



Special Study Session Minutes
CHARTER REVIEW COMMISSION

*Chair Derek Engdahl
Commission Member John Clifford
Commission Member Efrain Escobedo
Commission Member Edward Jimenez
Commission Member Dean Rudenauer
Commission Member Eunice Russell
Commission Member Ann Tomkins*

VISION STATEMENT

*Pomona will be recognized as a vibrant, safe, beautiful
community that is a fun and exciting destination and the home of
arts and artists, students and scholars, business and industry.*

Thursday January 14, 2021

6:00 PM

Teleconference via Zoom

6:00 P.M. Teleconference via Zoom

CALL TO ORDER

Chair Engdahl called the Charter Review Commission Special Study Session to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

Chair Engdahl led the Pledge of Allegiance.

Chair Engdahl asked everyone to remember the violence at the Capital the past week.

ROLL CALL

Taken by Staff Liaison Matthews:

Present: Chair Derek Engdahl
Commission Member John Clifford
Commission Member Efrain Escobedo
Commission Member Ann Tomkins
Commission Member Dean Rudenauer
Commission Member Edward Jimenez
Commission Member Eunice Russell

STAFF PRESENT

Linda Matthews, Human Resources/Risk Management Director (Staff Liaison Matthews)
William Priest, Deputy City Attorney
Rosalia Butler, City Clerk
Debbie Wittenbrock Legal Administrative Assistant
Alison Glynn, City Clerk Office Assistant

PUBLIC COMMENT

Staff Liaison Matthews explained the commenting process and indicated that the chat feature was disabled and that the Q&A could be used for public comment before each agenda item.

Chair Engdahl reminded the public that the public comment section was for addressing items that were not on the agenda.

DISCUSSION CALENDAR**1. Police Commission: Review proposed language submitted by the Commission Ad Hoc Subcommittee, and provide direction.**

Chair Engdahl opened up the discussion for public comment.

Miranda Sheffield voiced her support of the Charter police commission language and encouraged the Commission to ensure that there was an independent inspector general. She said she would like to see some language that would encourage diversity of the members of the police commission.

Staff Liaison Matthews read the email comments received for this item.

****Please see attachment for email comments**

Commissioner Russell gave an overview of the language in the report and said it was based on comments from the public and the Commission from the December 17, 2020 meeting. She pointed out that one of the two versions included was the red line version showing what language was removed and the language that was put into the new version. She spoke on an email received from Deputy City Attorney Priest commenting on the portion covering the review and investigation of use-of-force complaints.

Deputy City Attorney Priest shared that state law mandates that the City, through the Police Chief or other apparatus, had one year from the complaint to render the investigation and possible discipline. He explained that the City Attorney's Office was concerned that, if the police commission did not finish the investigation within the year mandated, the City could run into procedural problems. He suggested that they add clarifying language in Section H, specifically the word "may," to address the issue.

Commissioner Rudenauer suggested adding specific language that would give the police commission a warning about the timeline to avoid this sort of problem.

Deputy City Attorney Priest explained that this was a quick attempt to flex the language to avoid any procedural issues that could arise. He said he was open to a discussion by the Commission on further language and that he was curious to hear input from Staff Liaison Matthews on the timing and the practical effects it might have on an investigation.

Staff Liaison Matthews indicated that it might be difficult to put a specific timeframe in the language and explained that the one-year limit comes from the time that the department becomes knowledgeable about the complaint. She explained that the goal was to maintain flexibility in the timeline.

Commissioner Rudenauer suggested adding something in the police commission by-laws addressing the legal timeframes.

Deputy City Attorney Priest suggested that the information could be conveyed with adequate training of police commissioners. He agreed that placing some language addressing it in the police commission by-laws might be beneficial.

Commissioner Russell asked if there should be language indicating that the commission had to be informed upon the opening of an investigation and the timeline for the investigation. She expressed concern about the commission losing its voice by not having the proper time to conduct an investigation.

Commissioner Rudenauer stressed that City staff would be responsible for ensuring the information be included in future training materials.

Staff Liaison Matthews said it was covered within the language that the commission be informed about active investigations.

