



Eugene City Council

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EUGENE CITY COUNCIL AGENDA

February 28, 2024

12:00 p.m. CITY COUNCIL WORK SESSION and URBAN RENEWAL AGENCY MEETING

City Council Wednesday work sessions are held using virtual meeting technology. Information about online or other options for access and participation will be available at <https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials>

Meeting of February 28, 2024; Her Honor Mayor Lucy Vinis Presiding

Councilors

Matt Keating, President
Greg Evans
Emily Semple
Alan Zelenka

Randy Groves, Vice President
Mike Clark
Lyndsie Leech
Jennifer Yeh

12:00 p.m. CITY COUNCIL WORK SESSION and URBAN RENEWAL AGENCY MEETING

1. WORK SESSION and POSSIBLE ACTION:

A. 1059 Willamette Redevelopment – Financial Assistance

B. 1059 Willamette Redevelopment – Revised Terms

C. 1059 Willamette Redevelopment – MUPTE Application

2. WORK SESSION: Overview of Charter Review and Amendment Process

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February 28, 2024 Work Session

URBAN RENEWAL AGENCY AGENDA ITEM SUMMARY



Work Session and Possible Action: 1059 Willamette Redevelopment – Financial Assistance

Meeting Date: February 28, 2024
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 1A
Staff Contact: Amanda D'Souza
Contact Telephone Number: 541-682-5540

ISSUE STATEMENT

This is the first of three work session items on February 28, 2024 related to the property located at 1059 Willamette. This first work session item is for the Agency Board to consider a request for an additional \$740,000 of Downtown Urban Renewal tax increment funds to support the project. Following this item, City Council will consider two additional items: Agenda Item 1B - revisions to the approved terms for disposition and redevelopment of 1059 Willamette; and agenda item 1C - a Multi-Unit Property Tax Exemption (MUPTE) application for the proposed project. More information about each of these items can be found in their respective Agenda Item Summaries.

BACKGROUND

On September 30, 2020, the Agency Board made \$700,000 of Downtown Urban Renewal tax increment funds available in the City's Request for Proposals (RFP) to support the redevelopment of the property located at 1059 Willamette Street. The RFP also included \$400,000 of funds from the MUPTE Moderate-Income Housing Fee, for a total of \$1.1 million in funds available for the RFP. On June 9, 2021, City Council selected a local development team for the disposition and redevelopment of the site. This work session is for the Agency Board to consider a request for an additional \$740,000 of Downtown Urban Renewal tax increment funds to support the project.

City Council's February 28 Agenda Item Summary on the 1059 Willamette Redevelopment – Revised Terms (Agenda Item 1B) provides more information on the project, including this summary on the financial assistance request:

The approved financial assistance term includes the \$1.1 million initially identified in the 1059 Willamette RFP, to be used for permit fees and System Development Charges. Since the team's initial proposal, construction costs, interest rates, and operating expenses have increased significantly. For example, the interest rate in February 2021 was 3.65 percent, and by October 2023 it was at 8 percent. In addition, estimated hard construction costs have risen by 24 percent in the same period. The total project cost went from about \$30 million to \$34 million.

The team has been working to offset these impacts through the inclusion of additional units, refinement of their design, and revising their financing strategy to include Opportunity Zone investment. However, a gap remains, and the team has requested an additional \$740,000 of

February 28, 2024 Work Session – Item 1A

investment for project-related costs, such as abatement and demolition. The proposed deal point increases the total City and Agency financial assistance to \$1.84 million. This is in addition to providing the land at no cost and the potential 10-year MUPTE Council is considering.

Agency Board action is needed in order for additional Downtown Urban Renewal tax increment funds to be allocated to the project. Section 600.F of the Downtown Urban Renewal Plan identifies the completion of existing urban renewal activities, including the redevelopment of 1059 Willamette, as activities eligible for tax increment funds.

PREVIOUS COUNCIL DIRECTION

[June 12, 2023 Work Session](#)

City Council adopted an amended Downtown Urban Renewal Plan for the Downtown Urban Renewal District, increasing the maximum indebtedness by \$50 million and expanding the list of projects eligible for Downtown Urban Renewal funds.

Motion passed 7:0

For more information on previous City Council and Agency Board direction related to the 1059 Willamette project, see City Council's February 28 Agenda Item Summary for Item 1B on 1059 Willamette Redevelopment – Revised Terms.

AGENCY BOARD OPTIONS

1. Approve the use of an additional \$740,000 of Downtown Urban Renewal tax increment funds to support the 1059 Willamette project.
2. Approve the use of a different amount of additional Downtown Urban Renewal tax increment funds to support the 1059 Willamette project.
3. Decline to approve the use of additional Downtown Urban Renewal tax increment funds to support the 1059 Willamette project.

AGENCY DIRECTOR'S RECOMMENDATION

The Agency Director recommends that the Agency approve the use of \$740,000 of additional Downtown Urban Renewal tax increment funds to support the 1059 Willamette project.

SUGGESTED MOTION

Move to approve the use of \$740,000 of Downtown Urban Renewal tax increment funds to support the 1059 Willamette project.

ATTACHMENTS

None.

FOR MORE INFORMATION

Staff Contact: Amanda D'Souza, Development Programs Manager

Telephone: 541-682-5540

Staff E-Mail: Adsouza@eugene-or.gov

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Work Session and Possible Action: 1059 Willamette Redevelopment – Revised Terms

Meeting Date: February 28, 2024
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 1B
Staff Contact: Amanda D'Souza
Contact Telephone Number: 541-682-5540

ISSUE STATEMENT

This is the second of three work session items on February 28, 2024 related to the property located at 1059 Willamette. At this work session, Council is asked to review and consider action on proposed revisions, shown in Attachment A, to the approved terms for redevelopment of 1059 Willamette.

Prior to this work session, the Urban Renewal Agency Board will consider a request for additional financial assistance for the project (Item 1A). Following this work session, Council will consider a Multi-Unit Property Tax Exemption (MUPTE) application for the project (Item 1C). More information about each of these items can be found in their respective Agenda Item Summaries.

BACKGROUND

The building located at 1059 Willamette served as the Lane Community College (LCC) Downtown Center until 2012 when the new Mary Spilde Center opened at 10th Avenue and Olive Street. In January 2020, Council approved the use of \$500,000 of federal Community Development Block Grant (CDBG) funds to acquire the site in order to pilot an innovative, mixed-income, multi-unit housing project through the Land Acquisition for Affordable Housing Program, also known as the City's land bank program. The City acquired the site in April 2020.

The Council direction for this project was to pursue a mix of income-qualified units and market-rate units, where 51 percent of the units are targeted to households earning up to 80 percent of Area Median Income (AMI) and 49 percent of the units are market-rate. The income-qualified housing will support an underserved population. There are very few housing options targeting households earning between 60 percent and 80 percent AMI, and households in this range typically do not qualify for other Affordable Housing options.

At the January 2020 work session, Council approved the use of a Request for Proposals (RFP) process for disposition of the site. In September 2020, Council approved RFP criteria and Council

February 28, 2024 Work Session – Item 1B

and the Agency Board together made \$1.1 million of public funds available with the RFP to reduce the anticipated financial gap.

The City received one submission in response to the RFP: a proposal from a development team led by deChase Miksis and Edlen & Company. The development team proposed a new mixed-use, mixed-income building, called the Montgomery. The proposal submitted at the time included 129 units: 66 units for households with incomes up to 80 percent of AMI and 63 units to be rented at market rates without income qualifications. Other project features would include:

- Providing support services to meet needs of all residents;
- Providing 10 set-aside units for survivors of domestic violence (in partnership with the Hope & Safety Alliance, formerly Womenspace);
- Design that builds on the historic main-street character of Willamette Street;
- Ground-floor incubator retail spaces;
- Opportunities for art, including a public gallery in the lobby and a mural wall; and
- Using cost-effective green building measures to be certified under the LEED Multifamily program.

Project Status and Proposed Changes to Terms

On October 20, 2021, Council approved terms for the disposition and redevelopment of 1059 Willamette. On May 22, 2023, Council approved revisions to the terms related to the dates for closing and completion of construction. On May 31, 2023, the City entered into a development agreement with the development team, 1059 Willamette LLC. Since then, the team completed due diligence, began the federal environmental review process, and submitted an application for the Multi-Unit Property Tax Exemption program, which Council will consider at the work session for Item 1C for February 28, 2024.

During due diligence, the team further refined their project, developing schematics and assembling their financing package. In order for the project to move forward, Council is asked to review and take action on proposed changes to the approved terms, which are shown with bold and strikethrough text in Attachment A. The proposed changes include:

- **Units:** The development team proposes an increase of 4 units in the project, bringing the total to 133 units. Two of those additional units would include rents affordable to households with incomes of 80 percent of AMI and two would have market-rate rents.
- **Financial Assistance:** The approved financial assistance term includes the \$1.1 million initially identified in the 1059 Willamette RFP, to be used for permit fees and System Development Charges. Since the team's initial proposal, construction costs, interest rates, and operating expenses have increased significantly. For example, the interest rate in February 2021 was 3.65 percent, and by October 2023 it was at 8 percent. In addition, estimated hard construction costs have risen by 24 percent in the same period. The total project cost went from about \$30 million to \$34 million.

The team has been working to offset these impacts through the inclusion of additional units, refinement of their design, and revising their financing strategy to include Opportunity Zone investment. However, a gap remains, and the team has requested an

February 28, 2024 Work Session – Item 1B

additional \$740,000 of investment for project-related costs, such as abatement and demolition. The proposed deal point increases the total City and Agency financial assistance to \$1.84 million. This is in addition to providing the land at no cost and the potential 10-year MUPTE Council is considering. The Agency Board will discuss this request for an additional \$740,000 of tax increment funds during item #1A of this work session. The Agency Board's Agenda Item Summary: 1059 Willamette Financial Assistance (Item 1A) provides additional information.

- **Closing Date:** The approved terms states that closing will occur within 17 months of execution of the development agreement, which is October 31, 2024. While the project schedule was interrupted by the recent funding gap, as of today, it is possible to be ready close and start construction on October 31, 2024. However, given that the federally required environmental review remaining steps are subject to actions outside of City or developer control and to provide a small cushion if needed, the proposed change to the closing date deal point would allow for closing to be extended, if needed, to no later than February 1, 2025.

All other Council-approved terms remain the same. Key elements of those include:

- The property will be conveyed to the development team for \$1.
- The development team must meet the federal Environmental Review requirements related to contamination and toxic substances, noise levels, stormwater management, and historic context.
- The income-qualified units will maintain their affordability to 80 percent AMI households for at least 35 years after project completion. The team will verify at each new move-in that these units are occupied by households with incomes no greater than 80 percent of AMI.
- The development team intends to apply for a Multi-Unit Property Tax Exemption (MUPTE), which is the subject of work session Item 1C for February 28, 2024.

Next Steps

If Council revises the approved terms, the development agreement will be amended to reflect the increase in units and financial assistance. If later deemed necessary, the development agreement could be further amended to allow for closing to occur no later than February 1, 2025. The team will continue to refine the design, finalize the financing, and begin preparing the building permit application.

Other Possible 1059 Willamette Actions

This work session is one of three being considered today for the project. Prior to this work session, the Agency Board will consider a request for additional financial assistance to support the project (Item 1A). Following this work session, Council will consider an application for a Multiple-Unit Property Tax Exemption application for the proposed project (Item 1C). More information about each of these items can be found in their respective Agenda Item Summaries.

RELATED CITY POLICIES

[*Housing Implementation Pipeline \(HIP\)*](#)

February 28, 2024 Work Session – Item 1B

Encouraging compact development in the downtown core is one critical way to provide housing for our growing community. Increasing the number of housing units in the downtown core achieves other policy goals related to climate recovery and resiliency, compact development transportation efficiency, downtown vibrancy, and fiscal sustainability. A target goal in the HIP is to increase the amount of housing downtown by 50 percent from 2021: an increase of over 1,000 units. The 1059 Willamette redevelopment will exceed the HIP 5-year income qualified goal of supporting 129 units of mixed-income housing that includes moderate income (60 percent-100 percent AMI) and market-rate units (assuming the increase in units is approved). The units would also contribute to the 180 mixed-income units forecasted in the HIP units pipeline.

Eugene Downtown Plan

- Downtown development shall support the urban qualities of density, vitality, livability, and diversity to create a downtown, urban environment.
- Use downtown development tools and incentives to encourage development that provides character and density downtown.
- Actively pursue public/private development opportunities to achieve the vision for an active, vital, growing downtown.

Climate Action Plan (CAP) 2.0

CAP 2.0 includes multiple strategies that support the development of downtown and increase of compact housing in the downtown. Smaller homes tend to have a smaller carbon footprint during construction and use, and housing units built close to transit, jobs, and other amenities allow residents to access the community using fewer trips.

Envision Eugene Pillars

- Provide ample economic opportunities for all community members.
- Promote compact urban development and efficient transportation options.
- Protect, repair, and enhance neighborhood livability.
- Provide for adaptable, flexible, and collaborative implementation.

Strategic Plan Goals: Urgent Community Needs

- Strategic Goal: Stabilize the cost of housing.
 - High-Impact Action: Support efforts to preserve and construct Affordable Housing units (rental and homeownership), Permanent Supportive Housing units, and Moderate-Income Housing units; includes developing local funding strategies.
 - High-Impact Actions: Develop Affordable Housing units with innovative funding strategies that specifically support protected classes' access to housing.
- Strategic Goal: Increase the vibrancy, economic vitality, and livability of downtown.
 - High-Impact Action: Continue to implement and increase the efficiency and effectiveness of development and redevelopment tools to support commercial activity.
- Strategic Goal: Advance climate action and community resilience to natural and human-caused disasters.
 - High-Impact Action: Decrease transportation-related emissions and make the transportation network diverse and adaptable through continued implementation of the

February 28, 2024 Work Session – Item 1B

- Eugene 2035 Transportation System Plan and related compact development actions in Envision Eugene.
- High-Impact Action: Continue to implement strategies from the Climate Action Plan 2.0 to improve and enhance efficiency and resilience of buildings in Eugene, including City-owned facilities

PREVIOUS COUNCIL DIRECTION

January 29, 2020 Work Session

Move to authorize the City Manager to acquire the property of 1059 Willamette (formerly the LCC Downtown Center) using \$500,000 of Community Development Block Grant Funds.

Passed 8:0

Move to dispose of the property at 1059 Willamette (formerly the LCC Downtown Center) with the Land Acquisition for Affordable Housing property disposition process.

Passed 8:0

July 15, 2020 Work Session

Moved to direct the City Manager to schedule a Public Hearing on the 1059 Willamette project in order to solicit public feedback on whether the project should move forward, as well as the appropriate funding mechanisms for the project. The City Manager is further directed to implement the proposed public engagement process.

Passed 8:0

September 21, 2020 Public Hearing

The public was invited to comment on a) whether the 1059 Willamette project should move forward, b) if so, how it should be funded, and c) draft criteria to be used in the RFP.

September 30, 2020 City Council Work Session and Urban Renewal Agency Board Meeting

City Council directed the City Manager to release the RFP for disposition of the 1059 Willamette site using the RFP criteria and to identify the Gordon Lofts MUPTE Moderate Income Housing fee (an estimated \$400,000) as available funding in the RFP to support the 1059 Willamette project; with additional weighting to favor projects that continue affordable housing units up to 80 percent AMI past the 20-year period.

Passed 8:0

The Agency Board directed the Agency Director to identify \$700,000 of Downtown Urban Renewal tax increment funds as available funding in the City RFP to support the 1059 Willamette project. *Passed 8:0*

June 9, 2021 Work Session

Move to direct the City Manager to a) enter into exclusive negotiations with the deChase Miksis/Edlen & Company development team for the disposition and redevelopment of 1059 Willamette and b) return to Council with the proposed terms for action.

Passed 6:1 (Opposed by Councilor Semple)

February 28, 2024 Work Session – Item 1B

Move to ask the City Manager to bring back to Council options for filling the proposed \$2 million gap in this project in order to set the rents at the Housing and Urban Development Fair Market housing value.

Passed 7:0

October 20, 2021 Work Session

Move to approve the terms for disposition and redevelopment of 1059 Willamette and to authorize the City Manager to enter into a real property transfer agreement consistent with the approved terms.

Passed 5:0

May 20, 2023 Meeting

Council approved revisions to the approved terms related to the closing date and completion of construction.

Passed 8:0

June 12, 2023 Work Session

Council adopted an amended Downtown Urban Renewal Plan for the Downtown Urban Renewal District, increasing the maximum indebtedness by \$50 million and expanding the list of projects eligible for Downtown Urban Renewal funds.

Passed 7:0

COUNCIL OPTIONS

1. Approve the revised terms shown in strikethrough and bold text in Attachment A.
2. Propose modifications to the revised terms.
3. Take no action at this time.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends Option 1, approval of the revised terms included in Attachment A.

SUGGESTED MOTION

Move to approve the revised terms in Attachment A and to authorize the City Manager to amend the development agreement consistent with the revised terms included in Attachment A.

ATTACHMENTS

- A. Proposed Revisions to Approved Terms for Transfer of 1059 Willamette Property

February 28, 2024 Work Session – Item 1B

FOR MORE INFORMATION

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February 28, 2024 Work Session – Item 1B

Proposed Revisions to Approved Terms for Transfer of 1059 Willamette Property

Buyer: Joint venture led by Edlen & Company and deChase Miksis

Seller: City of Eugene ("City")

Property: Land (approximately 0.42 acres) located at 1059 Willamette Street (Map No. 17-03-31-14, Tax lot 12800)

Purchase Price: Property will be conveyed to Buyer for \$1.

Agreement: Following the City Council's approval of terms, Buyer and Seller shall enter into a real property transfer agreement.

Due Diligence Period: Upon execution of the Agreement, Buyer will have a period of 180 days in which to review property information and to conduct on-site tests and studies to determine the condition of the property.

Environmental Condition: During the Due Diligence Period, Buyer will be able to perform environmental investigation to satisfy itself of the environmental condition of the property, the results of which will be provided to the Seller for review.

Federal Environmental Review: Buyer must meet the federal Environmental Review requirements related to contamination and toxic substances, noise levels, stormwater plan, and historic context.

Project Description: Buyer intends to develop a 6-story, ~~133- 129~~-unit mixed use project, called the Montgomery. It includes: ~~68 66~~ income-qualified units available to households at 80% of Eugene's area median income (AMI), which is a federally defined criterion, and ~~65 63~~ market-rate units. 10 of the income-qualified units will be set aside for survivors of domestic violence, in partnership with Hope & Safety Alliance (formerly Womenspace). Cornerstone Community Housing will provide resident services through their Healthy Homes program. The project will include pet amenities such as pet-care areas to exercise and wash dogs. The ground floor, facing Willamette Street and 11th Avenue will include commercial uses, such as low-rent spaces for start-up businesses. The project will also incorporate art through features such as a public gallery in the lobby and an outdoor mural.

Income-Qualified Rents and Affordability Period: For a period of 35 years after completion of the project, Buyer agrees to ensure that 51% of the units bear housing costs (rents and utilities) that are no greater than 30% of the HUD-published income limits for households at 80% AMI. Buyer shall also verify at move-in that these units are occupied by households that qualify as low-income (households with incomes up to 80% AMI). Compliance with this requirement shall be monitored with an annual certification to the City.

Financing: Prior to the closing of the real property transfer, Buyer shall demonstrate that all financing necessary for the project has been secured.

Closing Date: The closing of the transfer shall occur at commencement of construction, which will be no later than **February 1, 2025** ~~17 months after the Agreement is signed.~~

Completion of Construction: Project will be completed and begin occupancy no later than 20 months after the Closing Date.

MUPTE: Buyer has stated their intent to apply for a Multi-Unit Property Tax Exemption. In such a case, the transfer of the property would then be contingent on the Council approval of the MUPTE resolution.

City/Agency Financial Assistance: City and/or Agency will provide ~~\$1.84~~~~\$1.1~~ million in additional financial assistance for the Project. City and/or Agency, in its sole discretion, shall make such financial assistance available in the form of payments for system development charges (SDCs), building permit and related fees, electric-connection fees for the construction of the Project, demolition costs, asbestos abatement, and/or other project-related costs. The City will also provide facilitated permit review.

Brokerage Commission: Buyer is responsible for all real estate broker fees. No brokers represent either party.

Exclusive Negotiation: While negotiating the terms of the real property transfer agreement with Buyer, City will not enter into negotiations with any other party.

Right of Repurchase: In the event that the Buyer does not meet the construction and completion requirements included in the real property transfer agreement, the City has the right to repurchase the Property for \$1, the Buyer's purchase price.

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Work Session and Possible Action: 1059 Willamette Redevelopment – MUPTE Application

Meeting Date: February 28, 2024
Department: Planning and Development
www.eugene-or.gov

Agenda Item: 1C
Staff Contact: Dylan Huber-Heidorn
Contact Telephone Number: 541-682-5475

ISSUE STATEMENT

This is the third of three work session items on February 28, 2024, related to the property located at 1059 Willamette Street. At this work session, Council is asked to consider a request for a Multiple-Unit Property Tax Exemption (MUPTE) for 1059 Willamette. (See map in Attachment A.)

BACKGROUND

MUPTE is an incentive program to encourage high-quality, multi-unit downtown housing especially in areas well served by public transit. Both rental housing and multi-unit housing for home ownership are eligible; student and transient housing are ineligible. Enabled by State law, the program provides a 10-year property tax exemption on qualified new multi-unit housing investments that occur within a specific, targeted area, that meet program requirements, and that are reviewed and approved by Council. During the exemption period, property owners still pay taxes on the assessed value of the land and any existing improvements on the property. Council can deem commercial portions of a project to be a public benefit and include them as part of the exemption along with the residential portion.

In 2015, after a two-and-a-half-year review, Council revised the MUPTE program criteria, process, and boundary. See Attachment B for a summary of the program criteria and the process diagram.

Project Overview

The City received the complete 1059 Willamette MUPTE application on October 24, 2023, from 1059 Willamette Investment LLC (the development team), a legal entity established by deChase Miksis and Edlen & Co. for this project. The development team proposes a six-story, multi-unit housing development at 1059 Willamette St., located near the northeast corner of the intersection of Willamette St. and 11th Ave., with frontage on both streets. The proposed project is about 96,000 square feet and comprises 133 residential units (74 studios, 54 one-bedrooms, and five two-bedrooms). (See Attachment C for the MUPTE application, which is also publicly available at www.eugene-or.gov/MUPTE.)

February 28, 2024 Work Session – Item 1C

The parcel is currently owned by the City of Eugene. The MUPTE program allows entities other than the property owner to apply for the tax exemption with the authorization of the owner, which the City has granted for this application. Once the property is sold to the development team, they will begin paying property tax on the value of the land and improvements. The development team is requesting the MUPTE to help offset the costs of construction and operations, support higher quality design and materials, and help keep rents affordable for the income-qualified residential units included in the project.

Review Panel

The 2015 MUPTE program update established a Review Panel tasked with providing a third-party review of individual applications for the City Manager. The Review Panel is made up of two at-large representatives selected by neighborhood association boards, two representatives selected by the board of the neighborhood association in which the proposed project is located, and six technical professionals selected by the City Manager from the following six groups: architects/green building specialists; building trades unions; developers; environmental professionals; public health professionals; and human rights representatives. (See Attachment D for the member list.)

MUPTE Required Public Benefits

The Review Panel considered the application, including compliance with program criteria and the independent consultant's financial review (see Attachment E), during two meetings held on December 15, 2023, and January 18, 2024. The Review Panel concluded the project meets the required public benefit criteria. Attachment F contains the Review Panel's conclusions and recommendation to the City Manager. Below is a summary of the project's compliance with the MUPTE required public benefits. The Planning and Development Director's Report and Recommendation in Exhibit A to Attachment G provides a summary of the project and the required public benefits.

- *General Eligibility.* The project is located within the MUPTE boundary. The project is not designed to be student housing, meaning all units will be leased by the whole unit rather than by individual rooms or beds, the unit configuration does not include several bedrooms with individual bathrooms and sparse common space, and the project does not focus on amenities and location selected primarily for individuals attending college and offering limited viability as potential housing for the general population. Additionally, the project does not include units designated for transient use or vacation occupancy.
- *Compact Urban Development.* The proposed project meets the minimum density required by the MUPTE program. The program requires that projects must be at least 175 percent of the minimum density applicable to the property's zoning designation. The property is in the C-3 Major Commercial zone, which does not include a minimum residential unit density. The proposed project achieves a density of 316 units per acre.
- *Green Building Features.* The project will utilize the City of Eugene Building and Permit Services pathway to demonstrate that it will perform at least 10 percent more efficiently than the Oregon Energy Efficiency Specialty Code. If Council approves the MUPTE application, the development team will be required to submit an energy model with the

project's building permit application, and a commissioning report will be due 18 months after the project receives its Certificate of Occupancy to validate energy performance.

- *Local Economic Impact Plan.* The development team proposes a plan for an estimated 63 percent of the project's dollar volume of professional services and construction contracts to be local to Lane County. The general contractor is John Hyland Construction. The development team and their contractor will be required to promote open competitive opportunities for Minority, Women, and Emerging Small Businesses and to comply with wage, tax, and licensing laws. The development team will a) provide the City with lists of all contractors; b) require that each contractor provide an affidavit attesting to not having any unpaid judgments for construction debt, including unpaid wages, and to being in compliance with Oregon tax laws; c) post information about the City's Rights Assistance Program in English and Spanish on each job site during construction of the project; and d) after construction, provide a report of the home city or zip code of all the construction labor workers on each project.
- *Moderate-Income Housing Contribution.* The project will satisfy MUTPE program requirements by providing 68 units (51 percent) at rents affordable to households making 80 percent of the Area Median Income (AMI). MUPTE requirements call for at least 30% of units to be affordable to households making 100 percent of AMI. The applicant will submit rent information for these units on an annual basis in addition to federal reporting requirements ensuring income-eligibility of new residents. The City will monitor the project for the entire 35-year affordability period.
- *Project Design and Compatibility.* The project will address basic design concepts in the context of the project location and will be designed and permitted for construction as shown in the resolution (should City Council approve the MUPTE). The basic design concepts include the scale, form, and quality of the building; the mix of project elements; the relationship to the street and surrounding uses; and parking and circulation. The project's design daylights the history of downtown Eugene, the importance of art and culture, and the current housing landscape. The design is intended to harmonize with the scale, form, and quality of onsite and adjacent development. It meets the design intent of designing for human scale, is appropriate for the local climate and natural resiliency, promotes transparency between the sidewalk and interior spaces, helps define a sense of place, fits the neighborhood, and employs high-quality materials. (See Report and Recommendation in [Exhibit A to Attachment G](#) for more information on this public benefit.) The building includes ground-floor parking enclosed within the building structure, accessed from an alley, and screened from view.
- *Historic and Existing Housing Sensitivity.* The project is across the street from the McDonald Theatre, a designated historic locale. Per a concept plan reviewed by the Planning & Development Department staff, the project is determined to preserve and enhance existing

February 28, 2024 Work Session – Item 1C

historic locales and includes no direct structural impacts to any identified historic resources. No historic structures or existing housing were demolished or removed from the property in the two years prior to the date of application. Additionally, because of the use of federal funds to acquire the property, the development team is required to coordinate with the State Historic Preservation Office (SHPO) to mitigate impacts to nearby buildings.

- *Project Need.* PNW Economics, an independent real estate economics firm, provided an evaluation of the project's financial viability with a review of assumptions including income, lease rates, operating costs, permanent financing, construction costs, and returns. The consultant concluded that the project would not be viable without the availability of the exemption and that MUPTE is critical to the success of the project from a financial feasibility perspective. The consultant found the applicant's assumption to be reasonable overall, with only minor changes made in their own analysis. (Note that the MUPTE application uses a project cost of \$32.9 million, which excluded the City/Agency contribution for permit fees and System Development Charges (SDCs), which brings the total current project cost to \$34 million. The City/Agency contribution is being considered in work session Items 1A and 1B.)

Tax Impact

The project is located on property that is publicly owned and will remain so until its presumed sale to the development team, meaning it does not currently generate any property tax revenue. With the presumed purchase, the land will generate property tax revenue, which the development team will continue to pay throughout the 10-year exemption period should the MUPTE be approved. The PNW Economics analysis estimated that property tax paid on the land's value will be approximately \$27,500 in year 1 and total taxes paid during the exemption period will be approximately \$315,800. After the exemption period, the improvements on the parcel will generate an estimated \$389,600 in year 11. The total estimated exemption amount over the 10-year period is about \$3.3 million.

Public Comment and Neighborhood Engagement

A display advertisement was published in *The Register-Guard* on November 14, 2023, soliciting comments for 30 days. The period ended on December 14, 2023. No comments were received during that period.

MUPTE requires applicants to contact the relevant neighborhood association to share project information and seek input. Representatives of deChase Miksis and Rowell Brokaw Architects attended the July 26, 2023, general meeting of the Downtown Neighborhood Association and presented the proposal. Prior to finalizing their designs, the development team will hold another neighborhood engagement meeting.

HIP Connection

The proposed project at 1059 Willamette will contribute to the [Housing Implementation Pipeline \(HIP\)](#) goals. The HIP is the 5-year internal work plan to coordinate current and future resources, goals, and priorities with a systems-thinking approach to housing across the full spectrum from people experiencing homelessness to overall housing supply. Specifically, this project would provide 133 units toward the goal of increasing the downtown housing supply by 50 percent

(compared to 2021) including 68 units to help meet goals for income-qualified housing. The units also help meet projections for mixed-income unit production in the forecasted pipeline of City supported units ([Appendix C](#) of the HIP).

MUPTE Program Volume Cap

The MUPTE program goal is to assist in the creation of 1,500 new, multi-family housing units through redevelopment. At such time that the MUPTE-assisted number of dwelling units constructed reaches the cap, Council will conduct a comprehensive review to determine if continuation of the program is desired. As of today, 177 units have been created using the program from two projects (Gordon Lofts and Ferry Street Manor), or about 12 percent of the volume cap. An additional 618 units have been approved for MUPTE and are either under construction or awaiting groundbreaking. This brings the total number of approved units to 795, or 53 percent of the volume cap. The proposed project at 1059 Willamette would bring the total number of approved units to 928, or 62 percent of the program's volume cap.

Timing

The MUPTE program requires the City Manager to provide Council with a recommendation no later than 135 days after the application was deemed complete, or March 7, 2024. The City Manager's recommendation is provided below. By State statute and Eugene Code, if Council has not acted within 180 days from the date the application is deemed complete, the application will be deemed approved, which would be April 21, 2024.

Other Possible 1059 Willamette Actions

At this work session, Council will be considering two other items related to the proposed project at 1059 Willamette prior to this item. First, the Agency Board will consider a request for additional financial assistance to support the project. Second, Council will consider a revision to the approved terms for disposition and redevelopment of 1059 Willamette. More information about each of these items can be found in their respective Agenda Item Summaries.

RELATED CITY POLICIES

[Climate Action Plan \(CAP\) 2.0](#)

CAP 2.0 includes multiple strategies that support the development of downtown and increase of compact housing in the downtown. Smaller homes tend to have a smaller carbon footprint during construction and use, and housing units built close to transit, jobs, and other amenities allow residents to access the community using fewer trips.

[Eugene Downtown Plan](#)

- Use downtown development tools and incentives to encourage development that provides character and density downtown.
- Actively pursue public/private development opportunities to achieve the vision for an active, vital, growing downtown.
- Downtown development shall support the urban qualities of density, vitality, livability, and diversity to create a downtown, urban environment.

February 28, 2024 Work Session – Item 1C

[Housing Implementation Pipeline \(HIP\)](#)

Encouraging compact development in the downtown core is one critical way to provide housing for our growing community. Increasing the number of housing units in the downtown core achieves other policy goals related to climate recovery and resiliency, compact development transportation efficiency, downtown vibrancy, and fiscal sustainability. A target goal in the HIP is to increase the amount of housing downtown by 50% from 2021: an increase of over 1,000 units. The 1059 Willamette redevelopment will exceed the HIP 5-year income qualified goal of supporting 129 units of mixed-income housing that includes moderate income (60-100 percent AMI) and market-rate units. The units would also contribute to the 180 mixed-income units forecasted in the HIP units pipeline.

[Envision Eugene Pillars](#)

- Provide ample economic opportunities for all community members.
- Promote compact urban development and efficient transportation options.
- Protect, repair, and enhance neighborhood livability.
- Provide for adaptable, flexible, and collaborative implementation.

[Strategic Plan Goals: Urgent Community Needs](#)

- Strategic Goal: Stabilize the cost of housing.
 - High-Impact Action: Continue to implement and increase the efficiency and effectiveness of development and redevelopment tools to increase the supply of housing.
- Strategic Goal: Increase the vibrancy, economic vitality, and livability of downtown.
 - High-Impact Action: Continue to implement and increase the efficiency and effectiveness of development and redevelopment tools to support commercial activity.
 - High-Impact Action: Improve Eugene's business environment and reputation as a place to do business, including improving overall community livability.
- Strategic Goal: Advance climate action and community resilience to natural and human-caused disasters
 - High-Impact Action: Decrease transportation-related emissions and make the transportation network diverse and adaptable through continued implementation of the Eugene 2035 Transportation System Plan and related compact development actions in Envision Eugene.
 - High-Impact Action: Continue to implement strategies from the Climate Action Plan 2.0 to improve and enhance efficiency and resilience of buildings in Eugene, including City-owned facilities.

PREVIOUS COUNCIL DIRECTION

[July 13, 2015, Work Session](#)

Move to adopt the ordinance concerning multiple-unit property tax exemptions and systems development charges. The Multi-Unit Property Tax Exemption program was amended and reinstated.

Passed 7:2 (Opposed by Councilor Brown and Councilor Zelanka)

For more information on previous Council direction related to the 1059 Willamette project, see City Council's February 28 Agenda Item Summary for Item 1B on 1059 Willamette Redevelopment – Revised Terms.

COUNCIL OPTIONS

1. Approve the MUPTE application and adopt the resolution in Attachment G.
2. Approve the application with amended conditions of approval.
3. Direct the City Manager to bring back a resolution denying the application because one or more specified approval criteria are not met.

CITY MANAGER'S RECOMMENDATION

Based on the MUPTE Review Panel's conclusions, the independent financial consultant's analysis, the quality of the project, and contributions it will make toward expanding housing opportunities and improving downtown Eugene, the City Manager recommends approval of the MUPTE on the terms and conditions specified in the attached resolution (Attachment G).

SUGGESTED MOTIONS:

Move to adopt a Resolution Approving A Multiple-Unit Property Tax Exemption For Residential Property Located At 1059 Willamette Street In Eugene, Oregon (Applicant 1059 Willamette Investment, Llc).

ATTACHMENTS

- A. Map of 1059 Willamette project site
- B. Summary of MUPTE Program & Process Diagram
- C. MUPTE Application for 1059 Willamette
- D. MUPTE Review Panel Member List
- E. PNW Economics Financial Review Memo
- F. MUPTE Review Panel Conclusions
- G. Resolution Approving the Property Tax Exemption
 - a. Exhibit A: Report and Recommendation of the Planning and Development Director
 - b. Exhibit B: Building Elevations and Site Plan

A copy of the MUPTE application is available at www.eugene-or.gov/MUPTE.

FOR MORE INFORMATION

Staff Contact: Dylan Huber-Heidorn, Development Analyst
Telephone: 541-682-5475
E-mail: DHuber-heidorn@eugene-or.gov

February 28, 2024 Work Session – Item 1C

Map of 1059 Willamette Project Site



Summary of MUPTE Program & Process Diagram

MUPTE Program

MUPTE is an incentive program to encourage high quality, multi-unit downtown housing especially in areas well served by public transit. Both rental housing and multi-unit housing for home ownership are eligible; student housing is ineligible. Enabled by state law, the program provides a 10-year property tax exemption on qualified new multi-unit housing investments that occur within a specific, targeted area, that meet program requirements, and that are reviewed and approved by council. The objective strongly aligns with several of the pillars of Envision Eugene. Increasing the amount of multi-family housing in the downtown helps reduce pressure on urban growth boundary (UGB) expansion and protects existing neighborhoods, and takes advantage of existing infrastructure.

During the exemption period, property owners still pay taxes on the assessed value of the land and any existing improvements on the property. Council can deem commercial portions of a project to be a public benefit and include them as part of the exemption along with the residential portion.

In 2015, after a two-and-a-half year review, council revised the program criteria, process, and boundary. The program changes:

- Removed student housing as an eligible project type
- Increased the required energy efficiency
- Required higher quality design, with design at approval attached to the resolution
- Expanded neighborhood involvement
- Added a moderate-income housing contribution
- Added local economic impact plan
- Added demonstrated project need reviewed by an independent financial consultant
- Added a community member third-party review (MUPTE Review Panel described below)

See below for the process diagram and boundary map. The Required Public Benefit criteria are:

- Compact Urban Development
- Green Building Features (*ensuring building energy performance is 10% above code*)
- Local Economic Impact Plan (*including support for local businesses, minority and women business enterprises, and ensuring compliance with laws*)
- Moderate-Income Housing Contribution
- Project Design and Compatibility (*including scale, form, and quality of the building; mixture of project elements; relationship to the street and surrounding uses; and parking and circulation*)
- Historic and Existing Housing Sensitivity
- Project Need

MUPTE Review Panel

The 2015 MUPTE update established a Review Panel, tasked with providing a third-party review of individual applications for the City Manager. The Review Panel:

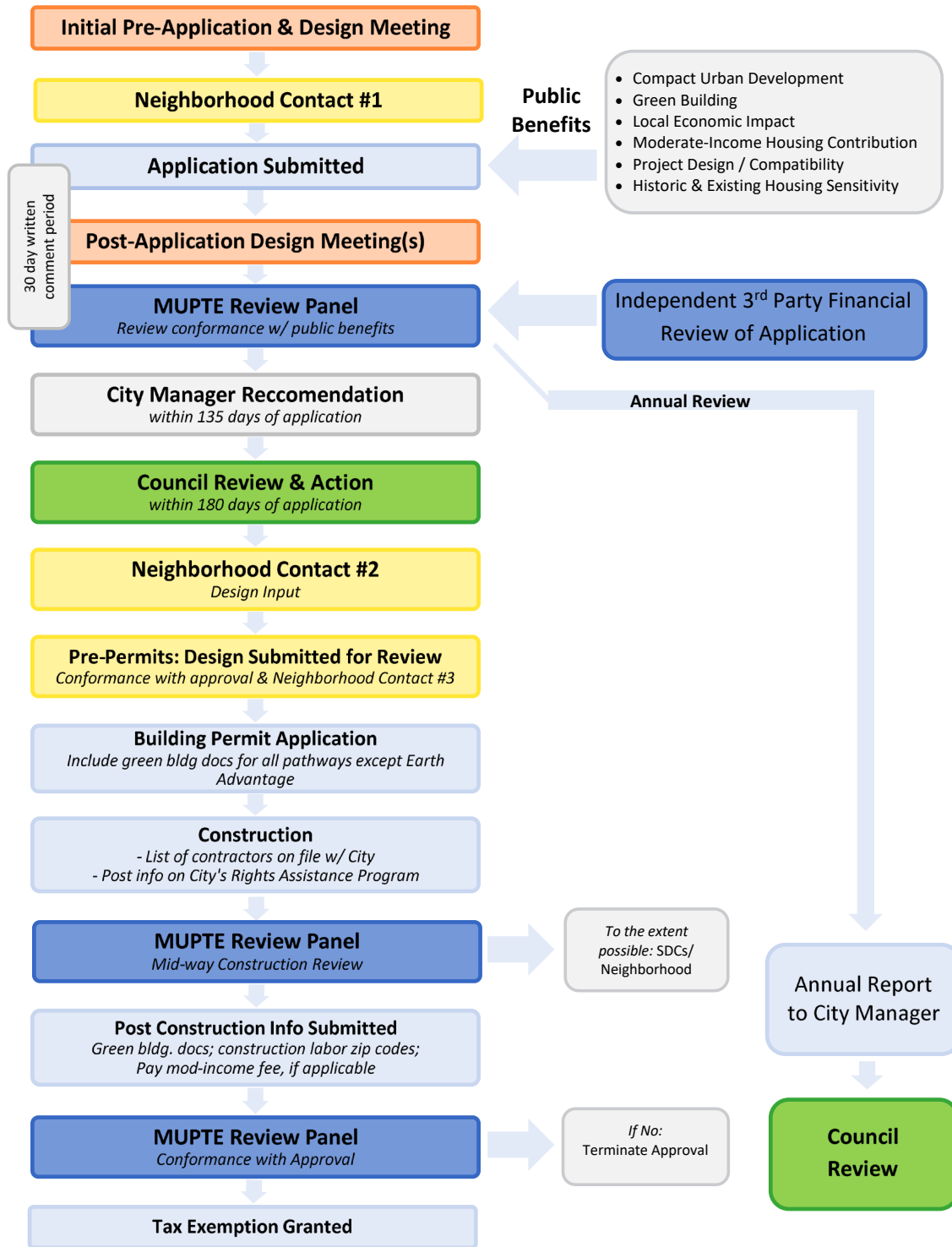
- Reviews the project applications, including the consultant's review of the project's financial projections.

- Reviews the applicant's conformance with the Required Public Benefits and making recommendations regarding approval/denial of the tax exemption to the City Manager.
- Reviews the project's conformance with approval requirements midway through construction, at completion of construction, and during the exemption period.
- Assists the City Manager in preparing an Annual Report on progress of the approved projects, program volume cap, and reporting documentation.

The Review Panel consists of two at-large neighborhood representatives selected by neighborhood association boards, an additional two representatives selected by the board of the neighborhood association in which the proposed project is located, and six technical professionals selected by the City Manager from the following six groups: architects/green building specialists; building trades union; developers; environmental professionals; public health professionals; and human rights representatives. Prior Review Panel reports can be found at www.eugene-or.gov/MUPTE

MUPTE Boundary





Annually:

- Moderate-income housing: Pay fee in years 3 – 10 or update lease rates on mod-income units & submit docs.
- BPS pathway energy usage, if applicable.



MUPTE Application



1059 Willamette Street Apartments
Eugene, Oregon
September 18, 2023

Cover Letter

2

1059 Willamette Street Apartments Eugene, Oregon

We are pleased to have the opportunity to present our application for the Multi-Unit Tax Exemption incentive program to the Eugene City Council for consideration. The proposed project at 1059 Willamette Street is an urban infill construction project that will build on many recent successes in Eugene's downtown. Our team brings the best of the local development community together to create a unique mix of housing and commercial spaces that will enhance the downtown neighborhood. deChase Miksis Development and Edlen & Co have teamed up as co-developers; Rowell Brokaw Architecture is leading the design team, Hyland Construction is the General Contractor, and Affinity Property Management will manage the building once complete.

The following MUPTE application package details the need for tax relief to make the development viable. The project will provide much-needed affordable housing options in downtown Eugene, although it will not be possible without the partnership with the City of Eugene.

1059 Willamette is a mixed-use, mixed-income project consisting of 133 housing units, ground floor commercial space, housing amenities, a courtyard with dog amenities, and a gallery space, with a parking garage for bicycle and automobile parking. 51% of the housing units will be income-restricted to 80% of AMI. We have partnered with Cornerstone Community Housing to provide resident services through their Healthy Homes program and with Hope and Safety Alliance to make ten units available for victims of domestic violence to provide targeted support services for these set-aside units.

The project builds on the historic main street character of Willamette Street with a design that responds to the scale and character of the adjacent historic buildings. The ground floor builds on the thriving entrepreneurial community in the downtown core by offering incubator retail and commercial spaces. Opportunities for art and community creativity will be generated with a public gallery in the lobby of the building and a mural wall to build on the City's hugely successful mural project. The project is working toward Earth Advantage certification by employing cost-effective green building measures that reduce the environmental impact of the building while maximizing the living and working environment of the tenants and visitors of the building.

Our team is firmly committed to the local community and is excited to bring these public benefits to downtown Eugene. We will ensure that local and diverse consultants and construction partners are on board to bring this building to life. We are excited for your review and look forward to progressing with the design and construction of the project with your approval.



MUPTE Application

A. General Project Information

Applicant Information

Applicant's Name: 1059 Willamette Investment, LLC
 Address: PO Box 11942
 City: Eugene State: OR Zip Code: 97440
 Telephone Number: (541) 232-2508
 E-mail Address: mark@dechase.com
 Housing Project Name: 1059 Willamette

Site Location

Assessor's Property Acct No.: 0263515
 Map / Tax Lot No. Map No. 17-03-31-14 Tax lot 12800
 Site Location Address: 1059 Willamette Street, Eugene, OR 97401
(if no address available, provide a written description)

 Attach legal description of the property.

Current Use & Site Information

Current Zoning: C-3, Major Commercial with a TD, Transit Oriented Development Overlay
 Parcel Size: .42 Acre; 18,400 SF
 Minimum Density Allowed: FAR of 2.0
 Maximum Density Allowed: N/A
 Number of Parking Spaces Required: 0
 Assessed Value of Land : \$1,331,995
 Assessed Value of Improvements: \$1,393,860

 Attach a written description of the existing use of the property.

Is existing sound housing or housing that can be rehabilitated on the property? ☐ Yes ☒ No

 If yes, attach a plan for relocation or a justification for elimination.

Proposed Project Information

Density of Proposed Project: _____ units per net acre
 Proposed No. of Parking Spaces: 317
 Proposed Lot Coverage: 22 %
 Building Footprint: 87% square feet
 Building Square Footage: 1,339,954 square feet
 Commercial Square Footage: 895,958 square feet
2,664

The commercial portion of a project is eligible for an exemption, if it is deemed a public benefit by City Council. Do you want City Council to consider exempting the commercial portion of the project also? ☒ Yes ☐ No 4

Student housing and transient uses are not eligible for the MUPTE program. ¹

MM Initial here to indicate that student housing and transient uses will not be part of the proposed project.

Total Number of Dwelling Units: 133 (All projects must have 5 or more units)

Total Number of Bedrooms: 138

No. of Floors: 6

UNIT MIX

Unit Size	#	Avg. Square Feet Per Unit	Proposed Avg. Rental Rate
Studio / efficiency	74	422	80% AMI \$1,128; Market Rate \$1,500
One bedroom	54	558	\$1,850
Two bedroom	5	841	\$2,600
Three bedroom			
Four bedroom			
Five bedroom			
Commercial/retail			
ADA Accessible			
Parking – onsite			
Parking – offsite			

Compliance with Local Law

The proposed project must, at all relevant times, be in conformance with:

- a) All local plans and planning regulations, including special or district-wide plans developed and adopted pursuant to ORS chapters 195, 196, 197, 215 and 227, that are applicable at the time the application is approved
- b) Licensing laws.

MM Initial to indicate your understanding of this requirement and commitment to adhere to it.

¹ Eugene Code 2.946 (2)(a) states that exemptions cannot be given for a “project designed for the leasing of individual rooms or beds, rather than entire apartment units, or a project otherwise designed primarily for individuals attending college.” Student housing units usually take the form of several bedrooms with individual bathrooms and sparse common space. Project amenities and location are selected to appeal only to students and offer limited viability as potential housing for the general population, particularly families.

