate their first, second and third choices among candidates on the ballot. If a candidate wins a majority of first choice rankings, that candidate is elected. If no candidate receives an initial majority of first choice rankings, the candidate with the fewest first choice rankings is eliminated from the race and that candidate's supporters have their votes count for their second choice. All ballots are recounted, and if any candidate has a majority, then that candidate is elected. If no candidate has a majority, the process repeats until a candidate emerges with a majority of popular support.

  o RCV has been used in San Francisco since 2004. It is currently being implemented in several Alameda County cities, such as Oakland, Berkeley, and San Leandro. On December 4, 2009, the Secretary of State certified the necessary election equipment in Alameda County required to complete implementation of RCV. Santa Clara County also authorizes RCV; however it has not been implemented due to the absence of approved election equipment.

  o Certification of equipment is a key cost issue. Local elections officials testified that cities that convert to RCV requiring new equipment must bear the entire cost, whereas now the cost of elections systems are shared by all jurisdictions within a county. Advocates for RCV contend once a few jurisdictions implement RCV, costs will fall as technology becomes more available and more cities share the cost.

  o Some advocates testified in support of proportional voting systems. Some appear incompatible with non-partisan elections (e.g., party list voting). However, a system used in Cambridge, Massachusetts -- a "single transferable vote system" -- is compatible with non-partisan elections and used in at-large systems or election systems with multiple representatives per district. This system functions much like RCV where voters choose more than one candidate and rank them. A key difference is that once a voter's first choice candidate meets a minimum vote threshold to be elected, second and third choice votes are allocated to other candidates. This system and other proportional voting systems are favored by some in order to enhance minority representation without an emphasis on drawing district lines. (For more

information see, Douglas J. Amy, <u>Behind the Ballot Box: A Citizen's Guide to Voting Systems</u> (2000), Chapters 4 & 5.)

    o The Committee received no testimony regarding the availability of election equipment for alternative systems other than RCV.

- RCV raises a number of key policy and technical issues the Committee lacked time to fully explore. Most importantly, the Committee was not able to determine that RCV would fundamentally improve the elections system, and some key arguments raised by proponents merit further study:

    o Is there evidence RCV increases candidate participation by reducing the costs of running for office for candidates? Does RCV hold incumbents accountable by reducing the cost of mounting a challenge? The City Clerk provided election data to the Committee indicating very few incumbent Council Members have been challenged in the last 20 years. However, the current election cycle contrasts with the historical data with numerous challenges and candidates running.

    o Does RCV increase voter participation? Advocates contend RCV increases the number of voters participating in run-off rounds because fewer voters typically vote in run-off elections. Opponents of RCV contended that drop offs in second and third choice ranking on RCV ballots would still allow a candidates to be elected with less than a majority of the total votes cast in that election. (In essence, opponents pointed to "under voting" for lower ranked choices.)

    o Several other arguments in favor of RCV merit further consideration:

        ■ When voters are given more choices, fewer feel their votes are "wasted votes" because additional choices give the voter a greater likelihood of contributing to the outcome of the ultimate winner.

        ■ RCV allows voters to cast more "sincere votes" and choose their actual first-choice candidate rather than having to strategically vote for a candidate they believe is more likely to win. RCV allows voters to choose both in their order of preference.

        ■ RCV reduces negative campaigning because candidates are seeking their opponents' voters as potential second and third choice votes, so candidates do not want disparage those candidates and alienate their voters.

        ■ These and other considerations are bases to support RCV as a method to increase voter participation. However, the Committee was unable to fully examine both the empirical and logical support for these arguments.

- Opponents of RCV also pointed to a number of technical and theoretical considerations requiring more political science expertise than the Committee was able to pursue. Specifically, some considerations are:

  o The "monotonicity" problem, in which some examples have indicated a paradox in which a candidate with more first rank votes and fewer second rank votes lost, but would have won if more of the candidate's votes were second choice votes, rather than first choice votes. Some critics have pointed to this concept as decisive in the outcome of the 2009 mayor's race in Aspen, Colorado. Proponents of RCV indicate the problem arose from a flawed design of Aspen's RCV system. Others have suggested that this paradox is a possibility with RCV systems, but is of little practical significance because its statistical probability of occurring is remote.

  o Some critics indicate RCV causes voter confusion. Researchers at San Francisco State University thoroughly studied San Francisco's first RCV election to examine this issue. These data and others should be more thoroughly examined to determine whether voter confusion is an insurmountable problem, and what measures can promote voter understanding of RCV. (For more information see, Francis Neeley, et al., "An Assessment of Ranked-Choice Voting in the San Francisco 2004 Election," Public Research Institute, May 2005. The report can be viewed at http://pri.sfsu.edu/reports/SFSU-PRI_RCV_final_report_June_30.pdf.)