Commissioner Russell asked for clarification on the diversity of the commission mentioned in the public comment by Miranda Sheffield and asked about the omission of the statement addressing the rules regarding active or retired police personnel serving on the commission.

Staff Liaison Matthews explained that the statement had been moved to the first paragraph of the language.

Commissioner Tomkins responded to the earlier comment by Commissioner Rudenauer concerning the timeline for commission investigations. She indicated that the language, although broad, ensured that the commission had the timeline it needed to fulfill these functions. She indicated that the details could still be fleshed out within the by-laws and training materials.

Deputy City Attorney Priest said that he agreed with the assessment by Commissioner

Tomkins regarding the timeline for commission investigations being covered by the language in the report. He asked for clarification on the language addressing police personnel serving on the commission. He pointed out that the term “sworn police personnel” used later in the amendment and asked if the Commission wanted to add that qualifier to the language regarding who can serve on the police commission.

Commissioner Rudenauer indicated that he believed “police personnel” was still the correct terminology.

Commissioner Clifford asked about the use of the language “in the discretion” instead of “at the discretion” in the police commission report language.

Deputy City Attorney Priest said that either phrase could be used.

Chair Engdahl said that he really appreciated the report and asked if a simple majority of the Council was sufficient in regards to police commission appointments or if a 5 out of 7 vote would be more appropriate.

Commissioner Tomkins shared her view that a supermajority could create obstacles for progress.

Commissioner Russell said they chose five members for the police commission so that the Councilmembers could not choose favorites and that she felt a simple majority was efficient in regards to the selection of commission members.

Chair Engdahl clarified that his question was regarding the Council selection of police commission members.

Commissioner Rudenauer expressed that there had been issues with getting qualified individuals in the past and said he felt it would be a unanimous vote by Council to approve commission members. He also indicated that he was on board with Deputy City Attorney Priest adding the word “may” to Section H to address the investigative timeline issue mentioned earlier in the conversation.

City Clerk Butler joined the meeting at 6:30 due to a conflict with another commission meeting.

Commissioner Clifford proposed a motion, seconded by Commissioner Rudenauer, to accept the proposed draft police commission language with the suggested revisions and move to the next step to presenting it to the Police Union for input. Motion carried by a vote of 7-0.

2. Campaign Finance: Review proposals by the Campaign Finance Subcommittee to modify various campaign finance provisions, and provide direction (continued from 12/17/20).

Commissioner Tomkins gave an overview of the Campaign Finance Subcommittee draft

proposal. She shared that the Subcommittee had requested previous campaign finance filings from the City Clerk. She explained that the subcommittee wanted to evaluate whether spending had been above or below the limit specified in the Charter to see if it should be adjusted. She indicated that the Subcommittee was seeking input from the full Body regarding the removal of this particular section of the Charter.

Commissioner Rudenauer asked Staff Liaison Matthews where they were in the process of providing campaign finance statements to the subcommittee.

City Clerk Butler reminded the Commission that there were over 10 years of campaign statements to scan and that some of the information needed to be redacted according to FPPC (Fair Political Practices Commission) rules. She shared that some of the statements were over 55 pages long and that it would take some time for her and her staff to go through them. She indicated that a future goal of was to put all of the campaign finance statements on the website for easier review.

Chair Engdahl asked if they wanted to amend the request given the time it would take to go through all of the campaign finance statements.

Commissioner Rudenauer asked if there was some kind of shortcut that would make the information retrieval more streamlined and if there was a spreadsheet or other document available with that would provide the information needed.

City Clerk Butler indicated that there was not a spreadsheet but that she was amenable to Commission members coming into the office to review the statements. She reminded the Commission that the various filings all had different retention periods and shared some examples.

Commissioner Rudenauer asked if staff could create a spreadsheet moving forward and indicated that they could keep the section in the Charter to ensure that candidates were staying within the limits.

Commissioner Tomkins pointed out that they would also have to include the automatic increase mandated by state law and it would be harder to calculate.

Chair Engdahl suggested that the Campaign Finance Subcommittee get together to determine how much information they needed regarding campaign finance statements.

Commissioner Tomkins reminded the Commission that the campaign finance statement review was not just intended for this item, but also to evaluate other recommendations and provisions. She read some language from the report that indicated conflicting provisions and areas that were not being enforced.