General Project Information

1059 Willamette Street Apartments

Eugene, Oregon

Legal Description

Lot 6 and the East 70 feet of Lot 7, Block 17, Mulligan's Donation to Lane County, as platted and recorded in Book A, Page 122, Lane County Oregon Plat Records, in Lane County, Oregon.

Written Description

The property is presently vacant. The building was formerly an educational center with various classrooms, offices, and support uses.

Commercial Exemption

The commercial portion of the proposed project will provide public benefit, therefore, we are requesting your consideration for the commercial exemption. Commercial spaces are located on the ground floor of both Willamette Street and 11th Street frontages and will be offered at below-market rent to provide opportunities for the local entrepreneurial community to locate in the downtown core.

The Willamette Street frontage is the main building entrance with a leasing office and a lobby housing a public art gallery. Building on the tradition of the downtown as a center for the arts, we will partner with local artists and Lane Arts Council to assist in curation and management of this gallery. This space will be open to the public and host a rotation of local artists. The gallery will be a featured stop on the First Friday Art Walk acting as an anchor for the arts at the south end of downtown. There is also an opportunity for a small retail suite with a connection to the Lobby to serve the public and provide an amenity for the residents.

The highly visible 11th Street frontage offers incubator spaces for the thriving retail and office start-ups in the downtown core. These spaces will be available at below-market rents with flexible terms to provide local small businesses an affordable option in the downtown core where they may be otherwise priced out of the market. This space is intended to provide collaboration between tenants, so the design is flexible to allow for common spaces if desired.

Neighborhood Engagement

Provide the following to document your neighborhood engagement. (See Program Guide, page 7 for more information on neighborhood engagement requirements)

Neighborhood Association: Downtown Neighborhood Association

Date of Meeting: July 26, 2023

Name(s) of Principal(s)/Owner(s) in Attendance: Mark Miksis



Attach minutes from the meeting and comments received. If not an official neighborhood event, attach evidence of advertising method(s) and explanation for why it was not an official event.

Meeting Minutes



deChase Miksis Development
PO Box 11942, Eugene OR 97440
(425) 985-8329

Project: 1059 Willamette Street

Meeting Details Downtown Eugene Neighborhood Meeting No. 1

MEETING DATE: July 26, 2023

MEETING TIME: 6:00 PM

MEETING LOCATION: Whirled Pies

ATTENDEES:

Name	X	Company	Phone Number	Email
Tammy Cane	X	deChase Miksis	(425) 985-8329	tammy@dechase.com
Mark Mikis	X	deChase Miksis	(541) 232-2508	mark@dechase.com
John Rowell	X	Rowell Brokaw Architects	(541) 954-4326	john@rowellbrokaw.com
Frank Visconti	X	Rowell Brokaw Architects	(914) 482-0005	frank@rowellbrokaw.com
Peter King	X	Rowell Brokaw Architects	(541) 513-7487	peter@rowellbrokaw.com
Downtown Neighborhood Association – see attached sign in sheet for attendees				

MEETING MINUTES:

- The Downtown Neighborhood Association held a meeting at Whirled Pies on July 26, 2023, and invited the 1059 Willamette project team to present the conceptual details of the project. The developer, deChase Miksis, and Architectural Team with Rowell Brokaw Architects were in attendance.
- The meeting began with an informal get to know you as the DNA members arrived.
- At 6:00 Leah Murray welcomed the members and announced the 1059 Willamette project team was in attendance and turned it over for a presentation.
- Mark Miksis greeted the group and introduced the project team. DNA members in attendance also introduced themselves. Mark reviewed the goal of the meeting is to review the conceptual design of the project and gather feedback.
- Project Summary – Mark Miksis
 - The City of Eugene issued a Request for Proposal which we responded to in February 2021. Project team includes deChase Miksis, Edlen & Co, Rowell Brokaw Architects, Cornerstone Community Housing, Hope & Safety Alliance, and Affinity Property Management.
 - The City of Eugene purchased the property from Lane Community College with CDBG grant funds, and we executed an Agreement for Disposition and Development of Real Property in May 2013.
 - The new development will be a mixed use, mixed income building with 51% of the living units at 80% AMI for at least 20 years.
 - Cornerstone Community Housing will be providing resident services for the rent restricted units, and Hope & Safety Alliance will have 10 units available for victims of domestic violence.
 - Historically the building was a Montgomery Ward store and then Lane Community College bought it and renovated it for classroom use. Lane Community College filled the historical façade with concrete and stucco making a historic renovation impossible.

- The ground floor will be activated with retail, an art gallery, and commercial spaces that could include start up office space, non-profit uses, or traditional commercial spaces on both Willamette St. and E 11th Ave.
- Design Summary – Rowell Brokaw Architects presented utilizing project boards with location, historical & current photographs, renderings, and floor plans.
 - The project builds on the historic main street character of Willamette St. The design intent is to continue the historical character with a brick façade along Willamette St. and add interest by treating the E 11th Ave. façade with a more contemporary look.
 - The building program includes a ground level parking garage, commercial spaces fronting Willamette St. and E 11th Ave. including retail, office, leasing office, and gallery space. An internal courtyard will be utilized as a dog park with pet wash facilities. Levels 2 – 6 are living units with an amenity space on the top floor.
 - Exterior finishes include cream colored brick on the Willamette St. façade with ground floor canopies at the building entrance and the retail spaces. The E 11th Ave. façade will be a metal panel creating a completely different look to that side of the building, like they are two separate buildings.
 - Mural opportunities are at the alley, along the parking garage, and on the south facing brick elevation.
- Questions/Comments
 1. How many units and what is the mix of housing? The building will have 133 units and 51% or 66 units will be at 80% of AMI. 10 units will be set aside for Hope & Safety Alliance to house victims of domestic violence, and the rest will be at market rates. The units consist of Studios, One Bedrooms, and Two Bedrooms.
 2. Where is the dog walk/outdoor space? We have planned an interior courtyard with a dog area at the ground level, at the “knuckle” of the L shaped building.
 3. How much, and where is the bike parking and car parking? We have planned a parking garage on the first floor containing 20 spaces. Bike parking for residents will be at least one per unit and is planned on the ground floor adjacent to the parking garage. Public bike parking will be on the sidewalk as required by the City of Eugene.
 4. When are you planning to break ground? And when would construction be complete? We anticipate starting construction in October or November 2024 with the first move-ins July 2026.
 5. What is the location of the 10 units for victims of domestic violence? The 10 units are integrated with the rest of the living units. The building will be secure with access control devices to get into the building, garage, and elevator. The Operations staff will be onsite and there will be a security system monitoring activity.
 6. Is the ground floor secure? Yes, the building will be fully locked down with access controls for residents only. We plan to meet with the City of Eugene community resource officer to get recommendations for improving the public facing spaces with lighting, murals, etc.
 7. One member of the DNA was on the committee for the RFP process and has been waiting for this project to get started. She is excited about the project and likes the fact that there is a mix of income levels and a mix of uses. The area is diverse and is across the street from the bus station, so people are not car dependent. The project is very interesting, and she is excited there is a dog facility.
 8. What other projects have you completed with a similar mix, and how successful were they? This is the first mixed-income project in Eugene, although deChase Miksis has completed similar projects in Boise and Spokane. The leasing of these buildings has been very successful, there is a qualification process for each applicant for the rent restricted units, which adds complexity but is necessary. The operations teams plan events to create a sense of community. The rent restricted units are highly desirable.
 9. Will you offer services for the residents of the 10 units set aside for victims of domestic violence? Hope and Safety Alliance will be managing the units and will be offering services that include

emergency services, advocacy and support services, housing support services, programs and family support, and community outreach.

10. Will the existing building be demolished? Yes, it will be demolished.
11. Bringing more people downtown will help revive the downtown core. Residents have access to grocery stores like The Kiva Grocery and Whole Foods Market, restaurants, and other shopping destinations and services. Having residents downtown 24/7 will make a big difference in this location and will help clean up the block and attract more retailers downtown.



B. Required Public Benefits

Use this section to address each of the following required public benefits related to the proposed project. Several benefits extend beyond the period of the tax exemption. More information will be provided about those benefits if the application is approved.

1. Compact Urban Development

The MUPTE program is designed to encourage higher density housing and redevelopment in the City's downtown area.

a) Put a check next to the zone category of the property:

☐ *Residential zones:* at least 175% of minimum density for the zone.

(e.g. R-4 High Density Residential)

☐ *Form-based zones with height limit of three or four stories:* at least 30 units per net acre.

(e.g. S-DR Downtown Riverfront Special Area)

☐ *Mixed-use development*²: at least the minimum density in the zone.

(e.g. C-2 Community Commercial, C-3 Major Commercial)

☐ *All other areas, including residential-only development in commercial or mixed use zones:* at least 50 units per net acre.

(e.g. S-W Whiteaker Special Area, S-F Fifth Avenue Special Area, S-H Historic, C-2 Community Commercial, C-3 Major Commercial)

b) Density for proposed project: 317 units per net acre

2. Green Building Features

The green building requirement is that projects perform at least 10% more efficiently than the performance established in the Oregon Energy Efficiency Specialty Code (OEESC). Complete the attached Green Building Features Worksheet (page 6)

3. Local Economic Impact Plan

To ensure a substantial portion of the local tax benefit yields a benefit to the local community, applicants are required to complete the Local Economic Impact Plan Worksheet (page 10).

4. Moderate-Income Housing Contribution

The project owner must either a) pay a fee to be dedicated to moderate-income housing or b) include not less than 30% of the total units as moderate-income housing units. Indicate below how this proposed project will contribute to moderate-income housing.

☐ Pay the moderate-income housing fee of 10% of the total exemption benefit for the 10-year benefit.

☐ Paid upfront with a 5% discount

☐ Paid annually in years 3 through 10

☐ Include moderate-income housing units. Complete the Moderate-Income Housing Worksheet (page 12).

² Mixed-use development incorporates both commercial and residential use in the same building.

5. Project Design and Compatibility

MUPTE projects need to address basic design concepts in the context of the project location. See attached Project Design and Compatibility Worksheet (page 13) for information about required attachments.

6. Historic & Existing Housing Sensitivity

Each MUPTE project must be evaluated for impacts to historic locales and existing housing. Complete the attached Historic and Existing Housing Sensitivity Worksheet (page 15)

7. Project Would not be Built Without Exemption

The applicant must demonstrate that the project as proposed could not be built but for the benefit of the tax exemption. Attach the following documentation:



- ten-year pro-forma with MUPTE,
- ten year pro-forma without MUPTE,
- analysis of the projected ten-year cash-on-cash rate of return for the proposed project,
- list of assumptions made to create the pro-formas, including a description of how property taxes were estimated for the without MUPTE pro-forma, and the moderate-income housing fee or rent levels,
- development budget, and
- sources and uses of financing.

Be sure to include the moderate-income housing fee or rent levels in the pro-formas and list of assumptions. This information will be reviewed by an independent professional consultant to determine the financial feasibility, at the applicant's expense to be paid to the City with the application fee. The consultant will make a recommendation on the application for the Project Review Panel and the City Manager.

Public Benefits

1059 Willamette Street Apartments

Eugene, Oregon

The narratives below describe how the proposed 1059 Willamette project will meet the required public benefits outlined in the MUPTE Application. Additional worksheets follow with further information.

1. Compact Urban Development

The proposed project meets the current Zoning and Land Use requirements as we understand their applicability at this stage of schematic design. The property is zoned C-3 with a TD Overlay (Transit Oriented Development). Minimum Floor Area Ratio (FAR) requirement is 2.0. The building exceeds the 2.0 FAR. Housing and retail are allowed subject to development standards in 9.5500. However, multifamily standards do not apply within this area. Building height is permitted to be 150'. Our building is designed to top out at less than 70'. Setbacks are to be no greater than 15' along the street frontage, and we meet this requirement. The downtown area is parking-exempt; however, we are providing onsite parking. Bike parking will be accommodated on the ground floor.

2. Green Building Features

The proposed project targets an Earth Advantage Multifamily Certification and will achieve at least 10% more efficiency than the performance established in the Oregon Energy Efficiency Specialty Code. The required documentation will be submitted with the building permit application, and a commissioning report will be generated at project completion. See Worksheet C attached.

Benefits of Earth Advantage

- Earth Advantage Multifamily Certification provides a comprehensive standard for sustainable buildings based on five pillars of performance: Energy, Health, Land, Materials, and Water. Buildings that earn Earth Advantage Certification are required to meet the highest resource performance and efficiency thresholds, which help lower utility bills and increase comfort far beyond code-built properties.
- Energy Modeling will be generated to confirm compliance with the certification standard of at least 10% more efficient than baseline code. The initial model will be generated during the design phase, with a final energy model once the building is completed, after final inspections and performance testing.
- Water Efficiency
 - Designed with water-saving fixtures and appliances, reducing water bills, and preserving this precious resource.
 - Water fixtures designed use more efficient aerators than standard fixtures that can save several hundred gallons of water per year and reduce energy bills.
- Energy Star® certified appliances are designed to save water and energy and lower utility bills.
- Healthier Indoor Air
 - The design team and General Contractor will ensure the selection of healthier paints, adhesives, and sealants with low volatile organic compounds (VOCs) to reduce exposure to hazardous chemicals.

- Engineered ventilation systems will be designed and constructed to deliver fresh air and improved comfort.
- A percentage of building materials will be harvested and manufactured within 500 miles of this site, supporting local businesses and reducing the environmental impact caused by transportation.
- Community-Centric Design: Located within walking distance of public transportation and household services, enjoy the health benefits, convenience, and savings in addition to building a community.
- 40% of the parking stalls provided onsite will have a pathway to support electric vehicle charging stations.
- Residents will enjoy a quieter, more peaceful building with increased thermal comfort and lower energy bills.

3. Local Economic Impact

The project team is committed to the local community and ensures that a substantial portion of the local tax benefit yields a benefit to the local community. See Worksheet D attached.

Our General Contractor, John Hyland Construction, is a locally owned company that has evolved over four decades of family ownership to become one of the Pacific Northwest region's most trusted full-service construction companies. They've secured a reputation by building successful projects and establishing long-standing relationships with Owners, Architects, Engineers, and community members.

A. Local Contracts

As a Springfield-based General Contractor, Hyland Construction is committed to the local economy and will send bid invitations to local subcontractors. A typical Hyland project utilizes at least 60% local subcontractors. The development team will review the bidder's list before Hyland finalizes it and will ensure the requirement for at least 50% local subcontractors is met.

B. Minority & Women Business Enterprises

Collectively our team has extensive experience implementing programs that ensure equity and diversity within their own companies and in connection with the projects we develop. We are firmly committed to diversity and hiring equity in both internal practices and with external partnerships in developing and managing affordable housing. Drawing from our teams' experience and with the leadership of Cornerstone Community Housing, we plan to implement a program based on the Good Faith Efforts (GFE) program utilized by the City of Portland in their contracting practices. Working with our partners, we developed a project-specific program that targets an MWESB utilization rate that exceeds the availability rate and tracks these metrics to determine the success of our strategies.

The goals for the design professionals and construction partner vendors of the project will include:

- A target MWESB firm utilization rate between 10% and 20%.
- Including minority and women businesses and other diverse groups in all contracting. Opportunities throughout the design, construction, and operations phases of the project.

- Extensive outreach ensures all qualified vendors are given equal access to bid on business.
- Fostering an inclusive work environment that results in personal and business success.
- Supporting our community as responsible corporate citizens.

During design and construction, our team will draw on the extensive track record set by Edlen & Co. & deChase Miksis in achieving meaningful MWESB participation for construction and professional services on its projects. Our firms have extensive experience implementing successful programs in our extensive development portfolio.

Once in operations, Affinity's Woman Owned, Minority Owned, Small Businesses (WMSEB) and equity procedures will require that any work performed by a 3rd party vendor over \$1,000 include at least one out of the three bids from a minority-owned, women-owned vendor, and emerging small businesses. In addition, as part of Affinity's ongoing equity training, the Portfolio Manager, along with the site staff, will also attend regular social equity training to ensure all staff are aware of the importance of social equity in the operational practices of the building.

Cornerstone and Affinity Property Management have existing programs that ensure opportunities for MWESB are expanded in all their ongoing operations contracts with vendors and project partners.

C. Compliance with Laws

The project team is committed to complying with all local plans and planning regulations, including unique or district-wide programs developed and adopted under ORS chapters 195, 196, 197, 215, and 227, and all licensing laws applicable at the time of this application.

The development team will ensure all parties comply with wage, tax, and licensing laws. Hyland Construction will execute a construction contract that requires them to abide by all laws, ordinances, and rules and regulations of the authority having jurisdiction. Through the agreement, all subcontractors of Hyland are also required to comply with the same rules. Hyland's Contracts Administrator verifies that all subcontractors have the proper licensing, insurance, and other requirements before finalizing their contracts.

4. Moderate Income Housing

The proposed project will provide 51% of the residential units as moderate-income housing units at 80% AMI. See Worksheet E attached.

C. Green Building Features Worksheet

The green building requirement is that projects perform at least 10% more efficiently than the performance established in the energy code adopted by the State of Oregon (currently Oregon Energy Efficiency Specialty Code). Only the residential occupancy and common areas associated with residential areas are considered (e.g., hallways, stairwells, centralized HVAC or hot water heating, laundry facilities). It does not apply to the commercial areas or ancillary amenities (e.g., parking garage, swimming pools, recreation centers). Pathways for complying with the requirement are based on the number of floors for the project: 1-3 story projects and 4 or more story projects. See below:

Summary of Green Building Pathways

Pathway	Building Size	
	1-3 Stories	>3 Stories
LEED v4 for Homes	Low-Rise: Certified + modeled at 10% above Oregon energy code	Mid-Rise: Certified + modeled at 10% above Oregon code
Earth Advantage	Multifamily: Certified + commissioning report	N/A
City of Eugene BPS (Building and Permit Services)	N/A	Modeled at 10% above Oregon energy code + commissioning report

- a) The pathway applicable to the proposed project is City of Eugene BPS.
- b) Use the table below to identify any additional items to include with your application based on the pathway identified above.

Pathway	Submit with Application
LEED v4 for Homes	1. LEED Registration Number 2. Project Checklist
Earth Advantage	Earth Advantage Points Worksheet
City of Eugene BPS	n/a

- c) See the Post-Approval Green Building Information section below for the required documentation that will need to be provided to the City should your project be awarded the MUPTE and other useful information.

MM Initial here to indicate your understanding that you will need to demonstrate building energy performance 10% above the energy code adopted by the State of Oregon by submitting the items listed below at permit application and after construction.

- d) Will onsite parking be provided: ☒ Yes ☐ No

If yes, all projects that provide on-site parking must install conduit for future electric vehicle charging stations.

MM Initial here to indicate your understanding of this requirement and agreement to include conduit should MUPTE be awarded.

Post-Approval Green Building Information

Should the project be approved for the MUPTE, the applicant will be required to submit a number of documents to demonstrate compliance with the Green Building Features requirement. This section provides more information about those requirements.

Pathway	Submit with Building Permit Application	Submit after Construction ³
LEED v4 for Homes	Energy model	Within 18 months after receiving a Certificate of Occupancy, documentation of LEED certification (copy of USGBC Rating Certificate and final LEED review).
Earth Advantage	n/a	Within 18 months after receiving a Certificate of Occupancy: <ol style="list-style-type: none"> 1. Documentation of Earth Advantage certification, and 2. Commissioning report.
City of Eugene BPS	<ol style="list-style-type: none"> 1. Signed Energy Release to enable the City to access multi-family occupancy energy use data for the life of the MUPTE, and 2. Energy model 	<ol style="list-style-type: none"> 1. List the project features to achieve the 10% above code requirement, 2. Within 18 months after receiving a Certificate of Occupancy, commissioning report, and 3. Annually during exemption if Energy Release not signed, multi-family occupancy energy use data.

An improvement of at least 10% shall be demonstrated in the proposed building energy performance as compared to a similar baseline building designed in compliance with the prescriptive requirements of the energy code adopted by the State of Oregon. The proposed building performance and the baseline building performance shall be calculated in accordance with ANSI/ASHRAE/IES Standard 90.1–2019, Appendix G, using a simulation model.

Projects must meet the minimum percentage savings before taking credit for renewable energy systems. The proposed design must include all energy consumption and costs within and associated with the building project.

INTENT

To support the design, construction, and eventual operation of a project that meets the owner's and City of Eugene project requirements for energy and durability.

³ If this documentation is not timely submitted, MUPTE may be revoked.

REQUIREMENTS

Commissioning Process Scope: Complete the following commissioning (Cx) process activities for mechanical, electrical, and renewable energy systems and assemblies, in accordance with ASHRAE Guideline 0-2019 or 0-2005 and ASHRAE Guideline 1.1-2007 for HVAC&R Systems, as they relate to energy, water, indoor environmental quality, and durability. The commissioning authority (CxA) must do the following:

- Review the OPR, BOD, and project design.
- Develop and implement a Cx plan.
- Confirm incorporation of Cx requirements into the construction documents.
- Develop construction checklists.
- Develop a system test procedure.
- Verify system test execution.
- Maintain an issues and benefits log throughout the Cx process.
- Prepare a final Cx process report.
- Document all findings and recommendations and report directly to the owner throughout the process.
- Provide a Final Report based on findings to the owner for delivery to the City of Eugene. At a minimum the report shall include: CxA qualifications, scope of commissioning activities, a list of systems commissioned (and by whom), a summary of issues corrected, and a list of major outstanding/unresolved issues.

Complete the following commissioning process (CxP) activities for the building's thermal envelope in accordance with ASHRAE Guideline 0-2019 or 0-2005 and the National Institute of Building Sciences (NIBS) Guideline 3-2012, Exterior Enclosure Technical Requirements for the Commissioning Process, as they relate to energy, and durability. Commissioning authority must complete the following:

- Review contractor submittals.
- Verify inclusion of systems manual requirements in construction documents.
- Verify inclusion of operator and occupant training requirements in construction documents.
- Verify systems manual updates and delivery.
- Verify operator and occupant training delivery and effectiveness.
- Verify seasonal testing.
- Review building operations 10 months after substantial completion.
- Develop an on-going commissioning plan.
- Incorporate all findings into the Final Report provided to the owner for delivery to the City of Eugene.

Commissioning Authority: By the end of the design development phase, engage a commissioning authority with the following qualifications.

- The CxA must have documented commissioning process experience on at least two building projects with a similar scope of work. The experience must extend from early design phase through at least 10 months of occupancy;
- The CxA may be a qualified employee of the owner, an independent consultant, or an employee of the design or construction firm who is not part of the project's design or construction team, or a disinterested subcontractor of the design or construction team. For projects smaller than 20,000 square feet (1 860 square meters), the CxA may be a qualified member of the design or construction team. In all cases, the CxA must report his or her findings directly to the owner.

D. Local Economic Impact Plan Worksheet

In order to ensure that a substantial portion of the local tax benefit yields a benefit to the local community, each applicant needs to include a Local Economic Impact Plan. Complete the following worksheet and attach the required written material.

A. LOCAL CONTRACTS

Projects must have a plan for ensuring that more than 50% of the dollar volume of the combined professional services and construction contracts are or will be from a business organization or individual residing or doing business primarily in Lane County. Materials are excluded from the dollar volume calculation. If an applicant can provide evidence that a trade is not available locally, payment for services attributed to that trade may be excluded from the dollar volume calculation. Should a MUPTE be granted and at the end of construction, the developer will need to submit a report of the home city or zip code of all of the construction labor workers.

\$26,279,176	Total Estimated Professional Services and Construction Contracts
\$16,553,550	Local to Lane County
63%	% of Total that is Estimated to be Local
\$9,725,618	Not Local to Lane County

 Attach narrative on how this will be achieved. Identify the likely general contractor. Also include information on trades not available locally, if applicable.

B. MINORITY & WOMEN BUSINESS ENTERPRISES

MUPTE recipients need to ensure that qualified minority and women business enterprises have an equitable opportunity to compete for development related contracts. Initial next to the following three minimum steps to indicate your understanding and commitment to comply:

- MM Developer will access lists of certified minority, women, emerging small business or disadvantaged business enterprises from the Oregon State Office of Minority, Women and Emerging Small Business (<http://www4.cbs.state.or.us/ex/dir/omwesb/>).
- MM Developer will search for Qualified Rehabilitation Facilities from whom to procure products and services via the Oregon State Qualified Rehabilitation Facilities Program website (<http://dasapp.oregon.gov/qrf/index.aspx>).
- MM Developer will advertise in general circulation, trade association, and minority focused media about prime subcontracting opportunities.

 Attach narrative on any other steps you plan to take so that minority and women business enterprises have an equitable opportunity to compete.

C. COMPLIANCE WITH LAWS

The developer needs to ensure that all parties involved, including contractors and subcontractors, comply with wage, tax, and licensing laws. Initial next to the following four requirements to indicate your understanding and commitment to comply:

MM Methods are in place to ensure all contractors performing work are licensed and performing in compliance with ORS 701 (Construction Contractors and Contracts).

 *Attach a narrative to describing the methods.*

MM Developer will provide the City with a list of all contractors performing work on the project. Before a contractor performs any work on the project, the contractor must be included on the list on file with the City. Owner will confirm that each contractor has valid, current licensing, insurance, bonding, and workers compensation coverage.

MM Developer will require that each contractor provide an affidavit attesting to the fact that (1) the contractor, owner, or responsible managing individual for the contractor does not have any unpaid judgments for construction debt, including unpaid wages; and (2) the contractor is in compliance with Oregon tax laws described in ORS 305.620 (local taxes) and ORS Chapters 316, 317 and 318 (state income taxes). City staff can provide a template of an affidavit for this purpose, if needed.

MM Developer will post information about the City's Rights Assistance Program in English and Spanish on the job site during construction of the project.

E. Moderate-Income Housing Worksheet

Only complete this worksheet if providing moderate-income units in your project (see page 4)

Complete this worksheet for proposed projects that will include moderate-income housing units in the development.

- * A moderate-income housing unit has rent that is affordable to a household earning the area median income (AMI). This means that the monthly rent, including utilities, is equal to or less than 30% of the AMI divided by 12 months: $AMI \times 0.3 \div 12 = \text{maximum rent per month}$.
- * The relevant AMI is determined by the U.S. Department of Housing and Urban Development (HUD). AMI is the income which divides the income distribution of an area into two groups of equal size, half with incomes above the median and half with incomes below the median. HUD publishes AMI for the Eugene-Springfield metropolitan statistical area annually.
- * Utility costs should be accounted for in gross rents by using the utility allowance schedule published by Homes for Good (Lane County's public housing authority). The utility allowance schedule can be found here: <https://homesforgood.org/services-for-residents/resident-toolkit/downloads-and-resources>.

For **application purposes**, the maximum rental rates for the moderate-income housing units are listed below. In the table below, fill in the number of moderate-income units by size, the anticipated utility allowance, and the proposed rents for the moderate-income units. These rents should also be in the pro-formas submitted with the application.

Total Dwelling Units in Project: 133

Total Moderate-Income Units: 68

Moderate-Income Units as Percentage of Total Units: 51 % (must be at least 30%)

Unit Size	#	Maximum Rental Rate *	Utility Allowance	Proposed Rental Rate
Studio	68	\$1,478	54	\$ 1,128
1 bedroom		\$1,688		\$
2 bedroom		\$1,898		\$
3 bedroom		\$2,108		\$
4 bedroom		\$2,278		\$
5 bedroom		\$2,445		\$

* Calculated from HUD FY23 data. Staff will update this column each year when HUD releases new AMI data.

For **setting moderate-income rental rates after construction**: The AMI will change each year and along with it the maximum rental rates. During the tax exemption, the moderate-income units will need to conform with the AMI in effect at the time each unit is leased and have rents at or below the maximum rates. Each year, City staff will make the maximum rental rates available. Owners will need to review the maximum rental rates before a lease is signed on the moderate-income units.

F. Project Design and Compatibility Worksheet

 Attach two schematic drawings drawn to a minimum scale of one inch equals 16 feet (1" = 16'):

1. Site plan and major features and dimensions of the proposed development.
2. Side and front elevations of the proposed development.

Identify on both drawings public and private access, parking and circulation plans, and proposed landscaping design. If Council approves the exemption, these schematic drawings will be attached to the approval resolution.

 Attach a written description of the exterior finishes, public and private access, parking and circulation plans, and proposed landscaping design.

 Attach a written narrative, with supporting graphics, renderings, or elevations of the proposed development that describes how the project will address the basic design concepts listed below.

Basic Design Concepts & Recommended Design Techniques

During the MUPTE application evaluation process, the City's Urban Design team will assess how the project addresses the four basic design concepts listed below. Also included below are recommended design techniques to assist in achieving these design concepts and serve as a way to create objective standards in design. These design techniques will provide non-regulatory guidance and are not prerequisites to receiving a MUPTE. The City's Urban Design team will reference the recommended techniques below in the evaluation it provides to the Review Panel of the submitted design. For additional guidance, refer to the Community Design Handbook, which can be found at www.eugene-or.gov/designhandbook.

Scale Form and Quality: Buildings are designed for the human scale, appropriate to local climate and natural resiliency, to engage the street, promote transparency, help define a sense of place, fit the neighborhood, and employ high-quality and contextually appropriate materials and colors. Recommended techniques include:

- Reference the rhythm of the building's structural system and spacing when placing bays, projecting columns or pilasters, windows, storefronts, and doors.
- Incorporate the use of balconies and terraces on residential and mixed-use buildings to provide additional articulation, shadows, indoor/outdoor connections, and eyes on the street.
- Use high quality, durable building materials and incorporate architectural elements and level of detailing, trim, texture and finish that is comparable on all building facades.
- Organize windows utilizing unifying elements such as common sill or header lines.
- Utilize a color and material placement consistent with architectural massing and structural bays. Do not switch colors or materials on the façade that do not respond to the architecture and articulation.
- Provide visual interest and accent shade and shadow by varying the building massing or highlighting different uses within the building by pushing or pulling the façade.

Mixture of Project Elements: The proposal employs a mixture of project elements that contribute to a walkable downtown, encourage biking and transit use, enrich the streetscape, and support community comfort and safety at all hours. Recommended techniques include:

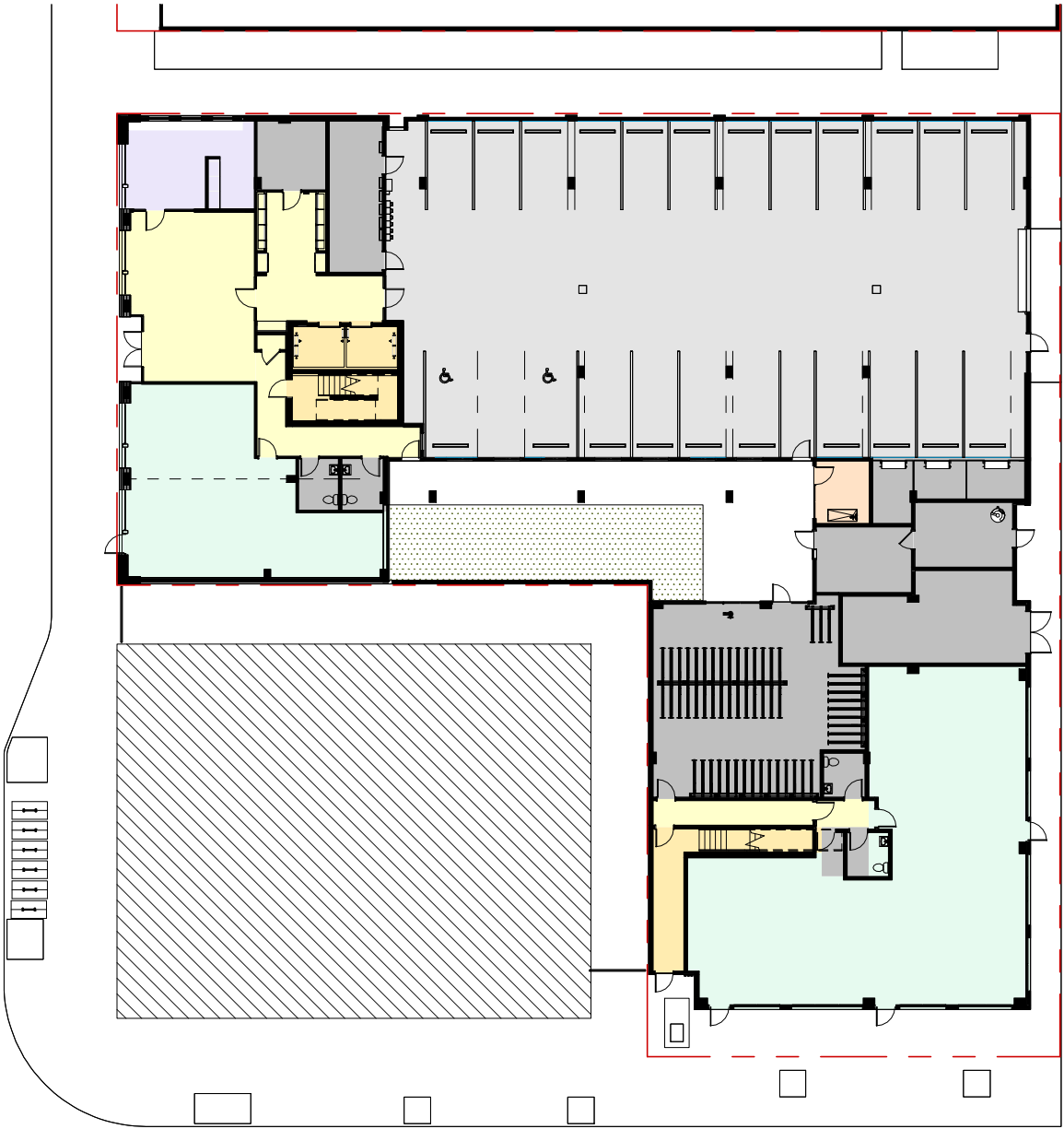
- Provide entries for each ground floor retail and commercial establishment to facilitate pedestrian circulation and to add a finer grain to the layout of ground floor uses.
- Use building composition and form to enhance important wayfinding functions, such as the use of a vertical element to accentuate a corner entry into a building or to define a gateway.
- Establish a building entry hierarchy to delineate the difference between uses.
- Use horizontal and vertical separation for ground floor residential units to create a transitional area between the public realm and the residences. Utilize landscaping, screening elements, and other architectural features to further enhance privacy for both residents and passersby.

Relationship to the Street and Surrounding Uses: The proposal is designed to engage and enrich the streetscape, as well as respect and enhance the existing surrounding uses. Recommended techniques include:

- Shelter entries by using awnings and/or by recessing the entry within the building façade.
- Provide a high degree of transparency for all ground floor commercial uses.
- Consider the use of clerestory windows on storefronts and other ground floor commercial uses.
- Where appropriate, place awnings above storefront windows.
- Use ground floor sidewalk frontage for active daytime uses.

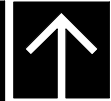
Parking and Circulation: Parking is designed to provide, to the greatest extent possible, locations for car sharing, integrated shared-parking strategies, electric car charging stations, and safe and attractive pedestrian/bicycle connections between parking and adjacent buildings and streets. Recommended techniques include:

- Provide clear and attractive pedestrian and bicycle connections that minimize vehicle conflicts. Consider utilizing lighting to enhance safety and wayfinding.
- Consider landscaping and material change to highlight the pedestrian and bicycle amenities.
- Provide pedestrian and bicycle connections to the existing street grid when possible.
- Wrap the facades of the building with commercial and/or residential uses, internalizing the parking facility where appropriate for buildings with above ground parking structures.
- Utilize screening that replicates the proportions, rhythm, and scale of the building's other architectural elements and complements the overall building design where a parking structure is exposed to the public realm.
- Design screening to block views of all parked cars within the structure and limit the impacts associated with internal facility lighting and the headlights of cars.
- Do not express the sloping floors of parking structures on the exterior façade of the building.



- PROGRAM 26**
- CIRCULATION - HORIZONTAL
 - CIRCULATION - VERTICAL
 - FUTURE T.I.
 - LEASING OFFICE
 - PARKING
 - PROGRAM - SPECIAL 1
 - UTILITY

1ST FLOOR PLAN

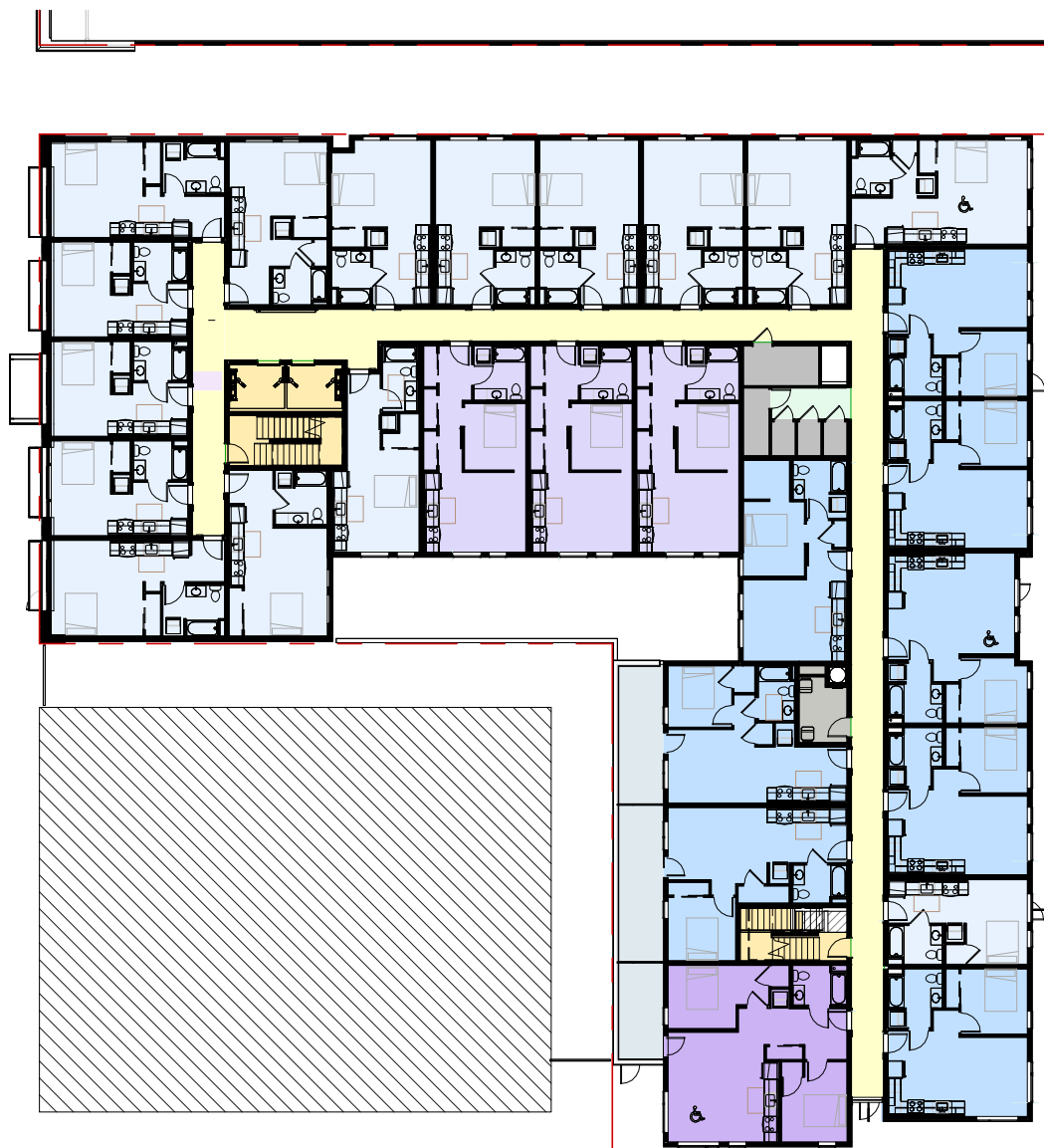


1059 WILLAMETTE STREET | EUGENE, OR

27

Room Legend

- 1-BED
- 2-BED
- BALCONY
- CLOSET
- CORR - E
- CORR - N
- CORR -W
- ELEV
- HALL
- IDF
- OPEN 1
- STAIR-E
- STAIR-W
- STOR
- STUDIO
- TRASH





Room Legend

- 1-BED
- 2-BED
- AMENITY
- CORR - E
- CORR - N
- CORR - W
- ELEV
- IDF
- OPEN 1
- PATIO
- STAIR-E
- STAIR-W
- STUDIO
- TRASH
- UTIL



6TH FLOOR PLAN

1059 WILLAMETTE STREET | EUGENE, OR

February 28, 2024 Work Session - Item 1C







1059 Willamette Street Apartments
Eugene, Oregon



Specific colors and details will be developed in subsequent phases of design.



Willamette Street Storefront

1059 Willamette Street Apartments
Eugene, Oregon



Specific colors and details will be developed in subsequent phases of design.



11th Avenue / Oak Alley

1059 Willamette Street Apartments
Eugene, Oregon



Specific colors and details will be developed in subsequent phases of design.

Project Design and Compatibility

1059 Willamette Street Apartments

Eugene, Oregon

The design establishes two distinct building volumes to respond to the L-shaped site. This echoes the traditional building scale of Downtown Eugene and allows the façades to respond to two different street contexts. Along Willamette Street, the symmetrical and traditionally composed façade recalls the original Montgomery Ward building's bay pattern, proportions, and brick. Along 11th Avenue, the building sets back at street level and introduces a more dynamic composition and material character above to respond to this busy, transit-oriented street. The mix of units and unique conditions of each orientation provide variety and residential scale in the body of the building, culminating in a more formal brick front along Eugene's historic main street.

Design Summary

- The historical Willamette Street façade is composed of high-quality brick, echoing the neighborhood's character. The design emphasizes depth, relief, proportions, and material quality.
- The building engages the street with large storefronts, inviting canopies, and leasable spaces that cater to pedestrian interests.
- The 11th Avenue façade portrays a lively, dynamic character that engages pedestrians at street level. It complements neighboring establishments like Civic Winery, Lion and Owl, and Eugene Toy & Hobby. The ground floor office incubator spaces contribute to creating a vibrant street front.
- Through careful attention to proportions, the building volumes are articulated as smaller elements relating to the different urban contexts along each edge.

Scale, Form, and Quality

The design strives to establish an active, enduring presence in downtown Eugene, with well-proportioned structure and vibrancy.

- **Rhythm of Building Exterior:**
The Willamette Street side showcases substantial brick piers framing a detailed brick plane with five bays of large windows. The street level features a four-foot-tall concrete base for pedestrian scale and durability.

The upper floor on the 11th Avenue side cantilevers over large storefronts, creating covered space for pedestrians. Signage and steel canopies convey a modern, attractive aesthetic.

- **Outdoor Spaces:**
There is a top-floor patio adjacent to the amenity room offering panoramic south-facing views. A ground floor courtyard space brings light and outdoor activity to the center of the building. Large unit windows, rather than balconies, face the busy streets.

- **High-Quality Building Materials:**

The design incorporates high-quality brick, concrete, and a durable exterior metal rain-screen system. Painted steel canopies ensure low maintenance.

- **Material Placement and Color:**

Material and colors accentuate building massing, communicate the building program on the façade, and coordinate with nearby context.

The Willamette Street façade meshes with nearby historic buildings and their materials: earth-toned brick blend with traditional bond patterns, brick sills, soldier course spandrels, and precast stone cornice at the roof level.

Material and colors along 11th Avenue present a contemporary palette: neutral metallic tones that complement the brick color with accent panels below larger windows.

- **Window Organization:**

The brick façade on Willamette Street features large windows with a traditional central fixed picture window and narrower side windows, offering downtown views and natural light.

Metal-clad volumes include large windows, particularly at corner dwelling units. Windows are aligned vertically to create a rhythmic pattern.

- **Visual Interest and Massing:**

Building massing is defined by a brick and metal volume on Willamette Street and a metal volume on 11th Avenue. The building forms an L-shape with interconnecting metal wings behind the primary street facades. Canopies, inset office spaces, and first-floor storefronts create interest at the street level. A south-facing amenity room and patio on the top floor create roof-level interest.

Mixture of Project Elements

The building is located near the Bus Station and offers taller commercial ground floor spaces to enhance pedestrian interest and contribute to a walkable downtown. It will be a home for tenants occupying the building around the clock, supporting community comfort and safety.

- **Ground Floor Elements:**

There are separate entries and storefronts for each retail and office space. Leasable commercial spaces can be subdivided into diverse businesses.

- **Wayfinding:**

The recessed main entrance on Willamette Street features transparency and visual monitoring, presenting the building entrance as a public gallery. Increased transparency enhances ground floor spaces.

- **Residential Separation:**

There are no dwelling units on the ground floor. A two-level security system controls access to the upper residential floors. Residential separation is evident in façade design: the ground floor is more transparent than the upper floors.

Relationship to the Street and Surrounding Uses

The design integrates with the downtown streetscape, fostering small businesses and retail opportunities. The urban texture is inviting to pedestrians and tenants. There are opportunities for public-facing murals in the north alley.

- **Sheltered Entries:**

Lighted steel canopies and recessed storefronts highlight the street fronts, providing well-lit, secure spaces at night.

- **Transparency:**

Ground floor spaces feature tall, transparent storefronts on Willamette and 11th Avenue, extending into Oak Alley for an active corner.

Parking and Circulation

This urban infill building has no internal parking requirements; however, parking spaces are provided on ground level, accessible via Oak Alley. Future provisions for electric vehicle charging will be provided for 40 percent of the parking spaces.

- **Screening to Parking:**

The interior of the garage is not visible from the north alley. Secure bicycle storage is provided on the ground floor, accessible by tenants internally.

G. Historic Housing & Sensitivity Worksheet

Any application for a project that is immediately adjacent or contiguous to a historic locale shall include a plan to mitigate impacts to the historic locale.⁴ The project shall preserve and enhance an existing historic locale, as evidenced by a concept plan that has been reviewed by a Planning & Development Department staff person with expertise in design and historic preservation. No exemption shall be granted for any property where a historic structure or potential historic structure has been demolished or removed from the property within the two years immediately preceding the MUPTE application date. This restriction shall be waived if the owner of the property gave notice of the intent to demolish or move the structure to Planning staff responsible for historic review issues at least 60 days before the owner's application for a demolition or moving permit from the City.

- i. Is the project immediately adjacent or contiguous to an historic locale?⁵

☐ Yes ☐ No

 If yes, attach the confirmation letter from Planning staff that states the concept plan review is complete and accepted.

- ii. Was an historic structure or potential historic structure demolished or removed from the property within the two years immediately preceding the date of application for the exemption?

☐ Yes ☐ No

 If yes, attach the letter from Planning staff that states proper notification was provided before removing any structures and that historic structures were appropriately addressed.

No exemption shall be granted for any property on which any housing unit has been demolished or removed from the property within the last two years. This restriction can be waived if the proposed project increases the number of dwelling units by 50% from what previously existed or if it replaces the old units by significantly larger units that will accommodate families.

- iii. Was housing demolished or removed from the property within the prior two years?

☐ Yes ☐ No

If yes, Number of units: _____

Number of houses: _____

Number of bedrooms per house: _____

⁴ As defined in the Administrative Rule, an historic locale is a building that has historic, cultural and/or architectural significance, locally, regionally, or nationally. A historic locale can also include a building acknowledged by the Eugene Historic Review Board as strongly or possibly eligible for City Landmark or National Register listing.