  o The number of choices on a ballot is a matter for further examination. Many systems in existence provide three choices. However, is that number of choices sufficient to provide a majority-vote winner when there are substantially more candidates? What is the ideal number of choices relative to the candidate pool? How many choices can the voting equipment accommodate?

  o The practical mechanics of tallying RCV votes on election night is a consideration. In her testimony to the Committee on July 2, 2009, Sacramento County Registrar of Voters Jill LaVine indicated that RCV ballots are not technically able to be counted at the precinct level on election night, but must all be brought to the county elections office to be counted so as to have all ballots available for processing second and third choice votes. Ms. LaVine pointed to this as an issue for individuals seeking quick results. Others have commented on this fact as an issue related to the ability to transparently count RCV votes.

- The various issues remaining for study involve implementation and technical issues, theoretical and analytical issues, and ultimately questions of judgment regarding whether RCV is appropriate for Sacramento. Therefore, the Committee recommends that a task force to examine RCV be equally weighted to represent (1) local elections officials; (2) expert political science researchers and analysts; and (3) members of the general public.

Ethics Commission

With the issue of ethics, the Committee has learned other agencies' ethics programs consist of an ethics officer, an ethics commission, or both. An ethics officer is typically dedicated to prevention

focused activities such as training and policy development. An ethics officer may also have investigative authority in cases of ethics complaints and an advisory role in the resolution of such complaints. In Austin, Texas, the City's Integrity [Ethics] Officer John Steiner refers to his program as a values based program where ethical issues can be evaluated via the City's ethics values (e.g. Is this consistent with the city's values?) . The Committee believes there is merit in considering the creation of a formal ethics office for the City of Sacramento. However, determining the reporting requirements, authorities, and duties of such an office requires additional research and discussion. Given the numerous issues that need to be considered and the limited time available, the Committee recommends the City Council create a task force to further study this issue.

As with consideration of a formal ethics office, the Committee believes the City Council should further study the potential merits of an ethics commission. As noted in the Institute for Local Government's December 2007 publication "Understanding the Role of Ethics Commissions", most ethics commissions tend to be compliance based and focus on ethics laws. The specific duties assigned to ethics commissions tend to fall into one or more of three categories:

- Overseeing and enforcing local ethics, election and campaign finance laws and/or codes;

- Providing advice to local officials on ethics and ethics laws; and

- Training local officials on ethics and ethics laws.

Key questions for further study of an independent, regulatory ethic commission include:

- What is the City's overall goal?

- What would the City want an ethics commission to do?

- How would commission members be selected?

- What powers would the commission have?

- What resources would be necessary to support the commission?

- What decision-making process should be used to determine whether a commission is right for the community?

While Committee members have great confidence in the staffs of the offices of the city clerk and city attorney to deal with ethics issues, it, nonetheless, appears that currently many members of the public do not know how to access the process. An ethics officer or Commission could help alleviate this situation by being the focal point for ethical inquiries. Additionally, it would be helpful to the public if the City developed a webpage that provided information on all of the City's current efforts relative to ethics training and monitoring.

Final Thoughts

In addition, the Committee would like to make the Council aware of several final thoughts, which are as follows:

1. Most of the other cities we studied, which successfully reviewed and changed their charters, took substantially more time that we were provided. Many took up to two years to thoroughly review their

city charters. Based on this fact, it would seem prudent to provide greater time to any subsequent committee the Council may establish to examine possible charter revisions, especially if the intent is to have the entire charter reviewed.

2. Still absent at the end of our processes was a clear statement regarding the problems the city faces which require charter change. The absence of such a clear statement was perhaps the greatest challenge we faced. Without a clear problem statement, we found it difficult to craft a meaningful solution. To avoid this problem, we would suggest there be more public engagement, early in the process, focusing on the specific problems requiring charter reform should further charter review be undertaken.

3. After studying other cities, we concluded that the size and number of districts and the idea of including at-large positions ought to be more fully explored. It would be useful to have any additional charter review process study this concept as part of its work program.

Committee Recommendation

The Committee believes the issues of rank choice voting and ethics commission should be studied further by the City of Sacramento. Our recommendation to the City Council is to create two separate task forces to study each issue independently and develop specific recommendations on each issue. Given the time other agencies have needed to complete a comprehensive review of these issues, the Committee recommends the task forces be given a minimum of six months and as much as a year to complete their work.

Vote: | Yes – 9 | No – 0 | Abstain – 0 | Absent – 2 |