Chair Engdahl asked Commissioner Tomkins to continue with her explanation of the included report.

Commissioner Tomkins gave an overview of the rest of the report. She indicated that they

also included an alert from the City Attorney's Office that contained some additional information about the law change on January 1, 2021. She shared that the problems that they were experiencing were due to lack of enforcement of the Charter. She pointed out that the change in the law afforded the Commission an opportunity to ensure enforcement of those limits and that the Subcommittee was seeking input on how to proceed.

Deputy City Attorney Priest pointed out that the statute indicated that FPPC would not enforce the law if a City adopted its own campaign contribution limits. He shared that the City would have to contract for its own enforcement unit if it does not adopt the limits set by the FPPC. He also pointed out that the City would still have to contract with the FPPC to perform enforcement if it chose to go with the limits set forth in the law.

Commissioner Tomkins pointed out that there did not seem to be any enforcement occurring by the City in regards to financial contributions. She asked what the point was of having limits if they were not being enforced. She explained that the reasoning behind reviewing the campaign finance statements was to see if the contributions were within the limits.

Deputy City Attorney Priest suggested a few changes to the report, including adjusting the baseline in Section 1401 to reflect more current campaign costs. He indicated that he concurred with the subcommittee recommendation in Section 1402 regarding surplus campaign funds. He also said that he liked the idea of a disclosure rule instead of a recusal rule in Section 1403.

Commissioner Russell said there have been past issues with Councilmembers voting on items and receiving compensation and that a disclosure statement was not harsh enough when dealing with these types of situations. She reminded the Commission about previous litigation related to this issue.

Deputy City Attorney Priest pointed out that there was case law stating that a recusal rule may not be legally valid. He indicated that he was open to looking at the case law again, but that disclosure would be constitutionally easier to justify.

Commissioner Clifford pointed out that the current language was put in there for a reason and said that he was concerned with the notion that it should be taken out due to the lack of enforcement. He agreed that the numbers from over 20 years ago regarding campaign contribution limits needed to be revisited, but cautioned against increasing them too much.

Commissioner Rudenauer raised the point that whether or not they added or omitted something from the Charter, the City still needed to take steps to ensure that the Charter was being enforced.

Commissioner Tomkins mentioned some cases she came across in her research and said that there was a lot of case law that protects the ability of people to make campaign contributions. She pointed out that keeping something in the Charter that is unenforceable and invites future litigation might be counterintuitive. She said that she

thinks that the limits are not being enforced not because of a lack of effort, but because they were difficult to enforce due to the legality of the limits.

Commissioner Clifford said that he understood the point made by Commissioner Tomkins, but that he did not want that to be the overriding reason to remove it from the Charter. He reminded everyone that the language was included due to the will of the voters. He cautioned against increasing the limits too much and said that he believed it would be a hard sell for the voters.

Chair Engdahl said that one of the questions they were asking was if they wanted to add a percentage into the Charter with enforcement performed by the City. He pointed out that the one disadvantage would be that the FPPC would not be involved in the enforcement if the City chose its own limits.

Commissioner Clifford said he did not see a cost savings in the City doing the enforcement and that there would be a cost associated with whichever option they chose.

Commissioner Russell indicated she would like to see the case law associated in regards to Section 403. Commissioner Tomkins said that she would give it to Staff Liaison Matthews to forward to the others.

Commissioner Russell pointed out that the BBK booklet said it was subject to change this year and asked what numbers those changes were based on and how soon they would be implemented.

Deputy City Attorney Priest explained the process and said they adjusted it in January of every odd year and that it was effective January 1, 2021. He said that the FPPC applies an inflation formula to come up with the revised number.

Chair Engdahl asked if Council had been made aware of the contradictions in the report.

Staff Liaison Matthews said she was not aware of any communication between City Council and the City Attorney's Office.

Chair Engdahl asked if they would be more in favor of a percentage of the figure that was determined by AB571.

Commissioner Clifford said that he would be in favor, but pointed out that the amount needed would vary depending on the elected role. He explained that the campaign contributions for the mayoral election would be more due to the fact that it is an at-large position. He suggested making the percentage based on the population of the district.