⁵ Contact Rodney Bohner with the City of Eugene's Planning Department to determine whether the project is adjacent or contiguous to a historic locale. (Rodney.t.bohner@ci.eugene.or.us, 541-682-5437)

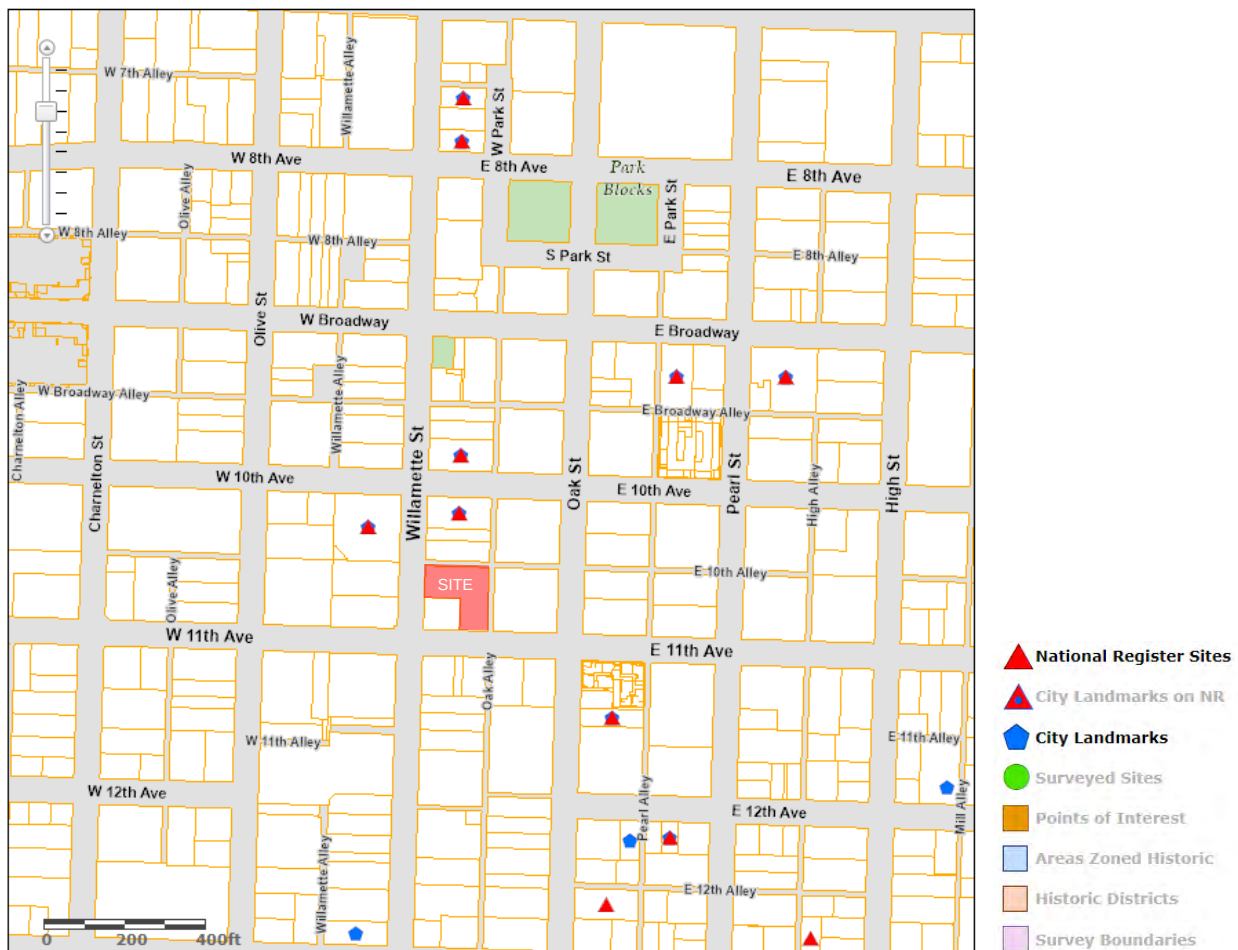
Historic & Existing Housing Sensitivity

1059 Willamette Street Apartments

Eugene, Oregon

Nearby the existing 1059 Willamette building are some of Eugene's most significant historic buildings, many have been historically renovated, and well maintained. Most contextually significant for 1059 Willamette is the Schaeffer building, at the other end of the block, lovingly renovated by a team led by Architect Ray Dodson a couple of decades ago. The Schaeffer Building shares an intersection with three of our historic downtown jewels, the McDonald Theatre and the Ax Billy building, saved and renovated into the Downtown Athletic Club by the Bennett Family. Willamette Street in this area, and the high representation of historic buildings, feels rich, whole, and embedded in history. Parts of Willamette Street in these couple of blocks form the model of what we are collectively working to achieve throughout downtown Eugene, safe active sidewalks and streets, and a variety and richness of styles, materials, and eras represented.

The map below shows the project site, National Register Sites, and City Landmarks in the vicinity. The applicant has considered the proposed project's impact on the surrounding environment, including any impact on historic properties. The project builds on the historic main street character of Willamette Street with a design that responds to the scale and character of the nearby historic buildings and blends well into the overall neighborhood. No existing housing will be displaced with this development; much-needed affordable housing will be added, helping to revitalize the neighborhood. See Worksheet G attached and confirmation letter from the Planning staff.





Memorandum

Date: September 14, 2023

To: deChase Miksis Development

From: Annie Loe, Urban Designer

Subject: Historic and Existing Housing Sensitivity Review – 1059 Willamette MUPTE Application

As a part of the MUPTE application process for the proposed mixed-use development at 1059 Willamette St., consideration of the project's impact to historic locales and existing housing is required. City staff has reviewed the proposed design and its effect on the surrounding sites and has determined that the design team has correctly and appropriately identified the project site's (1059 Willamette St.) proximity to historic designated properties and the project's impact on this neighborhood.

The site is nestled into the heart of downtown Eugene and is in proximity to several designated historic properties including McDonald Theater and Schaefer's Building. Both historic buildings are in the 10th block of Willamette Street located north of 1059 Willamette. Downtown will be altered positively by the new construction at 1059 Willamette and would be further enhanced by design decisions that honor the history of the site. This would complement historic properties along Willamette Street and downtown.

While no historic structures were demolished to allow space for new development within two years of the application nor has any housing been displaced, the design team acknowledges the history of the site as the Montgomery Ward retail store originally built in 1930. The building went through two significant remodels that responded to stylist preferences of the 1960-1970's eras. The store moved to Valley River Center in the late 1970's vacating the building until it was purchased by Lane Community College (LCC) as its Downtown Center. The building became vacant again in 2012 when LCC moved their Downtown Center into a new facility at 10th Avenue and Olive Street. This vacancy has allowed the site to be revitalized into housing, which is of urgent importance.

The design team provides sufficient acknowledgment and understanding of the project site's proximity to the historic locale and its impact to the neighborhood. The proposed design shows potential in preserving the original character of the Montgomery Ward building positively transforming Willamette Street. With attention to detail and understanding of the history of Eugene's built environment, 1059 Willamette will center itself as a prominent landmark that tells the story of our past while making a lasting impact for generations.

In addition to City staff review and because the City of Eugene used federal Housing and Urban Development (HUD) funds to acquire the property at 1059 Willamette, the proposed project must comply with other federal requirements related to historic sensitivity. The development team is required to work with the State Historic Preservation Office (SHPO) to mitigate any impacts to nearby historic buildings. SHPO has reviewed the site's history and approved the demolition of the existing building and will need to approve the project's design for the project to move forward.

Financial Information

1059 Willamette Street Apartments

Eugene, Oregon

The following information is included:

- Ten-year pro-forma with MUPTE
- Ten-year pro-forma without MUPTE
- Analysis of the projected rate of return
- List of assumptions
- Development Budget
- Sources and uses of financing

Ten-year pro-forma with MUPTE

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11
Lease-Up Income Held by Lender	656,027	0	0	0	0	0	0	0	0	0	0
Subtotal- Development Costs	656,027	0	0	0	0	0	0	0	0	0	0
Operating Income											
Residential											
Market Rate Rental Income	1,590,586	1,638,303	1,687,452	1,738,076	1,790,218	1,843,925	1,899,243	1,956,220	2,014,906	2,075,354	2,137,614
BMR Rental Income	973,568	993,040	1,012,900	1,033,158	1,053,822	1,074,898	1,096,396	1,118,324	1,140,690	1,163,504	1,186,774
Parking	30,000	30,900	31,827	32,782	33,765	34,778	35,822	36,896	38,003	39,143	40,317
Miscellaneous	72,033	74,194	76,420	78,712	81,074	83,506	86,011	88,592	91,249	93,987	96,806
Storage Income	2,880	2,966	3,055	3,147	3,241	3,339	3,439	3,542	3,648	3,758	3,870
Vacancy Loss	-133,453	-136,970	-140,583	-144,294	-148,106	-152,022	-156,046	-160,179	-164,425	-168,787	-173,269
Op Ex	-578,474	-595,828	-613,703	-632,114	-651,077	-670,610	-690,728	-711,450	-732,793	-754,777	-777,421
Property Taxes	-28,924	-29,791	-30,685	-31,606	-32,554	-33,530	-34,536	-35,572	-36,640	-37,739	-357,482
Residential NOI	1,928,216	1,976,814	2,026,684	2,077,862	2,130,383	2,184,283	2,239,600	2,296,372	2,354,640	2,414,442	2,157,211
Retail											
Rental Income	76,403	78,695	81,056	83,488	72,695	91,594	94,108	96,932	99,840	68,046	88,885
Op Ex Reimbursement	30,184	31,090	32,022	32,983	28,310	34,992	36,041	37,123	38,236	26,256	33,804
Parking	0	0	0	0	0	0	0	0	0	0	0
Vacancy Loss	-5,329	-5,489	-5,654	-5,824	-5,050	-6,329	-6,507	-6,703	-6,904	-4,715	-6,134
Operating Expenses	-30,184	-31,090	-32,022	-32,983	-33,972	-34,992	-36,041	-37,123	-38,236	-39,383	-40,565
Retail NOI	71,074	73,206	75,402	77,664	61,982	85,265	87,601	90,229	92,936	50,203	75,990
NOI Before Reserves	1,999,290	2,050,020	2,102,087	2,155,527	2,192,365	2,269,548	2,327,201	2,386,601	2,447,575	2,464,646	2,233,201
Reserves											
Residential Reserves	-33,250	-34,248	-35,275	-36,333	-37,423	-38,546	-39,702	-40,893	-42,120	-43,384	-44,685
Commercial Reserves	-943	-972	-1,001	-1,031	-1,062	-1,093	-1,126	-1,160	-1,195	-1,231	-1,268
Asset Management Fee	-50,712	-52,049	-53,421	-54,832	-56,280	-57,768	-59,297	-60,868	-62,481	-64,139	-65,842
Leasing Costs After First Generation											
Retail TIs	0	0	0	0	-113,359	0	0	0	0	-133,387	0
Retail LCs	0	0	0	0	-25,506	0	0	0	0	-29,999	0
Subtotal Leasing Costs	0	0	0	0	-138,865	0	0	0	0	-163,386	0
Unlevered Cash Flow	2,570,411	1,962,752	2,012,389	2,063,331	1,958,735	2,172,140	2,227,075	2,283,680	2,341,779	2,192,506	2,121,406
Construction Loan											
Interest	-586,568	0	0	0	0	0	0	0	0	0	0
Principal	-14,762	0	0	0	0	0	0	0	0	0	0
Perm Loan											
Refinance Costs / Proceeds	-259,852	0	0	0	0	0	0	0	0	0	0
Interest	-950,587	-1,416,538	-1,404,660	-1,391,986	-1,378,464	-1,364,036	-1,348,642	-1,332,216	-1,314,691	-1,295,992	-1,276,041
Principal	-112,011	-177,359	-189,237	-201,911	-215,433	-229,861	-245,256	-261,681	-279,206	-297,905	-317,856
Subtotal Financing	-1,923,780	-1,593,897	-1,593,897	-1,593,897	-1,593,897	-1,593,897	-1,593,897	-1,593,897	-1,593,897	-1,593,897	-1,593,897
Net Cash Flow from Operations	646,631	368,855	418,492	469,434	364,838	578,243	633,178	689,783	747,882	598,609	527,509

Ten-year pro-forma without MUPTE

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11
Lease-Up Income Held by Lender	508,939	0	0	0	0	0	0	0	0	0	0
Subtotal- Development Costs	508,939	0	0	0	0	0	0	0	0	0	0
Operating Income											
Residential											
Market Rate Rental Income	1,590,586	1,638,303	1,687,452	1,738,076	1,790,218	1,843,925	1,899,243	1,956,220	2,014,906	2,075,354	2,137,614
BMR Rental Income	973,568	993,040	1,012,900	1,033,158	1,053,822	1,074,898	1,096,396	1,118,324	1,140,690	1,163,504	1,186,774
Parking	30,000	30,900	31,827	32,782	33,765	34,778	35,822	36,896	38,003	39,143	40,317
Miscellaneous	72,033	74,194	76,420	78,712	81,074	83,506	86,011	88,592	91,249	93,987	96,806
Storage Income	2,880	2,966	3,055	3,147	3,241	3,339	3,439	3,542	3,648	3,758	3,870
Vacancy Loss	-133,453	-136,970	-140,583	-144,294	-148,106	-152,022	-156,046	-160,179	-164,425	-168,787	-173,269
Op Ex	-578,474	-595,828	-613,703	-632,114	-651,077	-670,610	-690,728	-711,450	-732,793	-754,777	-777,421
Property Taxes	-267,936	-273,980	-282,199	-290,665	-299,385	-308,367	-317,618	-327,146	-336,961	-347,070	-357,482
Residential NOI	1,689,203	1,732,625	1,775,170	1,818,803	1,863,552	1,909,447	1,956,519	2,004,799	2,054,318	2,105,111	2,157,211
Retail											
Rental Income	76,403	78,695	81,056	83,488	72,695	91,594	94,108	96,932	99,840	68,046	88,885
Op Ex Reimbursement	30,184	31,090	32,022	32,983	28,310	34,992	36,041	37,123	38,236	26,256	33,804
Parking	0	0	0	0	0	0	0	0	0	0	0
Vacancy Loss	-5,329	-5,489	-5,654	-5,824	-5,050	-6,329	-6,507	-6,703	-6,904	-4,715	-6,134
Operating Expenses	-30,184	-31,090	-32,022	-32,983	-33,972	-34,992	-36,041	-37,123	-38,236	-39,383	-40,565
Retail NOI	71,074	73,206	75,402	77,664	61,982	85,265	87,601	90,229	92,936	50,203	75,990
NOI Before Reserves	1,760,277	1,805,831	1,850,572	1,896,467	1,925,534	1,994,712	2,044,120	2,095,027	2,147,254	2,155,315	2,233,201
Reserves											
Residential Reserves	-33,250	-34,248	-35,275	-36,333	-37,423	-38,546	-39,702	-40,893	-42,120	-43,384	-44,685
Commercial Reserves	-943	-972	-1,001	-1,031	-1,062	-1,093	-1,126	-1,160	-1,195	-1,231	-1,268
Asset Management Fee	-50,712	-52,049	-53,421	-54,832	-56,280	-57,768	-59,297	-60,868	-62,481	-64,139	-65,842
Leasing Costs After First Generation											
Retail TIs	0	0	0	0	-113,359	0	0	0	0	-133,387	0
Retail LCs	0	0	0	0	-25,506	0	0	0	0	-29,999	0
Subtotal Leasing Costs	0	0	0	0	-138,865	0	0	0	0	-163,386	0
Unlevered Cash Flow	2,184,310	1,718,564	1,760,875	1,804,271	1,691,904	1,897,304	1,943,994	1,992,106	2,041,458	1,883,175	2,121,406
Construction Loan											
Interest	-533,244	0	0	0	0	0	0	0	0	0	0
Principal	-13,420	0	0	0	0	0	0	0	0	0	0
Perm Loan											
Refinance Costs / Proceeds	-239,866	0	0	0	0	0	0	0	0	0	0
Interest	-864,170	-1,287,762	-1,276,963	-1,265,442	-1,253,149	-1,240,033	-1,226,038	-1,211,106	-1,195,174	-1,178,175	-1,160,037
Principal	-101,828	-161,236	-172,034	-183,556	-195,849	-208,965	-222,960	-237,892	-253,824	-270,823	-288,960
Subtotal Financing	-1,752,528	-1,448,997	-1,448,997	-1,448,997	-1,448,997	-1,448,997	-1,448,997	-1,448,997	-1,448,997	-1,448,997	-1,448,997
Net Cash Flow from Operations	431,783	269,566	311,878	355,274	242,906	448,306	494,996	543,109	592,460	434,178	672,409

Analysis of the projected ten-year cash-on-cash rate of return for the proposed project

42

With MUPTE

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Cash-On-Cash Returns	5.9%	3.4%	3.8%	4.3%	3.3%	5.3%	5.8%	6.3%	6.8%	5.5%

Without MUPTE

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Cash-On-Cash Returns	3.3%	2.1%	2.4%	2.8%	1.9%	3.5%	3.8%	4.2%	4.6%	3.4%

List of assumptions made to create the proformas, including a description of how property taxes were estimated for the without MUPTE proforma and the moderate-income housing fee or rent levels.

Site Cost

Per the Agreement for Disposition and Development of Real Property (DDA) with The City of Eugene, the site cost was determined with a fair market value of the property as determined by the Appraisal. The Appraisal, which assumed the use of the Property is restricted based on the Project requirements set forth by The City of Eugene, was zero dollars (\$0). The purchase price for the Property is one dollar (\$1.00).

Permit Fees & SDCs

Per the DDA, The City of Eugene will pay building and development permit fees, including system development charges, in an amount not to exceed \$1,100,000. Permit fees & SDC charges were not included in the total development budget.

Rents

The Project consists of 133 total units. 51% of the total units, 68 total, are restricted at 80% Area Median Income (AMI) according to the 2023 Income Limits for LIHTC & Tax-Exempt Bonds document produced for Lane County by Oregon Housing Community Services. The remaining 65 units are set at market-rate rents based on rental rates at projects of similar type, age, quality, and location.

Utility Allowance

For the 68 units set at 80% AMI the Project assumes a utility allowance based on the 2023 Section 8 HCV Utility Allowances for Lane County. The project is 100% electric, and the Landlord will pay for water, sewer, and trash. The utility allowance included electric service, electric cooking, electric heat, and electric lights and appliances.

Property Taxes

Property taxes of \$2,000/unit were estimated using comparable tax rates for recent new multi-family construction in the area as well as the Land County 2020 Consolidated Tax Rate (Tax Code Area 498). The Assessed Value is based on the Land County 2021 Changed Property Ratio for Multi-Family properties (0.513) and Commercial properties (0.727) applied proportionally to the project. We applied a 3% annual escalator to the annual property tax amount.

Vacancy Loss

Vacancy loss is assumed at 5%.

Operating Expenses

Operating Expenses were informed by Affinity Property Management.

Construction & Architecture

Construction costs were provided by the Project's general contractor, John Hyland Construction based on 90% Schematic Design documents dated August 3, 2023. The design documents were provided by the Project's Architect, Rowell Brokaw.

Debt

Debt is assumed with a 1.3 DSCR, at 8% interest, and a 30-year amortization period. There will be a permanent loan refinancing event at stabilization assuming a 1.2 DSCR, 6.5% interest rate, and 35-year amortization period.

Development budget

Site Cost	
Raw Land	1
Total Site & Due Diligence	1
Hard Costs	
Construction Contract	
Shell and Core- Residential	23,324,574
Shell and Core- Retail	1,030,029
Parking	1,541,904
Target GMP	23,996,507
Additional Hard Costs	750,920
Total Hard Costs	24,747,427
Soft Costs	
Due Diligence	31,500
A&E	1,763,743
Testing & Inspection	90,000
Building Permit Fees and SDCs	0
Insurance	380,771
Other Soft Costs	702,959
Contingency	1,385,820
Developer Fee	1,385,820
Total Cost Before Financing	30,488,040
Project Finance Costs	
Project Finance Costs	
Finance Costs and Construction Loan Interest	2,437,729
Total Financing	2,437,729
Total Project Cost	32,925,769

Sources and uses of financing

Development Costs	
Cost	
Site Cost	1
Construction Contract	23,996,507
Additional Hard Costs	750,920
Soft Costs	2,968,973
Contingency	1,385,820
Development Fee	1,385,820
Project Finance Costs	2,437,729
Total Costs	32,925,769

Capital Stack (With MUPTE)	
Equity	10,925,769
City of Eugene – Permit Fees & SDCs*	
<i>*Not included in total</i>	
Construction Loan	22,000,000
Total	32,925,769

Capital Stack (Without MUPTE) For Reference	
Equity	12,905,769
City of Eugene – Permit Fees & SDCs*	
<i>*Not included in total</i>	
Construction Loan	20,000,000
Total	32,905,769

H. Application Finalization Worksheet

Application Fee Information

An application fee of \$3,970* should be made payable to City of Eugene at the time of submission. This is comprised of a \$400 base fee, a \$650 newspaper publication fee, and \$2,920 for the independent financial consultant. Payment of other reasonable costs may be required if incurred by the City or County in processing this application, such as additional consultant charges. Additional costs must be paid prior to City Council taking action on this application.

Property Owner Authorization

If the applicant is not the current property owner, the applicant must either have the property owner sign on the application below OR include documentation authorizing the applicant to apply for the tax exemption on the owner's behalf.⁶

By: Will Dowdy Date: 09/20/2023
Will Dowdy (Sep 20, 2023 09:06 PDT)
 Property Owner's Signature

Application Verification

I swear or affirm that all information contained in this application is accurate and all statements are true.

By: [Signature] Date: 9/18/23
 Applicant Signature

State of OREGON

County of lane

Signed and sworn to (or affirmed) before me on Sept. 18 20 23, by mark miksis.

[Signature]
 Notary Public for Oregon



⁶ Administrative Order 53-20-02-F

MUPTE Review Panel Member List
MUPTE Application – 1059 Willamette St.

Seat	Member
Developer	Sarah Bennett Bennett Management Company, LLC
Building Trades	Jeff McGillivray UA Local 290 Plumbers and Steamfitters Union
Environment Professional	Aaron Whitney 2fORM Architecture
Architect/Green Building	Kate Hall (<i>temporary</i>) Pivot Architecture Britni Jessup (<i>recused for this application</i>) Rowell Brokaw Architects
Public Health	<i>Vacant</i>
Human Rights Representative (Chair)	Kevin Cronin Springfield Eugene Tenant Association
At-Large Neighborhood Rep	Steven Baker
At-Large Neighborhood Rep (Co-Chair)	Katherine Collins Jensen
Downtown Neighborhood Association Representative	Pete Knox (Downtown MUPTE applications only)
Downtown Neighborhood Association Representative	Sherry Schaefers (Downtown MUPTE applications only)

**MARKET & FINANCIAL
ANALYSIS
1059 WILLAMETTE
MIXED-USE PROJECT
MUPTE PROGRAM
APPLICATION
NOVEMBER 2023**

Prepared for: City of Eugene, Oregon

Prepared by: PNW Economics, LLC

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Contents

1. Executive Summary 1

 Introduction 1

 Summary of Findings 1

2. Review of Market Rent & Lease Income Assumptions 3

 Apartment Market Analysis: Documented Rents 3

 Applicant Compared to Prevailing Comparable Projects: Unit Gross Rents 3

3. Financial Feasibility Analysis..... 6

 Financial Feasibility (“Pro Forma”) Assumptions 6

 Project Development Cost..... 6

 Debt vs. Equity & Project Financing7

 Assumed Rents & Escalation - Residential 8

 Assumed Rents & Escalation - Commercial..... 8

 Non-Rent Revenues 9

 Operating Expenses10

 Financial Feasibility Analysis of 1059 Willamette 11

 Introduction to Terms..... 11

 133 Apartment Units at 1059 Willamette12

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1. Executive Summary

Introduction

PNW Economics, LLC was retained by the City of Eugene to review the 1059 Willamette Multi-Unit Property Tax Exemption (“MUPTE”) program application as part of City market and financial analysis of the project. Specifically, PNW Economics, LLC was tasked with:

- Reviewing project application assumptions including market comparables, bank underwriting assumptions, and other pertinent assumptions;
- Evaluate projected cash-on-cash return for the project without MUPTE and with MUPTE, which grants a ten-year property tax exemption for the project in order to incent its financial performance such that investment and development is possible and positively contributes to the downtown Eugene economy in place of property underutilization; and
- Communicates all analysis and findings appropriately for review by community members and elected officials.

This document represents completion of these tasks for review by the City of Eugene and its partners and stakeholders.

Summary of Findings

An independent pro forma and cash flow analysis was conducted by PNW Economics for the proposed 1059 Willamette project in downtown Eugene. The following table provides a concise summary of the outcome of not awarding and awarding a MUPTE to the project, which comprises 133 apartment units.

Table A – 1059 Willamette Project Cash-on-Cash Return With & Without MUPTE: 133 Units

	Year 1 2026	Year 2 2027	Year 3 2028	Year 4 2029	Year 5 2030	Year 6 2031	Year 7 2032	Year 8 2033	Year 9 2034	Year 10 2035
133 Units NO MUPTE										
+ MUPTE	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cash-on-Cash Return	-6.6%	0.3%	0.6%	1.0%	1.3%	1.7%	2.0%	2.4%	2.8%	3.2%
133 Units YES MUPTE										
+ MUPTE	\$289,955	\$298,653	\$307,613	\$316,841	\$326,346	\$336,137	\$346,221	\$356,608	\$367,306	\$378,325
Cash-on-Cash Return	-4.7%	2.2%	1.3%	1.6%	2.0%	2.5%	2.9%	3.3%	3.8%	4.2%

- Award of the MUPTE – starting in Year 1 at an estimated \$289,955 – does help the project achieve positive cash-on-cash returns starting in the second year, but the project and the very expensive development costs it finds itself realizing are a difficult hurdle to strong economic success – not unlike most projects recently evaluated by the City.
 - Without a MUPTE, the project does not reach the benchmark 6% cash-on-cash return that is usually utilized to judge a project feasible as an investment, and therefore, development opportunity.
 - Without a MUPTE, Net Operating Income grows to offer positive but modest cash-on-cash return starting in year 2 and growing slowly every year thereafter.

- With a MUPTE, the project does not achieve the 6.0% cash-on-cash return benchmark, but comes closer due to the MUPTE.
- With a MUPTE, cash-on-cash return is estimated to achieve a maximum of **4.2%** in Year 10.
- Ultimately, the MUPTE plays an important role in helping this project avoid being outright financially infeasible, but like recent development projects in downtown, project development costs are high enough such that the MUPTE only helps the project achieve modest cash-on-cash return under the assumptions of this independent analysis.

Review of all development and financial assumptions in the MUPTE Application for the 1059 Willamette project yielded the following general finds and comments:

- Project type, units, and rents are generally consistent with the downtown Eugene market, and are on-par with scale of projects that have recently gone through the MUPTE process.
- The 1059 Willamette project does assume what seem to be slightly low rents for market-rate One-Bed units.
- Development costs per unit of the project are lower than most-recent projects that have gone through MUPTE evaluation. On a per-square foot basis, costs for the project are on par with recent projects.

Overall, it was found that the 1059 Willamette MUPTE Application financial analysis used reasonable assumptions and much of the independent pro forma and cash flow analysis in this report utilizes similar assumptions as the Applicant. Differences in assumptions, which are few, are noted in this document.

2. Review of Market Rent & Lease Income Assumptions

Apartment Market Analysis: Documented Rents

This section of the report provides a discussion of apartment rents that the Applicant has documented will be charged at the proposed project. Apartment rents are discussed as follows:

1. Comparison of the proposed apartment gross rents with comparable and competitive apartment projects in the downtown Eugene market area.

Comparison of the proposed project to other, comparable apartment projects in the downtown Eugene market is important as it gives contextual evidence for how well-suited the project is given prevailing rents that renters seeking to live downtown are willing to pay.

- Rents that are above market indicate the project is more expensive, which can be acceptable to renters if new rents are not too much higher and new, high-quality units are worth the price premium. New construction of market-rate apartments will tend to achieve highest rents, all things equal. This is usually due to the newest project “premium” as well as the most-recent construction costs driving those rents.
- Higher-density urban projects tend to have smaller average unit sizes, all things equal, though will tend to still have higher rents and certainly higher rents-per-square-foot. As floors rise, units can have view premiums that are not achievable in lower-density projects. Urban, downtown projects also tend to be in districts that are highly amenitized by dining, shopping, services, and transit within short walking distance. The convenience of such offerings gets capitalized into monthly rents as a result.

From a MUPTE need perspective, rents that tend to be higher than current market will tend to understate the need for a tax exemption as the resulting rent income is higher as occupancy stabilizes. Such rent assumptions will be viewed as conservative from a MUPTE review perspective. Alternatively, if project rents are identified as being lower than the observed market, the lower rent income expressed in a project pro forma will tend to overstate the need for a tax exemption. Lower rents would not be viewed as conservative from a MUPTE review perspective.

Applicant Compared to Prevailing Comparable Projects: Unit Gross Rents

Five downtown Eugene apartment projects were selected as most comparable and competitive to 1059 Willamette should it be developed: Gordon Lofts, along with planned Riverfront District projects at parcels 3A, 3B&C, 7 and 9. Gordon Lofts rents are actual observed market rents at the project during November of 2023. Rents here expressed for the four planned Riverfront District projects are from those four project MUPTE applications and are purely for context. Below is a description of each project and its competitive advantages and disadvantages relative to each other and any new projects that may be built in downtown Eugene.

- Gordon Lofts: The 127-unit mixed-use project at 550 Pearl Street is still the newest large market-rate residential development in downtown Eugene. The project, a previous MUPTE program participant, comprises Studio, 1-Bed, and 2-Bed units at top-of-market rents. The project has various retail businesses in its ground floor and with the commercial building anchored by the Nike Store to the south forms a market area that is an extension of the larger 5th Street Market area development.

- **Riverfront Parcel 3A ("The Landing") Project:** The 237-unit project is the largest and likely last to be built of the Riverfront District mixed-use projects. The project will comprise 75 Studio units, 131 One-Bed units, and 31 Two-Bed units, all of which are oversized compared to market as "Live Work" units for extra office space for tenants.
- **Riverfront Parcel 3B&C ("Portal") Project:** The 130-unit planned project is slated for the Riverfront District redevelopment and began construction in 2023. The project comprises Studio (19 units), One-Bed (34 units), Two-Bed (73 units), and Three-Bed (4 units) units.
- **Riverfront Parcel 7 ("Heartwood") Project:** This 95-unit project is actually the first Riverfront District to be under construction, started in 2022, and now known as The Heartwood. As planned, the project will have both unfurnished and furnished units. Market delivery is expected in 2024. Of interest to this review are the unfurnished units and rents, which include Studio (6 units), One-Bed (29 units), and Two-Bed (39 units) units.
- **Riverfront Parcel 9 ("The Parker") Project:** Although awarded a MUPTE exemption, the "Parker" project is being modified for a different building configuration. Originally, the former "Parker" project comprised 156 planned units, with both furnished (13 units) and unfurnished (143 units) apartments. For comparability to the 1059 Willamette project, we compare Parcel 9 unfurnished units that include Studio (60 units), One-Bed (14 units), Two-Bed (58 units), and Three-Bed (11 units) apartments. It should be noted that because the "Parker" is being reconfigured, unit comparisons are not as useful as comparisons from the other projects.

Table 1 provides a comparison of planned gross monthly rents at 1059 Willamette with the most comparable and competitive projects in downtown Eugene but with a focus on the most comparable existing project, Gordon Lofts, along with the planned Riverfront District projects.

Table 1 – 1059 Willamette Project Gross Rents Compared to Competitive Projects

MARKET RATE	Gross Monthly Rent					
	1059	Gordon	Riverfront - Planned			
Unit Type	Willamette	Lofts	"Portal" (3BC)	"Heartwood" (7)	"Parker" (9)	"Landing" 3A
Studio	\$1,500	\$1,579	\$1,900	\$1,900	\$1,800	\$1,576
One bedroom	\$1,850	\$2,180	\$2,132	\$2,166	\$2,100	\$2,327
Two bedroom	<u>\$2,600</u>	<u>\$3,200</u>	<u>\$2,662</u>	<u>\$2,723</u>	<u>\$2,500</u>	<u>\$3,941</u>
Subtotals/Averages	\$1,875	\$1,894	\$2,422	\$2,438	\$2,198	\$2,301
Gross Monthly Rent						
80% OF AMI	1059	Ferry Street				
Unit Type	Willamette	Manor				
Studio	\$1,128	\$1,325				
One bedroom	\$0	\$0				
Two bedroom	<u>\$0</u>	<u>\$0</u>				
Subtotals/Averages	\$1,128	\$1,325				

Overall, market rents planned at the 1059 Willamette project:

- **Studios:** Rents are lower than all Riverfront projects but The Landing (3A) (19% lower on average), but are roughly consistent with current average rents observed at the planned Landing project and at Gordon Lofts.

- One-Bed: Planned rents are 15% lower than observed currently at Gordon Lofts and are 18% lower than for what is planned at the Riverfront District projects, but this is due to the smaller unit size at 1059W. The average One-Bed unit size at 1059W is 558 square feet, making it the smallest among its peer group and actually most-similar to One-Bed units at Ferry Street Manor (574 square feet).
- Two-Bed: Rents planned at the 1059 Willamette project are on-par with Two-Bed units planned at the "Portal," "Heartwood," and "The Parker" (prior to planned reconfiguration), the most comparably sized Two-Bed units in the downtown area. Much larger Two-Bed units at both Gordon Lofts and Riverfront "The Landing" rent for significantly more, but those units average 1,100 square feet compared to the 841-sq. ft. unit at 1059 Willamette. Of the planned market rents at 1059W, on a per square foot basis, Two-Bed units may find planned rents to be potentially high and modified downward based on market reception. Sensitivity will only be known at lease-up and modified rent assumptions were not utilized for this independent analysis.

Affordable, income-restricted rents are verified to be consistent with Oregon LIHTC programmatic guidelines.

The upshot for analysis of the need for the MUPTE for this project is as follows:

- If 1059 Willamette rents are documented as significantly higher than the market, the Applicant pro forma and cash flow analysis will overstate income and in turn will actually tend to understate the need for MUPTE when the real risk is that rents will not be that high in those units and the MUPTE would likely be more crucial.
- If 1059 Willamette rents are documented significantly lower than the market, the Applicant pro forma and cash flow analysis will understate income and in turn will tend to overstate the need for MUPTE when rents will be realized to be higher. This would tend to make the MUPTE look more necessary than it actually is.

The only assumed market rents for the project that really deviate from the market substantially are for the Two-Bed units, but that is greatly due to the significantly smaller unit size at 1059W than at peer group projects. Even so, renters tend to look for what's even available and compare gross rent, and then make some adjustment for unit differences such as location, unit size if significantly different, unit age, etc. Two competing factors pull against each other regarding what kind of rent is feasible for any unit at 1059W, but specifically for One-Bed units:

- **Baseline Rent Argument:** Although 1059W One-Bed units are 18% smaller than peer group units, PNW Economics finds it somewhat implausible that renters will not rent at the project if One-Bed rent is not lower by exactly the same proportion as unit size difference. One-Bed rents should be lower at 1059W, but a baseline rent of closer to \$2,000 would be more on-par with the broader market in downtown Eugene. That would reflect a size discount, but at the same time would reflect the broader competitive market rent for One-Bed units in the downtown area.
- **Disadvantaged Location Argument:** Generally speaking, the 1059W project has an inferior location for market rate units compared to its peer group and that should translate into relatively lower

achievable rents. Location roughly 3 blocks south of Broadway and the concentration of the more popular commercial amenities there – which is less amenitized than the Market District area - and located across the street from the frequent bus traffic LTD downtown transit center should all things equal be viewed as constraining factors upon achievable market rents.

Given the two factors above, PNW Economics finds that the project should achieve One-Bed rent closer to \$2,000 but perhaps not quite that amount. For this reason, this independent pro forma analysis will assume planned monthly rents for all units but the One-Bed units in this independent pro forma analysis. For analysis purposes, we will assume a \$1,950 monthly One-Bed rent. This still makes 1059W the lowest rent for One-Bed units in the new unit market downtown, but certainly closer to competitive baseline as renters shop locations competitively for what is available.

3. Financial Feasibility Analysis

Financial Feasibility (“Pro Forma”) Assumptions

Project Development Cost

The 1059 Willamette project MUPTE application details an expected total project development cost of \$32,925,769. On a per-unit basis, total development costs are:

- Cost per Apartment Unit: \$247,562
- Cost per Building Square Foot: \$343.13.

For context, the planned project costs for the four Riverfront District MUPTE applications are included in Table 2. The most recent and comparable project for development costs would be “The Landing” Riverfront project on parcel 3A (“The Landing”). That project MUPTE application documented more recent development costs for a Riverfront District project earlier in 2023.

Table 2 – 1059 Willamette Project Development Costs & Riverfront Project Costs Comparison

		Riverfront District Projects			
		2023 Plan Cost	2021 Project Plan Cost		
	1059 Willamette	"Landing" 3A	"Portal" 3B&C	"Heartwood" 7	"Parker" 9
Units	133	237	130	95	156
Sq. Ft.	95,958	272,983	174,000	107,631	203,069
Land Acquisition	\$1	\$2,782,504	\$2,713,659	\$3,780,783	\$3,675,213
Schematic Design & MUPTE Application	\$734,459	\$761,733	\$770,389	\$685,628	\$449,631
A/E Design & Permitting	\$3,620,334	\$8,880,119	\$4,740,507	\$3,701,395	\$5,196,862
Construction	\$24,747,427	\$96,444,138	\$46,599,620	\$31,908,532	\$45,711,473
Project Contingency	\$1,385,820	\$10,959,236	\$2,514,683	\$1,780,215	\$2,497,803
Project Finance & Carry Costs	<u>\$2,437,729</u>	<u>\$6,944,450</u>	<u>\$1,256,600</u>	<u>\$1,050,600</u>	<u>\$1,256,600</u>
Total Development Costs	\$32,925,770	\$126,772,180	\$58,595,458	\$42,907,153	\$58,787,582
Total Costs per Unit	\$247,562	\$534,904	\$450,734	\$451,654	\$376,843
Total Costs per Square Foot	\$343.13	\$464.40	\$336.76	\$398.65	\$289.50

Overall, development costs seem to be in the middle of recently documented development applications with the MUPTE program. Acknowledging that each project is uniquely planned and so apples-to-apples

comparisons are impossible, 1059W does appear to have significantly lower per-housing unit cost and moderate cost per square foot. A few things are worth noting:

- Site acquisition cost of \$1, in order to incentivize the project and its delivery of affordable housing, appears to reduce the relative cost of the project by up to \$2 million compared to other projects.
- With that acquisition price and lack of SDC and permit fee costs due to affordable housing delivery via the Disposition & Development Agreement (“DDA”) with the Applicant, A/E Design & Permitting costs are certainly lower for the size of the project.
- The planned parking facility is expected to cost just over \$1 million and provide 22 parking spots along with safe bicycle parking. The smaller parking facility cost also factors into the lower relative cost of the project.

Debt vs. Equity & Project Financing

Table 3 provides a summary of Applicant project permanent financing assumptions taken from the 1059 Willamette MUPTE application. Unlike previous MUPTE applicants, the 1059W project anticipates a refinancing of permanent debt after the project reaches stabilization, meaning after the point that the project achieves 95% occupancy. Table 3 financing information, then, is planned to change later with the following terms:

- 35-year amortization (30 years prior to refinance);
- 6.5% annual interest rate (8.0% prior to refinance); and
- Loan to Cost (LTC) closer to 70% (61%-67% prior to refinance).

Table 3 – 1059 Willamette Project Application Permanent Debt Finance Assumptions: Before Stabilization

	<u>No MUPTE - 133 Units</u>		<u>Yes MUPTE - 133 Units</u>	
	2023 Dollars	2025 Dollars	2023 Dollars	2025 Dollars
Total Development Cost	\$32,925,769	\$35,191,608	\$32,925,769	\$35,191,608
Permanent Loan	\$20,000,000	\$21,376,332	\$22,000,000	\$23,513,965
Equity	\$12,925,769	\$13,815,276	\$10,925,769	\$11,677,643
Percent Financed	61%	61%	67%	67%
Annual Interest Rate	8.00%	8.00%	8.00%	8.00%
Amortization (Years)	30	30	30	30
Annual Permanent Debt Service	(\$1,761,035)	(\$1,882,223)	(\$1,937,138)	(\$2,070,446)

PNW Economics has the following observations:

- Permanent debt refinancing is a logical and highly likely strategy given the current lending environment, which includes challengingly high interest rates and difficult terms, discussed more below.
- The 1059W MUPTE application pro formas assume the refinance in Year 1 (likely 2026), rendering it the only permanent financing effectively modeled in both the “No MUPTE” and “Yes MUPTE”

scenarios. In other words, all pro formas in the MUPTE application assume uncertainly optimistic lending terms.

- Before assumed refinance and after, the Loan-to-Cost assumption of 61% to 67% of total development cost is optimistic under current, best-known conditions. Most recent Eugene MUPTE applications, as well as MUPTE applications in the City of Bend, have been assuming LTC closer to 50%. That is, lending terms are challenging currently and being able to finance much more than 50% of a project is not likely in the near-term financial environment.

For purposes of conservative analysis, PNW Economics will utilize the Applicant's more optimistic lending assumptions as documented in the MUPTE application pro formas.

- Higher LTC with a 6.5% annual interest rate and 35-year amortization yields annual debt service of roughly \$1.5 million in current dollars.
- Permanent financing at 8%, 30-year amortization and a lower, 61% LTC amounts to annual debt service of \$1.76 million.

In this instance, a higher LTC and a lower interest rate reduce annual debt service by over \$200,000 annually. This would tend to weaken the case for a MUPTE because lower annual debt service enhances cash flow, all things equal.

Assumed Rents & Escalation - Residential

Table 4 provides a summary of apartment rents utilized in the pro forma analyses in this section. As noted earlier in this document, review of market rents in the Downtown Eugene area indicated that Applicant anticipated rents for the One-Bed market rate units should, in the opinion of PNW Economics, achieve slightly higher rents than assumed in the 1059W application. Annually after 2023, rents are assumed to escalate by 3% annually.

Table 4 – 1059 Willamette Project Market Apartment Rent Assumptions

Unit Type	Unit Mix		Average Unit	Monthly	Rent per
	Units	Percentage	Size (Sq. Ft.)	Rent	Square Foot
Studio	6	9%	422	\$1,500	\$3.55
One bedroom	54	83%	558	\$1,950	\$3.49
Two bedroom	5	8%	841	\$2,600	\$3.09
Subtotals/Averages	65	100%	567	\$1,958	\$3.45
80% of AMI					
Unit Type	Unit Mix		Average Unit	Monthly	Rent per
	Units	Percentage	Size (Sq. Ft.)	Rent	Square Foot
Studio	68	100%	422	\$1,128	\$2.67
One bedroom	0	0%	558	\$0	\$0.00
Two bedroom	0	0%	841	\$0	\$0.00
Subtotals/Averages	68	100%	422	\$1,128	\$2.67

Assumed Rents & Escalation - Commercial

The project plans 2,664 square feet of ground floor commercial space. Unlike previous MUPTE applicants, the 1059W project plans for the space to be leased to local emerging entrepreneurs and businesses at below-

market rents to encourage new local business success in the downtown core. The Applicant asks for MUPTÉ exemption for the commercial space as it is a public good.

Although the Applicant does not break out specific commercial lease rate information, PNW Economics backed out that project plans to lease space on the following terms:

- Shell space (like Triple Net, or exclusive of operating expenses such as utilities, taxes, etc.) - \$28.68 annually per square foot or \$2.39 per sq. ft. monthly.
- Operating expenses: The project assumes that operating expenses, basically the difference between Triple Net rent and Full Service rent, will be reimbursed at a rate of \$11.33 per square foot annually, or \$0.94 per sq. ft. monthly.

For purposes of this independent analysis, PNW Economics will make the following assumptions:

- Commercial retail lease rates and income documented by the Applicant will be utilized in this analysis.

Non-Rent Revenues

Table 5 summarizes the various sources of revenue for the project in addition to standard rent planned for the occupancy for units. The 1059W MUPTÉ application provides gross non-rent revenues, but provides little in the way of details about per unit revenue assumptions that are not rent. Figures in the table below, therefore, are backed out based on information about project details that are provided.

Table 5 – 1059 Willamette Project Market Apartment Non-Rent Assumptions

Non-Rent Revenue	Per-Unit Non-Rent Revenues							
	1059 Willamette	Riverfront Projects				Units	Projected 1059W	
		Parcel 3A	Parcels 3B&C	Parcel 7	Parcel 9		2023	2026
Parking	\$114	\$200	\$115	\$50	\$50	22	\$30,000	\$32,782
Storage	n/a	\$0	\$50	\$35	\$35	n/a	\$2,880	\$3,147
Deposit on Turnover	n/a	\$5.05	\$8.75	\$8.75	\$8.22	n/a	n/a	n/a
Other	n/a	\$15.32	\$19.50	\$19.50	\$19.50	n/a	n/a	n/a
Utility Billback	n/a	\$36.21	\$41.30	\$41.30	\$46.51	n/a	n/a	n/a
Miscellaneous	\$541.60	\$0.00	\$0.00	\$0.00	\$0.00	133	<u>\$72,033</u>	<u>\$78,712</u>
Total Non-Rent Revenue:							\$104,913	\$114,641
Average Non-Rent Revenue per Apartment	\$789	\$2,471	\$1,730	\$1,131	\$1,324		\$789	\$862

The information of note in Table 5 is the fact that on an average, per-unit basis, non-rent revenues are strikingly low compared to a similar calculation at the Riverfront MUPTÉ projects, based on their own MUPTÉ applications. Here, "Average Non-Rent Revenue per Apartment" is simply the total non-rent revenue at project stabilization (95% full) divided by the number of apartment units planned. Math here aggregates different non-rent charges (per parking space, per storage space, etc.) in order to just get at how much revenue per apartment unit annually is planned to happen from other sources than just monthly rent.

It is obvious that the 1059W project plans significantly lower non-rent revenue sources than the Riverfront projects. Obviously, 1059W is a different size and type of building and project, namely providing a significant number of rent-restricted units. In that vein, the project likely charges less for amenities or has fewer amenities to earn revenue for housing affordability reasons. But on a per-unit basis, the difference is worthwhile pointing out because the lower revenue a project generates, the more likely it is to need a MUPTÉ based on the project's cash flow. The City of Eugene might want to seek clarification from the Applicant that non-rent revenues are indeed planned to be as low as documented, because that does have an effect on cash flow and cash-on-cash return with and without a MUPTÉ.

PNW Economics will take at face value that the project plans to be “stripped down,” our term, regarding amenities or fees for services at 1059W and will assume presented non-rent revenues in this independent pro forma analysis.

Operating Expenses

Apartment Operating Expenses

Table 6 below provides a comparison of annual operations expenses per unit anticipated at the Subject as well as expected at the other downtown area projects. Operations expenses, excluding property taxes, are measurably below all but planned at the Riverfront 3A project. While notable, the lower per-unit expense assumption would be more in-parity with the much lower per-unit non-rent revenues already documented: fewer non-rent charges for residents, and fewer expenses operating services that charge residents.

Table 6 – 1059 Willamette Project Operating Expenses Per Unit vs. Comparable Projects

	Per Unit Expenses Annually				
	1059W	Parcel 3A	Parcels 3B&C	Parcel 7	Parcel 9
Before Property Tax					
Expenses: Stabilized	\$4,349	\$4,889	\$6,034	\$6,429	\$6,611

For pro forma financial analysis in the next section of this report, PNW Economics assumes operating expenses supplied by the Applicant.

Property Taxes

Table 7 provides estimates for property taxes that will be paid on both the land as well as expected improvements value on a “Cost of Replacement” basis – the total development cost of improvements alone if built new.

Table 7 – 1059 Willamette Estimated Property Tax: Land & Improvements in FY 24 and FY26 Estimated

		Cost of Replacement - Apartment Structure	\$34,098,849					
		Change Ratio - Multiple Housing	<u>0.408</u>		Measure 50 Maximum TAV Escalation: 3%			
		FY 26 Taxable Assessed Value	\$13,912,331					
		Cost of Replacement - Retail Shell & Core	\$1,092,758					
		Change Ratio - Commercial	<u>0.607</u>					
		FY 26 Taxable Assessed Value	\$663,304					

Parcel taxable assessed value (TAV) data is directly from the Lane County Department of Assessment & Taxation parcel database online. Taxable assessed value estimated for the value of improvements assumes

total improvement development costs as expressed by the Applicant and then converted to Measure 50 TAV via the Lane County 2023 Change Ratio of 0.408 for the multifamily portion and then 0.607 for the commercial portion. Finally, the tax rate of \$19.8931 per \$1,000 of TAV was utilized for Tax Code Area 00498 for the portion of downtown that includes the subject property.

Estimates for tax bill paid in 2026, to better match pro forma analysis conducted in this report and in the 1059 Willamette application, were achieved by applying the Measure 50 maximum annual TAV growth rate of 3% for two years.

Finally, it should be noted that taxable assessed values of land and improvements, property tax assessed and the potential value of a MUPTE for the 1059W project in this analysis are slightly higher than estimates in the 1059W application. This is due to the fact that the 1059W property tax analysis assumed 2021 tax year taxable assessed value figures and Property Change Ratios rather than most-recent FY 23 figures available from Lane County. As a result of using 2021 Lane County assessor data, change ratios are higher, meaning taxable assessed value figures – and resulting property tax assessed – are higher than figures in this analysis by roughly 5%. The difference is not dramatic, but noteworthy.

For MUPTE analysis, the upshot of this report's lower property tax and potential MUPTE estimates are that cash flow estimates in this analysis are lower with less property tax owed with or without the MUPTE in either scenario. Cash-on-cash return estimates in this analysis are, therefore, more pessimistic in nature for either scenario.

Financial Feasibility Analysis of 1059 Willamette

Introduction to Terms

To evaluate whether or not a project is financially feasible, that is whether or not the project meets investment rates of return benchmarks, a pro forma analysis is conducted. A pro forma is simply a financial modeling exercise to examine how a development project performs as a business investment over a specified period of time.

Variables that are modeled, or estimated, in this report are as follows:

Apartment Rent Income: The annual rent income if all apartment units in a project were occupied and charging full, assumed market rent. This grows by 3% each year.

Retail Lease Income: Common in such projects, only a limited amount of retail space (2,664 square feet) is planned for the 1059 Willamette Riverfront project. The lease rate for this space includes a shell space rent of \$2.39 per square foot and then an operating expense reimbursement payment of \$0.94 per square foot.

Gross Project Income: The sum of Apartment Rent Income, Retail Lease Income and Other Income streams such as parking, storage fees, and miscellaneous other income. This increases annually due to normal market rent and lease rate escalation over time.

Vacancy: 5% of apartment space and retail space is assumed to always be vacant and represent income loss.

Lease-Up Vacancy & Concessions: This category of expense reflects different sources of loss to revenue as a result of project vacancy and discounts to apartment rents to realize and keep an average 5% vacancy rate.

- In year 1 of the project only, PNW Economics assumes a 20% loss in potential rent income will occur due to new units being vacant prior to first occupancy ("absorption") consistent with Applicant assumption about project performance.

Effective Gross Income: Gross Project Income less Vacancy and Lease-Up Vacancy & Concessions.

Apartment Operating Expense: Annual operating expenses of \$4,349 per apartment unit starting in year 1 and growing by 3% annually thereafter. In year 1 only, apartment operating expenses are reduced by the 20% absorption vacancy described in the Lease-Up Vacancy & Concessions definition.

Retail Operating Expense: The 1059 Willamette project will include 2,664 square feet of space intended for local entrepreneurs downtown. The Applicant expects operating expenses of \$30,184 annually for the retail space in the project, but it will be paid for with space lease income.

MUPTE: When included, MUPTE is a 10-year exemption from local property taxes levied on the value of the improvement constructed in place, in this case the 1059 Willamette project. Based on an estimated cost-of-replacement of \$35.2 million in 2026 dollars and a local, existing total property tax rate of \$0.0198931 (Tax Code Area 004-98), the estimated MUPTE exemption beginning in year 1 would be \$304,308. This would increase by an assumed 3% annually, consistent with the annual maximum under Oregon property tax law. It is restated that in this analysis, a MUPTE exemption is assumed to be granted to all improvement. It was identified that the retail space will lease for more than nearby, newer competitive space on Willamette.

Net Operating Income (NOI): Effective Gross Income less Apartment Operating Expense less Retail Operating Expense plus the MUPTE (if assumed).

Construction Loan Interest: The interest (assumed to be 10%) paid on a construction loan for development of the property that is "taken out" or paid off by permanent, long-term debt financing. Such interest is only paid during the duration of construction activity until permanent financing is secured.

Debt Service: The annual, fixed debt service payment made by the developer for permanent debt financing of the project.

Before Tax Cash Flow: Net Operating Income Less Debt Service.

Cash-on-Cash Return: Before Tax Cash Flow divided by development equity (\$19.4 million in this analysis). Cash-on-Cash Return is also known as Return on Equity and usually needs to be at least 6% in early years of a project to be a satisfactory investment for equity partners in a project. This can vary depending upon developer and equity partners, however.

Loan-To-Cost (LTC): The amount of debt a project can take on as a percentage of its cost to develop. This analysis assumes a 55% LTC ratio consistent with prevailing commercial lending market conditions, but lower than assumed by the Applicant.

Equity: The share of total development cost that is funded by invested dollar assets rather than by debt.

133 Apartment Units at 1059 Willamette

1059 Willamette Pro Forma Without MUPTE

Table 8 reports the resulting pro forma analysis for the 1059 Willamette project without MUPTE.

Results indicate that without the tax exemption, the project would earn a **-6.6%** cash-on-cash return for year 1, but thereafter would earn modestly positive cash-on-cash return through year 10. By year 10, cash-on-cash return is estimated to at best reach 3.2% without the MUPTE.

The project should not be viewed as feasible and would not likely be developed given the early losses without significant recovery for the rest of the first ten years. Essentially, development costs are unsubstantiated by potential income from rent.

Table 8 – 1059 Willamette Pro Forma Without MUPTE

	Ann. Esc.	Year 1 2026	Year 2 2027	Year 3 2028	Year 4 2029	Year 5 2030	Year 6 2031	Year 7 2032	Year 8 2033	Year 9 2034	Year 10 2035
Apartment Rent Income	3%	\$2,596,752	\$2,674,655	\$2,754,894	\$2,837,541	\$2,922,667	\$3,010,348	\$3,100,658	\$3,193,678	\$3,289,488	\$3,388,173
Retail Rent Income	3%	\$90,462	\$116,470	\$119,964	\$123,563	\$127,270	\$131,088	\$135,021	\$139,071	\$143,244	\$147,541
Other Income											
Other - Parking	3%	\$32,782	\$42,207	\$43,473	\$44,777	\$46,120	\$47,504	\$48,929	\$50,397	\$51,909	\$53,466
Other - Storage	3%	\$3,147	\$4,052	\$4,173	\$4,299	\$4,428	\$4,560	\$4,697	\$4,838	\$4,983	\$5,133
Other - Misc Other	3%	<u>\$78,712</u>	<u>\$101,342</u>	<u>\$104,382</u>	<u>\$107,514</u>	<u>\$110,739</u>	<u>\$114,062</u>	<u>\$117,483</u>	<u>\$121,008</u>	<u>\$124,638</u>	<u>\$128,377</u>
Other Income Total		\$114,641	\$147,601	\$152,029	\$156,590	\$161,287	\$166,126	\$171,110	\$176,243	\$181,530	\$186,976
Gross Project Income		\$2,801,856	\$2,938,725	\$3,026,887	\$3,117,694	\$3,211,225	\$3,307,561	\$3,406,788	\$3,508,992	\$3,614,262	\$3,722,690
- Stabilized Vacancy	5%	(\$140,093)	(\$146,936)	(\$151,344)	(\$155,885)	(\$160,561)	(\$165,378)	(\$170,339)	(\$175,450)	(\$180,713)	(\$186,134)
- Lease-Up Vacancy & Concessions		(\$560,371)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
= Effective Gross Income (EGI)		\$2,101,392	\$2,791,789	\$2,875,543	\$2,961,809	\$3,050,663	\$3,142,183	\$3,236,449	\$3,333,542	\$3,433,549	\$3,536,555
Apartment Operating Expense	3%	(\$490,962)	(\$600,508)	(\$618,524)	(\$637,079)	(\$656,192)	(\$675,878)	(\$696,154)	(\$717,038)	(\$738,550)	(\$760,706)
Management Expense (3.5% of EGI)		(\$73,549)	(\$97,713)	(\$100,644)	(\$103,663)	(\$106,773)	(\$109,976)	(\$113,276)	(\$116,674)	(\$120,174)	(\$123,779)
Property Tax (Land)	3%	(\$27,549)	(\$28,375)	(\$29,227)	(\$30,104)	(\$31,007)	(\$31,937)	(\$32,895)	(\$33,882)	(\$34,898)	(\$35,945)
Property Tax (Improvements)	3%	(\$289,955)	(\$298,653)	(\$307,613)	(\$316,841)	(\$326,346)	(\$336,137)	(\$346,221)	(\$356,608)	(\$367,306)	(\$378,325)
Reserve & Replacement	3%	(\$34,193)	(\$35,219)	(\$36,275)	(\$37,364)	(\$38,485)	(\$39,639)	(\$40,828)	(\$42,053)	(\$43,315)	(\$44,614)
Retail Operating Expense	3%	(\$30,184)	(\$31,090)	(\$32,022)	(\$32,983)	(\$33,972)	(\$34,992)	(\$36,041)	(\$37,123)	(\$38,236)	(\$39,383)
- Operating Expenses		(\$946,392)	(\$1,091,558)	(\$1,124,305)	(\$1,158,034)	(\$1,192,775)	(\$1,228,558)	(\$1,265,415)	(\$1,303,377)	(\$1,342,479)	(\$1,382,753)
+ MUPTE		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
= Net Operating Income (NOI)		\$1,155,000	\$1,700,231	\$1,751,238	\$1,803,775	\$1,857,889	\$1,913,625	\$1,971,034	\$2,030,165	\$2,091,070	\$2,153,802
- Construction Loan Interest (10%)		(\$546,664)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
- Debt Service (55% Loan-to-Cost)		(\$1,649,685)	(\$1,649,685)	(\$1,649,685)	(\$1,649,685)	(\$1,649,685)	(\$1,649,685)	(\$1,649,685)	(\$1,649,685)	(\$1,649,685)	(\$1,649,685)
= Before Tax Cash Flow		(\$1,041,349)	\$50,547	\$101,553	\$154,091	\$208,204	\$263,941	\$321,349	\$380,480	\$441,385	\$504,117
Cash-on-Cash Return		-6.6%	0.3%	0.6%	1.0%	1.3%	1.7%	2.0%	2.4%	2.8%	3.2%

1059 Willamette Pro Forma With MUPTE

Table 9 reports the same pro forma as Table 8, but assumes the project is awarded the MUPTE equal to \$276,759 in its first year and growing by 3% every year thereafter. The project's estimated cash-on-cash return in Year 1 is **-4.7%**. Under the assumptions of this independent analysis, the project is not estimated to reach the 6% cash-on-cash return threshold at all during the first ten years of the project. Estimated cash-on-cash return reaches a maximum of **4.2%** in Year 10. Results are more negative than the Applicant's pro forma which also does not find cash-on-cash return which reaches and exceeds a 6.0% cash-on-cash return in year 8 of the project with the MUPTE. The difference likely includes:

- This analysis assumes a lower Loan to Cost at 55%, rather than over 60% assumed by the Applicant. The assumption here is based on most-common current and likely near-term commercial lending standards. Less permanent financing in this analysis equates to higher equity share in the capital stack, and so larger equity in the cash-on-cash return calculation yielding lower cash-on-cash return estimates here than in the 1059W application.

Table 9 – 1059 Willamette Pro Forma WITH MUPTE

	Ann. Esc.	Year 1 2026	Year 2 2027	Year 3 2028	Year 4 2029	Year 5 2030	Year 6 2031	Year 7 2032	Year 8 2033	Year 9 2034	Year 10 2035
Apartment Rent Income	3%	\$2,596,752	\$2,674,655	\$2,754,894	\$2,837,541	\$2,922,667	\$3,010,348	\$3,100,658	\$3,193,678	\$3,289,488	\$3,388,173
Retail Rent Income	3%	\$90,462	\$116,470	\$119,964	\$123,563	\$127,270	\$131,088	\$135,021	\$139,071	\$143,244	\$147,541
Other Income											
<i>Other - Parking</i>	3%	\$32,782	\$42,207	\$43,473	\$44,777	\$46,120	\$47,504	\$48,929	\$50,397	\$51,909	\$53,466
<i>Other - Storage</i>	3%	\$3,147	\$4,052	\$4,173	\$4,299	\$4,428	\$4,560	\$4,697	\$4,838	\$4,983	\$5,133
<i>Other - Misc Other</i>	3%	<u>\$78,712</u>	<u>\$101,342</u>	<u>\$104,382</u>	<u>\$107,514</u>	<u>\$110,739</u>	<u>\$114,062</u>	<u>\$117,483</u>	<u>\$121,008</u>	<u>\$124,638</u>	<u>\$128,377</u>
Other Income Total		\$114,641	\$147,601	\$152,029	\$156,590	\$161,287	\$166,126	\$171,110	\$176,243	\$181,530	\$186,976
Gross Project Income		\$2,801,856	\$2,938,725	\$3,026,887	\$3,117,694	\$3,211,225	\$3,307,561	\$3,406,788	\$3,508,992	\$3,614,262	\$3,722,690
- Stabilized Vacancy	5%	(\$140,093)	(\$146,936)	(\$151,344)	(\$155,885)	(\$160,561)	(\$165,378)	(\$170,339)	(\$175,450)	(\$180,713)	(\$186,134)
- Lease-Up Vacancy & Concessions		(\$560,371)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
= Effective Gross Income (EGI)		\$2,101,392	\$2,791,789	\$2,875,543	\$2,961,809	\$3,050,663	\$3,142,183	\$3,236,449	\$3,333,542	\$3,433,549	\$3,536,555
<i>Apartment Operating Expense</i>	3%	(\$490,962)	(\$600,508)	(\$618,524)	(\$637,079)	(\$656,192)	(\$675,878)	(\$696,154)	(\$717,038)	(\$738,550)	(\$760,706)
<i>Management Expense (3.5% of EGI)</i>		(\$73,549)	(\$97,713)	(\$100,644)	(\$103,663)	(\$106,773)	(\$109,976)	(\$113,276)	(\$116,674)	(\$120,174)	(\$123,779)
<i>Property Tax (Land)</i>	3%	(\$27,549)	(\$28,375)	(\$29,227)	(\$30,104)	(\$31,007)	(\$31,937)	(\$32,895)	(\$33,882)	(\$34,898)	(\$35,945)
<i>Property Tax (Improvements)</i>	3%	(\$289,955)	(\$298,653)	(\$307,613)	(\$316,841)	(\$326,346)	(\$336,137)	(\$346,221)	(\$356,608)	(\$367,306)	(\$378,325)
<i>Reserve & Replacement</i>	3%	(\$34,193)	(\$35,219)	(\$36,275)	(\$37,364)	(\$38,485)	(\$39,639)	(\$40,828)	(\$42,053)	(\$43,315)	(\$44,614)
<i>Retail Operating Expense</i>	3%	(\$30,184)	(\$31,090)	(\$32,022)	(\$32,983)	(\$33,972)	(\$34,992)	(\$36,041)	(\$37,123)	(\$38,236)	(\$39,383)
- Operating Expenses		(\$946,392)	(\$1,091,558)	(\$1,335,051)	(\$1,368,780)	(\$1,403,521)	(\$1,439,304)	(\$1,476,161)	(\$1,514,123)	(\$1,553,225)	(\$1,593,499)
+ MUPTE		\$289,955	\$298,653	\$307,613	\$316,841	\$326,346	\$336,137	\$346,221	\$356,608	\$367,306	\$378,325
= Net Operating Income (NOI)		\$1,444,955	\$1,998,884	\$1,848,105	\$1,909,870	\$1,973,489	\$2,039,016	\$2,106,509	\$2,176,026	\$2,247,630	\$2,321,381
- Construction Loan Interest (10%)		(\$546,664)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
- Debt Service (55% Loan-to-Cost)		(\$1,649,685)	(\$1,649,685)	(\$1,649,685)	(\$1,649,685)	(\$1,649,685)	(\$1,649,685)	(\$1,649,685)	(\$1,649,685)	(\$1,649,685)	(\$1,649,685)
= Before Tax Cash Flow		(\$751,394)	\$349,200	\$198,420	\$260,186	\$323,804	\$389,331	\$456,824	\$526,342	\$597,945	\$671,696
Cash-on-Cash Return		-4.7%	2.2%	1.3%	1.6%	2.0%	2.5%	2.9%	3.3%	3.8%	4.2%

PNW Economics

Evidenced-Based Real Estate, Land Use, & Economic Development Due Diligence

MEMORANDUM

To: Dylan Huber-Heidorn
CITY OF EUGENE MUPTE DEVELOPMENT ANALYST

From: Bill Reid, Principal
PNW ECONOMICS, LLC

Subject: Revision to 1059W MUPTE Review

Date: January 18, 2024

This memorandum is intended to verify for the City of Eugene a formula error in the PNW Economics review of the 1059W MUPTE application pro formas and to provide revised analysis correcting the error with discussion of implications of the revision.

Yes MUPTE Operating Expense Error Verified

In Table 9 of the PNW Economics review of the 1059W project MUPTE application, calculations for Total Operating Expenses erroneously add roughly \$211,000 in operating expenses starting in Year 3 of analysis and every year thereafter. The addition of \$211,000 is verified to be an error as all operating expenses and total, combined operating expenses should be identical between the No MUPTE scenario (Table 8) and the Yes MUPTE scenario (Table 9). Stated differently, nothing about being awarded a MUPTE should change operating expenses for an apartment building. Upon inspection, the error is due to some inexplicable Excel program error as formulas were reviewed before publication, since identification of the error by City staff, and after review of other Excel spreadsheet specification settings.

Revised Yes MUPTE Cash-on-Cash Calculations and Implications

The table below provides a summary of new Cash-on-Cash return calculations for 1059W in the Yes MUPTE scenario. The error resulted in Yes MUPTE Cash-on-Cash returns starting at 1.3% in Year 3 and gradually climbing to 4.2% in Year 10.

Revised results indicate Cash-on-Cash return with a MUPTE grows from 2.6% in Year 3 and gradually increases to 5.6% in Year 10. Intuitively, removal of the error results in less expenses reported and higher cash flow. That of course would yield higher cash-on-cash return. But in the revised results, Cash-on-Cash return still never reaches the minimum benchmark of 6%, though approaches after 10 years. PNW Economics' conclusion about 1059W, that award of the MUPTE makes a critical difference positively for the project, but the project would still be considered challenged even with the MUPTE does not change.

Revised Table 9 – 1059 Willamette Pro Forma WITH MUPTE

	Year 1 2026	Year 2 2027	Year 3 2028	Year 4 2029	Year 5 2030	Year 6 2031	Year 7 2032	Year 8 2033	Year 9 2034	Year 10 2035
133 Units NO MUPTE										
+ MUPTE	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Cash-on-Cash Return	-6.6%	0.3%	0.6%	1.0%	1.3%	1.7%	2.0%	2.4%	2.8%	3.2%
133 Units YES MUPTE										
+ MUPTE	\$289,955	\$298,653	\$307,613	\$316,841	\$326,346	\$336,137	\$346,221	\$356,608	\$367,306	\$378,325
Cash-on-Cash Return	-4.7%	2.2%	2.6%	3.0%	3.4%	3.8%	4.2%	4.7%	5.1%	5.6%

Prepared for: City of Eugene, Oregon

Prepared by: PNW Economics, LLC

Analysis Revision of the 1059W MUPTE Application Financial Review

MUPTE Review Panel Conclusions*1059 Willamette*

General Requirements	
Overall	Concerns
<p>The Panel agreed that the Project meets the general requirement criteria, including:</p> <ul style="list-style-type: none"> • The proposed project is not student or transient housing, has 5 or more units, and is within the boundary; and • The required neighborhood engagement for this point in the process was met with the applicant presenting the proposed project to the Downtown Neighborhood Association. 	None.

REQUIRED PUBLIC BENEFITS

1. Compact Urban Development	
Overall	Concerns
<p>The Panel agreed that the proposed project meets the minimum density required by the MUPTE program. The site is zoned as C-3 Major Commercial with a TD Transit Oriented Development overlay, which has no minimum residential unit density. The proposal includes 133 dwelling units at 316 units per acre.</p>	None.

2. Green Building Features	
Overall	Concerns
<p>In order to achieve the green building public benefit threshold of performing at least 10% more efficiently than the Oregon Energy Efficiency Specialty Code, the applicant chose the City of Eugene Building and Permit Services pathway. The Panel agreed that the application materials included what was necessary and noted that the project, if approved and constructed, would need to meet the energy efficiency and green building documentation requirements set out in the program (energy model at permit application and commissioning report 18 months after Certificate of Occupancy).</p>	None.

3. Local Economic Impact Plan	
<i>Local Conditions</i>	
Overall	Concerns
The Panel agreed that the applicant provided a plan that adequately demonstrates how the applicant will ensure that more than 50% of dollar volume of professional services and construction costs will be local to Lane County.	None.
<i>Minority and Women Business Enterprises</i>	
Overall	Concerns
The Panel agreed that the applicant provided a plan that adequately describes how they will provide an equitable opportunity for minority and women business enterprises to compete for development related contracts.	None.
<i>Compliance with Laws</i>	
Overall	Concerns
The Panel agreed that the applicant provided a plan that adequately describes how they intend to ensure that all parties involved, including contractors and subcontractors, will comply with wage, tax, and licensing laws.	None.

4. Moderate-Income Housing Contribution	
Overall	Concerns
The Panel agreed that the applicant plans to meet the moderate-income housing contribution requirement by providing moderate-income units in the project. 51% of units (68 units) in the development will be rented at rates affordable to occupants at 80% of the area median income.	None.

5. Project Design and Compatibility	
Overall	Concerns
The Panel discussed the project's overall design elements and agreed that the applicant provided a narrative and accompanying graphics that adequately demonstrate how the project addresses the basic design principles, including: <ul style="list-style-type: none"> • Scale, form, and quality of building, • Mixture of project elements, • Relationship to the street and surrounding uses, and • Parking and circulation. 	None.

6. Historic and Existing Housing Sensitivity	
Overall	Concerns
The Panel agreed that the project does not impact historic locales or existing housing.	None.

7. Project Need	
Overall	Concerns
Overall, the Panel concluded that the exemption is needed for the project. Based on PNW Economics' analysis, the Panel unanimously concluded that the project demonstrates need for a 10-year MUPTE.	None.

Overall recommendation to the City Manager:
Provide a ten-year MUPTE.

RESOLUTION NO. _____**A RESOLUTION APPROVING A MULTIPLE-UNIT PROPERTY TAX EXEMPTION FOR RESIDENTIAL PROPERTY LOCATED AT 1059 WILLAMETTE STREET, EUGENE, OREGON (APPLICANT 1059 WILLAMETTE INVESTMENT, LLC).****The City Council of the City of Eugene finds that:**

A. The City of Eugene is the current owner of real property located at 1059 Willamette Street in Eugene, Oregon (Assessor's Map #17-03-31-14, Tax Lot 12800) ("the Property").

B. 1059 Willamette Investment, LLC ("the applicant") submitted an application pursuant to the City's Multiple-Unit Property Tax Exemption ("MUPTE") program (Sections 2.945 through 2.947 of the Eugene Code, 1971 ("EC")), with respect to residential units and commercial space to be constructed on the Property ("the project").

C. The applicant and the City have entered into a disposition and development agreement for the site. By the time the MUPTE takes effect for the completed development, the private entity will own and be responsible for any applicable property tax for the property. The MUPTE program allows entities other than the property owner to apply for the tax exemption with the authorization of the owner, which the City has granted for this application.

D. The proposed project consists of the development of at least 133 residential units, including at least 74 studio units, 54 one-bedroom units, and five two-bedroom units, none of which will be for transient use or vacation occupancy. The project is not designed for the leasing of individual rooms or beds, for transient or vacation uses, or otherwise designed primarily for individuals attending college.

E. The proposed project will also include approximately 2,664 square feet of commercial space. MUPTE may be applied to commercial space when it is deemed to be a required design element or a public benefit. In addition to activating long-vacant building frontages, the applicant plans to offer retail spaces at below-market rents and use lobby space as a public art gallery participating in arts events and hosting local artists. The applicant has requested the exemption for all of the commercial space.

F. An independent outside professional consultant was retained and reviewed the project's financial pro-forma. A Review Panel was convened and reviewed the application as well as the independent consultant's conclusions in order to make a recommendation as to whether the application met the criteria in EC 2.946. The Review Panel's recommendation was submitted for the City Manager's review.

G. After considering the Review Panel's conclusions and recommendation, the Executive Director of the Planning and Development Department ("the Executive Director") as designee of the City Manager, prepared the Report and Recommendation attached to this

Resolution as Exhibit A and incorporated herein by reference. The Report and Recommendation sets forth findings demonstrating that the project meets the criteria described in EC 2.946 and the conditions set forth in the Multiple-Unit Housing Property Tax Exemption Rule R-2.945 (“Rule R- 2.945”).

H. Based on the findings in the Report and Recommendation, the Executive Director recommends that the application be approved and the exemption granted. In making that recommendation, the Executive Director found that the applicant submitted all materials, documents, and fees required by EC 2.945, EC 2.946, and Rule R-2.945, and the applicant is in compliance with the policies contained therein.

I. The City Council has concluded that the application meets the criteria described in EC 2.946 and Rule R-2.945.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, a Municipal Corporation of the State of Oregon, as follows:

Section 1. Based upon the above findings which are adopted, and upon the City Council’s review and adoption of the Report and Recommendation of the Executive Director of the Planning and Development Department attached to this Resolution as Exhibit A and incorporated herein by reference, the City Council approves the application of 1059 Willamette Investment, LLC for an ad valorem property tax exemption under the City’s Multiple-Unit Property Tax Exemption (MUPTE) Program for the residential units and commercial space to be constructed at 1059 Willamette Street, Eugene, Oregon (Assessor’s Map #17-03-31-14, Tax Lot 12800), subject to the following conditions:

- 1.1 **Compact Urban Development.** The project will consist of at least 133 residential units, including at least 74 studio units, 54 one-bedroom units, and five two-bedroom units, none of which will be used for transient use, student housing, or vacation occupancy. The ground floor will contain approximately 2,664 square feet of commercial space.

Multiple-Unit Housing Property Tax Exemption Rule R-2.945 (“Rule R-2.945”) requires that in order to be eligible for a MUPTE, projects on properties located in the downtown area and east of Charnelton Street must provide residential units equivalent to at least 175% of the minimum density applicable to the property’s zoning designation. The project will be built in the C-3 Major Commercial zone, which does not include a minimum residential unit density.

The project will be constructed in accordance with the schematic drawing showing the site plan and major features and dimensions of the proposed development, as well as schematic drawings showing side, front, and back elevations of the proposed development, all of which are attached to this Resolution as Exhibit B.

- 1.2 Green Building Features. The project will utilize the City of Eugene Building and Permit Services Pathway to meet the MUPTE green building requirement and exceed the 10% energy efficiency threshold. The applicant will submit to the City of Eugene's Building and Permit Services Division an energy model with the applicant's development permit application. Within 18 months after receiving a certificate of occupancy, the applicant shall submit to the City a commissioning report pursuant to Section 1.2 of Rule R-2.945-C and will report multi-family occupancy energy use data to the City's Building and Permit Services Division for the life of the MUPTE.

The project's on-site parking will include installation of conduit for future electric vehicle charging stations.

- 1.3 Local Economic Impact Plan and Compliance with Laws. A plan is in place that demonstrates that more than 50% of the dollar volume of the combined professional services and construction contracts are or will be from business organizations or individuals residing or doing business primarily in Lane County.

Applicant will ensure that qualified minority and women business enterprises have been given an equitable opportunity to compete for development related contracts by: (1) accessing lists of certified minority, women, emerging small business or disadvantaged business enterprises from the Oregon State Office of Minority, Women and Emerging Small Business; (2) searching for Qualified Rehabilitation Facilities from whom to procure products and services via the Oregon State Qualified Rehabilitation Facilities Program website; and (3) advertising in general circulation, trade association, and minority focused media about prime subcontracting opportunities.

The applicant will ensure that information about the City's Rights Assistance Program in English and Spanish is posted on the job site during construction of the project.

The applicant will ensure that the developer and its contractors and subcontractors comply with wage, tax, and licensing laws.

The applicant will have in place methods for ensuring that all contractors performing work are licensed and performing in compliance with state law.

The applicant will provide the City's Building and Permits Services Division with a list of all contractors performing work on the project. Prior to performing work on the project, contractors must have valid, current licensing, insurance, bonding, and workers compensation coverage, and must be on the list of contractors provided to the City.

The applicant will require that each contractor provide an affidavit attesting to the fact that (1) the contractor, owner, or responsible managing individual for the contractor does not have any unpaid judgments for construction debt, including unpaid wages; and (2) the contractor is in compliance with Oregon tax laws.

- 1.4 Moderate-Income Housing Contribution. Consistent with a separate development agreement between the applicant and the City of Eugene, at least 51% of the units in the project must be affordable to households earning up to 80% of area median income. These units will meet or exceed the requirements of EC 2.946(2)(h) and MUPTE Rule R-2.945-C 1.4, which require that at least 30% of the units in the project qualify as moderate-income/workforce housing units. At the time of move-in for each occupant, the rent for an income-qualified unit will be assessed at no more than 30% of the income of a household earning 80% of AMI, which is the standard used for determining housing affordability. The rents for the income-qualified units will be less than what is required to qualify as “workforce housing” under the MUPTE program, the rent for which is limited to 30% of the income of a household earning 100% of AMI.
- 1.5 Project Design and Compatibility. The project will adhere to the design shown in Exhibit B to this Resolution and will apply basic design concepts that consider the scale, form, and quality of the building; the mix of project elements; the relationship to the street and surrounding uses; and parking and circulation.

A distinguishing characteristic of 1059 Willamette’s apartments is the development team’s attention to Eugene at large. The design daylights the history of downtown Eugene, the importance of art and culture, and the current housing landscape. The design recognizes the architecture of the original Montgomery Ward building through a series of decisions that successfully knit the building into the context of the neighborhood while responding to the current housing crisis through the articulate design of an efficient and contextual 6-story apartment building. The integrated design results in a smart and sophisticated urban infill development.

The scale of the building neatly settles the project into the L-shaped lot. The architecture showcases distinct styles along Willamette Street and 11th Avenue through the incorporation of brick and metal cladding, respectively, as the primary material for each façade. Each theme leans into its style through a series of subsequent fenestration applications such as the organization of window placement, the use of steel canopies, a concrete base, and cantilevered upper floors to establish a pedestrian scale environment at the street level.

Due to the nature of the lot, its location, constraints, and the goals of the project, incorporating outdoor spaces into tight limits has been carefully handled. With intentional programming of a top-floor patio and through the thoughtful application of large windows at key locations throughout the building, residents

are provided access to outdoor living, an essential component of overall wellbeing.

The use of brick, concrete, metal, and steel with large storefront windows at the street level sets a classic, timeless design language. The suite of materials and architectural applications are appropriate, contextual, and durable. The material palette features blond-colored brick, metal cladding, steel canopies, and a concrete foundation that together visually and structurally secure the building's stature. The proposed design concept includes a stenciled sign on the south facing façade which exhibits personality and demonstrates a placemaking initiative which in turn fosters an authentic identity.

The building's materials and programming both contribute to the success of the streetscape. The proposed programming and layout of the ground floor offers flexibility for tenant infill and leasing options. The adaptability built into the ground floor spaces is essential to the economic value of the proposed development and how that value will be felt throughout the downtown. This is critical for the overall, long-term economic viability of Downtown Eugene.

To provide vision, the development team highlights the ground floor as a public art gallery cementing it as a community-centered place. An additional distinction is the call out of specific façades for murals. Bundling these concepts, the development takes on the role as a cultural landmark within the downtown core. The idea of walking along Willamette Street and being greeted by strong architecture filled with light and art at ground level is not only convincing, but a captivating proposal and one that should be realized.

Dedicating the ground floor to the public realm and the upper floors to the private realm is logical. The health and safety of tenants and pedestrians is paramount and safeguarded through proper design decisions exhibited in the proposed design. Lighting, wayfinding, and establishing clear sight lines are areas where safety measures can be implemented and secured. The project demonstrates the importance of health, safety, and livability.

The project's location directly across the street from Lane Transit District's Downtown Station and its placement in the heart of the downtown are great benefits from multi-modal transit options and walkability standpoints. The proposed parking for the development is practical in large part due to the development's proximity to public transit. The proposed approach of visually concealing parking from the public realm preserves a pedestrian-centered environment.

As designed and as shown in Exhibit B to this Resolution, the project successfully establishes itself as a direct public benefit through design concepts that consider the scale, form, and quality of the building; the mix of project elements; the relationship to the street and surrounding uses; and parking and circulation.

- 1.6 Historic and Existing Housing Sensitivity. The project is located across the street from the McDonald Theatre, a designated historic locale. The project will preserve and enhance existing historic locales and will not directly structurally impact any identified historic resources.
- 1.7 Compliance Review. During the design process and before the final design drawings are completed, the owner shall hold at least one neighborhood engagement opportunity to allow members of the Downtown Neighborhood Association and others to provide comments on the proposal. At least one of the applicant's principals shall attend that meeting.

After the final design is completed and before it is submitted for permits, the final design shall be submitted to the City to review for conformance with the design approved by this Resolution. The neighborhood shall also have an opportunity to review and comment on the final design. After the comment period, the City shall determine if the design is consistent with the requirements of this Resolution, and if not, whether the City Manager will approve a deviation pursuant to EC 2.946.
- 1.8 At the time of completion, the project shall conform with all local plans and planning regulations, including special or district-wide plans developed and adopted pursuant to ORS Chapter 195, 196, 197, 215, and 227 that are applicable at the time the application is approved.
- 1.9 During all phases of development, the project shall comply with wage, tax, and licensing laws.
- 1.10 The project shall not contain any units for transient use or vacation occupancy.
- 1.11 The project will be completed on or before January 1, 2032, unless an extension of the deadline is requested by the property owner and approved by Council resolution pursuant to EC 2.947(5).
- 1.12 The public benefits of the project that will extend beyond the period of the tax exemption include Green Building (energy performance), Project Design and Compatibility, and Compact Urban Development.
- 1.13 During the exemption period, the project's owner must annually submit documentation to the City to allow the City to evaluate the owner's compliance with workforce housing requirements.

Section 2. Subject to the conditions in Section 1 of this Resolution, 100% of the residential units and the commercial space described in Section 1 are declared exempt from local ad valorem property taxation beginning July 1 of the year following issuance of a Certificate of Occupancy and continuing for a continuous period of ten years unless earlier terminated in accordance with the provisions of Section 2.947 of the Eugene Code, 1971.

Section 3. The City Manager, or the Manager's designee, is requested to forward a copy of this Resolution to the applicant within ten days, and to cause a copy of this Resolution to be filed with the Lane County Assessor on or before April 1, 2024.

Section 4. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution adopted the ____ day of _____, 2024.

City Recorder

**REPORT AND RECOMMENDATION
of the Planning & Development Department**

Exhibit A

1059 Willamette Application for Multiple-Unit Property Tax Exemption

The Executive Director of the Planning & Development Department of the City of Eugene finds that:

1. The City of Eugene is the current owner of real property located at 1059 Willamette Street in Eugene, Oregon (Assessor's Map #17-03-31-14, tax lot 12800). 1059 Willamette Investment LLC ("applicant") submitted an application pursuant to the City's Multiple-Unit Property Tax Exemption ("MUPTE") program (Sections 2.945 and 2.947 of the Eugene Code, 1971), with respect to residential units to be constructed on the property. The applicant and City have entered into a disposition and development agreement for the site. By the time the MUPTE takes effect for the completed development, the private entity will own and be responsible for any applicable property tax for the property. The MUPTE program allows entities other than the property owner to apply for the tax exemption with the authorization of the owner, which the City has granted for this application.
2. As the City Manager's designee, I have reviewed the application and found that:
 - 2.1 The project will provide 74 studio units, 54 one-bedroom units, and five two-bedroom units for a total of 133 residential units, none of which will be used for transient use or vacation occupancy. There are approximately 2,664 square feet of commercial space on the ground floor of the building. The applicant has requested the exemption for all of the commercial space. MUPTE may be applied to commercial space when it is deemed to be a required design element or a public benefit. In addition to activating long-vacant building frontages, the applicant plans to offer retail spaces at below-market rents and use lobby space as a public art gallery participating in arts events and hosting local artists.
 - 2.2 The project is not designed to be student housing, meaning it will be leased by the unit (rather than by individual rooms or beds), the unit configuration does not include several bedrooms with individual bathrooms and sparse common space, it does not include amenities and location selected primarily for individuals attending college, and it does not offer limited viability as potential housing for the general population.
 - 2.3 Construction is expected to be complete on or before January 1, 2032.
 - 2.4 The project is located in the downtown area described in subsection (1) of Section 2.946 of the Eugene Code, 1971.
 - 2.5 The applicant submitted all materials, documents, and fees required by the City as set forth in Section 2.945 of the Eugene Code, 1971, and the administrative rules adopted by Administrative Order No. 53-22-09-F.

2.6 The applicant responded to the **Required Public Benefit** criteria as follows:

- 2.6.1 Compact Urban Development. Rule R-2.945 requires that in order to be eligible for a MUPTE, projects on properties located in the downtown area and east of Charnelton must provide residential units equivalent to at least 175% of the minimum density applicable to the property's zoning designation. The project will be built in the C-3 Major Commercial zone, which does not include a minimum residential unit density. The project will have a density of 316 units per acre.
- 2.6.2 Green Building Features. Consistent with the requirements of Administrative Rule R-2.945-C 1.2.2.2, the project will utilize the City of Eugene Building and Permit Services' pathway to meet the MUPTE green building requirement and exceed the 10% energy efficiency threshold. The entity applying for development permits will be required to submit an energy model with their development permit application. Within 18 months after receiving a certificate of occupancy, the applicant shall submit to the City a commissioning report pursuant to Section 1.2 of Rule R-2.945-C and will report multi-family occupancy energy use data to the City's Building and Permit Services for the life of the MUPTE tax exemption. The project's on-site parking will include installation of conduit for future electric vehicle charging stations.
- 2.6.3 Local Economic Impact Plan. The applicant has provided a Local Economic Impact Plan (Plan) demonstrating that more than 50% (the Plan estimates 63%) of the project's dollar volume of professional services and construction contracts are or will be from business organizations or individuals residing or doing business primarily in Lane County, as required by Administrative Rule R-2.945-C 1.3.1. The applicant is committed to promoting open competitive opportunities for Minority, Women, and Emerging Small Businesses, and the Plan demonstrates that the applicant will ensure that qualified minority and women business enterprises have an equitable opportunity to compete for contracts and subcontracts as required by Administrative Rule R-2.945-C 1.3.2. The Plan provides that the developer will post information about the City's Rights Assistance Program in English and Spanish on the job site. Finally, the Plan also demonstrates that the applicant will ensure that the developer and its contractors and subcontractors comply with wage, tax, and licensing laws as required by Administrative Rule R-2.945-C 1.3.4.
- 2.6.4 Moderate-Income Housing Contribution. Per a separate agreement with the City of Eugene, at least 51% of the units in the project must be income-qualified and affordable to households earning up to 80% of area median income (AMI). These units will meet or exceed the requirements of Administrative Rule R-2.945-C 1.4, which requires that at least 30% of the units in the project qualify as moderate-income/workforce housing units. At time of move-in for each occupant, the rent for an income-qualified unit will be calculated to be no more than 30% of the income of a household earning 80% of AMI, which is the

standard used for determining housing affordability. The rents for the income-qualified units will be less than what is required to qualify as “workforce housing” under the MUPTE program, the rent for which is limited to 30% of the income of a household earning 100% of AMI.

- 2.6.5 Project Design and Compatibility. The project will adhere to the design shown in the resolution and will apply basic design concepts that consider the scale, form, and quality of the building; the mix of project elements; the relationship to the street and surrounding uses; and parking and circulation.

A distinguishing characteristic of 1059 Willamette’s apartments is the development team’s attention to Eugene at large. The design daylights the history of downtown Eugene, the importance of art and culture, and the current housing landscape. The design recognizes the architecture of the original Montgomery Ward building through a series of decisions that successfully knit the building into the context of the neighborhood while responding to the current housing crisis through the articulate design of an efficient and contextual 6-story apartment building. The integrated design results in a smart and sophisticated urban infill development.

The scale of the building neatly settles the project into the L-shaped lot. The architecture showcases distinct styles along Willamette Street and 11th Avenue through the incorporation of brick and metal cladding, respectively, as the primary material for each façade. Each theme leans into its style through a series of subsequent fenestration applications such as the organization of window placement, the use of steel canopies, a concrete base, and cantilevered upper floors to establish a pedestrian scale environment at the street level.

Due to the nature of the lot, its location, constraints, and the goals of the project, incorporating outdoor spaces into tight limits has been carefully handled. With intentional programming of a top-floor patio and through the thoughtful application of large windows at key locations throughout the building, residents are provided access to outdoor living, an essential component of overall wellbeing.

The use of brick, concrete, metal, and steel with large storefront windows at the street level sets a classic, timeless design language. The suite of materials and architectural applications are appropriate, contextual, and durable. The material palette features blond-colored brick, metal cladding, steel canopies, and a concrete foundation that together visually and structurally secure the building’s stature. The proposed design concept includes a stenciled sign on the south facing façade which exhibits personality and demonstrates a placemaking initiative which in turn fosters an authentic identity.

The building’s materials and programming both contribute to the success of the streetscape. The proposed programming and layout of the ground floor

offers flexibility for tenant infill and leasing options. The adaptability built into the ground floor spaces is essential to the economic value of the proposed development and how that value will be felt throughout the downtown. This is critical for the overall, long-term economic viability of Downtown Eugene.

To provide vision, the development team highlights the ground floor as a public art gallery cementing it as a community-centered place. An additional distinction is the call out of specific façades for murals. Bundling these concepts, the development takes on the role as a cultural landmark within the downtown core. The idea of walking along Willamette Street and being greeted by strong architecture filled with light and art at ground level is not only convincing, but a captivating proposal and one that should be realized.

Dedicating the ground floor to the public realm and the upper floors to the private realm is logical. The health and safety of tenants and pedestrians is paramount and safeguarded through proper design decisions exhibited in the proposed design. Lighting, wayfinding, and establishing clear sight lines are areas where safety measures can be implemented and secured. The project demonstrates the importance of health, safety, and livability.

The project's location directly across the street from Lane Transit District's Downtown Station and its placement in the heart of the downtown are great benefits from multi-modal transit options and walkability standpoints. The proposed parking for the development is practical in large part due to the development's proximity to public transit. The proposed approach of visually concealing parking from the public realm preserves a pedestrian-centered environment.

As designed and as shown in the resolution, the project successfully establishes itself as a direct public benefit through design concepts that consider the scale, form, and quality of the building; the mix of project elements; the relationship to the street and surrounding uses; and parking and circulation.

- 2.6.6 Historic and Existing Housing Sensitivity. The project is adjacent to the McDonald Theatre, a designated historic locale across the street. Per a concept plan reviewed by Planning & Development Department staff, the project is determined to preserve and enhance existing historic locales and includes no direct structural impacts to any identified historic resources. No historic structures or existing housing were demolished or removed from the property in the two years prior to the date of application.
- 2.6.7 Project Need. The project's pro-forma and financial information were analyzed by PNW Economics, an independent real estate economics consultant who found that the project as proposed is not financially feasible without the tax exemption. The financial information submitted is based on projections prior

Page 4 of 6

Report and Recommendation

to finalizing financing, construction, and tenanting. It includes assumptions regarding rents, vacancy rates, operating costs, lender underwriting criteria, interest rates, and reasonable rate of return. PNW Economics, the MUPTE Review Panel, and staff reviewed the assumptions. The consultant found the applicant's assumption to be reasonable overall, with only minor changes made in their own analysis.

The PNW Economics analysis concludes that the project would not be viable without the availability of the MUPTE using the reasonable assumptions outlined and concludes that MUPTE is critical to the success of the project from a financial feasibility perspective. See Section 4 below for the Review Panel's conclusions.

- 2.6.8 Public Benefit beyond Period of Exemption. The public benefits of the project that will extend beyond the period of the tax exemption include Green Building (energy performance), Project Design and Compatibility, and Compact Urban Development.

- 2.7 The applicant held a neighborhood engagement meeting regarding 1059 Willamette for the Downtown Neighborhood Association on July 26, 2023.

- 2.7.1 Future Neighborhood Engagement. Prior to completing final drawings, the applicant will hold another neighborhood engagement meeting. Before submitting for permits, the applicant will submit the design to staff to review conformance with the design attached to the MUPTE resolution (should City Council approve the MUPTE). Staff will also give interested parties an opportunity to review and comment on that final design.