Commissioner Tomkins mentioned that more disclosure would be tremendously beneficial to the public in regards to campaign contributions and indicated that she was in favor of making the contribution limits higher for actual campaigns.

Commissioner Clifford pointed out that people could find a workaround if they wanted to

contribute more and that he did not see an advantage to higher limits.

Chair Engdahl thanked the Commissioners for their feedback and said that the subcommittee would take the comments into consideration.

3. Preamble: Review and approve the Preamble language proposed by the Preamble Subcommittee to be included as an amendment to the Charter (continued from 12/17/20).

Chair Engdahl opened up the discussion for public comment.

Staff Liaison Matthews read the email comments received for this item.

****Please see attachment for email comments**

Donald Martens spoke on his support for a preamble and urged the Commission to include the “aims” of the City that help to make the Charter more of a living document.

City Clerk Butler read the comments from the Q&A:

Andy Quinones voiced his support of a preamble.

Michael Witmer asked the Commission to display the current language for this item and said that many speakers were referencing an older version.

Chair Engdahl indicated that the most current version was attached to the agenda and Staff Liaison Matthew shared it on the screen.

Jan Chase, of Compassionate Pomona, spoke in support of the preamble and the addition of the word compassion as a defining value of Pomona.

Paul Roach, of the American Museum of Ceramic Art, spoke in support of the preamble.

Richard Bunce voiced his support of the preamble and the inclusion of compassion as a value.

Michael Whitmer spoke on his support of the proposed preamble and the inclusion of the word compassion.

Someone from Cobb Institute spoke on Item 3 and asked if they were entertaining a proposed amendment to the Charter or simply receiving citizen comments.

Chair Engdahl asked someone from the subcommittee to present.

Commissioner Rudenauer gave an overview of the included report. He indicated that the report took into account the values of the City, including compassion, historical preservation, equality, inclusiveness, and other values.

Commissioner Russell thanked the subcommittee for the excellent job on the report and pointed out a couple of grammatical issues. She said that the new report had more meaning and purpose than the past report and helped to affirm the values of the City.

Commissioner Russell proposed a motion, seconded by Commissioner Clifford, to accept the language with the suggested revisions. Motion carried by a vote of 7-0.

Chair Engdahl thanked everyone for their input and recessed the meeting for a five-minute break at 7:40. The meeting resumed at 7:46.

4. Charter Review Commission Language: Review, discuss and approve updated language proposed for a Charter Review Commission amendment related to the procedures for future Charter Review Commissions.

Staff Liaison Matthews gave a brief overview of the updated language and changes. She explained that all of the language specific to the 2020 date was changed. She asked if the Commission would like to discuss the changes to the language regarding submitting a report to Council for input at the discretion of the Commission.

Commissioner Russell said the updates to the language cleared up prior concerns about how the interactions with Council might affect the timing of Commission business.

Commissioner Tomkins said that, although it was not required by the current language, she was still in favor of sending it to the Council for feedback.

Commissioner Rudenauer explained that the update also asserts the independence of the Commission.

Commissioner Clifford asked if a future Commission would need two years to do the job and suggested 18 months.

Commissioner Rudenauer said the goal was to give the Commission as much latitude as possible to prepare for any future changes.

Commissioner Tomkins pointed out that the existing language indicated that the Commission wanted the powers of an elected commission and that under state law elected Charter committees have a term of two years. She said that they still could end it early once they completed their work and that it gives the Commission the flexibility to place items on multiple ballots.

Commissioner Rudenauer proposed a motion, seconded by Commissioner Russell, to accept the language and put it forth to Council for feedback. Motion carried by a vote of 7-0.

5. Redistricting and Primaries: Receive a verbal report regarding feedback on redistricting and primaries from the January 4, 2021 City Council meeting, and

review a simplified version of redistricting language carried over from the December 17, 2020 CRC meeting.

Staff Liaison Matthews gave a report of what happened at the January 4, 2021 Council meeting. She explained that Council did give direction to staff to create an independent redistricting commission. She pointed out that there were some challenges in regards to the Charter and indicated that she and Deputy City Attorney Priest were working with staff on the issue. She said that the biggest difference in the language was the omission of alternates as well as a few minor tweaks. She indicated that they were hoping to get a report with an urgency ordinance on the February 1, 2021 City Council agenda to get the process started.