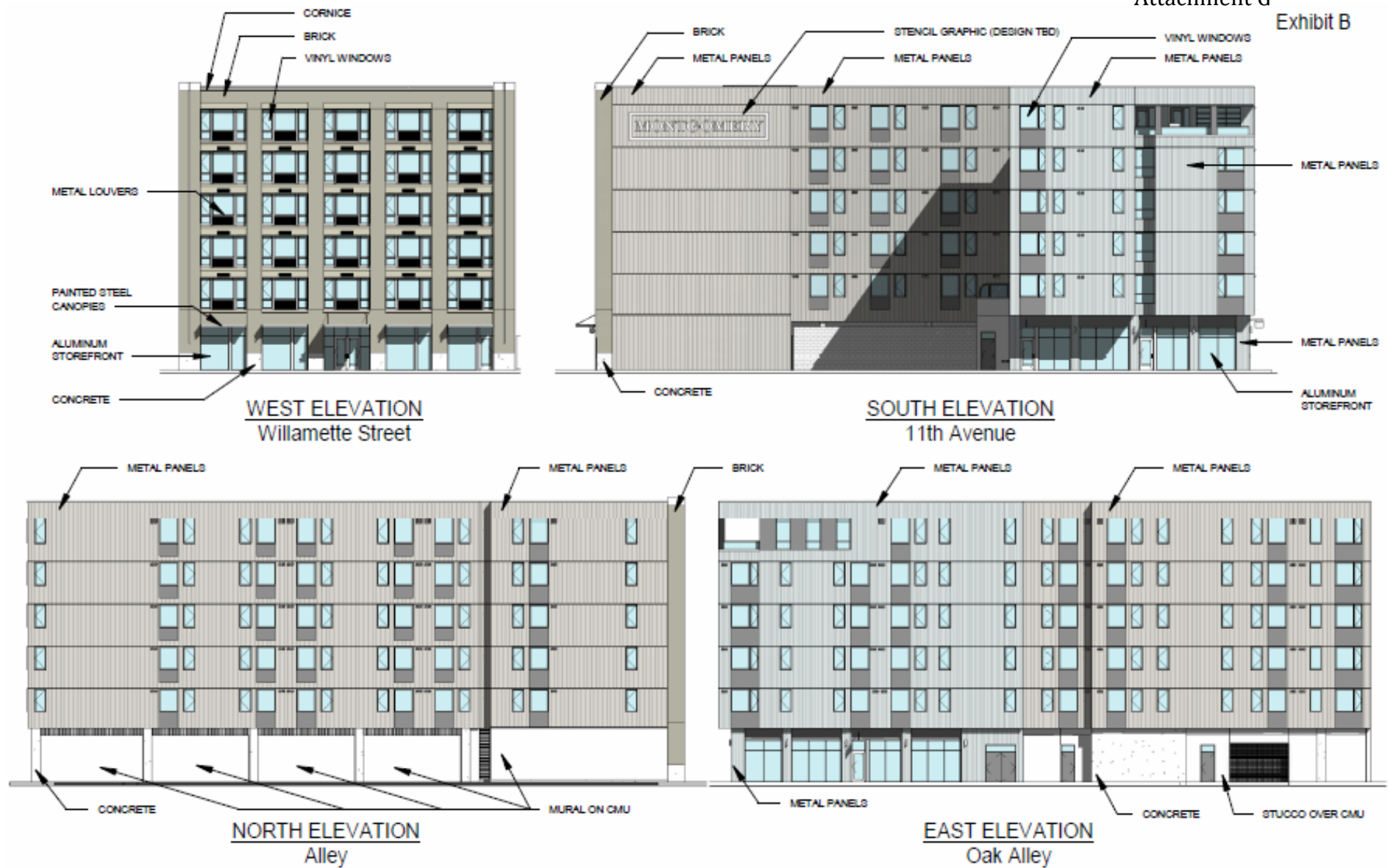
3. The Community Development Division published an advertisement soliciting recommendations or comments from the public regarding this project in the Register-Guard on November 14, 2023. The period for comment expired on December 14, 2023, with no written testimony received.
4. The community-member MUPTE Review Panel considered the project application, including compliance with program criteria and the independent consultant's financial review, during two meetings held on December 15, 2023, and January 18, 2024. The Review Panel unanimously concluded that the project meets the required Public Benefit Criteria, that the project's financial need was demonstrated, and that a ten-year exemption was warranted. Documents for the Panel's conclusions will be provided to the City Council with the materials for the Council work session scheduled for February 28, 2024.

Therefore, based upon the above findings, the project is or will be at the time of completion in conformance with all applicable local plans and provisions of the Eugene Code, 1971, planning regulations, the Metropolitan Area General Plan, and the criteria set forth in the City's adopted administrative rules, and I recommend that the application be approved conditioned upon the project moving forward as proposed.

Dated this 9 day of February, 2024.


[Denny Braud \(Feb 9, 2024 10:42 PST\)](#)

Denny Braud
Executive Director
Planning & Development Department



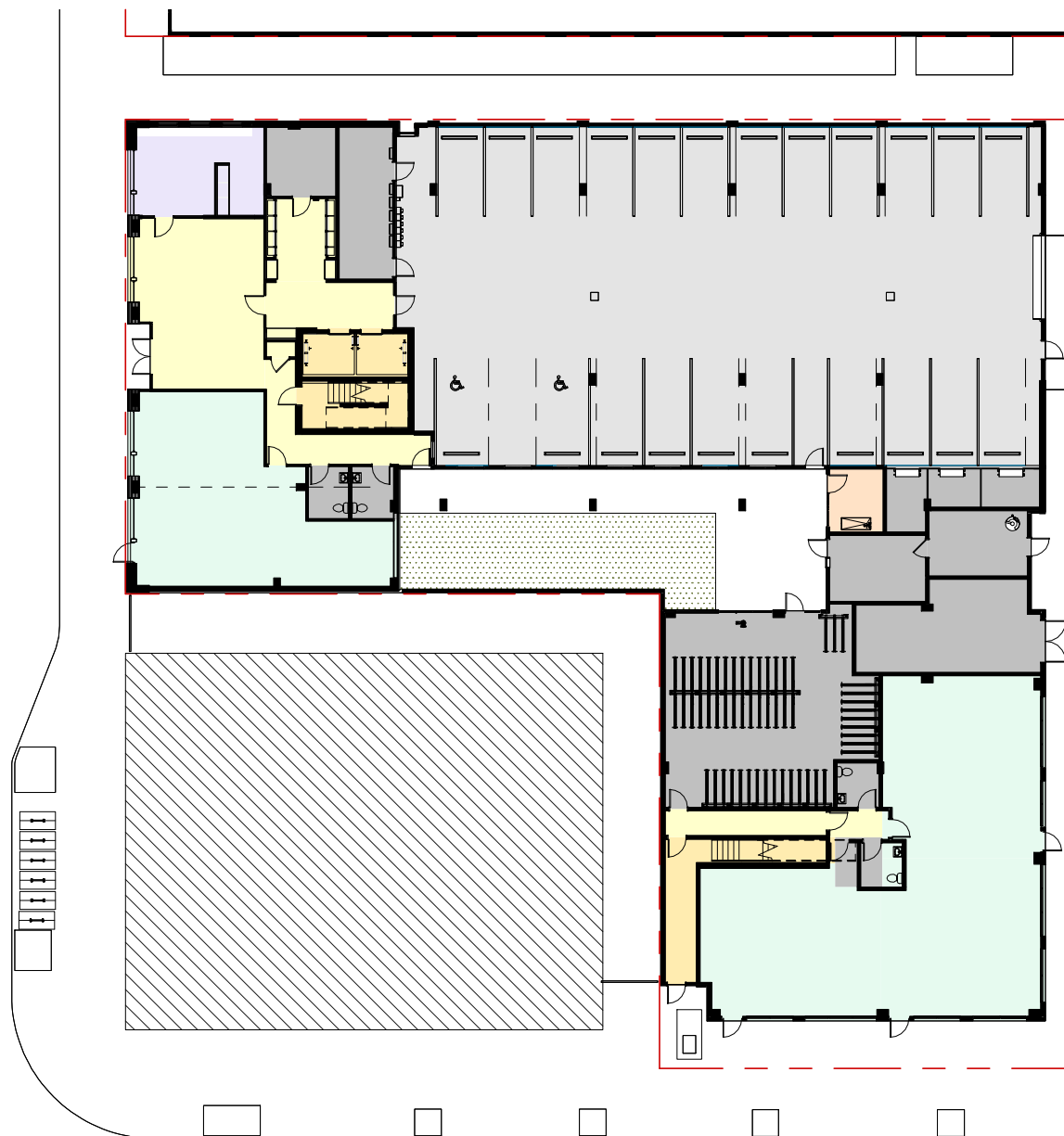
CHASE
MIKSI

EDLEN & CO.
EDLEN KRAGE SHERMAN
IMPACT REAL ESTATE

ELEVATIONS
1059 WILLAMETTE STREET | EUGENE, OR

PROGRAM

- CIRCULATION - HORIZONTAL
- CIRCULATION - VERTICAL
- FUTURE T.I.
- LEASING OFFICE
- PARKING
- PROGRAM - SPECIAL 1
- UTILITY



1ST FLOOR PLAN

1059 WILLAMETTE STREET | EUGENE, OR



CHASE
MIKSYS

EDLEN & CO.
EDLEN KRAGE SHERMAN
IMPACT REAL ESTATE

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Work Session: Overview of Charter Review and Amendment Process

Meeting Date: February 28, 2024
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 2
Staff Contact: Brooke Freed
Contact Telephone Number: 541-682-5010

ISSUE STATEMENT

In response to an approved work session poll, the Council will receive an overview of the 2002 Charter Review and Amendment process. This work session provides an opportunity for the Council to learn about the process that was used in 2002 and discuss a potential Charter review process in the future. This work session is informational only.

BACKGROUND

The Oregon Constitution grants cities the authority to incorporate, draft and amend their charters and pass local ordinances. Amendments to the Eugene Charter require a vote by the people and can be proposed by citizen petition or by referral from City Council.

There is no required process for regularly reviewing the Eugene charter outlined in the charter, city code or operating agreements. The most recent comprehensive City of Eugene Charter Review process occurred from 1999-2002, with proposed charter amendments approved by the voters in May and November 2002. Since that time, additional charter amendments have occurred in 2005 and 2008 (External Review of Police), 2017 (Collective Bargaining), and 2019 (City Payroll Tax). The City of Eugene Charter is included as Attachment A.

Charter Review & Amendment Process (1999-2002)

The 1999-2000 charter review and amendment process occurred in three general phases: an initial Charter Review Commission (CRC); a Citizen Committee on Mayor and Council Compensation (CCMCC); and a Citizen Charter Review Committee (CCRC). The distinct processes, timelines, and scopes are summarized below. In total, between May 26, 1999, and July 31, 2002, the City Council discussed the charter amendment process and recommendations at 19 council meetings/work sessions and held one public hearing. Additionally, within that time period, three council-convened citizen committees held 53 meetings and four public forums. See Attachment B for additional details.

Phase 1: Charter Review Commission (April 1999-August 1999)

In April 1999, City Council adopted its 1999-2001 goals which included an action priority to authorize and appoint a Charter Review Commission, including council compensation. In May of the same year, Council established a subcommittee of two councilors to develop a

recommendation regarding the composition of a commission. In June 1999, Council approved the subcommittee's recommendation establishing a Charter Review Commission (CRC), a 15-person committee which was to review mayor/councilor compensation, hold a public forum, and provide a recommendation to Council by August 1999.

The committee met 4 times and held one subcommittee meeting to draft the final report. Minutes were kept for each meeting. The committee did not ultimately hold a public forum as directed by the council due to time constraints and the inability to align on recommendations.

At a work session on August 11, 1999 Council discussed the findings of the CRC (Attachment C). The CRC members were unable to reach an agreement on most items but did agree that one month was insufficient to make an informed recommendation to Council regarding putting a measure on the November 1999 ballot. The discussion was tabled until September 8, 1999.

Phase 2: Citizen Committee on Mayor and Council Compensation (Sept 1999-May 2000)

On September 8, 1999, Council passed a motion to place a charter amendment on the May 2000 ballot that called for compensation for the mayor and city council. The motion included the formation of a seven-member committee to draft a charter amendment for Council's review and referral, with a three-month timeline. Members were to be appointed by October 27, 2000, and work completed no later than February 1, 2000.

In October 1999, Council appointed the seven member Citizen Committee on Mayor and Council Compensation (CCMCC). The CCMCC met 9 times between November 3, 1999 and February 3, 2000. Each meeting allowed for public comment and minutes were kept for each meeting. In addition, the committee held two public forums, and a web page was created for the committee.

The CCMCC presented its final report to Council on February 9, 2000 (Attachment D). The Council accepted the report and scheduled a public hearing on the committee's recommendations which took place on February 14, 2000. On February 28, 2000, Council passed [Resolution 4614](#) to refer to the May 2000 ballot a charter amendment providing compensation for the Mayor and City Councilors.

On May 16, 2000 Eugene voters approved a charter amendment authorizing Mayor and Councilor Compensation (#20-29: **21,052 yes**; 19,862 no).

Phase 3: Citizen Charter Review Committee (August 2000-November 2002)

On August 7, 2000, Council created a nine-member Citizen Charter Review Committee (CCRC) to undertake specific items identified by Council in the motion (the scope was later expanded per the committee's request), with a 16-month timeline for the committee. Recruitment was to begin on September 1, 2000, and committee work to end with a final committee report due to Council by December 31, 2001 (with quarterly written reports to Council).

On December 11, 2000, Council appointed the nine members of the Citizen Charter Review Committee. The CCRC met 40 times between January 2001 and December 2001. Each meeting allowed for public comment. For the first three months the CCRC met weekly, and they also

created subcommittees. Additionally, they held two public forums. A quarterly report was provided to Council on April 18, 2001 in which Council considered several substantive motions.

The CCRC presented its final report to Council on January 14, 2002 (Attachment E). The Council accepted the report by motion.

Subsequently, between January 28 and July 31, 2002, City Council discussed the CCRC recommendations at eight separate work sessions and deliberated on 27 motions and 9 resolutions.

Ultimately, 8 charter amendments were referred to the November 5, 2002 ballot by resolution (Resolution [4728](#), [4729](#), [4730](#), [4731](#), [4732](#), [4733](#), [4734](#), [4735](#)). As part of the July 31 deliberations, Council also approved \$10,000 for public outreach regarding the proposed charter amendments and \$20,000 for the voter's pamphlet.

In November 2002, Eugene voters approved 7 charter amendments:

- Housekeeping Amendments (#20-68: **35,496 yes**; 12,450 no)
- Ethics in Conflicts of Interest (#20-69: **32,604 yes**; 13,907 no)
- Department Head Hiring/Firing (#20-70: **26,972 yes**; 17,831 no)
- Filling of Council/Mayor Vacancies (#20-72: **30,016 yes**; 14,352 no)
- Liability for Unauthorized Expenditure (#20-73: **29,824 yes**; 14,781 no)
- Ordinance Adoption and Effective Date (#20-74: **31,698 yes**; 9,659 no)
- Initiated Ordinance (#20-75: **25,270 yes**; 16,715 no)

The City Attorney amendments failed (#20-71: 21,629 yes; **23,145 no**).

1999-2002 Process Summary

Phase 1 <i>Charter Review Commission</i> <i>April 1999 - Aug 1999</i>	<ul style="list-style-type: none">▪ Council establishes Council Subcommittee▪ Council Subcommittee recommends formation of a 15-member committee structure; approved by Council▪ 15-member committee appointed, 1-month timeline▪ Committee met 4 times to review mayor/councilor compensation, plus<ul style="list-style-type: none">○ (1) Subcommittee○ Committee did not hold Public forum as originally directed○ Minutes for all meetings○ Final Report▪ Committee reports findings▪ Council does not refer to November 1999 ballot
Phase 2 <i>Citizen Committee on Mayor and Council</i>	<ul style="list-style-type: none">▪ Council establishes 7-member committee, 3-month timeline▪ Council appoints committee members▪ Committee met 9 times (included public comment), plus<ul style="list-style-type: none">○ (2) Public forums○ Web page○ Minutes for all meetings

Compensation <i>Sept 1999 - May 2000</i>	<ul style="list-style-type: none"> ○ Final Report ▪ Committee reports recommendation; Council accepts, schedules Public Hearing ▪ Public Hearing ▪ Council refers charter amendment to May 2000 ballot ▪ Amendment approved by voters
Phase 3 Citizen Charter Review Committee <i>Aug 2000 – Nov 2002</i>	<ul style="list-style-type: none"> ▪ Council establishes 9-member committee, 16-month timeline ▪ Committee recruitment ▪ Committee appointment ▪ Committee met 40 times (included public comment), plus <ul style="list-style-type: none"> ○ Subcommittees ○ (2) Public forums ○ Web page ○ Minutes for all meetings ○ Quarterly report ○ Final report ▪ Committee reports recommendation; Council accepts ▪ Council discusses in 8 subsequent work sessions <ul style="list-style-type: none"> ○ 27 motions; 9 resolutions ▪ Council refers to November 2002 ballot ▪ Public Outreach (\$10,000) ▪ 7 Amendments approved by voters

PREVIOUS COUNCIL DIRECTION

This is the first work session pertaining to a potential charter review process. Previous Council direction related to the 1999-2002 Charter Review and Amendment Process is outlined in Attachment B.

COUNCIL OPTIONS

Informational only.

CITY MANAGER'S RECOMMENDATION

None.

SUGGESTED MOTION

None.

ATTACHMENTS

- A. City of Eugene Charter
- B. 1999-2002 Charter Review & Amendment Process
- C. Report from the Charter Review Commission

- D. Report from the Citizen Committee on Mayor and Council Compensation
- E. Citizen Charter Review Committee Final Report to Council 2002

FOR MORE INFORMATION

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EUGENE CHARTER

2002

AMENDMENTS

<u>Election Date</u>	<u>Section</u>	<u>Action</u>
May 20, 1980	Section 51	Added
November 6, 1984	Section 52	Added
March 26, 1991	Section 53	Added
November 5, 1996	Section 54	Added
May 16, 2000	Section 18	Amended
	Section 44	Amended
November 5, 2002	Section 1	Amended
	Section 7	Amended
	Section 8	Amended
	Section 9	Amended
	Section 11	Amended
	Section 13	Amended
	Section 14	Amended
	Section 15	Amended
	Section 16	Amended
	Section 17	Amended
	Section 18	Amended
	Section 20	Amended
	Section 23	Amended
	Section 24	Amended
	Section 25	Amended
	Section 26	Amended
	Section 28	Amended
	Section 29	Amended
	Section 31	Amended
	Section 32	Amended
	Section 32-A	Added
	Section 33	Amended
	Section 34	Amended
	Section 35	Amended
	Section 37	Amended
	Section 40	Amended
	Section 42	Amended
	Section 43	Amended
	Section 45	Amended
	Section 48	Amended
	Section 49	Amended
	Section 50	Amended
	Section 51	Repealed
	Section 52	Amended
	Section 53	Repealed
	Section 54	Amended
November 8, 2005	Section 15-A	Added
November 4, 2008	Section 15-A	Amended
November 7, 2017	Section 24	Amended
November 5, 2019	Section 51	Added

Eugene Charter

Table of Contents

CHAPTER I - INTRODUCTORY PROVISIONS

- Section 1. Title.
- Section 2. Corporate Name and Capacity.
- Section 3. Boundaries.

CHAPTER II - POWERS

- Section 4. Vesting, Grant, and Construction of Powers.

CHAPTER III - CITY COUNCIL AND MAYOR

- Section 5. Council - Membership.
- Section 6. Council - Election.
- Section 7. Mayor - Election.
- Section 8. Council - Qualifications.
- Section 9. Council - Meetings.
- Section 10. Council - Quorum.
- Section 11. Council - Journal.
- Section 12. Mayor - Functions.
- Section 13. Council - President.
- Section 14. Council - Ethics and Conflicts of Interest.
- Section 15. Council - Immunity.
- Section 15-A External Review of Police

CHAPTER IV - CITY MANAGER

- Section 16. City Manager.

CHAPTER V - MUNICIPAL COURT

- Section 17. Judges, Powers, Procedure.

CHAPTER VI - MUNICIPAL OFFICERS AND EMPLOYEES IN GENERAL

- Section 18. Compensation.
- Section 19. Qualifications.
- Section 20. Election.
- Section 21. Terms.
- Section 22. Oath or Affirmation.
- Section 23. Vacancies: Occupancy.
- Section 24. Vacancies - Filling.
- Section 25. Collective Bargaining.
- Section 26. Liability for Unauthorized Expenditures.

Eugene Charter

CHAPTER VII - ORDINANCES

- Section 27. Ordaining Clause.
- Section 28. Adoption of Ordinances.
- Section 29. Attestation and Approval.
- Section 30. Veto.
- Section 31. Overriding of Veto.
- Section 32. Effective Date of Ordinances.
- Section 32-A Ordinances Adopted by Initiative.

CHAPTER VIII - ELECTIONS

- Section 33. Wards.
- Section 34. Voters' Qualifications.
- Section 35. Notice.
- Section 36. Nomination.

CHAPTER IX - PUBLIC IMPROVEMENTS

- Section 37. Procedure.
- Section 38. Assessments.
- Section 39. Amendments.
- Section 40. Liens.
- Section 41. Freeways.
- Section 42. Skinner's Butte Park.

CHAPTER X - PUBLIC UTILITIES

- Section 43. Franchises.
- Section 44. Eugene Water & Electric Board - Functions - Membership.
- Section 45. Eugene Water & Electric Board - Short Term Loans.

CHAPTER XI - INDEBTEDNESS

- Section 46. Limits.
- Section 47. Terms, Proceeds, and Retirement of Bonds.

CHAPTER XII - MISCELLANEOUS PROVISIONS

- Section 48. Presumption of Validity of City Action.
- Section 49. Scrivener's Errors; Renumbering of Sections.
- Section 50. Effective Date of Revision.
- Section 51. Caps Rate and Limits Use of City's Payroll Tax.

CHAPTER XIII - AMENDMENTS

- Section 52. Amendment II.
- Section 54. Amendment IV.

Eugene Charter

Chapter I

Introductory Provisions

Section 1. Title. This revision may be referred to as the Eugene Charter of 2002.

Section 2. Corporate Name and Capacity. The inhabitants of the City of Eugene are hereby constituted a municipal corporation by the name of the City of Eugene and by that name have perpetual succession and may sue and be sued in all courts of justice.

Section 3. Boundaries. The city includes all territory encompassed by its boundaries as they exist when this revision of the charter is adopted or as they are subsequently modified in accordance with state law. The repository of city records shall include at least two copies of this charter each containing an accurate, up-to-date description of the boundaries. The copies and description shall be available for public inspection during regular office hours.

Chapter II

Powers

Section 4. Vesting, Grant, and Construction of Powers.

(1) Except as this charter provides to the contrary, all power of the city is vested in the city council, the representative legislative body of the city.

(2) The city has all powers that the constitution or laws of the United States or of this state expressly or impliedly grant or allow cities, as fully as if this charter specifically stated each of those powers.

(3) In this charter no mention of a particular power may be construed to be exclusive or to restrict the scope of the powers that the city would have if the particular power were not mentioned. The charter shall be liberally construed, to the end that the city have all powers necessary or convenient for the conduct of its affairs, including all powers that cities may assume under state laws or the provisions of the state constitution regarding municipal home rule.

Chapter III

City Council and Mayor

Section 5. Council - Membership. Eight councilors constitute the council of the city.

Section 6. Council - Election. The councilors shall be elected by wards for four years, one-half each two years. Each councilor shall hold office until his or her successor is elected and qualified.

Eugene Charter

Section 7. Mayor - Election. A mayor shall be elected in 2004 and every fourth year thereafter for a term of four years, and shall serve until his or her successor is elected and qualified.

Section 8. Council - Qualifications. During a councilor's term, the councilor shall reside in the ward from which the councilor was elected or to which he or she was appointed. In addition, to be elected or appointed as a councilor, a person must meet the qualifications described in Section 19.

Section 9. Council - Meetings. The council shall prescribe the time and place of its regular meetings, at least one of which shall be held each month. The mayor or three councilors may call special meetings of the council in a manner prescribed by ordinance.

Section 10. Council - Quorum. A majority of the members of the council constitute a quorum for the transaction of council business, except that a lesser number may meet and compel the attendance of absent members. A quorum may also compel the attendance of absent members.

Section 11. Council - Journal. The council shall keep minutes of its proceedings and at the request of any two of its members shall record in the minutes the yeas and nays upon any question before the council.

Section 12. Mayor - Functions. The mayor may call special meetings of the council and shall preside at council meetings, but may not vote on matters before the council, except in case of a tie, when he or she shall cast the deciding vote. The mayor shall, at least once each year, state to the council the condition of the city and recommend such measures for the peace, health, improvement, and prosperity of the city as he or she deems expedient.

Section 13. Council - President.

(1) Each year, at the first regular meeting of the council, or as soon as practicable, the council shall choose by ballot one of its members to serve as council president.

(2) The council president shall preside at council meetings when the mayor is absent.

(3) The council president shall function as mayor, with the powers and subject to the limitations of the office of mayor when the mayor:

- (a) is absent from the city on leave granted by the council;
- (b) has been absent from the city for 30 days or more; or
- (c) has been physically unable to function as mayor for 30 days or more.

Section 14. Council - Ethics and Conflicts of Interest.

(1) The purpose of city government is to serve the public. City officials shall treat their office as a public trust. The city's powers and resources shall be used for the benefit of the public rather than for any official's personal benefit. City officials shall afford even-handed consideration and treatment to all citizens.

(2) The council shall, by ordinance, enact a code of ethics applicable to the mayor, councilors, the city manager, and any others designated by council. At a minimum, the code shall provide that any official subject to the code must disclose the reason for any potential

Eugene Charter

or actual conflict of interest and may not discuss, debate or vote as a public official on any matter in which the official has an actual conflict of interest.

(3) No elected city official shall discuss, debate or vote as a public official on any decision regarding a contract, the expenses of which are to be paid with city funds, if any of the following persons has a financial interest in the contract: the official; the official's spouse or domestic partner; or the parent, sibling or child of the elected official, the official's spouse or the official's domestic partner. In addition, no elected city official shall discuss, debate or vote on any such decision if the official knows that the official's business associate has a financial interest in the contract. For purposes of this provision, "financial interest" includes any reasonable, objective expectation of financial gain or avoidance of financial detriment.

(4) The council shall define by ordinance the terms "domestic partner" and "business associate" for purposes of subsection (3) of this section.

(5) Any contract with respect to which an elected official violates subsection (3) of this section is voidable at the discretion of the council.

(6) Any elected official who violates the code of ethics adopted pursuant to subsection (2) or the prohibitions of subsection (3) of this section may be removed from his or her position upon a finding by the council that the official committed the violation intentionally and for the purpose of obtaining or maintaining a personal financial benefit for, or avoiding a financial detriment to, any of the persons listed in subsection (3) of this section.

Section 15. Council - Immunity. No member of the council or the mayor may be held liable, or questioned in any other place, for words uttered in debate in the council.

Section 15-A. External Review of Police.

(1) The city council shall hire, supervise and specify the salary of an independent police auditor to oversee investigations of complaints involving police employees. Notwithstanding section 16 of this charter, the city council shall authorize the auditor to: (a) receive, classify and route complaints about sworn police officers and civilian police employees; (b) contract with persons or entities to perform outside investigations of such complaints; (c) monitor the city's internal investigations, including but not limited to access to all evidence developed as part of the investigation and participation in investigative interviews related to such complaints, and require the city to undertake additional investigation; (d) make recommendations to the city manager or designee following the investigation; (e) prepare reports on complaint trends and police practices in general; and (f) act as a liaison to and provide staff support for the civilian review board.

(2) The city council shall appoint a civilian review board of not more than seven members to review investigations of complaints involving sworn police officers. Notwithstanding section 16 of this charter, the city council shall authorize the civilian review board to: (a) review the completed investigation and adjudication of complaints filed against sworn police officers; (b) require that the city re-open an investigation; (c) provide comments on an investigation, including recommendations to the independent police auditor, city manager or designee about the investigation; (d) review trends and statistics of complaints against sworn police officers and civilian employees, and provide reports and recommendations to the city council; and (e) oversee and evaluate the work of the independent police auditor.

Eugene Charter

Chapter IV**City Manager**Section 16. City Manager.

(1) (a) The city council shall appoint a city manager and fix his or her compensation and conditions of employment.

(b) If the office of manager becomes vacant, the mayor shall appoint a manager pro tem. The manager pro tem shall have all functions of the manager, but may appoint or dismiss a department head only with the approval of the council. The term of office of a manager pro tem ends when a city manager takes office.

(c) The manager shall be the administrative head of the city and be chosen solely on the basis of executive and administrative qualifications.

(d) The manager and such other appointed officers as the council designates may sit with the council but have no vote therein. The manager may take part in the discussion of all matters coming before the council.

(e) No councilor nor the mayor may in any manner, directly or indirectly, by suggestion or otherwise, attempt to influence the manager in the making of any appointment or any removal of city personnel or in the purchase of supplies, nor may any councilor or the mayor exact any promise relative to any appointment by a city manager or discuss, directly or indirectly, with the manager or any candidate for the office of manager any appointment by the manager. Violation of this section forfeits the office of the violating elected officer, who may be removed by the council or any court of competent jurisdiction. The mayor and council may, however, in open council session, discuss with or suggest to the manager anything pertaining to city affairs and in executive session discuss matters pertaining to collective bargaining.

(2) The city manager shall:

(a) propose the budget;

(b) make all purchases;

(c) appoint and remove all employees except as otherwise specified in this charter. After accepting the resignation of, appointing, or dismissing a department director, the city manager shall explain to the council the reasons for the action taken. Unless prohibited by law, the reports required by this subsection may be made to the council in executive session;

(d) enforce all ordinances;

(e) act as business agent for the council for the sale of real estate and other matters relating to franchises, leases, and other business and property transactions;

(f) prepare and furnish all reports requested by the council;

(g) perform such other duties as the council directs; and

(h) organize and, as he or she deems necessary, disband and

reorganize the various city departments.

(3) The offices of the manager and department heads may be filled by candidates from outside the city, but during their tenure in those offices, all persons hereafter appointed to them shall reside in the city. All employees appointed by the manager shall reside in the city during their tenure of position, except as the council authorizes the manager to prescribe to the contrary and the manager does so.

Eugene Charter

(4) The duties of all administrative employees shall be assigned to them by the manager, and they shall be responsible and accountable to the manager.

(5) The powers herein granted to the manager are exclusive.

(6) The manager may be removed with or without cause at any time by the council after six months tenure.

(7) The Eugene Water & Electric Board and its employees are excluded from the operation of this section.

Chapter V

Municipal Court

Section 17. Judges, Powers, Procedures.

(1) The city council may appoint one or more municipal judges, for terms and at salaries it specifies. A municipal judge shall hold court in the city at such a place as the council directs. The court shall be known as the Municipal Court.

(2) The court may impose sanctions on any person who violates a city ordinance within the court's jurisdiction, issue process for the arrest of any person accused of any such violation, commit such a person to imprisonment or admit the person to bail pending trial, issue subpoenas to compel witnesses to appear and testify on the trial of any cause before the court, enforce obedience to the subpoenas, and issue process necessary to carry into effect the judgment of the court.

(3) All proceedings in the municipal court shall be governed by the general laws of the state governing justices of the peace and justice courts, except as city ordinance prescribes to the contrary. In civil and criminal matters, a municipal judge has the jurisdiction and authority prescribed by city ordinance, subject to the general laws of the state.

Chapter VI

Municipal Officers and Employees in General

Section 18. Compensation.

(1) Beginning on July 1, 2001, the mayor shall receive a stipend of \$1,500 per month and the city councilors shall receive a stipend of \$1,000 per month.

(2) At the beginning of each fiscal year thereafter, the stipends authorized above shall be adjusted by a percentage increase or decrease equal to that during the previous calendar year of the Consumer Price Index (CPI) for the Portland, Oregon area, or its successor. If that Index ceases to exist, another consumer price index representing substantially the Eugene area shall be used. In any case, if a consumer price index covering the Eugene area is developed, that index shall be used in place of the Portland CPI.

(3) The stipends above are in addition to, and not in lieu of, reimbursement for actual official expenses incurred.

Eugene Charter

(4) The mayor and councilors shall receive no fringe benefits except those required by state law, but the mayor and councilors may purchase health insurance from the city health insurance plan.

(5) The compensation of other appointed officers shall be prescribed by council.

Section 19. Qualifications. No person may hold an elective city office unless a legal elector under the laws and constitution of the state, a resident of the city for one year immediately before being elected or appointed to the office, and unless, if elected, receiving a majority of the votes cast for candidates for the office at the election at which the office is filled. The city council shall provide for such election by majority vote.

Section 20. Election. Immediately after the votes at any municipal election have been canvassed, the city manager or designee shall issue a certificate of election to each person declared by the canvassers to have been elected. The certificate shall be prima facie evidence of the facts therein stated, but the city council shall be the judge of the election and qualifications of the mayor and councilors, and in case of a contest between two or more persons claiming to be mayor or councilor, shall determine the contest.

Section 21. Terms. The term of office of a person elected shall commence on the first Monday in January following the election.

Section 22. Oath or Affirmation. All elective officers, the municipal judges, and the city manager, before entering upon the duties of their offices, shall subscribe and file with the head of the department in charge of city records an oath or affirmation of office. The oath shall read: "I, _____, do solemnly swear that I will support the constitution of the United States and of the State of Oregon, and that I will, to the best of my ability, faithfully perform the duties of during my continuance therein, so help me God." If the person affirms, instead of the last clause of the oath, there shall be stated: "And this I do affirm under the pains and penalties of perjury."

Section 23. Vacancies: Occupancy. The office of mayor or office of city councilor becomes vacant:

- (a) Upon the incumbent's:
 - 1. Death;
 - 2. Adjudicated incompetence;
 - 3. Recall from office;
 - 4. Resignation from office.
- (b) Upon declaration by the council of the vacancy in case of the incumbent's:
 - 1. Failure, following election or appointment to the office, to qualify for the office within ten days after the time for his or her term of office to begin;
 - 2. Absence from the city for 30 days without the council's consent or from all meetings of the council within a 30-day period, without the council's consent;

Eugene Charter

3. If a councilor, ceasing to reside in the ward from which elected; if the mayor, ceasing to reside in the city;
4. Ceasing to be qualified elector under state law; or
5. After election, conviction of an offense pertaining to the office.

Section 24. Vacancies - Filling.

(1) The Eugene Water & Electric Board shall fill a vacancy on the board by appointment within ninety days after the vacancy occurs.

(2) The council shall fill a vacancy in any other elective city office by appointment within ninety days after the vacancy occurs. A person so appointed shall hold office until the successor to the office is duly elected and qualifies therefor.

(3) If the position of a city councilor or mayor becomes vacant more than 100 calendar days prior to the May election of any year, an election to fill that vacancy shall be conducted in the same year. If the position of city councilor or mayor becomes vacant less than 100 days prior to the May election of any year, the election to fill that vacancy shall be conducted the next year. If a candidate for election to a vacated position achieves a majority of all votes cast for that position in the May election, that candidate shall assume office the following July 1, notwithstanding Section 21 of this charter. The term of office of any person elected to fill a vacancy shall expire when the term of the vacated position expires.

(4) Notwithstanding subsection (3), if the election required by this Section 24 would occur in the fourth year of the term of the vacated position, then no election to fill the vacancy will be held. Instead, the individual appointed under subsection (2) will remain in office through the expiration of the term of the vacated position.

Section 25. Collective Bargaining.

(1) City employees shall have the right to self-organization; to form, join, and assist labor organizations; and to bargain collectively through representatives of their own choosing with respect to wages, hours, and other terms and conditions of employment.

(2) The city manager shall bargain collectively on behalf of the city council with the representatives of city employees in an appropriate bargaining unit upon request of their certified bargaining agent.

(3) The council shall prescribe by ordinance collective bargaining procedures to protect the city, the employees, and the public in general. In so doing, the council shall provide for:

- (a) impartial ordinance administration and enforcement of the ordinance;
- (b) resolution of interest-impasse disputes;
- (c) as to employees who are employed in police or fire service, a binding award by a neutral third party resolving an interest-impasse dispute;
- (d) equal sharing of neutral third-party costs by parties to an interest-impasse dispute;
- (e) employee rights;
- (f) employer rights; and
- (g) procedural finality that does not obstruct funding of collective bargaining agreements.

Eugene Charter

Section 26. Liability for Unauthorized Expenditures.

(1) It is unlawful for any city official or employee to expend or approve the expenditure or diversion of any moneys held by the city in excess of the amounts authorized by law or for any unauthorized purpose.

(2) Any city official or employee who knowingly or with gross negligence participates in an unlawful expenditure or diversion of moneys, as described in subsection (1) of this section, is guilty of malfeasance in office and may be removed from office pursuant to procedures provided by law.

(3) Any person who, in good faith and for valuable consideration, holds evidence of debt by the city that is void because it was unlawfully issued, shall have a right of action against the responsible city official or employee personally to recover on the evidence of debt, if the official or employee is guilty of malfeasance in office.

(4) In case of any unlawful expenditure or diversion of moneys, as described in subsection (1) of this section, any qualified elector or taxpayer of the city shall have a right of action against the responsible city official or employee personally to recover the amount unlawfully spent or diverted, with interest, for the benefit of the city, if the official or employee is guilty of malfeasance in office.

Chapter VII

Ordinances

Section 27. Ordaining Clause. The ordaining clause of an ordinance shall read: "The City of Eugene does ordain as follows:"

Section 28. Adoption of Ordinances.

(1) At any meeting, the city council may direct the city manager to prepare an ordinance, or the city manager may suggest an ordinance, for consideration at a subsequent meeting. At least ten working days prior to the council meeting at which the proposed ordinance is to be considered, notice of the proposed ordinance shall be published in a newspaper of general circulation in the city and the notice and text of the ordinance shall be posted on the city's web site. The notice shall include the title of the proposed ordinance and the date, time and place of the council meeting and shall state that copies of the ordinance are posted on the web site and available at the city manager's office.

(2) There shall be a public hearing on an ordinance prior to its adoption.

(3) Except as provided in this subsection, an ordinance shall not be adopted unless it has been considered by the council during at least two meetings. With the unanimous consent of the council, the council may consider and enact an ordinance at a single meeting if the council does not amend the ordinance in a manner that modifies its substantive effect. Nothing in this section requires the council to consider an ordinance at more than two meetings prior to its adoption.

(4) In case of an emergency, the ordinance shall state in a separate section the description of the emergency and a finding as to why the emergency cannot be adequately addressed by the established process in section 28(1). With the unanimous consent of the

Eugene Charter

councilors present, the council may adopt an ordinance to address the emergency with such abbreviated notice of the ordinance and council meeting as the council finds to be practicable under the circumstances.

Section 29. Attestation and Approval. Upon the adoption of an ordinance it shall be submitted to the mayor. If the mayor approves the ordinance, the mayor shall endorse the approval thereon with the date of the approval and sign the ordinance officially.

Section 30. Veto. If not approving an ordinance so submitted, the mayor shall, within ten days after receiving it, return it to the manager, with the reasons for not approving it. If not so returned in ten days, the ordinance shall have legal effect as if so approved.

Section 31. Overriding of Veto. At the first meeting of the council after the mayor returns an ordinance not so approved, the city manager shall present the ordinance to the council with the objections of the mayor. The ordinance shall then be put upon adoption again, and if two-thirds of all members of the council vote in favor of the ordinance, it takes effect in accordance with Section 32 of this charter.

Section 32. Effective Date of Ordinances.

(1) Except as provided in subsection (2) of this section, an ordinance takes effect 30 days after its adoption by the council and approval by the mayor or passage over the mayor's veto, or at a later date specified in the ordinance.

(2) With the affirmative vote of two-thirds of the members of the council, the council may provide for an ordinance to take effect immediately upon adoption by the council and approval by the mayor or passage over the mayor's veto, or at some other date less than 30 days after adoption, if the council determines that the earlier effective date is necessary to serve an important public purpose. An ordinance with an effective date of less than 30 days after adoption must include a separate section stating specifically why the earlier effective date is necessary.

Section 32-A. Ordinances Adopted by Initiative. In addition to the rights of electors to initiate ordinances pursuant to Article IV, section 1(5) of the Oregon Constitution, city electors may initiate a "protected" ordinance. A protected ordinance may be amended or repealed only by another initiative, council referral, or by unanimous vote of councilors present and voting at a council meeting. The chief petitioners for a protected ordinance shall include with the prospective petition, a statement declaring whether the ordinance is proposed as a regular ordinance or a protected ordinance. A petition for a protected ordinance and any qualified ballot measure for a protected ordinance shall state that it is proposed as a protected ordinance and shall explain the limitations on its repeal or amendment.

Chapter VIII

Elections

Section 33. Wards. The council shall divide the city into wards and redefine the boundaries thereof as necessary to accord persons in the city the equal protection of the laws. No person may vote at a city election in a ward other than that in which he or she resides.

Eugene Charter

Section 34. Voters' Qualifications. No person may vote in a city election unless the person is a qualified voter of the state, and has resided in the city for the length of time that state law requires a person to reside in the state to vote in a state election. No person may vote for an officer to be elected under this charter by ward unless the person has resided in the ward for the same length time required in the preceding sentence for a person to vote in a city election.

Section 35. Notice. The city manager or designee shall distribute information regarding officers to be elected and measures to be submitted ten days prior to the distribution of ballots. The notice shall also state the ballot drop sites.

Section 36. Nomination. Nomination of a candidate for an elective city office shall be by petition, in a manner prescribed by ordinance.

Chapter IX

Public Improvements

Section 37. Procedure. The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable general laws of the state, except that if a remonstrance is filed against improvement or repair of a street or alley and is signed by the owners of a majority of the parcels that would be assessed for the repair or improvement, no contract for the improvement or repairs may be let until the city council reconsiders the necessity of the improvement or repair. If, after the reconsideration, two-thirds of all councilors vote for the improvement or repair, contracts for the improvement or repair may be let as if no remonstrance had been filed.

Section 38. Assessments. The procedure for levying, collecting, and enforcing the payment of special assessments for public improvements or other services to be charged against real property shall be governed by general ordinance.

Section 39. Amendments. The general ordinances mentioned in Sections 37 and 38 of this charter may be amended only by the affirmative vote of two-thirds of the members of the city council. Such an amendment may not take effect for six months after the council adopts it and may not apply to an improvement authorized by the council before the effective date of the amendment.

Section 40. Liens. The docket of city liens is a public writing, and the original or a certified copy of any matter authorized to be entered in the docket shall have the force and effect of a judgment. When the council has authorized an improvement, and an assessment for it is entered in the city's lien docket, the assessment becomes a lien against the property so assessed. The lien has priority over all other liens and encumbrances upon the property and may be enforced in the manner authorized by the city council.

Eugene Charter

Section 41. Freeways.

(1) No freeway or throughway, as defined by ORS 374.010 or 377.710(12), may be constructed by the city, nor may the city enter into any agreement approving or facilitating construction of such a freeway or throughway, unless the route of the freeway or throughway is first approved by a majority of the voting electors of the city in a city election conducted in accordance with law and unless the agreement is entered into within a time specified by the measure submitted to the voters for their approval.

(2) The city may, however, without such prior approval, prepare preliminary plans and specifications and statements of impact, including plans, specifications, and statements of impact necessary for obtaining financial assistance for the freeway or throughway, all of which shall be available to the public at the city hall prior to the election on the route of the freeway or throughway.

(3) Prior to the election, a map and a description of the proposed route and of intersections of other thoroughfares therewith and a notice of the election, shall be published once a week for four consecutive weeks in the newspaper with the largest general circulation published in the city.

Section 42. Skinner's Butte Park. The property commonly know as the "Butte Property," with boundaries as described in a charter amendment adopted by the voters of the city April 5, 1915, is hereby dedicated to the public forever as a public park.

Chapter X

Public Utilities

Section 43. Franchises.

(1) The city council may grant a franchise or amendment thereto only by ordinance. Before adopting any such ordinance the council shall publish notice of its intention to do so in a manner authorized by Section 28 of this charter. Any applicant for such a franchise shall pay in advance the expenses of publishing the notice. Any franchise granted by the council shall assure adequate service to city residents and shall require the franchisee to pay the city adequate compensation in the form of a percentage of the gross income from the franchise, or in an alternative form acceptable to the council, in amounts sufficient to cover present value and future development of the franchise.

(2) In the acquisition by the city of any public utility the price to be paid by the city shall exclude the value of any franchise granted by the city and connected with the utility. All ordinances granting franchises shall do so subject to the provisions of this section.

(3) The council may not grant an exclusive citywide franchise to haul solid waste.

Section 44. Eugene Water & Electric Board - Functions - Membership.

(1) The power of the city to generate, collect, and distribute electricity, steam, and other kinds of physical energy is hereby vested in the Eugene Water & Electric Board (the Board).

Eugene Charter

The Board is further authorized to provide advanced telecommunications capability and associated services including, but not limited to, voice, video, data, internet and telecommunications services. Nothing in the previous sentence divests the City Council of any authority, including but not limited to (a) providing the same or similar types of services, or (b) exercising any regulatory, taxing or other power over telecommunications and related services whether provided by the Board or another entity.

(2) The board is composed of five electors of the city, who shall serve without pay and whose terms of office and election shall be prescribed by the city council by ordinance.

(3) The board shall maintain and operate the water utility and the electric utility of the city, subject to control by the council of extension of water service.

(4) The 1976 rates of payments on account of either utility to the city in lieu of taxes shall continue until changed by agreement between the board and the council.

(5) The council may require the board to bill and collect the city service charges for collecting and disposing of liquid and solid wastes.

(6) The income of the utilities and the operation, maintenance, and improvement of them are under the control of the board, subject to limitations imposed by or under this charter and the rights of holders of outstanding bonds issued to finance either utility. The board shall so keep the funds of each utility as at all times to show the true cost of that utility and its yearly operation, the amount of outstanding bonds and current bills of the utility, and the disposition of the revenues of the utility, and shall make annual reports to the council and whatever other reports the council requires.

Section 45. Eugene Water & Electric Board - Short Terms Loans.

(1) The Eugene Water & Electric Board may borrow under short term loans or other evidence of indebtedness of a duration of less than one year, and at such rates of interest and terms of repayment as in the judgment of the board is expedient for the use of the board in the conduct and maintenance of the water, electric and telecommunications utilities of the city, provided that the total amount of such indebtedness of the board not at any one time exceed five percent of the board's retained earnings at that time. Proceeds from any one borrowing may be used only in the conduct and maintenance of a single utility, and only revenues from that utility may be pledged or used to pay the principal, interest and costs associated with the borrowing.

(2) To secure the payment of any such loan the board may pledge as collateral such assets under the control of the board as are available therefor and as the board deems it expedient so to pledge.

(3) The indebtedness authorized by this section is in addition to all other indebtedness authorized for the city.

Chapter XI

Indebtedness

Section 46. Limits.

(1) Indebtedness of the city may not exceed the limits on city indebtedness under state law.

Eugene Charter

(2) Approval by the voters of city indebtedness need not be in the form of a charter amendment.

Section 47. Terms, Proceeds, and Retirement of Bonds. Bonds issued by the city as evidence of indebtedness shall include such terms, the proceeds from sale of the bonds shall be kept, invested, disbursed, and accounted for in such a manner, and the indebtedness shall be retired in such a manner as the city council prescribes. The prescription may not be changed for a particular bond after it is issued.

Chapter XII

Miscellaneous Provisions

Section 48. Presumption of Validity of City Action. In every proceeding in any court concerning the exercise or enforcement by the city or any of its officers or employees or agencies of any power by this act given to the city or any of its officers or employees or agencies, all acts by the city or any of its officers, employees or agencies shall be presumed to be valid, and no error or omission in any such act invalidates it, unless the person attacking it alleges and proves that he or she has been misled by the error or omission to his or her damage; and the court shall disregard every error or omission which does not affect a substantial right of the person. Any action by this charter committed to the discretion of the council, when taken, shall be final and shall not be reviewed or called into question elsewhere.

Section 49. Scrivener's Errors; Renumbering of Sections. By ordinance, the council may correct scrivener's errors and may re-number and change the sequence of sections in this charter.

Section 50. Effective Date of Revision. The 2002 amendments to this revised charter take effect on December 5, 2002.

Section 51. Caps Rate and Limits Use of City's Payroll Tax. Any payroll tax imposed by the City is capped at 0.0021 on total wages paid by employers and 0.0044 on wages earned by employees. Revenues from a payroll tax imposed by the City may only be used to fund community safety services and administration of the tax.

Chapter XIII

Amendments

Section 52. Amendment II

(1) Trees (a living, standing, woody plant having a trunk 25 inches in circumference at a point 4 ½ feet above mean ground level at the base of the trunk) of at least fifty years of age within publicly owned rights of way for streets, roads, freeways, thoroughways, and thoroughfares and within those portions of the city which were in the incorporated

Eugene Charter

boundaries of the city as of January 1, 1915, shall be designated historic street trees and recognized as objects of high historic value and significance in the history of the city and deserving of maintenance and protection.

(2) No street, road, freeway, throughway, or thoroughfare may be widened by the city, nor may the city enter into any agreement approving or facilitating the widening of such street, road, freeway, throughway, or thoroughfare if such widening will result in the removal of any historic street tree unless the widening is first approved by a majority of the voting electors of the city in a city election conducted in accordance with law and unless the agreement is entered into within a time specified by the measure approved by the voters.

(3) The city may, however, without prior approval, assist in the preparation of preliminary plans and specifications, and statements of impact necessary for obtaining financial assistance for the street, road, freeway, throughway, or thoroughfare widening, all of which shall be available to the public at the city hall prior to the election on the street, road, freeway, throughway, or thoroughfare widening which would result in the removal of historic street trees.

(4) Prior to the election, a map and description of the proposed widening and removal of historic street trees shall be published at least once a week for four (4) consecutive weeks, in the newspaper with the largest general circulation published in the city.

(5) Street, road, or thoroughfare widening projects confined to intersections only, and intended to improve those intersections shall be exempt from the requirement for approval by the voting electors of the city for the removal of historic street trees.

(6) In the event an historic street tree is to be removed in order to widen a street, road, freeway, throughway, or thoroughfare, the city, if it is the governmental unit implementing the project, shall allocate a portion of the project budget to a fund dedicated to helping maintain the city's remaining historic street trees. If a governmental unit other than the city is implementing the widening project, the city may not enter into any agreement approving or facilitating said widening project unless the implementing governmental unit agrees to allocate a portion of the project's budget to a fund dedicated to helping maintain the city's remaining historic street trees.

(7) Any officer or employee of the city or of any public utility may act to remove an historic street tree if necessary to remove or alleviate an immediate danger to life or property; to restore utility service; to reopen a public thoroughfare to traffic; or to remove obstructions to the view of vehicular operators at intersections.

(8) An emergency is hereby declared to exist and this charter amendment, being enacted by the city in the exercise of its police power for the purpose of meeting such emergency, and for the immediate preservation of the public peace, health, and safety, shall take effect immediately upon approval by the electors of the city of Eugene and shall supersede any and all actions of the city authorizing, approving, or facilitating the widening of any street, road, freeway, throughway, or thoroughfare which would result in the removal of any historic street tree.

Section 54. Amendment IV

The City of Eugene Charter is hereby amended as follows:

ARTICLE I - FINDINGS AND STATEMENT OF LOCAL PROBLEM

Section 1 The people of Eugene do hereby find that:

- A. exposure to toxic chemicals can damage human health and the environment; and

Eugene Charter

- B. citizens have a fundamental right to know the identity and amounts of toxic chemicals that are released into the workplaces, air, water, soil, and environment of their community.

ARTICLE II – SCOPE

Section 2.1. Facilities covered by this Section.

- A. Except as exempted in Section 2.2, this Section shall apply to facilities within the City of Eugene that are:
 - 1. within the Standard Industrial Code categories #20 - #39, inclusively as listed in *Standard Industrial Classification Manual* (Office of Management and Budget, 1987);
 - 2. solid waste incinerators that accept infectious waste; and
 - 3. hazardous waste disposal incinerators.

Section 2.2. Facilities exempted by this Section. This Section shall not apply to:

- A. state and federal facilities; and
- B. public educational institutions.

ARTICLE III - DEFINITIONS

Section 3 As used in this Section, the following definitions shall apply:

- A. "Extremely hazardous substance" means all substances listed in Section 302 of the Emergency Planning and Community Right-To-Know Act (42 USC 11002) as of the effective date of this Section. If a substance is added to or removed from the federal list of reportable substances under section 302 of 42 USC 11002, the Toxics Board may recommend to the City Council that the substance be added to or removed from the definition of "extremely hazardous substance" in this Section. The council may remove a substance from the definition only if the Toxics Board has recommended its removal.
- B. "CAS number" means the identification number assigned to a substance by the Chemical Abstract Service.
- C. "Chemical Name" means the scientific designation of a substance in accordance with the nomenclature system developed by the Chemical Abstract Service.
- D. "Facility" means all buildings, equipment, structures and other stationary items that are located and operated on a single site or on contiguous or adjacent sites and that are owned or operated by the same person(s) and relate to a common product or service.
- E. "Hazardous substance" means:
 - 1. any substance listed or described, as of the effective date of this Section, on any of the following lists of chemicals regulated or identified as of concern:
 - (a) Section 112(b) of the Clean Air Act(CAA) as amended in 1990 (Hazardous Air Pollutants); 42 USC 7412(b);
 - (b) Section 602(b) of the CAA (Class II ozone depleting substances); 42 USC 7671a.(b);

Eugene Charter

- (c) Section 307(a) of the Clean Water Act (CWA) (Priority Pollutant List); 33 USC 1317(a);
 - (d) U.S. Environmental Protection Agency Active Ingredients, including Special Review, Canceled/Denied or Suspended, and Restricted Use Pesticides, pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA; 7 USC 136 et seq.);
 - (e) U.S. Environmental Protection Agency List 1 Inert Ingredients of Pesticides ("Inerts of Toxicological Concern"), pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA; 7 USC 136 et seq.);
 - (f) Section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); 42 USC 9602;
 - (g) Section 3001 of the Resource Conservation and Recovery Act (RCRA; 42 USC 6921) and chemicals listed at 40 CFR 261.33 (e) and Appendix VIII.
2. any substance which, if it were in a container, would possess the characteristics of a hazardous waste, as defined in 40 CFR 261.20 through §261.24, authorized by RCRA;
 3. radioactive waste and material as defined in ORS 469.300 and radioactive substance as defined in ORS 453.005;
 4. any substance, regardless of quantity, required to be reported pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA); 42 USC 11002; or
 5. If a substance is added to or removed from the lists described in Article III, Section 3 E.1. or E.4. of this Section, the Toxics Board may recommend to the city council that the substance be added to or removed from the definition of "hazardous substance" in this Section. The council may remove a substance from the definition only if the Toxics Board has recommended its removal.
- F. "Hazardous substance user" means: the owner and/or operator of a commercial or public facility that is stationary within the boundaries of the City of Eugene and that:
1. has a total input of more than 2,640 pounds of hazardous substances during a calendar year;
 2. employs ten or more full-time equivalent employees;
 3. is not exempted pursuant to Section 2 .2.
- G. "Input" means the sum of the following categories of each hazardous substance:
1. inventory at the facility at the beginning of the accounting period;
 2. waste stored at the facility at the beginning of the accounting period;
 3. quantity produced at the facility; and
 4. quantity brought to the facility.
- H. "Materials balance" means an accounting of the flow of individual hazardous substances into a facility, through its processes, and into its

Eugene Charter

products and wastes such that inputs equal outputs of each hazardous substance to the accuracy of the smallest accounting units (Article III(K)) for each hazardous or extremely hazardous substance.

- I. "Output" means the sum of the following categories of each hazardous substance:
 - 1. quantity chemically altered in the facility's processes;
 - 2. quantity shipped from the facility in product;
 - 3. quantity transferred away from the facility as waste;
 - 4. waste stored at the facility at the end of the accounting period;
 - 5. quantity emitted to the air;
 - 6. quantity discharged into publicly treated sewage;
 - 7. quantity released into surface waters ;
 - 8. quantity eliminated through treatment at the facility;
 - 9. quantity eliminated through energy recovery at the facility;
 - 10. quantity disposed on-site; and
 - 11. inventory at the facility at the end of the accounting period.
- J. "Person" means an individual, corporation, partnership, trust, association, the City of Eugene, or any officer, agent, or employee thereof.
- K. "Smallest accounting unit" means 2.2 pounds of a hazardous substance; 0.022 pounds of an extremely hazardous substance.
- L. "Trade secret information" means information which is exempted from disclosure as a trade secret pursuant to any Federal or State law including but not limited to 42 U.S.C. 11042(b) of the Federal Emergency Planning and Community Right to Know Act.

ARTICLE IV - RESOLUTION

Section 4 Be it resolved and ordained by the people of Eugene that: all hazardous substance users in Eugene shall file an annual, public, materials balance report listing inputs and outputs of all hazardous substances obtained, used, or generated.

ARTICLE V - HAZARDOUS SUBSTANCES PUBLIC REPORTING

Section 5.1 Materials balance reporting

- A. Materials balance reports shall indicate the weight in pounds of hazardous substances in each of the categories enumerated in Article III(G) and III(I).
- B. Each hazardous substance shall be designated by full chemical name and CAS number.
- C. All materials balance reports shall be filed electronically on forms provided by the Toxics Board as defined in Section 6.1 of this Section. These completed forms shall be compatible with the Eugene Public Library's computer system. These forms, common to all reporting entities, shall be in an easily understood format for both the reporting entity and the public.
- D. An authorized representative of the reporting facility shall file a signed declaration with the Toxics Board certifying that the facility has filed the report and that it is accurate and complete.
- E. The materials balance reports shall be filed by April 1 of each year for the previous calendar year.

Eugene Charter

- F. The repository for all materials balance reports shall be the Eugene Public Library, where they shall be readily accessible by the public for seven years after reporting. Reports older than seven years shall be archived by the City Records Office.

Section 5.2 Reporting related to trade secret chemicals.

- A. If a claim of trade secrecy is made by any hazardous substance user for one or more hazardous substances, that user must:
1. file with the Office of the Fire Marshal a notarized report documenting that the hazardous substance is comprised of a substance which satisfies all conditions of the definition of trade secret information as found in Article III(L). A separate report must be filed for each trade secret chemical. The notarized report shall be on file with the Fire Marshal prior to commencement of procurement or production of each trade secret chemical.
 2. file with the Toxics Board, on a form provided by the Toxics Board, notification of each trade secret report filed with the Office of the Fire Marshal.
 3. file with the Toxics Board, on a form provided by the Toxics Board, an aggregate materials balance account for all trade secret hazardous substances, if trade secrecy is claimed for more than one hazardous substance by any hazardous substance user. This report shall be filed by April 1 of each year.
 4. file with the Toxics Board, prior to April 1 of each year, an annual, public report prepared by a qualified independent auditor, on a form supplied by the Toxics Board, which reports:
 - (a) whether the hazardous substance user has taken and is taking the greatest possible precautions in its use of each trade secret hazardous substances; and
 - (b) whether or not there are, for each trade secret chemical, technological options available for using alternative processes or chemicals that likely are more protective of workers, the community, and natural resources.
- B. The repository for the annual public reports on use and alternatives to use of trade secret chemicals shall be the Eugene Public Library, where the reports shall be readily accessible for seven years after reporting. These completed forms shall be readable by the Eugene Public Library's computer system. Reports older than seven years shall be archived by the City Records Office.

ARTICLE VI - ADMINISTRATION OF HAZARDOUS SUBSTANCE REPORTING

Section 6.1 Appointment of the Toxics Board

- A. The City Council shall appoint a Toxics Board of seven people to enforce and implement this Section.
1. Three members shall be appointed who are employed by or are agents of "persons" required to report under this Section.
 2. Three members shall be appointed who are not employed by or are

Eugene Charter

not agents of "persons" required to report under this Section, and who have a demonstrable record of advocating for the public's right-to-know.

3. One member shall be nominated by a two-thirds majority of the six appointed members.
- B. Any vacancies in the membership of the Toxics Board shall be filled, so as to maintain the balance set forth in Section 6.1(A), within two months of the creation of a vacancy.
- C. Term of Office:
 1. The term of office shall be three years, except that two members, one from Section 6.1(A)(1) and one from Section 6.1(A)(2), of the first Toxics Board shall be appointed to serve a first term of one year; three members, one each from Section 6.1(A)(1), 6.1(A)(2) and 6.1(A)(3) shall be appointed to serve a first term of two years; and two members, one from Section 6.1(A)(1) and 6.1(A)(2), shall be appointed to serve a first term of three years. No member shall serve more than two consecutive terms.
 2. Beginning in 2003, the terms of members of the Toxics Board shall conform to those of the standing committees to the City Council as defined by and set in the City Code.

Section 6.2 Responsibilities of the Toxics Board

- A. The Toxics Board shall, within three months of appointment of the sixth member, supply forms for materials balance reports and audits of precautions taken during use and alternatives to use of chemicals for which the trade secrecy reporting exemption has been invoked.
- B. The Toxics Board shall annually:
 1. recommend the fee structure necessary to implement this Section;
 2. establish the qualifications necessary for a person to independently audit precautions used with trade secret chemicals, and independently audit the existence of technological alternatives that likely would be more protective of the environment, as required in Section 5.2(A)(4); and
 3. file a public report on the effectiveness of implementation of this Section, and any recommendations for improved implementation of this Section.
- C. By May 1 of each year, the Toxics Board shall report to the Fire Marshal the names of any hazardous users in non-compliance with the requirement to file materials balance reports.
- D. The Toxics Board shall cause to be published a notice listing the names of non-complying entities in a daily newspaper with general circulation in the city of Eugene by June 1 of each year.
- E. The office of the City Fire Marshal shall investigate all credible evidence that hazardous materials balance reports or trade secret chemical reports are not being filed in compliance with this Section.
- F. The office of the City Fire Marshal shall audit the accuracy of the reporting processes of each hazardous substance user in an order such that

Eugene Charter

all hazardous substance users are audited in a random order at least once every three years. Companies to be audited shall be given an advance audit notification of no more than one month.

- G. The Toxics Board shall certify the qualifications of independent auditors who will audit the precautions used by hazardous substance users with trade secret chemicals and the technological options available for more protective alternatives. Documentation for certification of the qualifications of each auditor shall be public information.
- H. For the purposes of complying with Section 5.2(A)(4), hazardous substance users may hire only independent auditors certified by the Toxics Board pursuant to Section 6.2(G).

Section 6.3 Responsibilities of the City Manager

The City Manager shall consult with the Toxics Board in order to jointly determine the appropriate support services that shall be provided to the Toxics Board by City employees for the implementation of this Section. As set forth in Article VII(A), the cost of these support services shall be paid by fees collected pursuant to this Section.

ARTICLE VII - FEES

- Section 7 A. Each hazardous substance user shall pay an annual fee to the City of Eugene, sufficient to jointly cover the implementation of this Section, including expenses incurred by the Eugene Public Library, Fire Marshal, City of Eugene and the Toxics Board.
- B. In order that this Section be self-supporting through hazardous substance user fees, the fee amounts shall be recommended annually by the Toxics Board and approved and amended as necessary by the Eugene City Council.
- C. All fees due under this Section shall be paid by May 1 of each calendar year.
- D. The operational budget for implementing this Section prior to the first collection of fees as set forth in Article VII shall be paid for out of City of Eugene general funds. The operational budget thereafter shall be funded wholly by hazardous substance user fees.

ARTICLE VIII - ENFORCEMENT

Section 8.1 Toxics Board enforcement and judicial review

- A. In the event of noncompliance, the Toxics Board shall have the authority to enforce the reporting requirements of this Section and impose penalties as set forth in Section 8.2.
- B. Any person may appeal a Toxics Board decision to the Circuit Court of Lane County, pursuant to the procedures providing for a writ of review (ORS 34.010) or a writ of mandamus (ORS 34.105).

Section 8.2 Penalties

- A. Any hazardous substance user or person who violates this Section shall be subject to a penalty not less than \$250 per day and not greater than the maximum penalty allowed by state law.

Eugene Charter

- B. Each day that a violation continues shall be considered a separate violation subject to civil penalties. A violation occurs when a regulated entity fails to file a complete and correct report on or before the day the filing of a report is required.
- C. In determining the appropriate amount of the penalty, the following shall be considered:
 - 1. the likelihood at the time of the noncompliance that harm would arise from the violator's noncompliance;
 - 2. the degree of the violator's awareness of that likelihood;
 - 3. the profits reasonably related to the violator's non-compliance;
 - 4. the duration of the non-compliance and any concealment of it;
 - 5. the attitude and conduct of the violator upon discovery of the concealment;
 - 6. the number of previous violations by the specific violator of this Section;
 - 7. the financial condition of the violator;
 - 8. the total deterrent effect upon the specific violator at issue and other potential violators; and
 - 9. other penalties paid by the specific violator for the specific violations at issue.
- D. Any penalties imposed under this Section or Section 8.3 shall be paid to the City of Eugene for use in implementing this Section.
- E. If a hazardous substance user repeatedly violates this Section in a fashion contrary to the public interest, the City Manager shall order that hazardous substance user to cease and desist using hazardous substances in the City of Eugene.
- F. Nothing in this Section is intended to restrict or limit any other enforcement remedies available, at law or in equity, arising out of the same circumstances upon which an alleged violation of the Section may be based.

Section 8.3 Citizen enforcement.

- A. Any person may petition to the Toxics Board on her/his own behalf against a hazardous substance user or person for failure to comply with any of the terms of this Section. The Toxics Board shall set forth procedures by which persons may petition the Toxics Board.
- B. The Toxics Board must issue a decision in response to a petition within 45 days of receiving the petition. If the Toxics Board fails to issue a decision within 45 days, the petition shall be deemed denied on the 45th day for the purpose of exhaustion of remedies and may be judicially reviewed pursuant to Section 8.1(B).
- C. The petitioner must notify the Toxics Board and alleged violator ten days prior to seeking judicial review, except that such action may be brought immediately after such notification in the case of an action under this Section respecting an emergency posing a significant risk to the well-being of workers, people present in the community, or any species of fish or wildlife or plants.

Eugene Charter

- D. No action may be commenced under paragraph A of this Section if the City of Eugene has commenced an action to impose a penalty pursuant to Section 8.2 and is pursuing a prompt resolution of that action.

ARTICLE IX - EXCLUSIONS

- Section 9 A. Nothing in this Section is intended to apply to the government of the United States or to the government of the State of Oregon, or to the agencies or political subdivisions of either government.
- B. Nothing in this Section is intended to restrict, impede, or otherwise interfere with the exercise of rights guaranteed by the United States Constitution or the Constitution of the State of Oregon.

ARTICLE X - IMPLEMENTATION

Section 10 Insofar as it is reasonable and practicable to so assume, the provisions of this Section are intended to be self-executing. In every other case, however, and any other provision of the Eugene City Charter or the ordinances of the City of Eugene notwithstanding, the City Council shall, upon recommendation of the Toxics Board and without unreasonable delay, enact reasonable ordinances necessary and proper for carrying into execution the provisions of this Section.

ARTICLE XI - SEVERABILITY

Section 11 If any section, subsection, paragraph, phrase or word (hereafter the parts) of this Section shall be held to be unconstitutional, void, or illegal, either on its face or as applied, this shall not affect the applicability, constitutionality, or legality of any other parts hereof; and to that end, the parts of the Section are intended to be severable. It is hereby declared to be the intent of this Section that the same would have been adopted had such unlawful or unconstitutional provisions, if any, not been included herein.

ARTICLE XII - EFFECTIVE DATE

Section 12 This Section shall be in full force and effect 31 days following passage.

Eugene Charter Index	Section
- A -	
ASSESSMENTS, see PUBLIC IMPROVEMENTS	
- B -	
BONDS	47
BOUNDARIES	3
- C -	
CHARTER OF EUGENE	
Boundaries	3
Corporate name and capacity	2
Effective date	50
Repeal of 1905 charter	49
Title	1
CITY COUNCIL, see COUNCIL	
CITY MANAGER	
Administrative employees	16(3,4)
Appointments	16(3)
City resident requirements	16(3)
Collective bargaining	25(2)
Council appoints	16(1,a)
Council meeting participation	16(1,d)
Duties of office	16(2)
Influence by council, mayor	16(1,e)
Oath or affirmation	22
Removal from office	16(6)
Selection	16(1,c)
Vacancy	16(1,b)
COLLECTIVE BARGAINING	25
COUNCIL	
Appointment of city manager	16(1,a,b)
City Manager, removal from office	16(6)
Collective bargaining responsibilities	25(2,3)
Compensation	18

Eugene Charter Index	Section
Duties and powers	9,10,11,13,14,15-A,17,18 20,24,25,28,31,32,32-A, 39,43,44,48, 49,54
Election	6
Ethics and Conflicts of interest	14
Eugene Water & Electric Board, Council authority	44
Franchises	43
Generally	5-15
Immunity	15
Influence in personnel issues	16(1,e)
Journal of proceedings	11
Mayor, replacement in absence	13
Meetings	9,12
Membership	5,23,24
Municipal court appointments	17
Ordinance procedures	28,31,32,32-A
Police External Review	15-A
Powers	4(1)
President	13
Public improvements	37-41
Qualifications	8
Quorum	10
Vacancies or leaves of absence	23,24
Validity of city action	48
Wards	6,8,33

COURT, see MUNICIPAL COURT

- D -

- E -

ELECTIONS,

Candidate petition	
City officers	36
Eugene Water & Electric Board	19-21
Freeways	44
Notice of election	41
Oath or affirmation	35
Voter qualifications	22
Wards	34
	6,8,33

EMPLOYEES, see OFFICERS AND EMPLOYEES

EUGENE CHARTER, see CHARTER OF EUGENE

Eugene Charter Index	Section
EUGENE WATER & ELECTRIC BOARD	
Functions	44
Membership	16(7),44
Short term loans	45
Vacancies - filling	24
EXPENDITURES, UNAUTHORIZED	26
- F -	
FIRE DEPARTMENT	
Collective bargaining	25(3)
FRANCHISES	43
FREEWAYS	41
- G -	
- H -	
HAZARDOUS SUBSTANCES	54
- I -	
IMPROVEMENTS, see PUBLIC IMPROVEMENTS	
INDEBTEDNESS	46,47
- J -	
JUDGES, see MUNICIPAL COURT	
- K -	
- L -	
- M -	
MANAGER, see CITY MANAGER	

Eugene Charter Index	Section
MAYOR	
Absence or inability to act	13
Appoints city manager pro tem	16(1,b)
Calls special meetings	9,12
Compensation	18
Election	7
Duties, generally	12
Influence on personnel issues	16(1,e)
Ordinance approval/veto	29-31,37
MISCELLANEOUS	
Caps Rate and Limits Use of City's Payroll Tax	51
Effective Date of Revision	50
Presumption of Validity of City Action	48
Scrivener's Error; Renumbering Sections	49
MUNICIPAL COURT	
Judges, oath or affirmation	22
powers, procedures	17
- N -	
- O -	
OFFICERS AND EMPLOYEES	
Administrative	16(3,4)
City manager responsibility	16(2-4)
Collective bargaining	25
Compensation	18
Expenditures, unauthorized	26
Oath or affirmation	22
ORDINANCES	
Adoption	28
Effective Date	32
Emergency	28(4)
Eugene Water & Electric Board, term and election	44(2)
Franchises	43
Generally	27-32
Initiative Petition	32-A
Protected	32-A
Public improvements	37-41
Public notice and hearing	28
Veto	30,31
Violations	17(2)

Eugene Charter Index	Section
- P -	
POLICE DEPARTMENT	
Collective bargaining	25(3)
External Review	15-A
 PUBLIC IMPROVEMENTS	
Assessments	38
Freeways	41
Liens	40
Procedure	37,39
 PUBLIC UTILITIES	
Eugene Water & Electric Board	44,45
Franchises	43
 - Q -	
 - R -	
 - S -	
 SKINNER'S BUTTE PARK	42
 - T -	
 TOXICS BOARD	54
 TREES, HISTORIC STREET	52
 - U -	
 - V -	
 VALIDITY OF CITY ACTION	48
 - W -	
 WARDS	6,8,33
 - X -	
 - Y -	
 - Z -	

1999-2002 Charter Review & Amendment Process

- **April 21, 1999, Council Work Session**
 - By motion, Council adopts its “1999-2001 Biennial Goals & Action Priorities” that includes:
 - Goal 5. Open, effective, accountable municipal government
 - 3. Authorize, appoint Charter Review Commission
- **May 26, 1999, Council Work Session** (Official start of Charter review process)
 - By motion, Council establishes a subcommittee of two councilors to develop a recommendation regarding the composition of the Charter Review Commission, the composition to be reviewed and approved by council.
 - Appoints Meisner and Nathanson (Councilor Officers) to the subcommittee
- **June 14, 1999, Council Work Session**
 - By motion, Council approves the Council subcommittee’s recommendation establishing a Charter Review Commission as follows:
 - 15-person citizen committee, two recommendations from each councilor
 - Review limited to council compensation
 - Commission meets for 1 month
 - Hold a public forum
 - Provide a recommendation to Council by August 1
- **June 29, 1999 – July 28, 1999 Charter Review Commission Process**
 - Met 4 times, minutes kept for all meetings, plus one subcommittee meeting to draft the report.
 - Did not hold a public forum due to time constraints and inability to align on a recommendation
 - Provided final report to council on Aug 11, 1999.
- **August 11, 1999, Council Meeting**
 - Discussion with the Charter Review Commission members regarding their inability to reach an agreement on most items but did agree that one month was insufficient time and prevented insufficient information to make an informed recommendation to Council about putting a measure on the November ballot.
 - A motion was tabled and discussion continued to September 8, 1999
- **September 8, 1999, Council Work Session**
 - By motion, Council moves forward placing a charter amendment on the May 2000 that calls for compensation for the mayor and city council and creates a 7-member committee to draft a viable and equitable charter amendment for Council’s review and referral.
 - Council to appoint committee by October 27, 2000
 - Committee to complete work by February 1, 2000
 - Expectation that committee would have public input process

- **October 25, 1999, Council Work Session**
 - By motion, Council appoints the 7-member Citizen Committee on Mayor and Council Compensation (CCMCC). (Belcher, Bishoff, Hinkley, Zako, Donahue, Glover, McDaniels)
 - Discussion that Council's agreed-upon goal was to review many provisions of the Charter, not look this single Charter amendment
 - Agreement that this was the first step toward that goal
- **November 3, 1999 – February 3, 2000, CCMCC Process**
 - Met 9 times, each meeting allowed for public comment and minutes were kept
 - Held 2 public forums
 - Created web page for the committee
- **February 9, 2000, Council Work Session**
 - The CCMCC presents its final report to the Council
 - By motion, Council accepts the report of the Citizen Committee on Mayor and Council Compensation and scheduled a public hearing on the committee's recommended charter amendment
- **February 14, 2000, Council Public Hearing**
 - Council holds a public hearing on the proposed charter amendment to compensate the Mayor and City Council
- **February 28, 2000, Council Meeting**
 - By [resolution 4614](#), Council refers to the May 16, 2000, ballot a charter amendment providing compensation for the mayor and city councilors
- **August 7, 2000, Council Work Session**
 - By motion, Council creates a 9-member "Citizen Charter Review Committee" (CCRC) to undertake review of the Charter to undertake specific items identified by the Council in the motion. (The scope was later expanded per committee's request.)
 - By motion, Council establishes 16-month timeline for the committee, starting with committee recruitment September 1, 2000, ending with final committee report due to Council by December 31, 2001. Required quarterly written reports to Council.
- **December 11, 2000, Council Meeting**
 - By motion, Council appoints 9 members to the CCRC (Belcher, Cassidy, Colbath, Donahue, Holmer, Johnson, Tollenaar, Wells, and Thompson)
- **January 2001 – December 2001, CCRC Process**
 - Met 40 times (first 3 months met weekly, remaining 6 months met bi-weekly), each meeting allowed for public comment.
 - Held 2 public forums
 - Created subcommittees, including the subcommittee on advantages/disadvantages of electing councilors by wards or at large.
 - Quarterly Report to the City Council given at:
 - **April 18, 2001, Work Session**
 - Council made/considered several substantive motions.

- **January 14, 2002, Council Work Session**
 - CCRC presents its final report and recommended charter amendments to the City Council.
 - By motion, Council accepts the final report of the Citizen Charter Review Committee.
- **January 28, 2002, City Council Work Session**
 - Discussion of CCRC final report and matrix that divided the CCRC's recommendations into 3 categories: housekeeping, minor, or substantial. For ballot consideration, housekeeping items were packaged together, all other items were discussed separately.
 - By motion, after making some changes (10 motions), Council approves the way in which the items were classified.
 - By motion, Council places the housekeeping items on an upcoming ballot, but didn't specify the date so that the housekeeping amendments and other amendments would be on the ballot at the same time.
- **May 29, 2002, Council Work Session**
 - Continue discussion of CCRC final report and recommendations classified as noncontroversial/housekeeping.
 - By motion, Council moves forward with referral of all 32 items listed as housekeeping in the staff memorandum dated February 11, 2002, on an upcoming ballot.
 - By motion, Council states it wants all Charter amendments placed on the November 2002 ballot.
- **June 24, 2002, Council Work Session**
 - Discussion of CCRC report and recommendations classified as "minor"
 - By motion, Council moves forward referral of conflict-of-interest Charter amendment.
- **June 26, 2002, Council Work Session**
 - Continue discussion of CCRC report and recommendations classified as "minor"
 - By motion, Council moves forward referral of Council vacancy Charter amendment to the November ballot.
 - By motion, Council moves forward referral of liability Charter amendment to the November ballot.
- **July 8, 2002, Council Work Session**
 - Continue discussion of CCRC report and recommendations
 - By motion, Council moves forward referral of in-house city attorney Charter amendments.
- **July 22, 2002, Council Work Session**
 - Continue discussion of CCRC report and recommendations.
 - By motion, Council moves forward purchasing authority Charter amendment.
 - By motion, Council moves forward City Manager hiring/firing Charter amendment.
 - By motion, Council moves forward filling Council vacancies Charter amendment.
 - By motion, Council moves forward ordinance adoption Charter amendment.
 - By motion, Council moves forward ordinance effective date Charter amendment.

- By motion, Council moves forward initiative ordinances Charter amendment.
- By motion, Council moves forward hiring/firing authority of City Manager Charter amendment.
- **July 24, 2002, Council Work Session**
 - Discussion of potential Charter amendments not specifically recommended by CCRC but that have been requested/raised by Councilors.
 - Motions for two additional Charter amendments fail.
- **July 31, 2002, Council Work Session**
 - Discussion of resolutions referring amendments to November 2002 ballot.
 - By resolution [4728](#), Council refers to November 5, 2002, ballot “housekeeping” Charter amendments.
 - By resolution [4729](#), Council refers to November 5, 2002, ballot ethics and conflicts of interest Charter amendments.
 - By resolution [4730](#), Council refers to November 5, 2002, ballot hiring/firing City department directors Charter amendments.
 - By resolution [4731](#), Council refers to November 5, 2002, ballot in-house City attorney Charter amendment.
 - By resolution [4732](#), Council refers to November 5, 2002, ballot council vacancy process Charter amendment.
 - By resolution [4733](#), Council refers to November 5, 2002, ballot liability Charter amendment.
 - By resolution [4734](#), Council refers to November 5, 2002, ballot ordinance adoption and effective date Charter amendments.
 - By resolution [4735](#), Council refers to November 5, 2002, ballot ordinances adopted by initiative Charter amendment.
 - By motion, Council approves \$10,000 to fund public outreach regarding the proposed charter amendments and \$20,000 for the voter’s pamphlet.

[Charter Review Commission Report]

AGENDA ITEM SUMMARY

Agenda Item Number: F

EUGENE CITY COUNCIL

Meeting Date: August 11, 1999

Department: City Manager's Office

**WORK SESSION: REPORT AND RECOMMENDATIONS FROM THE CITIZEN
CHARTER REVIEW COMMITTEE ON COUNCIL COMPENSATION**

I. ACTION REQUESTED

Receive and discuss the report and recommendations from the Citizen Charter Review Committee on Council Compensation.

II. COUNCIL ACTION HISTORY

The proposed 1999-2000 council goals include an action priority to "authorize/appoint charter review commission (including council compensation)". Within the discussion of this action priority, the City Council, at the May 26, 1999, meeting agreed to appoint an ad hoc committee composed of the council president and council vice president to "... prepare a recommendation on the composition of the committee similar to the way that the Mayor's Library Advisory and Parks and Open Space committees were recommended to the council. . .". The ad hoc committee met on June 1, 1999 and developed a set of recommendations on processes to appoint a citizen group to review charter issues.

On June 14, 1999, upon receiving the report from the ad hoc committee, the council voted to create a "Citizen Committee to Review City Charter on Council Compensation", composed of 14 to 16 members, to review the issue of compensation for the Mayor and City Council and make a final recommendation to the City Council by August 1, 1999. The scope and charge to the citizen committee was limited. The specific charge to the committee was "The (citizen) committee is to review the issue of pay for the mayor and councilors. The outcome of the review may be the placement of a charter amendment on the November ballot regarding compensation for councilors. The committee has others options including a recommendation back to the full council regarding larger, broader scope charter issues. In any event, this facet of the committee work should be done before the council break in August. It is possible that the committee may decide that a broader charter review, including issues of mayor/councilor roles and responsibilities should be reviewed with the community before a recommendation about compensation can be made."

III. BRIEFING STATEMENT

This is an opportunity for the mayor and council to discuss the recommendation in the committee report and decide what, if any, action should be undertaken in response to the report.

IV. SUGGESTED MOTION

None at this time, this is a work session to discuss the recommendation of the committee.

V. DISCUSSION

A. Policy Issue

The policy question to be considered is whether the council should refer a charter amendment to the voters in November of 1999 to allow compensation to be provided for the mayor and councilors.

B. Background and Analysis

The Eugene Charter, 1976, Chapter VI, Section 18 addresses compensation for the mayor and councilors. The section states, "The mayor and councilors may receive no pay for their services, and the compensation of other officers shall be prescribed by the council." If the council is to be compensated, the Charter must be revised to allow pay for the mayor and councilors. The Eugene Charter was last revised in 1976. (There have been four amendments to the Charter approved since 1976.)

The work which preceded the 1976 Charter was initiated in September 1973 by then City Manager Hugh McKinley. At the time the council considered revising the Charter adopted in 1905 or developing an entirely new Charter. The council opted for the new charter and directed the City Manager to begin the project. The project team was led by the City Attorney's Office; a citizen committee was also appointed. Together, the two groups developed a new charter which was distributed to all Eugene households in September of 1976. The voters approved the new charter in November of 1976.

C. Alternatives/Options

There are several alternatives to be considered to address this issue; there may be opportunities to select from details among these, but the following represent the broad choices.

1. Approve all the recommendations from the committee contained in the report.
2. Sunset the ad hoc committee and create a new committee to look at charter issues in general.

3. Adopt a compensation plan for the mayor and council and then, by referendum, place a measure on the November ballot to revise the Charter and implement compensation plan.

VI. ATTACHMENTS

- A. Report from the Citizen Charter Review Committee on Council Compensation (Appendices to that Report are also included)

For more information, contact Mary Walston at 682-5406 or via e-mail at mary.f.walston@ci.eugene.or.us

CITIZEN CHARTER REVIEW COMMITTEE ON COUNCIL COMPENSATION

REPORT TO THE CITY COUNCIL

July 30, 1999

The proposed 1999-2000 council goals include an action priority to “authorize/appoint charter review commission (including council compensation)”. Within the discussion of this action priority, the City Council, at the May 26, 1999 meeting, agreed to appoint an ad hoc committee composed of the council president and council vice president to “. . . prepare a recommendation on the composition of the committee similar to the way that the Mayor’s Library Advisory and Parks and Open Space committees were recommended to the council. . .”. The ad hoc committee met on June 1, 1999 and developed a set of recommendations on processes to appoint a citizen group to review charter issues.

Based upon the report and recommendation of the ad hoc council committee, the Eugene City Council, on June 14, appointed a 15 member committee to:

“...review the issue of compensation for the Mayor and City Council and to make a final recommendation to the City Council by August 1, 1999.”

More specifically this charge was defined as follows:

“...to review the issue of pay for mayor and councilors. The outcome of the review may be the placement of a charter amendment on the November ballot regarding compensation for councilors. The committee has others options including a recommendation back to the full council regarding larger, broader scope charter issues. In any event, this facet of the committee work should be done before the council break in August. It is possible that the committee may decide that a broader charter review, including issues of mayor/councilor roles and responsibilities, should be reviewed with the community before a recommendation about compensation can be made.”

In order to create a broad based committee which was reflective of the community, individuals were selected from a number categories and groups. The individuals who served on the committee and his/her respective affiliation are listed below.

GROUP/ORGANIZATION/AFFILIATING	APPOINTED
A) Former City Councilors (2 slots)	Kaye Robinette Ken Tollenaar
B) Neighborhood organizations, must be an officer, leader and active currently or within past 3 years (3 slots)	Mike Farthing Marv Glover David Hinkley
C) League of Women Voters (1 slot)	Pat McDaniels
D) Chamber of Commerce member (1 slot)	Steve Wildish
E) Friends of Eugene (1 slot)	Rob Zako
F) Organized labor representative (1 slot)	Kurt Willcox
G) Currently active or recently active member of executive committee of community group or organization (1 slot)	Kathy Madison
H) Human resource or personnel professional from large organization or public agency (1 slot)	Bruce Mulligan
I) Smaller business owner, operator, employee (1 slot)	Tuss Ludvickson
J) One member of each of the following standing committees to the Council: Human Rights Commission, Budget Committee and Planning Commission (3 slots)	Diane Duke (HRC) Jennifer Solomon (BC) Jon Belcher (PC)

In making the appointments to this committee, which was named the Citizen Charter Review Committee on Council Compensation, Kaye Robinette was appointed as the chair by the Mayor and Councilors Meisner and Nathanson.

The first meeting of the committee was on June 29, 1999. At that meeting, the charge to the committee was discussed as well as an introductory examination of data related to compensation for mayors and city councilors in other comparable cities. Also at that meeting, each member of the committee was asked to consider and discuss the pros and cons of paying the mayor and councilors within the current form of municipal government. (Minutes of this meeting as well as the other meetings of the committee are found in the Appendix of this report).

The second meeting of the committee was on July 7, 1999. At that meeting, the data related to meetings and hours for the mayor and councilors was reviewed, as well as

mechanisms used by other cities to set and adjust compensation for mayor and councilors. (This information is found in the Appendix of this report). A major portion of the meeting was spent discussing possible forms and levels of compensation which might be considered for the Eugene mayor and councilors. The issue of work load management by the mayor and councilors was also considered.

At the third meeting of the committee on July 14, the group discussed various possible forms of compensation including an opinion from the City Attorney regarding per diem as a form of compensation. (This information is found in the Appendix of this report). The group discussed a recommendation to the City Council within the time line given to the committee and decided that it was not possible, as a committee, to come to a conclusion on compensation in any amount or form that could be recommended to the City Council for referral to the voters at the November 1999 election. While there was no agreement on compensation per se, there was a shared acknowledgment that there were many information gaps which prevented the committee from a final conclusion or recommendation at that time.

The committee did agree on the fundamental problem. That is, the amount of time required to serve as a city councilor or mayor. In summary, the basic argument for compensation is pragmatic: councilors spend, on average, 20 to 50 hours per week on city business. People who do not have the flexibility in their jobs or cannot afford to take time off to put in that much time are precluded from serving on the council. As a result, representation on the council may be less diverse.

The counter argument is philosophical. An unpaid citizen council serves out of a sense of civic duty, not because it is a job. Competing demands for personal time and council service may keep councilors focused at the policy level and less likely to violate the separation between policy and administration called for in the City Charter.

In a series of straw votes the committee, in order to define its focus and direction, showed some support for a number of compensation or reimbursement scenarios. There was no specific motion and therefore no formal vote to repeal the Charter prohibition on compensation, nor was there a formal vote on a specific question relating to pay.

What the committee did agree upon was a need for more time and resources to continue to study the issue, realizing that a result of the additional study might be a continuation of the current prohibition on mayor and council compensation.

In the event compensation is determined to be appropriate, there was majority agreement with the following points:

- The charter section prohibiting pay for the mayor and councilors should be repealed, only if a new procedure to determine and set compensation is decided

at the same time.

- The mayor should be paid at a rate or amount greater than councilors because of the amount of time required to serve as mayor.
- The committee should hold a public forum for public comment once a proposal has been crafted by the committee.
- Further research on the effects of compensation for the mayor and councilors in other comparable cities needs to be done.
- The mayor and councilors should not receive benefits other than those required by law (e.g. PERS).
- Adjustments to the compensation should not be made more than once every two years.

Among the members of the committee, there were a number of points of disagreement. These were:

- Exactly what councilors would be paid, if anything; in the straw vote there was support for amounts in the range of \$0 to \$3000 per month.
- The form of compensation that the mayor and councilors would receive, for example, reimbursement, per diem, stipend, or salary.
- The amount of compensation given to the mayor; the suggested range was \$6,000 to \$35,000 annually.
- The method by which compensation, if any, would be set; the options discussed included
 - ▶ a definitive amount based on indexing set in the Charter,
 - ▶ an amount set by the council following a recommendation from a citizen committee,
 - ▶ a definitive formula set in the Charter,
 - ▶ an amount created and established by the council,
 the method and frequency by which adjustments to compensation, if any, are made.
- ▶ The options discussed included
 - ▶ an automatic indexing process,
 - ▶ a council decision by simple majority
 - ▶ a council decision by super majority,
 - ▶ citizen committee recommends and council approves,
 - ▶ referral to the voters,

The fundamental disagreement is that changing the volunteer nature of the city council will serve to move or lessen the separation of policy and administration called for in the City Charter.

As mentioned above there was agreement that more study and research on the compensation issue was required on the following unanswered questions.

- How much and how are other comparable cities compensating mayors and councilors?
- What are the legal (that is, from the view point of legal counsel) implications of compensation in the form of salary, stipend, per diem or reimbursement?
- Are there work load management or efficiencies that can be created or examined?
- What is the level of public support for the form, method and amount of compensation, if any, of the mayor and councilors? is there an “threshold” or optimal amount of compensation?
- What are the effects on the council/manager form of government when moving from a volunteer council to a paid council?
- Are the issues before the mayor and council more complex and does this contribute to the overall work load?
- Has the diversity and number of candidates been negatively affected over time by the lack of compensation?
- Would compensation for the mayor and councilors increase performance expectations by the public?
- Does the existence of compensation or its level cause an increase in the time spent by councilors?
- What would be the structure and format of a pay mechanism?

Given that the above list of questions represents a sizeable piece of work, the committee recommends that the council continue to examine the issue of compensation for the mayor and council. To do this, the committee suggests that after presentation of this report, the council consider renewing the charge of the committee and, if necessary, appoint new and/or additional members to a committee to address the compensation issue.

Further, the committee recommends that there be an allocation of funds and staff time to undertake the research and study noted above as unanswered questions.

The committee also has a recommended time line for the committee, should the council decide to continue the review of this issue using a citizen committee. The time line would target the May 2000 primary election as the date of a charter amendment to end the compensation prohibition and to create a form of compensation. The milestones in this effort are listed below.

- Late September to early October, 1999: committee reconstituted meets to plan public forums and develop specific research topics and questions
- Mid to late October, 1999: public forums for citizen input and comments; research on the experiences of others cities is started
- November, 1999: committee receives research data and begins to craft a recommendation to the council on the compensation issue
- Late December 1999: final report and recommendation forwarded to the city council
- January - March 2000: council reviews recommendations and makes decision regarding the referral of a charter amendment for the May 2000 primary ballot

The committee recommends that any compensation provided to the mayor and councilors, should there be a successful repeal of the charter provision and new compensation mechanism established, not go into effect, until January 2001 at the very earliest, when a new council is seated.

Finally, the committee recommends that if the council is considering changes to the City Charter that would possibly alter the roles and relationships of the mayor, city council and city manager, the council should address compensation after this issue is resolved.

LIST OF APPENDICES

Appendix A	Minutes of June 29, 1999
Appendix B	Minutes of July 7, 1999
Appendix C	Minutes of July 14, 1999
Appendix D	Minutes of July 28, 1999
Appendix E	Excerpt from Eugene City Charter, Chapter VI, Section 18
Appendix F	Information from the City of Bellevue on Councilor Compensation
Appendix G	Spreadsheet Summarizing Western Cities Paying Mayor/Councilors
Appendix H	Information on Meetings and Hours Spent by Mayor/Councilors
Appendix I	Information on How Other Cities Set Compensation
Appendix J	Information on the City of Phoenix
Appendix K	Memo on Compensation Comparison
Appendix L	Memo on Gresham, Oregon
Appendix M	Memo and Information on Mayor/Councilor Reimbursement Information
Appendix N	Memo from City Attorney on Alternative Forms of Compensation
Appendix O	Friends of Eugene Survey of Eugene City Councilors
Appendix P	Mayor and Councilors Travel Expenses
Appendix Q	Memo from City Attorney on the Definition of City "Officer"
Appendix R	Mayor/Council Candidate Filing History - 1976 - 1998

M I N U T E S

Citizen Charter Review Committee on Council Compensation
McNutt Room—777 Pearl Street

June 29, 1999
6 p.m.

PRESENT: Kaye Robinette, Chair; Diane Duke, Mike Farthing, Marv Glover, David Hinkley, Tuss Ludvickson, Kathy Madison, Pat McDaniels, Bruce Mulligan, Jennifer Solomon, Ken Tollenaar, Kurt Willcox, Steve Wildish, Rob Zako, members; City Manager Jim Johnson; Mary Walston, City Manager's Office; City Attorney Glenn Klein; Nancy Nathanson, Eugene City Council; Nick Urhausen, guest.

ABSENT: Jon Belcher, member.

1. INTRODUCTIONS

Members discussed the meeting schedule, and agreed to at this point in time to meet weekly at 6 p.m. on Wednesday night, at a location to be arranged by staff.

Mr. Robinette asked members to introduce themselves and who they represented.

2. OVERVIEW OF CHARGE TO COMMITTEE

A. Council Agenda Summary of June 14, 1999

Mr. Robinette reviewed the charge to the commission. He referred members to the minutes of the Council ad hoc Committee on Charter Commission Processes, which reflected the charge.

Ms. Walston reviewed the materials in the committee's meeting packet.

Ms. Walston noted the distribution of a revised membership roster. She also asked the committee to complete the application in the packet regarding personal demographics.

Mr. Zako asked why the council was considering the issue of compensation. Councilor Nancy Nathanson said that she might not be best person to ask because it was not high on her priority list. She believed that newer councilors were more interested in the subject because they considered the work load too heavy for those not self-employed or personally well-off. They did not consider it possible for "regular" people to serve. She noted the irony of the fact the current councilors were largely employed in regular jobs, as opposed to being self-employed or retired. Ms. Nathanson said that the council wanted to address the issue now because of the work load and because it wanted to

ensure that the council reflected the values and interests of the community at large, and because there was an election coming up. People who might be interested in running for the council during the next cycle would know if the position was to be compensated. Ms. Nathanson said that there was sufficiently strong interest in the topic to place it high on the council's goals list.