Commissioner Russell asked about the reasoning behind the simplified language of the report.

Staff Liaison Matthews indicated that there were a lot of detailed procedures in the last language and that it may not be necessary to include as much detail in the Charter if the City Council adopted certain procedure at an ordinance level.

Commissioner Rudenauer suggested tabling the item until they were able to see what City Council came up with.

Commissioner Clifford expressed his concern with the simplified language.

Commissioner Russell said that she was also not happy with the simplified language.

Chair Engdahl asked if the desire was that the subcommittee take a look at the language to bring back at a future meeting.

Commissioner Rudenauer pointed out that if the City Council adopts an effective ordinance embracing what the subcommittee had come up with for redistricting, then the simplified version would work to support that. He agreed with Commissioner Russell that they should see what Council comes up with.

Commissioner Clifford reminded the Commission that an ordinance could be changed by a future Council and that the Charter could only be changed by a vote of the people. He cautioned that if they did not create a Charter amendment then they would be leaving it up to the politicians to do it. He said that he did not see an advantage to letting the Council police themselves.

Chair Engdahl explained that the goal was to make a more simplified version for the ballot. He said that he let Council know that they still planned on putting something on the ballot in 2022.

Deputy City Attorney Priest indicated that he would take another look at the language.

Commissioner Tomkins said that she liked having a simplified version and that she would

like to see what the City Council does before placing something on the ballot.

Commissioner Escobedo said he was also concerned with the current language not addressing some key issues.

Commissioner Clifford asked if Deputy City Attorney Priest could submit the language revision to the subcommittee first and asked about the outcome of the primary election discussion with Council.

Chair Engdahl said they should look at the fiscal impact.

Commissioner Tomkins mentioned that the costs may be declining due to the popularity of vote-by-mail ballots.

City Clerk Butler mentioned that the invoice would be in soon for the 2020 election, but that early numbers were showing a larger number of mail-in ballots.

Chair Engdahl said they could discuss this item further once they saw what Council was going to do.

6. Next Steps.

Staff Liaison Matthews asked what the Commission wanted to see on the next agenda.

Commissioner Tomkins asked if they wanted to discuss the process of submitting items to City Council for feedback.

Chair Engdahl indicated that it could be put on the next agenda.

Commissioner Clifford shared that the Positions Subcommittee had already submitted a report for the upcoming agenda.

COMMISSION ITEMS

There was nothing to report.

STAFF ITEMS

There was nothing to report.

ADJOURNMENT

A motion was made by Commissioner Russell, seconded by Commissioner Rudenauer, to adjourn the Charter Review Commission meeting at 8:00 pm to the Closed Session meeting. Motion carried by a vote of 7-0.

CLOSED SESSION

8:05 P.M. Teleconference via Zoom, closed to the public

A)_CONFERENCE WITH LABOR NEGOTIATORS_

(Pursuant to Government Code Section 54957.6)

Pomona Police Officers Association (PPOA)
Pomona Police Managers Association (PPMA)

Labor Negotiator: Linda Matthews

LABOR NEGOTIATOR REPORT OUT FROM CLOSED SESSION

Staff Liaison Matthews reported that the Closed Session Agenda matters were discussed and that there was no reportable action on this item.

Respectfully submitted,

ATTEST:

ALISON GLYNN
Office of the City Clerk/Commission
Secretary to the Pomona Charter
Review Commission

DEREK ENGDAHL
Chair of the Pomona Charter Review
Commission

ATTACHMENT TO MINUTES

Dear City Charter Review Commission,

I understand the topic of preamble will be addressed on Thursday's meeting, and I would like to weigh in on that topic. A preamble is a preparatory statement of a statute or deed, stating its purpose, aims, and justification. In regard to "aims", the Charter is a legal document and the aims may just be the aims of the charter itself, BUT this "City Charter" may be a "living document" that expresses the "aims" of the City in a concise way at the time of the Charter writing. I believe both sets of "aims" are valid in this City Charter preamble, and I petition the Commission to include those City aims that help make the Charter a living document; i.e. citizen participation in all aspects of our community, compassion for all living things, respect for the environment, historical preservation for this area's rich architectural and diverse cultural heritage, economic leadership in the region, and ensuring equality and inclusiveness for all of our residents. Those "aims" do not seem so wordy that it harms the legal aims of the preamble, and if for some reason it is felt by some that those "City aims" are a "false front" or a lie we like to tell ourselves to make us feel better about ourselves, then perhaps that person should go out to verify that "historical preservation" or "economic leadership" or "compassion for all living things" is not being addressed within the City.