Mr. Robinette said that as a former councilor, he understood why the issue came up, but the question was complex and not easily answered.

Ms. Nathanson thanked the commission for its willingness to serve. She left the meeting.

3. DISCUSSION OF MATRIX OF ISSUES RELATED TO COMPENSATION

The commission considered the matrix of issues and brainstormed responses to three questions posed by Mr. Robinette:

1. *What are the positive and negative characteristics we should consider in selecting city councilors to best serve the citizens of Eugene?*
2. *Would paying the mayor and councilors be a positive or negative influence on those characteristics?*
3. *What positive and negative factors should be considered that may be influenced by paying the mayor and city councilors?*
 - Workload.
 - Time available to do the job.
 - Do not want someone with strong identification or commitment to particular organization or cause.
 - Do not want someone who is looking for office for economic gain.
 - service is a public responsibility and opportunity, not a stepping stone to higher political office or a way to benefit oneself economically.
 - Commitment of time and availability.
 - Encourage diversity by making office available to as many people as possible.
 - More people would be encouraged to run if there was a salary.
 - For many young people, the council could be a first step to other political offices and I do not see anything wrong with that—the councilor or school board would be a good learning place to start. Young people can bring energy to the council.
 - Would like to see some type of compensation—dock the councilors who miss meetings without an excuse.
 - Agree regarding compensation. It could attract a larger pool of candidates, which would benefit Eugene.
 - Where would the money come from?
 - Agree that there should be compensation based on merit and performance.

- Past councils may make it difficult for the City to convince voters councilors should be paid. Work load serves gatekeeping function—will want to examine that.
- Key for councilor to be good representative for community. Opportunities to run should be as open as possible. The key component is time available to serve. There is a direct connection between time and pay; fear that by paying councilors, validates current work load. If find that pay is appropriate, should not be paying councilors at employee level; prefer reimbursement of expenses.
- Think council should be reflective of city. Agree time and workload is an issue. Is this a reward for effort or will it become a job (e.g., county commissioner).
- Councilors need to have degree of independence to evaluate information provided by staff.
- If we pay councilors, do we pay them for the job they have now or for additional responsibilities?
- Effectiveness of Eugene government a concern for me--e.g., city manager form of government. Strongly oppose councilor-run government. Question the amount of time the councilors are spending. Its a risk if the councilors are attempting to take on operational questions. If compensation is to recognize time councilors spend away from their businesses it may be appropriate. Are councilors willing to provide policy guidance and let professional staff implement them? Are they willing to make tough decisions? Want to have the right people willing to address those issues, and to ensure that those people are treated right.
- The job is political by its nature. Pay affected by time and availability; FOE surveyed the councilors past and present, who indicated 20 to 50 hours a week was required to be a councilor. That time comes from somewhere. Availability to meet beyond what's mandated can cause problems. Paid councilors are expected to be available. Council duties; those explicitly called out in the charter regarding policy development and the role of oversight. Don't think councilors spend much time in oversight, and paying them would be a way of ensuring oversight occurred.
- Concerned about blurring of distinction between councilor and staff. Does pay erode our city manager form of government? If councilors need to do personal research, why do we need staff? Also concerned about possibility of change to form of government; currently councilors cannot abstain on a vote and all must share equally in hard decisions; prefer that. To move to another form of government where administrative duties are assigned to councilors creates turf issues. Concerned that paid councilors would run again and again, so charter might have to limit terms. Question whether paying councilors would given them more independence.

Mr. Robinette said the issue of whether the council served an oversight role was a good one to refer to the staff.

Mr. Tollenaar expressed the hope the commission did not get into the subject of the form of government. Regarding the oversight issue, Mr. Tollenaar said that councilors felt inhibited in inquiring into the state of affairs in departments because such inquiries bypassed the manager. The charter contained parameters about what the councilors could do. He pointed out that for other governmental bodies, oversight was a function for legislative committees. In the council manager form of government, staff was supposed to keep the council informed. If the council did not believe it was getting accurate information from staff, the council could fire the manager.

Mr. Tollenaar was not sure the oversight issue was all that serious. He had not felt inhibited in seeking information from staff or from expressing himself to the manager. He added that often the manager initiated a request for feedback on administrative matters, and he believed that was the way a smart manager would operate.

Mr. Robinette asked for legal counsel about the oversight role. Mr. Klein said that the council was basically responsible for steering the organization, and the manager implemented council direction. There was nothing to preclude the council from asking the manager to report on how well operations were working. The oversight generally occurred at a policy level rather than at a more detailed, operational level, which was precluded by the charter.

Mr. Tollenaar left the meeting.

Ms. Madison said that the council's decision to reverse the manager's direction to Cuthbert staff regarding picnic baskets appeared to her to be an example of where the line between operations and policy was crossed. Mr. Zako believed that if citizens had concerns about the City they went to their councilors. If they were concerned about picnic baskets at Cuthbert, they would contact their councilors. City Councilors represent citizens.

Mr. Robinette agreed that most people call their councilors, who went to staff for a response.

Mr. Hinkley said that the council determined what was policy and what was not. He said that the only "hammer" the council had was to fire the manager.

Ms. Duke believed expectations of councilors would be higher if they were paid, which could lead to an increase in their workload. Mr. Willcox agreed that more would be expected from the City Council if it was paid. He believed he would be more comfortable contacting his city councilor if that individual was paid.

Mr. Willcox said he had no interest in having the City Council look into administrative issues. He felt that the administrative and policy functions should be separated, particularly from the point of view of the employees. He felt it helped employees and citizens if the council was independent. That did not require more expenditure of time. He suggested that the councilors could have aides, and acknowledged that cost.

Ms. Madison said that many citizens were less inclined to call their councilor than the staff. She believed there was a balance. She said that the City administration was not run amok; rather, it was held in check by the public's oversight. Ms. Madison did express concern about the fact that staff was given the last word in response to public comment during meetings. She was also concerned about the constraints of the three-minutes given each member of the public to testify during public hearings.

Ms. McDaniels did not support a change in the city manager form of government. She distinguished between a stipend and a wage, and suggested the commission consider the terminology and use the word "stipend" to refer to the compensation for councilors' part-time work.

Mr. Zako suggested that the commission focus on the question at hand and project the future to be as the present in terms of the form of city government and the amount of time councilors were spending on official duties.

Mr. Robinette requested feedback from members to determine if any wished to change the current form of municipal government. Mr. Willcox said that the issue was complex; if the commission was discussing pay, he would want to know more about what the councilors would do.

Mr. Zako said he would like to consider issues beyond compensation but believed there was insufficient time for that to occur by the end of July.

Mr. Johnson said that there are differences between working with paid full-time and nonpaid part-time councilors. He said that when voters adopted the city manager form of government, they assumed the council would be part-time. He added that most city manager governments do not have full-time councilors. They were generally part-time, sometimes compensated, sometimes not. He suggested that if the committee considered the councilors to be working full time, that did not reflect the intent of the charter. Mr. Johnson said another complexity was that the time available and the time needed to do the job varied from councilor to councilor. Some councilors could carry out their responsibilities in a short period of time, while others required more time. He suggested that the committee avoid getting too caught up in how much time the job took.

Mr. Robinette said it was his experience that councilors created the time that was required because they would not come to grips with issues. He said that regardless of whether councilors were paid or volunteers, they must decide how much time to spend on the job. He did not think the committee could dictate to the council how much time councilors must spend on the job. He did think the committee could recommend what it thought reasonable hours for what amount of money.

Mr. Zako asked Mr. Johnson if the current City operation was reflective of the charter. Mr. Johnson said generally, yes; over the years, he and previous managers had felt strongly about the city manager form of government, and called conflicts with the charter to the council's attention. He said that the council also policed itself. During three recent major executive recruitments, no councilor had attempted to influence the hiring process.

Mr. Zako asked if it was possible for councilors to spend less than 20 hours a week and do a good job. Mr. Johnson said that it was unnecessary to spend 50 hours a week, but impossible to do the job with five hours a week.

Mr. Robinette said that as a council officer, about ten hours a week was added to his duties. However, that was also due to the budget circumstances at the time and the fact the council was more contentious and spent more time than needed on discussion. Committee assignments also added to the work load. He said that some councilors were better disciplined than others. Mr. Johnson said that some people love being a councilor and spend all day doing it. Mr. Zako asked how many hours the council met each week. Mr. Johnson said that it depended on the council; the councilors determine how much time they spent. There were regular meetings, intergovernmental meetings, and council assignments. He estimated 20 hours monthly outside the budget season.

Ms. Madison said it would help to know the amount of pages in the council's meeting packet.

Responding to a question from Ms. Duke, Mr. Johnson said that the County commissioners were full-time by State law. He said the County commissioners spent considerable time in meetings. He did not perceive the issues addressed by the commissioners had gotten much more complex, and said the commissioners managed to manage their workload. Mr. Johnson believed the City's issues had gotten more complicated as Eugene grew. However, he pointed out that larger cities such as Phoenix and Kansas City managed well with part-time councilors. Mr. Klein added that public involvement in the issues has increased, which added to the complexity of the issues the council addressed. Ms. Walston believed that the breadth of issues facing the City had become more complex. Ms. Duke said it was her experience that Eugene's issue had grown more complex over time.

Mr. Wildish said that the time the council took to do its job would preclude more people from running than any other factor, regardless of pay.

Mr. Johnson reiterated his concern that a full-time council was not envisioned in the charter. He suggested that if a stipend was placed at the point where it attracted people to a permanent job, that was inconsistent with the charter. Mr. Mulligan agreed. He said that another thing to consider was that full-time councilors would likely require full-time staff.

Ms. McDaniels believed council compensation was less an issue of time than of fairness. She said she did not favor a change in duties, did not want to give the council staff, but did want to provide a stipend to "sweeten the pot" for those who fear the time demand on their lives. She added that she did not think the City could rely on volunteers alone; there were some tasks that required compensation.

Mr. Wildish said that Eugene amazed him in terms of volunteerism. He said it was a very special thing about the community, and in some sense helped to define what Eugene was all about.

Mr. Willcox said he would like to have a sense of the demand on councilors' times from the councilors.

Mr. Zako said that Friends of Eugene commissioned a study of former and current city councilors regarding the time they spent on council business and it had been forwarded to the City Council. He offered to share the data with the commission. Mr. Johnson said that staff would make that survey available. He said that staff would review the questions on the survey and attempt to duplicate them for the current council.

Mr. Mulligan requested information from other cities who had implemented a stipend about the impact of the stipend in terms of council operations, or at least an assessment of current processes to oversee policies.

Mr. Hinkley pointed out that only nine people ran for four seats in the last council election. He suggested that something was keeping people from stepping forward. He wanted to know what the board member of a private company with a similar budget and number of employees as the City was compensated. Mr. Mulligan pointed out that there were many variables to compare, such as the value

of the company. However, cash stipends were not uncommon for board members because they took time away from their own businesses to serve on the board. Mr. Robinette believed it would be hard to compare the time load and commitment.

Nick Urhausen asked if there would be an opportunity for public comment. Mr. Johnson noted that the council requested the committee hold a public forum. Mr. Robinette suggested that the committee could hold a forum if there was sufficient time. He pointed out the public hearing could also be held by the City Council. He did not favor having a public comment period at every meeting.

Mr. Willcox thought it unlikely the the committee would have time to hold a public hearing on an actual proposal, but it could seek public input on the same topics members had discussed that evening at a public forum. Mr. Hinkley suggested the committee's recommendation could benefit from public input prior to being forwarded to the council. He favored a public comment period. Mr. Robinette said that he did not think brief, constrained remarks would accomplish much, and suggested the committee schedule a public hearing for the community to respond to an actual proposal. He was unsure the committee could schedule a hearing at this point, and suggested the issue be discussed when the members knew more about its recommendations.

Responding to a question from Mr. Zako, Mr. Johnson indicated the council would have to hold at least one public hearing on the committee's recommendation if the recommendation was to place a measure on the November 1998 ballot. Mr. Glover noted that the ad hoc council committee had recommended the committee hold a public hearing.

Mr. Klein pointed out that written comment could also be presented to the committee at any point.

The committee agreed to discuss the issue of the public forum at a future meeting.

Responding to a question from Mr. Zako, Mr. Robinette indicated that the committee members could prepare motions for consideration at the next meeting, following review of the information requested.

The meeting adjourned at 8:12 p.m.

(Recorded by Kimberly Young)

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M I N U T E S

Citizen Charter Review Committee on Council Compensation
McNutt Room—777 Pearl Street

July 7, 1999
6 p.m.

PRESENT: Kaye Robinette, Chair; Jon Belcher, David Hinkley, Tuss Ludvickson, Kathy Madison, Pat McDaniels, Bruce Mulligan, Jennifer Solomon, Ken Tollenaar, Kurt Willcox, Steve Wildish, Rob Zako, members; Mary Walston, City Manager's Office; City Attorney Glenn Klein; Nick Urhausen, guest.

ABSENT: Diane Duke, Mike Farthing, Marv Glover, members.

1. CONTINUED DISCUSSION OF COMPENSATION AND POSSIBLE MOTIONS FOR DIRECTION

Mr. Hinkley moved, seconded by Mr. Willcox, to approve the minutes of June 29, 1999. The motion passed unanimously.

2. REVIEW OF INFORMATION REQUESTED

A. Meetings/Hours for 1998 and 1998

The committee reviewed the information on meetings and hours spent by the mayor and city councilors.

Mr. Tollenaar asked if the 1998 council hours included time spent in committee meetings. Ms. Walston said no. Mr. Tollenaar noted that the council had five committees during that time, which represented a tremendous number of hours. Ms. Walston concurred, and referred Mr. Tollenaar to the next page of the meeting packet, which included time spent on council committee assignments. Mr. Robinette asked how long the committee meetings generally were. Mr. Tollenaar said it was difficult to say; he estimated meetings were generally at least 1-1/2 hours long. Additionally, there was time required for preparation and agenda review, meetings with small groups of constituents on specific issues, and other constituent contacts. He added that some wards had more active citizens than others. Mr. Robinette said that new councilors probably spent more time in meeting preparation during their first year in office.

Ms. Madison suggested that 1998 was an unusual year because of a variety of issues the council had faced, and was not a reliable predictor of the future. Mr. Robinette asked if she considered the year of

MINUTES—Citizen Charter Review Committee on

Council Compensation Council Agenda page 459 July 7, 1999

Page 1

Eugene Decisions an unusual year. Ms. Walston said that there were generally spikes of activity from year to year that affected the regular schedule of meetings.

Ms. Walston referred the committee to the time the mayor spent in 1998 and the first six months of 1999 on official duties.

B. Information on How Compensation is Set

The committee reviewed information collated by staff from different cities regarding how those cities' elected officials salaries were established. Mr. Tollenaar observed that many of the cities appeared to have standing committees that oversaw the process of setting salaries. He believed that Oregon had a statute calling for counties to have such committees, although he questioned whether a home rule city would have the same obligation.

C. Information from Larger Cities with Part-time Councilors

Ms. Walston referred the committee to the materials distributed prior to the meeting and reviewed the information related to the council compensation in the City of Phoenix.

Mr. Hinkley said that health and retirement benefits should be part of the committee's discussion. Mr. Mulligan said that giving health and retirement benefits had implications related to the Public Employees Retirement System (PERS).

Mr. Zako called the committee's attention to the responses to the first three questions in the Friends of Eugene survey of past and current councilors related to the time spent and time needed for the job.

3. CONTINUED DISCUSSION OF COMPENSATION AND POSSIBLE MOTIONS FOR DIRECTION

Mr. Robinette asked each member to speak to the basic issue of council and mayor compensation.

Mr. Hinkley supported compensation for both the council and mayor. He advocated paying them the median income of Eugene residents. The compensation could be set at the median level and adjusted to reflect the economy. Alternatively, the mayor could be paid the full median income and the councilors a multiplier of that figure, for example, .75. Mr. Hinkley said that councilors and mayor alike should receive the same benefit package that hourly employees receive.

Mr. Tollenaar needed more information before making a decision. He wanted to ensure that the committee carefully examined the council workload before making a recommendation. Mr. Tollenaar did not think the council work load justified Mr. Hinkley's suggestion, although the mayor's work load might justify it. He believed the mayor needed to be compensated because of the enormous amount of time the mayor spent on official duties, particularly representing the City at official functions. Mr. Tollenaar said the mayor also provided a certain amount of oversight of administration that the council did not; he attributed that fact to the mayor's office location at City Hall. Although he recognized the

burden many councilors had experienced, Mr. Tollenaar reiterated that he was not prepared to say that the work load justified the level of compensation suggested by Mr. Hinkley.

Continuing, Mr. Tollenaar said he was prepared to recommend to the council that the charter provision related to council and mayor compensation be repealed. He said that the provision was unusual for a charter, and its repeal did not predetermine the outcome of the committee's effort. Mr. Tollenaar did not think the committee would be ready to make a recommendation on council compensation by the end of July.

Mr. Tollenaar did not want the mayor to draw a salary commensurate with his or her actual worth. He said that a highly paid mayor and a highly paid city manager would lead to a situation where who was in charge was in question. He believed that, under the charter, there should be no question about that.

Mr. Willcox did not think council compensation should be compensation for a full-time job. He believed that councilors put in long hours and some kind of compensation would help to attract a wider group of people to run for the office, and could provide money to councilors to spend on other things, such as an assistant. He said he would like to explore the work load issue more to see if more could be done to control it. Mr. Willcox suggested that perhaps an assistant or office space would be helpful to reduce councilors' work loads. He liked Mr. Hinkley's idea that the amount of compensation be set and adjusted in a preestablished manner. He did not think the median income of Eugene residents was the appropriate level, but perhaps the CPI (Consumer Price Index) could be used for adjustments to avoid an annual struggle in setting wages. He suggested \$1,000 to \$1,500 monthly per councilor as sufficient reward and recognition, and to acknowledge some of the time they spent away from their businesses and families. He also supported paying the mayor a salary at a slightly higher rate than the council.

Mr. Mulligan said he had been interested to see that strong city manager governments had begun to pay their councils in recognition of the more complex issues that those cities deal with. He believed that some small amount in recognition of the council's time was warranted. The time council meetings and preparation required justified some sort of compensation to him. Mr. Mulligan said that the range cited by Mr. Willcox was probably appropriate, although he might be more conservative.

Mr. Mulligan said that the amendment of the charter required tinkering in an area he was concerned about, and that was the prohibition of operational issues being managed by the council. That charter provision was adopted for a good reason, and was needed to attract quality city manager candidates. He said that he liked Mr. Tollenaar's idea regarding the repeal of the charter provision, followed by more careful study. Mr. Mulligan said he could not support a motion that allowed the councilors to use the salary to hire staff. He believed the council should be supported by staff at City Hall.

Mr. Wildish said he recognized the time involved in being a councilor, but the time requirement had existed for some time. He said that his biggest concern about paying councilors was that it could undermine the intent of the charter regarding administration and operational issues. Mr. Wildish said that the council's work load needed to be examined, as he believed it had a tendency to jump into issues and would be even more likely to do so if paid.

Mr. Wildish agreed with Mr. Mulligan that there was a reason that the council was not paid. He took a change in the status quo quite seriously. Mr. Wildish suggested that the per diem be in lieu of the expense reimbursement because not all councilors employed the expense reimbursement at the same level. He said that an amount that worked for everyone could be established. Mr. Wildish said that the issue of compensating the mayor was more complex, but he felt generally the same about the subject as he did about the council. He was more open to discussion of compensating the mayor, but believed the suggestion for \$20,000 annual compensation was too much. Mr. Wildish said that \$10,000 would be too much, and he could support no more than \$6,000.

Ms. Madison also needed more information. She was not in favor of a salary for councilors, although she might be able to support a stipend. She was concerned about any erosion of the council-manager form of government and urged caution in paying councilors. Ms. Madison requested information about how other cities that had begun to pay councilors maintained a separation between operational issues and policy making. She also wanted more information about council compensation from more cities. Ms. Madison preferred not to recommend repeal of the charter provision at this time because she wanted the voters to vote on the subject of council compensation. She said that she continued to be concerned about how the council managing its work load, and did not think paying councilors would encourage better time management. Ms. Madison agreed with previous speakers that the mayor's situation was different, and she might be willing to consider more than a nominal amount for that position. Ms. Madison reiterated that she still needed more information.

Noting her membership on the City's Budget Committee, Ms. Solomon said that she could assure the committee the City did not have the money to pay councilors what some members had suggested. She pointed to the City's unfunded PERS commitment and lack of road maintenance funding. City facilities were inadequate to house City departments. Social programs needed more money. Ms. Solomon said that any moneys the committee was talking about would come from the General Fund, which experienced limited growth annually. She said that in her personal polling, everyone she spoke to was very skeptical about paying councilors. Ms. Solomon asked why the committee was rushing to reach a recommendation. She said that if the committee made a recommendation and it was rejected at the polls, further proposals would have less credibility. She supported some degree of compensation for the mayor. Ms. Solomon supported Mr. Wildish's remarks about a per diem.

Responding to a question from Mr. Robinette, Mr. Klein reviewed the impacts of Ballot Measure 50 on future budget projections.

Mr. Zako said that the councilors appeared to spend about 20 hours a week on council business. He did not think the committee was talking about restructuring the council's positions, only focusing on the status quo. He believed city councilors deserved to be paid, but he was unsure of how much. He doubted that the councilors could reduce their commitment of time below 20 hours. He believed the City Council had done a wonderful job and he wanted it to continue to do so.

Mr. Zako liked Mr. Hinkley's proposal, which would take politics out of the task of adjusting the level of compensation. He noted that he had checked with Jim Carlson at Lane Council of Governments regarding the median income and said the discussion indicated that calculating the median was a complex question.

Ms. McDaniels said that her informal polling had indicated support for paying the council, but no amount had been discussed. She also favored paying the council and mayor, but not the amount recommended by Mr. Hinkley. She believed that the cities that pay councilors the higher amounts were wealthier communities than Eugene. Ms. McDaniels did not support paying the council benefits as she did not see why the councilors should be put in the PERS system. She suggested an annual stipend of about \$8,000 to \$9,000 for the councilors and \$10,000 for the mayor. Ms. McDaniels did not support separate staff for the councilors to ensure that the barrier between policy and operations was maintained.

Ms. Ludvickson did not want to change the charter in a manner that eroded the present city manager form of government. She thought a stipend of some sort was a good idea. She did not want the stipend to be a livable salary. Ms. Ludvickson agreed with Ms. Solomon that to push through a measure too quickly would make a future measure difficult to pass. She supported \$750 monthly for councilors and \$1,000 to \$1,200 for the mayor. She believed that time management was important, and suggested that not all councilors had to have input on every issue. Ms. Ludvickson thought some things handled by the council could be handled by smaller groups.

Mr. Belcher identified himself as one of the active constituents of Councilor Scott Meisner. He believed that when councilors fell down in meeting their duties, it was in the area of constituent contact. He believed that some form of compensation was needed because of the work load involved. Mr. Belcher opposed repeal of the charter provision without other direction, because it would appear to open the door to letting the council decide to pay itself a salary. He supported a range of \$15,000 to \$25,000 annually for councilors and a larger sum for the mayor.

Mr. Robinette asked how many committee members were willing to pay staff assigned to individual councilors. Mr. Hinkley and Mr. Belcher indicated support.

Mr. Willcox noted that his suggestion to allow councilors to hire staff was to reduce the councilors' work loads.

Mr. Mulligan said he was assuming that there were limits under Oregon law about how per diems were paid, which needed to be taken into account when paying someone a flat sum as nonwage income. He believed that Oregon law imposed limits on what public entities could pay in terms of nonwage style per diems, and there were receipt responsibilities required of the recipient to prove the money involved was not wages. He wanted more clarity about that issue. Mr. Klein indicated he would have to follow-up on the question.

Ms. McDaniels suggested that the councilors could be paid as contractors. Mr. Klein said that the councilors could not qualify under State law; if they were independent contractors, they would not be entitled to legal defense if they were sued for an official action.

Mr. Robinette took a straw poll on the level of compensation favored by committee members. The committee agreed that members could vote more than once. Six members supported a stipend of \$0 to \$300 a month; seven members favored a stipend of \$301 to \$900; six committee members supported a

monthly stipend of \$901 to \$1500, three committee members supported a monthly stipend of \$1,500 and above.

Mr. Robinette asked the committee if it supported merely repealing the charter provision. Mr. Tollenaar clarified that he had suggested that approach because of the time constraints the committee was working under. Committee members expressed concerns that the approach did not represent a solution.

Committee members discussed their concerns about the time constraints on the process. Responding to a suggestion from Mr. Belcher that the City use preference voting to offer voters alternative pay ranges, Mr. Klein said that the Secretary of State had indicated to the City it did not have the home rule power to hold its own election and do a preference vote. He said that a preference vote would likely be challenged by the State, adding that the legislature had the authority to authorize preference voting but had not done so. Mr. Belcher suggested that such an approach would save the committee time by allowing it to offer the voters alternatives to choose from.

Mr. Klein said that the committee could recommend that the charter provision be repealed and replaced by a provision setting a pay ceiling, with a specific process for adjustment.

Mr. Tollenaar did not want to institute a pay ceiling in the charter because it would quickly become obsolete. He suggested that the charter provision could be replaced by a charter provision calling for a citizen compensation committee similar to that mandated by the State for counties. That would give the City a mechanism replacing the outright prohibition, and give the charter review committee time to make some recommendations about actual compensation levels. Mr. Zako asked if Mr. Tollenaar was proposing a charter amendment that would give the council the authority to approve the recommendations of the compensation committee. Mr. Tollenaar said the charter amendment could vest the authority to set salaries with the compensation committee. Ms. McDaniels asked who would appoint the members of the committee. Mr. Tollenaar suggested the mayor, council, or manager could appoint the committee. Mr. Klein said that a standing committee such as the lay members of the Budget Committee could set the salaries. Ms. Solomon said that she would like to ensure that the authority of the Budget Committee was firm if that was the approach, noting that the council had overturned several committee decisions following the committee's adoption of the budget.

Mr. Willcox said that there appeared to be agreement that the committee did not want to recommend simple repeal of the charter prohibition on compensation to the council, and wanted to recommend something that was a solution, rather than a step toward a solution.

Mr. Robinette asked the committee to discuss possible next steps, noting his belief it would be very difficult to hold a public forum and complete the committee's work in the month of July.

Mr. Zako said that the committee was making progress and he was concerned about its ability to hold a public hearing and complete its work on the scheduled time line. He asked if there was another way the committee could follow the direction to hold a public hearing; he suggested it was premature to get public input if members had not yet reached agreement.

Mr. Robinette believed that the committee needed to have something to present the public to get meaningful input. Mr. Wilcox agreed. Responding to Mr. Zako's comments, Mr. Wilcox said that even if the committee reached agreement within the time line its proposal might not have public acceptance. He preferred not to rush the process but to get some public input before making a final recommendation to the council.

Mr. Robinette said that the council could hold a public hearing on the committee's recommendations. He said the council wanted the committee to hold a public hearing, but he questioned whether it was ready.

Mr. Tollenaar suggested that staff secure more information from other Oregon and Washington cities about council and mayor compensation, and how the workload was distributed between the mayor, council, and city manager, and level of staff support provided. He also asked how other councils handled committees. Mr. Tollenaar also suggested that the City might need to hire a professional consultant to do that work unless it could free up a staff member.

Ms. Madison endorsed Mr. Tollenaar's information requests, adding she was uncomfortable proceeding without more information.

Mr. Zako believed the committee had sufficient information to proceed to a decision, and suggested that the committee was divided by its values; some members believed that the councilors should be volunteers, and others did not. He said it would be useful to discuss the core issue dividing the committee.

Mr. Robinette said it did not appear the committee was ready to make a decision about a public forum, and asked members to give the issue thought prior to the next meeting. He asked the committee members if they had additional information requests.

Mr. Wilcox and Mr. Mulligan noted their interest in knowing the tensions between policy and operations that were created in cities with compensated councilors. Mr. Tollenaar said that effort would likely require the assistance of a consultant. Mr. Robinette indicated he would ask the City Manager if there were moneys that could be secured for a consultant.

Ms. Madison noted her interest in more information about the differences between stipends and reimbursements, and the impact of compensation on PERS. She also requested the average amount of council reimbursement over the past two councils.

Mr. Wildish asked if staff could find out why cities not paying their councilors were not paying them.

Mr. Hinkley requested information on the salaries for State legislators, Circuit Court judges, and high school principals.

Ms. Walston indicated she would follow up to determine if Gresham had passed a measure compensating the councilors.

Mr. Robinette called the committee's attention to materials related to legal counsel.

The committee agreed to meet again on July 14 at 6 p.m., at a location to be announced.

The meeting adjourned at 8:17 p.m.

(Recorded by Kimberly Young)

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Appendix C

MINUTES

Citizen Charter Review Committee on Council Compensation
Campbell Senior Center—155 High Street—Eugene

July 14, 1999
6 p.m.

PRESENT: Kaye Robinette, Chair; Jon Belcher, Diane Duke, Marv Glover, David Hinkley,, Kathy Madison, Pat McDaniels, Bruce Mulligan, Ken Tollenaar, Kurt Willcox, Steve Wildish, Rob Zako, members; Mary Walston, City Manager's Office; Nick Urhausen, guest.

ABSENT: Mike Farthing, Tuss Ludvickson, Jennifer Solomon, members.

1. APPROVAL OF MINUTES OF JULY 7, 1999

Ms. Madison asked that sentence 7 in paragraph 2 on page 4 of the minutes be modified by inserting the word "is" before the word "managing."

Mr. Wildish moved, seconded by Ms. Madison, to accept the minutes of July 7, 1999, as amended. The motion passed unanimously.

2. REVIEW OF INFORMATION REQUESTED

A. Councilor Reimbursement 1995 - 1999

The committee reviewed the information provided by Ms. Walston regarding council expense reimbursement for 1995-1999 and asked questions clarifying the information presented.

B. Compensation Comparison

The committee reviewed information provided by Ms. Walston related to compensation for State legislators, Circuit Court judges, and School District 4J high school principals.

C. Gresham, Oregon

Ms. Walston called the committee's attention to a memorandum distributed prior to the meeting regarding the November 1998 ballot measure to compensate the Gresham mayor. She reported that the measure failed.

MINUTES—Citizen Charter Review Committee on
Council Compensation Council Agenda page 467

July 14, 1999

Page 1

D. City Attorney Response

Ms. Walston noted the distribution of a memorandum responding to committee questions about alternative forms of council compensation.

3. CONTINUED DISCUSSION OF COMPENSATION AND POSSIBLE MOTIONS FOR DIRECTION

Mr. Robinette reported that City Manager Jim Johnson had indicated to him there was no funding for a consultant and no time to secure the funding.

The committee reviewed and discussed a proposal prepared by Mr. Zako. Mr. Zako explained that he did not think the committee would be able to reach a conclusion on a figure for compensation, and he proposed that the committee instead fix responsibility for who decided the amount. To that end, he had prepared a motion recommending the council place a charter amendment on the November 1999 ballot to amend Section 18 of the City Charter by striking the provision that stipulated the mayor and council would not be compensated, and including a provision for a Citizen Committee on Council Compensation to review the full compensation package for the mayor and council including salary and benefits. He noted that his work was based on the charter of San Luis Obispo, California.

Mr. Zako provided an overview of the proposed amendment and answered questions clarifying its intent.

Responding to a question from Mr. Belcher, Mr. Zako clarified that the charter amendment would take effect on January 5, 2000. Ms. Duke asked about the relationship of the amendment to the budget cycle. Ms. Walston indicated that the City would begin preparing the fiscal year 2001 budget in October, and compensation could be budgeted for at that time. Ms. Madison pointed out that the council could make budget adjustments at any time.

Mr. Tollenaar recommended that the phrase in 6(c), "either as a result of State legislation," be struck.

The committee briefly discussed what "compensation" meant, and if it included benefits. The committee agreed that the term should be defined. Mr. Mulligan suggested that the amendment should refer to "other market adjustments" rather than cost-of-living increases.

Mr. Robinette assured the committee that any proposal would be reviewed by the City Attorney for clarity.

Mr. Hinkley said that he was not comfortable deleting (2) in the charter without more information about what it meant. Mr. Robinette asked Ms. Walston to follow up on the issue with the City Attorney's Office. Mr. Tollenaar suggested that the City Attorney also be asked to look at a mechanism by which the council would be limited to adopting or rejecting the recommendations of a committee charged with council compensation given the potential of the delegation of legislative authority.

Mr. Robinette asked committee members to indicate by straw vote if they favored forwarding the charter amendment to the voters. Six members indicated support; five members did not.

Mr. Mulligan left the meeting.

Ms. Madison was not comfortable with the proposal as submitted. She said it did not address how often the salary could be adjusted and it presumed both a salary and benefits without setting any limits. She suggested that a super majority of councilors be required to act to avoid 5:4 votes.

Mr. Zako welcomed changes to the proposal.

Mr. Belcher suggested that, given the election cycle, changes would probably not occur more than every two years.

Mr. Wildish indicated his fundamental concerns about council and mayor compensation and the City's form of government had not changed. He believed the issue was being pushed by a small group of councilors who want to know if they will be paid if they run again. He believed the process was going too fast. He also wanted more discussion of other Oregon cities, such as Gresham and Salem, who did not pay their elected officials.

Mr. Willcox endorsed Mr. Zako's proposal as a starting point for discussion. He believed it reflected the committee's consensus about compensation to some degree.

The committee briefly discussed the timing of its process. Mr. Robinette said he did not believe the committee would be able to develop a measure in time for the November ballot. Several members concurred.

Mr. Belcher said that the committee needed to ask the public if and how it wished to compensate councilors. He suggested that compensation could be indexed to some common measure, or it could be set by the council. Mr. Belcher said the committee needed to ask the public if it supported compensation and indexing compensation, and offer it a range of compensation figures. He advocated for a survey to test the general public's sentiment on the issue.

Mr. Hinkley agreed with Mr. Belcher's remarks regarding offering the community a range of options. He also liked Mr. Belcher's comment regarding indexing compensation to some measure such as the median income because it would not require a committee or the council to vote itself a raise. He did not think the proposal was politically viable as it did not include any specific figures for compensation.

Mr. Tollenaar indicated general support for the proposal, adding he believed Mr. Hinkley was right about the lack of concrete figures. He said that if the council wanted to be paid it needed to take the political heat about the issue. He suggested the committee forward the proposal to a public hearing. He said that the proposal should not be drafted in a manner that presumed compensation.

Ms. McDaniels liked the draft. She did not think a specific figure on compensation was appropriate for the charter. She pointed out that people could recall their councilors if they made a decision that they were upset with.

Ms. Duke was concerned about the inclusion of benefits in the proposal and suggested it be deleted to retain the focus on compensation. She noted that the time required for the job was the issue most mentioned by councilors, and suggested there was a potential that the community would expect even more from compensated councilors. She was satisfied with the remainder of the proposal, which she believed would be supported by the voters.

Mr. Glover endorsed Mr. Belcher's remarks. He said that the proposal needed the buy-in of the community. He said that rushing to get a measure on the ballot would be folly because it would not have voter support. He agreed that a figure for compensation was needed. Mr. Glover suggested that the committee provide the community with a palette of options at the public forum. He asked why the committee was rushing to complete its work. Mr. Hinkley responded that it was so people running in 2000 would know the terms of office. He believed that fewer and fewer candidates were standing for council offices because of the time required, and supported compensation because councilors had to take time away from their jobs and families. To paraphrase former City Councilor Shawn Boles, he said that without compensation, only the retired, wealthy, or foolish could run.

Mr. Willcox recommended that the committee report to the council by 1) outlining the elements of the proposal it could agree on, 2) forwarding a set of principles regarding compensation, 3) calling for a public input process, which would be followed by a final report by the committee. He said that he did not believe that could occur in time for the November election. He said that those running in 2000 will know the rules: there is no compensation.

Ms. Walston indicated that the next election date following the November election was March 2000.

Ms. Madison pointed out that the committee was unlikely to get much attendance at a public forum in mid-August. Ms. McDaniels said that it was possible the committee's forum would have competition from forums related to other ongoing issues.

Mr. Tollenaar agreed with other members that he did not want to rush the process but indicated he still supported repeal of Section 18 of the charter. He was disappointed no money was available for a consultant. He asked Ms. Walston to research the number of candidates who have run for council office over the last five to ten elections to test Mr. Hinkley's assertion that fewer candidates were running. He also suggested asking the councilor to keep a log of their time by categories, such as council meeting time and constituent contacts. Mr. Belcher suggested media contacts as another category.

Mr. Hinkley reiterated that the lack of a compensation figure would make the public consider any proposal lacking one a blank check for the council.

Mr. Belcher said that it would be difficult to pass a compensation measure and also pass a public safety measure. He thought the March 2000 election was not wise because the public would perceive it as a single-issue election. He thought there was no need to rush.

Mr. Zako said that he was open to discussion of lengthening the process beyond the end of July. However, he said that those requesting more information should be clear why they need it. He was concerned that further information requests would put resolution of the issue off into the future.

Mr. Willcox moved, seconded by Ms. Madison, that the committee report to the council by the end of July regarding where it was in the process, followed by a public forum in September, followed by committee deliberation, with a final recommendation to the council with the goal of placing any measure allowing for pay and a compensation committee on the May 2000 ballot. If the measure passed successfully, the council would form the compensation committee, which would make its recommendations to the council, which would pass an ordinance to take effect in January 2001. The motion passed unanimously, 11:0.

The committee agreed to form a subcommittee to write the final report. Mr. Robinette recommended that the committee meet in two weeks to review the report to the council.

Mr. Willcox, Ms. Madison, Mr. Hinkley, Mr. Zako, and Mr. Wildish agreed to serve on the subcommittee to prepare the report to the council. A meeting of the subcommittee was scheduled for July 19 at 4:30 p.m. in the City Manager's Office. Mr. Willcox outlined tentative points of agreement: 1) the charter prohibition should be repealed; 2) there should be pay; 3) pay should be based on part-time, not full-time, work; 4) there would be no benefits outside PERS; 5) pay would be indexed; 6) the committee should hold a public forum for a review of the existing models and various options; and 7) the committee agreed to request some funding from the council to underwrite a survey.

Mr. Wilcox advocated for spending any money the committee received on public opinion polling rather than seeking information from other communities. Mr. Hinkley concurred.

Mr. Belcher advocated that the committee ensure any minority opinions were represented in its report. The committee concurred.

Responding to a question from Mr. Robinette, five committee members indicated support for polling other cities.

The next committee meeting was scheduled for July 28, at a location to be announced.

The meeting adjourned at 8:17 p.m.

(Recorded by Kimberly Young)

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MINUTES

Citizen Charter Review Committee on Council Compensation
Campbell Senior Center—155 High Street—Eugene

July 28, 1999
6 p.m.

PRESENT: Kaye Robinette, Chair; Marv Glover, David Hinkley, Pat McDaniels, Bruce Mulligan, Steve Wildish, Mike Farthing, Jennifer Solomon members; Mary Walston, City Manager's Office
ABSENT: Jon Belcher, Diane Duke, Kathy Madison, Ken Tollenaar, Kurt Willcox, Rob Zako, Tuss Ludvickson

1. APPROVAL OF MINUTES OF JULY 14, 1999

Mr. Hinkley requested a revision on page 4 of the minutes regarding his statement about those persons who seek public office.

Ms. Solomon moved, seconded by Mr. Mulligan, to accept the minutes of July 14, 1999, as amended. The motion passed unanimously.

2. REVIEW OF INFORMATION REQUESTED**A. Travel Expenses FY97 - FY99**

The committee reviewed the information provided by Ms. Walston regarding council travel expenses for the 1997 to 1999 fiscal years.

B. Candidates Filing for Council Positions

The committee reviewed information provided by Ms. Walston related to the number of persons filing for council offices from 1976 to 1998.

3. REVIEW OF DRAFT RECOMMENDATION FROM COMMITTEE

The members of the committee reviewed and revised the report to be submitted to the City Council.

There will be no additional meetings of the committee.

The meeting adjourned at 8:20 p.m.

(Recorded by Mary Walston)

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MINUTES—Citizen Charter Review Committee on
Council Compensation

July 28, 1999

Page 1

Council Agenda page 473

Appendix E

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Eugene Charter

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(2) The court may impose sanctions on any person who violates a city ordinance within the court's jurisdiction, issue process for the arrest of any person accused of any such violation, commit such a person to imprisonment or admit the person to bail pending trial, issue subpoenas to compel witnesses to appear and testify on the trial of any cause before the court, enforce obedience to the subpoenas, and issue process necessary to carry into effect the judgment of the court.

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(3) All proceedings in the municipal court shall be governed by the general laws of the state governing justices of the peace and justice's courts, except as city ordinance prescribes to the contrary. A municipal judge has the jurisdiction and authority of a justice of the peace in and for Lane County, in both civil and criminal matters, and when exercising that jurisdiction and authority is subject to the general laws of the state prescribing the duties of a justice of the peace and the mode of performing them.

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Chapter VI

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Municipal Officers and Employees in General

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Section 18. Compensation. The mayor and councilors may receive no pay for their services, and the compensation of other officers shall be prescribed by the council.

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Section 19. Qualifications. No person may hold an elective city office unless a legal elector under the laws and constitution of the state, a resident of the city for one year immediately before being elected or appointed to the office, and unless, if elected, receiving a majority of the votes cast for candidates for the office at the election at which the office is filled. The city council shall provide for such election by majority vote.

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Section 20. Election. Immediately after the votes at any municipal election have been canvassed, the city officer in charge of administering elections shall issue to each person declared by the canvassers to have been elected at the election a certificate of election. The certificate shall be prima facie evidence of the facts therein stated, but the city council shall be the judge of the election and qualifications of the mayor and councilors, and in case of a contest between two or more persons claiming to be mayor or councilor, shall determine the contest.

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Section 21. Terms. The term of office of a person elected shall commence on the first Monday in January following the election.



Appendix F

Office of the Mayor • P
Post Office Box 900

319
09 9012

October 13, 1998

City of Eugene
777 Pearl Street, #105
Eugene, OR 97401

FAX: 541-682-5414

Dear Council Coordinator:

Thank you for your help with the survey information being collected for Bellevue's Council, "Comparable Mayor and Council salary study for cities with a Council-Manager form of government within a select population range." The data collection is complete, and I have attached a copy of the results.

Please take note that we did add some cities with Mayor/Council form of government to our data base. Also, we compiled the information into two charts, (1) Comparable Cities (we've used this group for other data collection (pages 1-5), and (2) Cities within Washington only (pages 6-9).

Thank you again for your assistance. Please contact me at 425-452-7810, if you have any questions about the data.