Thank you for your ear on this matter,

Donald Martens, a Pomona resident within District 4.

Charter Review Commissioners,

I write to you in support of including the word compassion in the preamble to Pomona's charter.

Some may suggest that the word would be no more than "window dressing" in the preamble, an unnecessary, "feel good" tack-on term.

But the Pomona City Council in 2018 took the word compassion and that word's meaning seriously enough to issue an official proclamation declaring Pomona a Compassionate City.

And thereby Pomona joined hundreds of other cities around the world which are formally part of the international Compassionate Cities movement.

What does this mean for Pomona "on the ground"?

It means that the group called Compassionate Pomona is vitally active in the city as a supportive networking mechanism which regularly brings together people from many local organizations who are working for the benefit of the city and its people in many ways.

Through Compassionate Pomona, city staffers, representatives of the Pomona Police Department and the Pomona Unified School District, along with people from local non-profits, from various Pomona institutions, and a variety of community volunteers, regularly connect under the banner of compassion to share ideas and resources and plan ways to work together most effectively.

These efforts help build a stronger city.

Now more than ever perhaps, for many reasons, compassion is a value that our leaders at all levels do very well to explicitly acknowledge and to champion.

Thank you very much,
Kathryn Kirui
Compassionate Pomona

Mike Suarez Pomona Resident
CRC PUBLIC COMMENT 1-14-2021, POLICE COMMISSION

I would like to thank the members of the Charter Review Commission for making this process transparent so all interested parties can review the language of this proposed police commission.

One of the most important tools of the new police commission will be to exercise the power of the subpoena. It will require the attendance of witnesses, including persons employed by the City of Pomona, and the production of documents and records. It must be made clear that even if it is the current Pomona Police Chief to be summoned, he must submit to the subpoena.

Recently the County of Los Angeles voted overwhelmingly to pass Measure R that gives the Los Angeles County Sheriff's Department Oversight Commission the use of subpoena power over the Sheriffs Department.

A Police Commission with subpoena power could relieve the pain that an unjust justice system has brought to the people of Pomona that are over 90% people of color. These efforts will change a system that has unfairly sent people of color to prison in numbers that can only be called mass incarceration.

From: [Nora Jacob](#)
To: [Charter Review Commission](#)
Subject: CRC Public Comment 1-14-2021
Date: Thursday, January 14, 2021, 2:02:05 PM
Attachments: [Letter to Pomona Charter Review Commission, 01-14-21.docx](#)

Please accept the attached letter for tonight's Charter Review Commission meeting.

Thank you,

Rev. Nora Jacob
Acting Executive Director & Restorative Justice Director
UrbanMission Community Partners

UrbanMission Community Partners

252-D SOUTH MAIN STREET, POMONA, CA 91766

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www.um-cp.org | FB: @umcommunitypartners

January 14, 2021

Charter Review Commission Members
City of Pomona
Pomona, CA 91766

Dear Members of Pomona's Charter Review Commission:

I write on behalf of UrbanMission Community Partners (UMCP), a nonprofit organization in Pomona since 2014. Our mission commits us to increasing the well-being of the most vulnerable and neglected persons in our community. In that spirit, we ask that you approve the addition of the word *compassionate* to the Preamble to the City Charter.

The Preamble to Pomona's Charter spells out the core values we seek to see in every employee, every committee, and every representative of the City of Pomona. Compassion is an essential value because it encourages us – *whoever* we are – to consider how our actions and expressions might affect others, and then to act from our highest level of humanity. In our divided and turbulent times, this is more important than ever.

UMCP is grateful to be part of expressions of compassion – including urban farming and restorative practices work -- that are making Pomona distinctive in positive ways.

Thank you so much for your consideration.

In peace,



Rev. Nora Jacob
Acting Executive Director & Restorative Justice Director