Sincerely,

Andi Dash, Council Coordinator
City of Bellevue

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City of Bellevue offices are located at Main Street and 116th Avenue S.E.
Council Agenda page 477

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NOV 23 1998

**1998 Mayor/Council Salary Data Questionnaire
in Cities with Council/Manager Form of Government**

Mayor/Council form of government

City	Demographics	Compensation for:	Salary per month:	Car Allowance/ per mo:	Per Diem for meetings:	Travel Allowance/ per mo	Expense reimbursement:	Benefits:
Bellevue, WA	Population: 105,000 Employees: 1,200 Budget in \$M's: \$261.2M GF: \$177.1M CIP: \$84.1M	Mayor: PT Council: PT	\$1,200.00 \$1,000.00	\$150.00	\$50 per regional meeting (3 designated)	n/a	Direct: Actual expense is reimbursed Allowance/per month: None	Retirement: PERS II optional; emp. pays 4.65%/ City pays 7.5% Social Security/other: MEBT optional/emp's match is based on first 6.2% contributed as everyone pays 1.45% to medicare Med/Dental/Vision: Optional Life: \$10,000 / Mayor is \$12,000
Bozeman, MT	Population: 86,000 Employees: 520 Budget in \$M's: \$80M+	Mayor: PT Council: PT	\$1,333.33 \$833.33	None	n/a	n/a	Direct: None except conferences/ meetings Allowance/per month: None	Retirement: PERA Social Security/other: SS Med/Dental: Optional (same as all emp.) Life: May purchase at group rate
Bozeman, MT	Population: 95,000 Employees: 1,100 Budget in \$M's: \$70M - GF, \$60M direct fund, \$23M CIP Total: \$153M	Mayor: Vltr. Council: Vltr.	\$100 per mtg 2 mtgs per mo \$100 per mtg 2 mtgs per mo	n/a	n/a	n/a	Direct cost: None Allowance/per month: \$1,000 per year per member	Retirement: \$ - 0 - Social Security/other: \$ - 0 - Med/Dental: \$ - 0 - Life: \$ - 0 -
Bozeman, MT	Population: 125,000 Employees: 1,300 Budget in \$M's: \$280M	Mayor: PT Council: PT	\$ - 0 - \$ - 0 -	n/a	n/a	n/a	Direct: Actual expense is reimbursed Allowance/per month: None	Retirement: \$ - 0 - Social Security/other: \$ - 0 - Med/Dental: \$ - 0 - Life: \$ - 0 -

Page 1

Attachment C

City	Demographics	Compensation for:	Salary per month:	Car Allowance/ per mo:	Per Diem for meetings:	Travel Allowance/ per mo	Expense reimbursement:		Benefits:	
Everett WA * M/C form of govt.	Population: 84,330 Employees: 1,000 Budget in \$M's: \$214M operating and \$3M CIP Total: \$217M	Mayor: FT Council: PT	\$9,000.00 \$1,500.00	\$325 per mo .315 ¢ per mile	n/a	n/a	Direct cost: Allowance/per month:	Actual expenses reimbursed None	Retirement: Social Security/other: Med/Dental: Life:	PERS II, emp pays 4.65%/City pays 7.5% SS Yes Yes
Gresham OR	Population: 81,867 Employees: 540.7 FTE Budget in \$M's: \$36.3M	Mayor: FT Volunteer Council: PT Volunteer	November Initiative would pay Mayor \$6,000/mo \$ - 0 -	n/a	n/a	n/a	Direct cost: Allowance/per month:	Actual expenses reimbursed None	Retirement: Social Security/other: Med/Dental: Life:	\$ - 0 - \$ - 0 - \$ - 0 - \$ - 0 -
Federal Way	Population: 76,820 Employees: 248 Budget in \$M's: \$114M	Mayor: PT Council: PT	\$900.00 \$750.00	n/a	n/a	n/a	Direct cost: Allowance/per month:	Actual expenses reimbursed None	Retirement: Social Security/other: Med/Dental: Life:	Can waive right to be excluded from PERS SS \$ - 0 - \$ - 0 -
Forest Collins	Population: 112,000 Employees: 1,270 Budget in \$M's: \$329M	Mayor: PT Council: PT	\$750.00 \$500.00	32.5¢ per mile	n/a	n/a	Direct cost: Allowance/per month:	Actual expenses reimbursed None	Retirement: Social Security/other: Med/Dental: Life:	\$ - 0 - SS \$ - 0 - \$ - 0 -
Lakewood CA	Population: 77,000 Employees: 170 FT Budget in \$M's: \$39.8M	Mayor: PT Council: PT	\$930.00 \$930.00	\$100 per mo	\$30 for each Redevelopment mgt. 2 per month	Allowable expenses	Per cost: Allowance/per month:	Actual expense reimbursed No	Retirement: Social Security/other: Med/Dental: Life:	PERS; emp pays 7% No \$515 per month \$100,000

Page 2

City	Demographics	Compensation for:	Salary per month:	Car Allowance/ per mo:	Per Diem for meetings:	Travel Allowance/ per mo	Expense reimbursement:	Benefits:
Aperville	Population: 125,000 Employees: 908FT; 21PT Budget in \$M's:\$230.3M	Mayor: PT Council: PT	\$1,250.00 \$416.66	\$200 \$ - 0 -	n/a	n/a	Direct cost Allowance/per month: Actual expenses reimbursed None	Retirement: Yes Social Security/other: SS Med/Dental: Yes Life: Yes
Edmond City w/C govn.	Population: 43,310 Employees: 484 Budget in \$M's: \$39.7M	Mayor: FT Council: PT	\$6,000.00 \$600.00	\$225/Mayor 32.5 ¢ per mile/Council	n/a	\$5,546 per year/ total for Exec. Office Council/Yearly budget \$7,000	Direct cost: Allowance/per month: Actual expenses reimbursed None	Retirement: PERS for Mayor/ no retirement for Council Social Security/other: MEBT Med/Dental: Full coverage for Mayor/ Council is pro-rated for 20 hour work week Life: \$50,000 policy for Mayor/ none for Council
Clare	Population: 128,000 Employees: 1,200 Budget in \$M's: \$350M	Mayor: PT Council: PT	None None	32.5 ¢/per mile	n/a	n/a	Direct cost: Allowance/per month: Actual expenses reimbursed \$275 / Mayor \$ 49/ Council	Retirement: \$ - 0 - Social Security/other: \$ - 0 - Med/Dental: \$ - 0 - Life: \$ - 0 -
Atoka	Population: 91,000 Employees: 1030 FT/ 550 PT Budget in \$M's: \$136.8M	Mayor: FT Council: PT	\$1,400.00 \$800.00	\$492/Mayor \$339/Council	n/a	n/a	Direct cost: Allowance/per month: Actual expenses reimbursed None	Retirement: PERS - 7% City paid Social Security/other: 1.45% Medicare Med/Dental: Yes/plus vision Life: \$30,000 policy

Attachment C

City	Demographics	Compensation for:	Salary per month:	Car Allowance/ per mo:	Per Diem for meetings:	Travel Allowance/ per mo	Expense reimbursement:	Benefits:
Santa Clara CA	Population: 100,000 Employees: 949 Budget in \$M's: \$362.8	Mayor: PT Council: FT	\$1,000.00 \$ 200.00	Car provided 1 car provided for six members for City business	\$30 for Redevelopment Agency & Sports and Open Space meetings.	n/a	Per cost: Allowance/per month: Actual expenses reimbursed None	Retirement: n/a Social Security/other: SS/ 1.45% Fica matching Med/Dental: n/a Life: n/a
Scottsdale AZ	Population: 184,740 Employees: 2,363 (includes FT, PT & temp.) Budget in \$M's: \$294.9M (98/99)	Mayor: PT Council: PT	\$2,123.08 \$1,150.00	\$500/ per mo \$300/per mo	n/a	32.5¢ per mile	Per cost: Allowance/per month: Actual expenses reimbursed None	Retirement: Elected Official Retirement Plan - Mayor/Council contributes 7%; City contributes 15.76% Social Security/other: 7.65% Mayor/Council contribute equally w/City Med/Dental: Medical paid; dental is paid by member Life: \$50,000 policy; Double Indemnity for Mayor & Council
Spokane WA	Population: 52,000 Employees: 84 FT/ 100 PT Budget in \$M's: \$52M	Mayor: PT Council: PT	\$875.00 \$700.00	n/a	n/a	1998: Travel Budget \$16,850 Training Budget \$ 4,150 1999: Significant increase in both categories	Direct cost: Allowance/per month: Actual expenses reimbursed None	Retirement: PERS eligible Social Security/other: 401a Med/Dental: \$ - 0 - Life: \$ - 0 -
Spokane WA	Population: 197,044 Employees: 2,000 Budget in \$M's: \$102 GF	Mayor: PT Council: PT	\$3,000.00 \$1,500.00	Car provided n/a	n/a	n/a	Direct cost: Allowance/per month: Actual expenses reimbursed None	Retirement: Option to enroll/ 6.72% contribution Social Security/other: 6.2% SS 1.45% Medicaid 3 plans w/vision Med/Dental: 1 1/2 times salary up to \$60,000 premium pd / Life: Dependent life \$6,000 pd / Spouse \$2,000 pd

Page 4

City	Demographics	Compensation for:	Salary per month:	Car Allowance/ per mo:	Per Diem for meetings:	Travel Allowance/ per mo	Expense reimbursement:	Benefits:
Manhasset Neck	Population: 131,127 Employees: 955 FT Budget in \$M's: \$180M Total \$333M	Mayor: PT Council: PT	\$1,508.50 \$1,314.00 For each non-excused absence, 20% of monthly salary deducted	n/a	n/a	n/a	Direct cost: \$ - 0 - Allowance/per month: \$6,252.12 for travel/training/food, etc. per member	Retirement: PERS Misc. Plan/ their 8% is contributed by the City Social Security/other: Effective 1991, Councilmembers who elect not to participate in PERS must contribute 6.2% of their salary to Social Security Med/Dental: PERS Health Benefit equal to cost of premium per month. No dental or vision. Life: \$ - 0 -
Manhasset Neck	Population: 64,382 Employees: 699.8 FTE Budget in \$M's: \$105M	Mayor: PT Council: PT	\$1,028.52 \$685.68 Asst Mayor: \$788.54	n/a	n/a	n/a	Direct cost: Actual expenses not to exceed \$175/day unless approved. Allowance/per month: None	Retirement: \$ - 0 - Social Security/other: SS / City portion Med/Dental: Officials pay premium/ City pays workers comp. Life: \$5,000 policy / City pays prem. on errors & omission (Prof. Libability)
Manhasset Neck	Population: 133,000 Employees: 900 Budget in \$M's: \$210M	Mayor: PT Council: PT	\$1,150.00 \$ 750.00	n/a	n/a	n/a	Direct cost: Actual expenses reimbursed Allowance/per month: None	Retirement: Eligible Social Security/other: Yes Med/Dental: Yes Life: Yes

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County Agenda page 483

Page 5

**1998 Mayor/Council Salary Data Questionnaire
in Washington Cities**

Attachment C

* Mayor/Council form of government

City	Demographics	Compensation for:	Salary per month:	Car Allowance/ per mo:	Per Diem for meetings:	Travel Allowance	Expense reimbursement:	Benefits:
Bellevue WA	Population: 105,000 Employees: 1,200 Budget in \$M's: \$261.2M GF: \$177.1M CIP: \$84.1M	Mayor: PT Council: PT	\$1,200.00 \$1,000.00	\$150.00	\$50 per regional meeting (3 designated)	1998 Travel budget \$17,500 (\$2,500 each)	Direct cost: Actual expense is reimbursed Allowance/per month: None	Retirement: PERS II optional; emp. pays 4.65%/ City pays 7.5% Social Security/other: MEBT optional/emp's match is based on first 6.2% contributed as everyone pays 1.45% to Medicare Med/Dental/Vision: Optional Life: \$10,000 / Mayor is \$12,000
Bellingham, WA	Population: 61,980 Employees: 863 Budget in \$M's: 171.1M (includes \$48.8M reserve)	Mayor: FT Council: PT	\$7,698.00 \$1,250.00 (*annual increase of 3% begins 1/1/99)	n/a	n/a	n/a	Direct cost: Actual expense is reimbursed Allowance per month: None	Retirement: For mayor: emp pays 4.65%; City pays 7.5% of emp's gross wages; none for Council Social Security/other: SS for mayor/none for council Med/Dental: \$389/month for Mayor and Council Life: Mayor: .25/1,000 unit; council amount equal to double amount of salary
Everett	Population: 84,330 Employees: 1,000 Budget in \$M's: \$214M operating and \$3M CIP Total: \$217M	Mayor: FT Council: PT	\$9,000.00 \$1,500.00	\$325 per mo 31.5 ¢ per mile	n/a	n/a	Direct cost: Actual expenses reimbursed Allowance/per month: None	Retirement: PERS II, emp pays 4.65%/City pays 7.5% Social Security/other: SS Med/Dental: Yes Life: Yes

Page 6

City	Demographics	Compensation for:	Salary per month:	Car Allowance/ per mo:	Per Diem for meetings:	Travel Allowance	Expense reimbursement:	Benefits:
Federal Way WA	Population: 76,820 Employees: 248 Budget in \$M's: \$114M	Mayor: PT Council: PT	\$900.00 \$750.00	n/a	n/a	n/a	Direct cost: Actual expenses reimbursed Allowance/per month: None	Retirement: Can waive right to be excluded from PERS Social Security/other: SS Med/Dental: \$ - 0 - Life: \$ - 0 -
Kirkland WA	Population: 43,720 Employees: 362 Budget in \$M's: \$1.07	Mayor: PT Council: PT	\$950.00 \$650.00	no	no	no	Direct cost: Actual expenses reimbursed Allowance/per month: None	Retirement: PERS Social Security/other: MEBT Med/Dental: No Life: 2x annual salary, \$10,000 minimum
Redmond WA M/C form Council Agenda p. 398-485	Population: 43,310 Employees: 484 Budget in \$M's: \$39.7M	Mayor: FT Council: PT	\$6,000.00 \$600.00	\$225/Mayor 32.5¢ per mile/Council	n/a	\$5,546 per year/ total for Exec. Office Council/yearly budget \$7,000	Direct cost: Actual expenses reimbursed Allowance/per month: None	Retirement: PERS for Mayor/ no retirement for Council Social Security/other: MEBT Med/Dental: Full coverage for Mayor/ Council is pro-rated for 20 hour work week Life: \$50,000 policy for Mayor/ none for Council
Seattle M/C form p. 398-485	Population: 500,000 Employees: 11,000 Budget in \$B. \$1.9 billion	Mayor: FT Council: FT	\$9,395.00 \$6,200.00	none	none	n/a	Direct cost: Actual expenses Allowance/per month: n/a	Retirement: optional, Mayor & Council Social Security/other: SS Med/Dental: yes Life: yes
Shoreline WA	Population: 52,000 Employees: 84 FT/ 100 PT Budget in \$M's: \$52M	Mayor: PT Council: PT	\$875.00 \$700.00	n/a	n/a	1998: Travel Budget \$16,850 Training Budget \$4,150 1999: Significant increase in both categories	Direct cost: Actual expenses reimbursed Allowance/per month: None	Retirement: PERS eligible Social Security/other: 401a Med/Dental: \$ - 0 - Life: \$ - 0 -

Page 7

City	Demographics	Compensation for:	Salary per month:	Car Allowance/ per mo:	Per Diem for meetings:	Travel Allowance	Expense reimbursement:	Benefits:
Spokane WA	Population: 197,044 Employees: 2,000 Budget in \$M's: \$102 GF	Mayor: PT Council: PT	\$3,000.00 \$1,500.00	Car provided n/a	n/a	n/a	Direct cost: Actual expenses reimbursed Allowance/per month: None	Retirement: Option to enroll/ 6.72% contribution Social Security/other: 6.2% SS 1.45 % Medicaid Med/Dental: 3 plans w/vision Life: 1 ½ times salary up to \$60,000 premium pd / Dependent life \$6,000 pd / Spouse \$2,000 pd
Tacoma WA	Population: 185,600	Mayor: PT Deputy Mayor: PT Council: PT *Tacoma's new ord. also authorizes 2.75% annual raises beginning in 2001	\$3,333 (will increase to \$5,333 for new mayor) \$1,500 (will increase to \$2,666) \$1,500 (will increase to \$2,417 for new council members)	not provided	Mayor & Council receive \$50 per day for performing city-related duties "beyond their normal duties"	not provided	not provided	not provided
Yakima WA	Population: 64,382 Employees: 699.8 FTE Budget in \$M's: \$105M	Mayor: PT Assistant Mayor: PT Council: PT	\$1,028.52 \$788.54 \$685.68	n/a	n/a	n/a	Direct cost: Actual expenses not to exceed \$175/day unless approved. Allowance/per month: None	Retirement: \$ - 0 - Social Security/other: SS / City portion Med/Dental: Officials pay premium/ City pays workers comp. Life: \$5,000 policy / City pays prem. on errors & omission (Prof. Liability)

Page 8

City	Demographics	Compensation for:	Salary per month:	Car Allowance/ per mo:	Per Diem for meetings:	Travel Allowance	Expense reimbursement:	Benefits:
Vancouver WA	Population: 133,000 Employees: 900 Budget in \$M's: \$210M	Mayor: PT Council: PT	\$1,150.00 \$ 750.00	n/a	n/a	n/a	Direct cost: Actual expenses reimbursed Allowance/per month: None	Retirement: Eligible Social Security/other: Yes Med/Dental: Yes Life: Yes

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Appendix G

Western Cities Paying Mayor/Council Salaries - Council/Manager Gov't

City	Demographics	Mayor	Base	Council	Base	Perdiem
Bellevue, WA	Population: 105,000 Employees: 1,200	\$ 1,200	PT \$ per/mo	\$ 1,000	PT \$ per/mo	\$50 per meeting
Federal Way, WA	Population: 76,820 Employees: 248	\$ 900	PT \$ per/mo	\$ 750	PT \$ per/mo	-
Ft. Collins, CO	Population: 112,000 Employees: 1,270	\$ 750	PT \$ per/mo	\$ 500	PT \$ per/mo	Lowest
Lakewood, CA	Population: 77,000 Employees: 170	\$ 930	PT \$ per/mo	\$ 930	PT \$ per/mo	\$60/mo
Santa Barbara, CA	Population: 91,000 Employees: 1,030 FT 550 PT	\$ 1,400	FT \$ per/mo	\$ 800	PT \$ per/mo	-
Scottsdale, AZ	Population: 184,740 Employees: 2,363	\$ 2,123	PT \$ per/mo	\$ 1,150	PT \$ per/mo	-
Shoreline, WA	Population: 52,000 Employees: 184	\$ 875	PT \$ per/mo	\$ 700	PT \$ per/mo	-
Spokane, WA	Population: 197,044 Employees: 2,000	\$ 3,000	PT \$ per/mo	\$ 1,500	PT \$ per/mo	Highest
Sunnyvale, CA	Population: 131,127 Employees: 955	\$ 1,509	PT \$ per/mo	\$ 1,314	PT \$ per/mo	-
Yakima, WA	Population: 64,382 Employees: 700	\$ 1,029	PT \$ per/mo	\$ 686	PT \$ per/mo	-
Vancouver, WA	Population: 133,000 Employees: 900	\$ 1,150	PT \$ per/mo	\$ 750	PT \$ per/mo	-
Average		\$ 1,351		\$ 1,134		
(w/o high & low)		\$ 1,235		\$ 1,066		

Cities Paying No Salary - Council/Manager Gov't

City	Demographics	Mayor	Base	Council	Base	Perdiem
Gresham, OR	Population: 81,867 Employees: 541	Proposed \$6,000 Nov. Initiative	FT Vltr.	-	PT Vltr.	-
Salem, OR	Population: 128,000 Employees: 1200	-	PT	-	PT	-
Boulder, CO	Population: 95,000 Employees: 1,100	-	Vltr.	-	Vltr.	\$ 200/mo

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Council Agenda page 489

Appendix H

Information on Meetings and Hours Spent by the Mayor and City Councilors

July 1, 1999

The following is a summary (the details are attached) of the number of meetings, the length and type of meeting, and the number of pages in each agenda. This information does not include Budget Committee meetings (all councilors are members of the Budget Committee), the Human Rights Commission (one councilor is on the Human Rights Commission), the Citizen Involvement Committee (one councilor is on the CIC). The data below only represent City Council work sessions, regular meetings, special meetings joint meetings with other local governmental partners.

1998 (JANUARY - DECEMBER)

Total Meetings	99				
Regular Meeting Hours		44.5			
Work Session Hours		107.25			
Special Meeting Hours		13.25			
Joint Meeting Hours		16.5			
Total Meeting Hours			181.5		
Total Agenda Pages			7349		
Average Meeting Length				1.83	
Average Number of Agenda Pages Per Meeting					74.2

1999 (JANUARY - ~~DECEMBER~~)

Total Meetings	44				
Regular Meeting Hours		26.5			
Work Session Hours		42.25			
Special Meeting Hours		27.75			
Joint Meeting Hours		7.5			
Total Meeting Hours			104		
Total Agenda Pages			3174		
Average Meeting Length				2.4	
Average Number of Agenda Pages Per Meeting					72.1

Below is information related to the number of committee meetings attended by the mayor and councilors for 1998 and 1999. The data is not precise, but is intended to illustrate the number of meetings and time commitment in addition to the council meetings as shown above. These committee assignments include groups such as the Metropolitan Wastewater Management Commission, the Lane Regional Air Pollution Authority, the Convention and Visitor Association of Lane County, the Intergovernmental Relations Committee and the like. For some committees and groups more than one council member attends.

COMMITTEE MEETINGS/ASSIGNMENTS

MONTH/YEAR	NUMBER OF COMMITTEE MEETINGS
January 1998	24
February 1998	28
March 1998	23
April 1998	23
May 1998	18
June 1998	22
July 1998	16
August 1998	7
September 1998	7
October 1998	14
November 1998	15
December 1998	5
January 1999	13
February 1999	16
March 1999	17
April 1999	18
May 1999	20
June 1999	22

The last set of data is provided to show the time spent by the mayor attending official events, conducting individual meetings, attending intergovernmental meetings and attending legislative functions. This data is for the first six months of 1999.

Information on Meetings and Hours Spent by the Mayor and City Councilors

FUNCTIONS/EVENTS/MEETINGS ATTENDED BY THE MAYOR

MONTH	SOCIAL EVENTS	INDIVIDUAL MEETINGS	COMMITTEE MEETINGS	LEGISLATIVE FUNCTIONS
January 1999	19	24	11	9
February 1999	27	35	13	7
March 1999	17	23	9	4
April 1999	19	22	13	7
May 1999	42	40	14	5
June 1999	24	42	9	4

Information on Meetings and Hours Spent by the Mayor and City Councilors

Council Agenda page 493

Page 3

HOUF MEETING FOR MAYOR/COUNCILORS - 1998

MEETING DATE	REGULAR	WORK SESSION	SPECIAL	JOINT	AGENDA PAGES	COMMENTS
January 7, 1998			2		1	State of the City
January 12, 1998		2			30	
January 12, 1998	1				62	
January 14, 1998		2			27	
January 15, 1998			1		1	Toxics Board Interviews
January 21, 1998		2			81	
January 26, 1998		1			10	
January 26, 1998		2.5			172	
January 28, 1998		2			46	
February 2, 1998		2			384	
February 2, 1998	1.5				79	
February 11, 1998		2			58	
February 16, 1998		2			42	
February 16, 1998		2.5			64	
February 18, 1998		1			1	
February 18, 1998				2.5	61	Lane Board of Commissioners - Joint PH
February 23, 1998		2			64	
February 23, 1998	2.5				239	
February 25, 1998		2			34	
March 2, 1998		2			34	
March 2, 1998	1				68	
March 9, 1998	1.5				54	
March 11, 1998		2			62	
March 16, 1998		4.5			29	Plus Report on CM Evaluation
March 18, 1998		2			1	Plus Report on CM Evaluation
April 6, 1998		2			60	
April 6, 1998	2.5				130	
April 8, 1998				2	23	Lane County BOC - Wetlands Plan Amendments
April 13, 1998		2			80	
April 13, 1998	3.25				95	
April 14, 1998			2.5		1	Interviews for Budget Committee
April 15, 1998		2			20	
April 20, 1998		2			126	
April 20, 1998	2				191	
April 28, 1998				3.5	32	JEO Meeting
April 29, 1998		2			81	

Council Agenda page 494

HOURS/MEETING FOR MAYOR/COUNCILORS - 1998

MEETING DATE	REGULAR	WORK SESSION	SPECIAL	JOINT	AGENDA PAGES	COMMENTS
May 5, 1998				3	16	LUCU with Planning Commission
May 6, 1998		2			67	
May 11, 1998	2.25				90	
May 13, 1998		2			50	
May 18, 1998			2		1	HRC Interviews
May 20, 1998		2			73	
May 26, 1998		1.5			50	
May 26, 1998	1				119	
May 27, 1998		1.5			33	
June 1, 1998		2			46	
June 1, 1998	3.25				43	
June 8, 1998		2			46	
June 8, 1998	4				67	
June 10, 1998		2.25			167	
June 15, 1998			3.25		98	Meeting with Executive Managers
June 17, 1998		2			94	
June 22, 1998		2			46	
June 22, 1998	2.25				147	
June 24, 1998		2			85	
July 8, 1998		2.25			124	
July 13, 1998		2			48	
July 13, 1998	2				83	
July 22, 1998		2			50	
July 27, 1998		2			40	
July 27, 1998	1.5				115	
July 29, 1998		2			55	
August 3, 1998		2			56	
August 3, 1998	1.25				37	
August 5, 1998		2.25			129	
September 14, 1998		2			24	
September 14, 1998	1.5				167	
September 16, 1998				3	61	JEO Regarding Glenwood
September 23, 1998		2			74	
September 23, 1998		2			84	
September 23, 1998	1.5				13	

Council Agenda page 495

HOURLY MEETING FOR MAYOR/COUNCILORS - 1998

MEETING DATE	REGULAR	WORK SESSION	SPECIAL	JOINT	AGENDA PAGES	COMMENTS
October 5, 1998			2.5		60	Meeting with Executive Managers
October 12, 1998		2			76	
October 12, 1998	1.75				276	
October 14, 1998		2			39	
October 21, 1998		2			53	
October 26, 1998		2			274	
October 26, 1998	0.75				22	
November 9, 1998		2			76	
November 9, 1998	1				51	
November 16, 1998				2.5	514	JEO Regarding Glenwood
November 18, 1998		2			27	
November 23, 1998		2			34	
November 23, 1998	2				69	
November 25, 1998		2.25			137	
December 7, 1998		1.5			174	
December 7, 1998	3.25				387	
December 9, 1998		2.25			41	
TOTALS	44.5	107.25	13.25	16.5	7349	
Meetings: 99						
TOTAL MEETINGS HRS	181.5					

Council Agenda page 496

HOURLY MEETING FOR MAYOR/COUNCILORS - 1999

MEETING DATE	REGULAR	WORK SESSION	SPECIAL	JOINT	AGENDA PAGES	COMMENTS
January 14, 1999			1.75		1	State of the City
January 13, 1999		2.25			100	
January 20, 1999		2			34	
January 25, 1999	2.25				156	
February 5, 1999			3		28	Council Goals
February 6, 1999			4.5		28	Council Goals
February 8, 1999		2			90	
February 8, 1999	1.5				49	
February 10, 1999		2			57	
February 17, 1999		2			114	
February 22, 1999		2			54	
February 22, 1999	2.25				145	
February 24, 1999		2			30	
February 26, 1999			4		2	Council Goals - Information Session
March 8, 1999		2			32	
March 8, 1999	2.5				68	
March 10, 1999		2			9	
March 13, 1999			5		3	Council Goals
March 15, 1999		2			55	
March 15, 1999	2.25				173	
March 17, 1999		2			25	
April 12, 1999				2	2	Joint Meeting with LTD Board
April 12, 1999	2				37	
April 14, 1999				3	100	JEO
April 21, 1999	2				26	
April 22, 1999			4		2	Boards/Commissions Interviews
April 26, 1999	1.75				78	
April 27, 1999			3		2	Boards/Commissions Interviews
April 28, 1999		2			136	
May 10, 1999	2.25				299	
May 12, 1999		2			79	
May 19, 1999		2			50	
May 24, 1999		2			114	
May 26, 1999		2			74	

Council Agenda page 497

HOURS/MEETING FOR MAYOR/COUNCILORS - 1999

MEETING DATE	REGULAR	WORK SESSION	SPECIAL	JOINT	AGENDA PAGES	COMMENTS
June 9, 1999			2.5		16	Joint Meeting With EWEB
June 14, 1999		2			22	
June 14, 1999	4.5				477	
June 16, 1999		2			19	
June 21, 1999		2			44	
June 21, 1999	2.5				173	Plus Draft Arterial Street Plan
June 23, 1999		2			34	
June 28, 1999		2			66	
June 28, 1999	0.75				45	
June 30, 1999				2.5	26	

TOTAL	26.5	42.25	27.75	7.5	3174	
TOTAL MEETINGS	44					
TOTAL HOURS	104					

INFORMATION ON HOW COMPENSATION IS SET

July 1, 1999

Several member of the Citizen Charter Review of Committee on Council Compensation have discussed how compensation for elected official is set in other cities. While this is not an exhaustive or extensive research, it is provided to illustrate what processes may be available to set compensation for the mayor and city councilor should the committee decide to make such a recommendation.

Below are a series of responses from various cities responding to the question of how compensation is sent via e-mail.

Phoenix, AZ

“Phoenix has Citizen's Committee on Salaries for elected City Officials. They make recommendations for the salaries and then it is referred to the voters. It is composed of a Chairman and six members who are appointed by the City Council. They are private citizens who reside in Phoenix. They are appointed for a three month term every four years to evaluate salaries. They take office on April 1. They receive City Staff support. They must submit their recommendations to the City Clerk no later then July 1. In the event they recommend no change no ballot item is prepared.”

San Luis Obispo, CA

“COUNCIL COMPENSATION COMMITTEE

A five-member review committee shall be appointed by January 31, in even-numbered years and shall bring its proposed recommendations in resolution form to the City Council within 90 days, or no later than May 1st. (Res. 8776)

2.6.1 MEMBERSHIP

The committee membership shall have as broad a representation as possible, including but not limited to, one previously elected official, one Personnel Board member, and one citizen-at-large.

2.6.2 REVIEW RESPONSIBILITY

The committee shall review the full Council compensation package including salary, benefits, expense reimbursement, professional development allowances and any other compensation provided the City Council. Review should include, but shall not be limited to: 1) compensation of Council and Mayors of cities of similar population/budget size; 2) compensation practices of both Charter and General Law cities; 3) Government Code provisions for General Law cities; and 4) Council and Mayor responsibilities in San Luis Obispo at the time of the committee's review; and, 5) any structural changes that may have occurred in municipal government either as a result of State legislation or by actions of the local electorate which may have added to or deducted from the duties and responsibilities of the Council Members and/or Mayor.”

Reno, NV

“Councilor are paid....they can vote to change their pay (council get \$34,500 plus car allowance, mayor gets 39,500 with car allowance), but they cannot vote for a pay raise for themselves while in office. Pay was just raised (see above) from \$20,000, and \$25,000 to the 34 and 39 figures... but two council members did not get the pay raise because they were office at the time of the vote and will have to get re-elected before they can receive.”

Jacksonville, FL

“The Charter Revision Commission in Jacksonville, Florida is an ongoing Commission that can look into any issue raised by its members. The members are nominated by City Council Members and confirmed by the Council. Their terms are staggered. The Commission meets monthly, sub-committees vary. Currently, the Commission is looking at the quasi-judicial functions of the Council and whether or not an ombudsman of some sorts could be used to walk citizens through zoning issues and take the Council itself out of zoning issues and appeals. The Commission has recently looked at the issue of reducing the size of the City Council and the idea of staggered terms for Council Members. The Commission's vitality is determined by the make-up of its members. Currently, we are experiencing a situation where a goodly number of the members fail to attend the monthly meetings.”

Plainview, TX

“Convened a Charter Commission a couple of years ago and rewrote the charter. The Commission had 15 members, per state law. The Commission let the compensation for Council members at \$50 per month.”

Oakland, CA

“In Oakland a charter amendment was passed in the early 90s, creating a full-time mayor and tying the salary to a formula based on the average of the CEOs (mayors or city managers) of the ten largest California cities. The City Council is required to review the mayor's salary in even-numbered years. In 1996 the voters passed a charter amendment creating a Public Ethics Commission whose charge included setting the compensation of the Council members. The Commission was given a deadline for establishing a base salary for the Council members. They can raise it by no more than 10% every two years; but they cannot reduce it. The Commission has 7 members: three appointed by the Mayor (with Council confirmation), and the others appointed by the Mayoral appointees. The four public appointments have been made after public application and interview process. The Commission conducted a thorough study and held numerous public meetings on the subject, with very little attendance. However, when they set the salary, there was a loud cry from the public, who felt the Commission had been set up only for this purpose (tho they also review campaign finance, open meeting laws, lobbyist registration, conflict of interest etc.). The City Council, in the ministerial act of passing the salary ordinance, caught political heat, even though we had tried to remove them from the decision-making process”.

Jefferson City, MO

“You may go to my web site at www.jeffcity.com/cityclerk and click on "Public Documents" to view my entire charter. Jefferson City did amend its charter concerning compensation for Mayor and Council Members, but only concerning paid benefits. By charter, to do this, there had to be an ordinance passed by the City Council placing that issue on the ballot for a vote of the people. The charter itself will give you the language concerning compensation.”

Fridley, MN

“Fridley, Minnesota (population 28,000), compensation for our Mayor and Council is done through an annual resolution. Our City Charter loosely addresses the Mayor and Council's responsibilities, but not compensation. (Our council members are part-time.) In Minnesota, the make-up and responsibilities of Charter Commissions are specifically laid out in state statute. We have a 15 member Commission (required) that meets 8 times each year (not required). This is the only City commission where members are NOT appointed by the Council.”

“From time to time, our Council or staff have requested that the Charter Commission take up a certain topic. Most recently, we requested that they look at revising how the City is required to report and publish our annual budget. In all of these cases where the Charter Commission was involved, the topic was already addressed in the original Charter so we were dealing with amendments to the existing document. The entire Charter Commission (or a quorum) had to be present to hold a meeting. Then we were required to go through the normal amendment process: publication, a public hearing, a 1st reading of an ordinance, a 2nd reading, then final publication”.

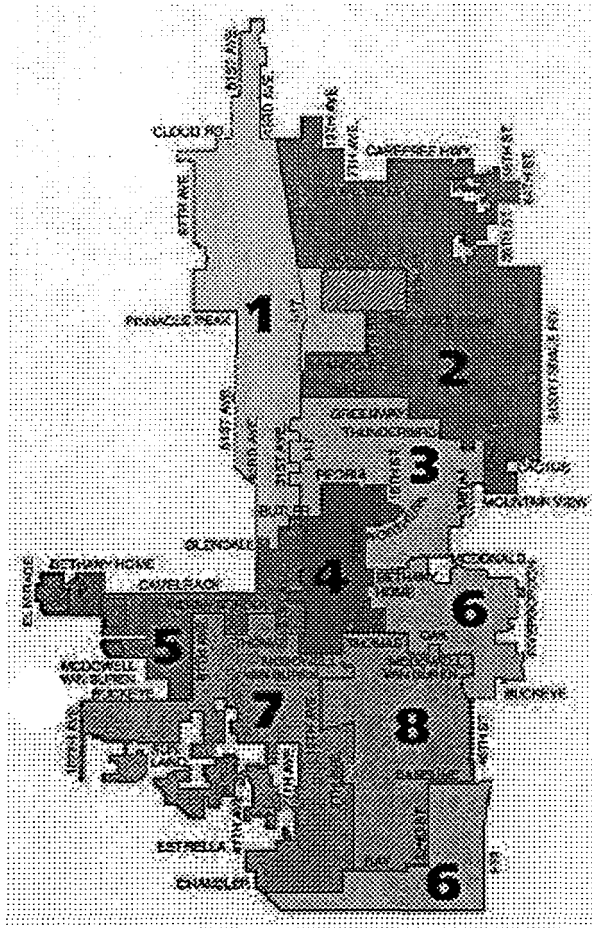
Bellevue, WA

“Actually our Council has done this twice, once back in 1984 and again beginning on May 4, 1999. In the first instance, the 7 task force members were selected by each Council member picking someone. In the current situation, the Council determined that they desired selective representation so seven task force members were chosen from business and citizen groups, Boards/Commissions, and a former Council member. The City Council defined the charge to the commission, and the scope was deliberately limited to the compensation issue (it is expressly stated that form of governance is not on the table). Under Washington law, our Council can set their own salaries without going to the voters (which, at least at this point it does not sound like they plan to do), but each Council member must have stood for election/re-election before they are able to receive the new salary. That way the voters can weigh in, if they choose, at the ballot box indirectly”.

Information on the City of Phoenix

Attached are copies of the City of Phoenix web pages, specifically the information on the mayor and city councilors. They are considered “part time”, but the biographies provide information on the mayor/councilors occupations away from city hall. It should also be noted that each councilor has a council assistant and the mayor has a chief of staff, a deputy chief of staff and a press secretary.

At the present time the mayor is paid \$37,500 per year and the councilors are paid \$34,000 annually. There is a measure the September ballot to increase the salaries to \$56,000 for the mayor and \$36,000 for the councilors. The mayor and councilors do receive a benefit package which includes health and life insurance.



- **Mayor Skip Rimsza**
E-mail: srimsza@ci.phoenix.az.us
- **District 1 - Councilman Dave Siebert**
E-mail: dhoward@ci.phoenix.az.us
- **District 2 - Councilman Tom Milton**
E-mail: tmilton@ci.phoenix.az.us
- **District 3 - Councilwoman Peggy Bilsten**
E-mail: pbilsten@ci.phoenix.az.us
- **District 4 - Councilman Phillip B. Gordon**
E-mail: pgordon@ci.phoenix.az.us
- **District 5 - Vice Mayor John Nelson**
E-mail: jbnelson@ci.phoenix.az.us
- **District 6 - Councilman Sal DiCiccio**
E-mail: sdicicci@ci.phoenix.az.us
- **District 7 - Councilman Doug Lingner**
E-mail: cdist7@ci.phoenix.az.us
- **District 8 - Councilmember Cody Williams**
E-mail: cwilliam@ci.phoenix.az.us
- **City Council Subcommittee Descriptions**
- **Lobbyist Ordinance**

If you are unsure which Council District you reside in, call (602) 262-7029 for assistance.

If you are sending e-mail to one Councilmember and want it also sent to the other seven or a sub-set, please put that request in the body of your e-mail message. Your e-mail will then be forwarded to the others according to your request.

Return to Welcome to City Hall

Return to Phoenix Is Your City





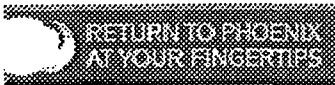
Phoenix operates under a mayor-manager form of government. The Phoenix City Council is comprised of a mayor and eight council members elected by the people on a nonpartisan ballot for four-year terms.

The mayor is elected at large; council members are elected by voters in each of the eight separate districts they represent. The terms for council members from odd-numbered districts and for the mayor expire in January 2000, while terms for the council members from even-numbered districts expire in January 1998.

The mayor and council serve as the legislative and policymaking body of the municipal government. Together they enact city ordinances, appropriate funds to conduct city business and provide policy direction to the administrative staff.

The city manager works closely with the mayor and council to assist them in formulating policies and programs. As the boss of more than 13,000 city employees, the manager is responsible for the efficient ongoing operation of all city services as set forth by the City Council.

Return to City History and Background



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Skip Rimsza

MAYOR

Skip Rimsza was elected Mayor on Oct. 25, 1994. He is the 50th person to serve as Mayor of Phoenix.

At age 43, Rimsza is one of the youngest mayors in Phoenix history. Prior to becoming our City's CEO, he served on the Phoenix City Council, representing District 3, and was Vice Mayor in 1993.

Born in Chicago, Rimsza moved to Phoenix at an early age. He and his wife, Kim, are raising five children here – two teenagers and a set of two-year-old triplets.

Mayor Rimsza believes there are three goals that Phoenix must meet in order to secure its future: to renew our neighborhoods, to expand our economy and to protect our families.

As Mayor, his accomplishments are many.

- He has been working hard on an Infill Housing plan and has led a successful fight against the blight of graffiti.
- He introduced a program that reduced truancy days (in a single school district, in a single year) by 4,000.
- He raised more than \$100,000 to distribute to our city's school teachers so they can buy basic materials that aren't available in education budgets.
- He oversaw the addition of 16 city parks last year alone.
- He is championing a plan to preserve 15,000 acres of pristine desert rather than see it buried under sprawl construction.
- He created an ad hoc committee to fight domestic violence.
- He called for and received a new unit of the Phoenix Police Department dedicated to fighting "hate crimes."
- In the past year he has overseen the addition of more than 200 new police officers - giving us more officers per capita than at any time in our history.

And all of this was done with such efficiency that Phoenix remains the only major city in the Valley that does not charge a sales tax on food.

In whatever spare time remains in his day, Mayor Rimsza likes to restore old cars and trucks (he drives a '56 Ford Pickup); he makes stained glass; and at least twice each week, he rides his bicycle 14 miles to work.

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Council Agenda page 506

Internet: srimsza@ci.phoenix.az.us
Chief of Staff: Andrea Tevlin
Deputy Chief of Staff: David Schwartz
Press Secretary: Scott Phelps

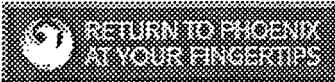


[Click here to send e-mail to the Mayor](#)

[Return to Elected Officials](#)

[Return to Mayor Skip Rimsza](#)

[Return to Phoenix Is Your City](#)



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Councilman Dave Siebert

DISTRICT 1

"I am delighted to live, work and play in the city of Phoenix, and especially proud of the northwest part of our great city. We have a dynamic group of people who are consistently willing and eager to participate in making Phoenix an even better place in which to live."

Dave Siebert was elected to serve on the Phoenix City Council in November 1995. He is serving a four-year term representing District 1, which includes most of northwest Phoenix.

In January, the City Council elected Siebert to serve as the city's vice mayor for 1998. He also chairs the City Council Environment and Natural Resources Subcommittee, and is a member of the Ethics and Public Safety Subcommittee.

During his tenure, Councilman Siebert, 38, will focus his efforts on crime prevention, neighborhood stabilization and managed growth.

Councilman Siebert is a business representative of the plumbers and pipefitters union. He also served as vice chairman of the Phoenix Parks and Recreation Board, is a Justice Court hearing officer and has served as chairman of the Deer Valley Village Planning Committee.

Siebert graduated summa cum laude from Arizona State University with a bachelor's degree in criminal justice, he was born and raised in the northwest Valley. He and his wife, Kim, reside in the Deer Valley Village in District 1.

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[Click here to send e-mail to Council District 1](#)



Councilman Tom Milton

DISTRICT 2

Tom Milton was elected to the Phoenix City Council in November 1997. He will serve a four-year term representing District 2, which includes most of northeast Phoenix and is the city's largest district, encompassing 120 square miles.

An advocate for managed growth and desert preservation, Milton chairs the City Council Desert Preserves and Open Spaces Subcommittee. He also serves on the City Council Economy, Downtown and Sports, Environment and Natural Resources, and Arts and Culture subcommittees.

Before joining the council, Milton, 32, served on the Paradise Valley Village Planning Committee and the Whittier Park Home Owners Association. He also refers to himself as a campaign activist, having worked on campaigns at federal, state, county and local levels.

For the past 10 years, Milton has served in various positions in the tourism and hotel industries. Most recently, he was assistant controller for the Ritz-Carlton Hotel where he was responsible for the financial day-to-day operations of the facility. He also was part of the Ritz-Carlton team that won the prestigious Malcolm Baldrige National Quality Award in 1992.

Milton, an Arizona native, and his wife, Theresa, have resided in District 2 for more than four years.

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Council Assistant: Natalie Veidmark



[Click here to send e-mail to Councilman Milton](#)

Council Agenda page 509

[Return to District 2](#)



Councilwoman Peggy Bilsten

DISTRICT 3

"City Council District 3 brings citizens from northeast, northwest and central Phoenix together with a variety of incomes, occupations and priorities. The one thing we all have in common is the desire to continue to make Phoenix a safer, cleaner, better place to live and work."

Peggy Bilsten won a special election in October 1994 and was re-elected in 1995 to serve a four-year term. Bilsten represents District 3, which includes much of central and northeast Phoenix.

Bilsten chairs the City Council Transportation and Technology Subcommittee. She also is a member of the City Council Ethics and Public Safety, Family and Education, and Desert Preserves and Open Spaces subcommittees. Bilsten serves as co-chair of the Phoenix Violence Prevention Initiative Education Committee and the Elected Officials Committee for the Phoenix Chamber of Commerce.

Bilsten worked to establish the Graffiti Hotline in 1995, and in the spring of 1996, she was instrumental in opening the district's first senior center, Shadow Mountain Senior Center. In early 1997, Bilsten attended the ribbon cutting ceremony for her district's newest community center, the Sunnyslope PAL Center. In the summer of 1997, she fought to double the funding for the Summer Jobs for Youth program.

A part-time teacher at Martin Luther Elementary School in Phoenix, Bilsten earned a bachelor of arts degree from Northwestern College in Orange City, Iowa. She and her husband, Tom, have two children, Tom Jr., 16, and Jenny, 14.

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Council Assistant: Chris Smith



[Click here to send e-mail to Councilwoman Bilsten](#)



Councilman Phillip B. Gordon

DISTRICT 4

"District 4 is located in the heart of our city and is rich with cultural diversity. It is my goal to develop programs that will protect our neighborhoods and businesses from crime, urban blight, and speeding and cut-through traffic."

Phil Gordon was elected to the Phoenix City Council in November 1997. He will serve a four-year term representing more than 125,000 residents who live in District 4, which encompasses the area from Peoria Avenue on the north to McDowell Road on the south, and the Black Canyon Freeway on the west to 16th Street on the east.

Before joining the council, Gordon, 47, served for two years as chief of staff to Mayor Skip Rimsza. He is a licensed attorney in the state of Arizona, and was an owner of Policy Development Group, Inc., a strategic services consulting firm. Gordon also served as president and working chairman of the board of directors for Landiscor, an aerial photography company with offices in Arizona, Texas and Nevada.

For the past 20 years, Gordon has been a leader in the movement to revitalize and redevelop central Phoenix. He has preserved and renovated many historic structures in Phoenix and has received numerous awards for his work including the Governor's Award for Historic Preservation, Valley Forward Association's Environment Award of Merit, the Arizona State Architecture Guild Recognition Award, the City of Phoenix Visual Improvement Award and the Sparklers Citizenship Award.

Gordon is past chairman of the Neighborhood Block Watch Grant Committee, Central City Village Planning Committee, Phoenix Planning Commission and the Downtown Village Planning Committee. He also served as vice president and member of the board of directors for the Phoenix Local Development Corporation, and a board member for the Orpheum Theatre Foundation, downtown YMCA, Phoenix Ballet Company and Roosevelt Action Association.

An active member in politics, Gordon has served as an unpaid policy advisor for many federal, state, county and city elected officials and candidates.

Gordon earned a bachelor's degree in education from the University of Arizona and a law degree from Arizona State University. He is married to Christa and has three children, Jeff, David and Rachel.

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Council Agenda page 511



MEMORANDUM

City of Eugene
 777 Pearl Street, Room 105
 Eugene, Oregon 97401-2793
 (541) 682-5010
 (541) 682-5414 FAX
 (541) 682-5045 TTY

Date: July 13, 1999

To: Member of Citizens Charter Review Committee on Council Compensation

From: Mary Walston, 682-5460

Subject: Compensation Comparison

At the last meeting of the Committee a request was made for salary information for the following:

- a) state legislator
- b) high school principal
- c) circuit court judge

Below is that information.

State Legislator (from the State of Oregon Legislative Administration Office)

Monthly salary	\$1233.00
Per diem during the legislative session	\$87.00 per day
During interim between sessions if serving on a committee which meets	\$87.00 per day
During interim between sessions monthly expense allowance (amount depends upon geographical size of district)	\$400.00 - 550.00
Monthly staff allowance during session	\$1144.00

Circuit Court Judge (from Judicial Personnel Office in Salem)

Monthly salary	\$7,108.31
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High School Principal (from School District 4J Personnel Office)

Annual salary range	\$63,785 - \$77,531 (Monthly = \$5,315 - \$6,461)
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MEMORANDUM

City of Eugene
777 Pearl Street, Room 105
Eugene, Oregon 97401-2793
(541) 682-5010
(541) 682-5414 FAX
(541) 682-5045 TTY

Date: July 14, 1999

To: Members of Citizens Charter Review Committee on Council Compensation

From: Mary Walston, 682-5406

Subject: Information on Gresham, Oregon

At the last meeting of the Committee a request was made for information regarding the election on compensation for the Gresham City Council which was scheduled for the November 1998 ballot.

The measure was a charter amendment to pay the mayor only. The councilors were not included in the proposed charter amendment. The measure would have paid the mayor - only - \$72,000 per year plus providing full benefits. That is, the same as provided to city employees. The measure failed by a vote of 9,736 voting "yes" and 11,523 voting "no".



MEMORANDUM

City of Eugene
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Eugene, Oregon 97401-2793
(541) 682-5010
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Date: July 14, 1999

To: Members of Citizens Charter Review Committee on Council Compensation

From: Mary Walston, 682-5406

Subject: Reimbursement Information

At the last meeting of the Committee a request was made for information on reimbursements to the mayor and city councilors. Attached for FY95, FY96, FY97, FY98 and FY99 are summaries of expenses and reimbursements. Please note that this included reimbursements for out of pocket expenses such as mileage, meals, and the like and expenses for council related travel.

Mayor and Council Expenses - Fiscal Year 1999 (July 1, 1998 - June 30, 1999)

Name	July - September 1998 Total	October - December 1998 Total	January - March - 1999 Total	April - June 1999 Total	Total Per Person
Jim Torrey	\$ 2,810.64	\$ 1,414.54	\$ 3,989.69	\$ 7,185.76	\$ 15,400.63
Tim Laue	\$ 58.15	\$ 58.81	\$ 11.63	xxxx	\$ 128.59
Gary Rayer	xxxx	xxxx	\$ 77.33	\$ 84.33	\$ 161.66
Betty Taylor	\$ 336.50	\$ 4,227.00	\$ 344.59	\$ 983.34	\$ 5,891.43
Bobby Lee	\$ 57.81	\$ 318.64	\$ 73.48	\$ 182.49	\$ 632.42
David Kelly	xxxx	xxxx	\$ 2,576.17	\$ 980.93	\$ 3,557.10
Laurie Swanson Gribkov	\$ 121.35	\$ 195.83	xxxx	xxxx	\$ 317.18
Gary Pape	xxxx	xxxx	\$ 109.91	\$ 208.62	\$ 318.53
Ken Tollenaar	\$ 173.33	\$ 548.17	xxxx	xxxx	\$ 721.50
Pat Farr	\$ 110.51	\$ 440.88	\$ 647.07	\$ 264.69	\$ 1,463.15
Scott Meisner	\$ 222.48	\$ 1,958.34	\$ 253.11	\$ 1,134.44	\$ 3,568.37
Nancy Nathanson	\$ 120.17	\$ 1,679.15	\$ 1,816.25	\$ 961.20	\$ 4,576.77
Quarterly Totals	\$ 4,010.94	\$ 10,841.36	\$ 9,899.23	\$ 11,985.80	\$ 36,737.33
July - September 1998: JT, White House Conferenc - School Safety; US Conf.of Mayors in Salt Lake City					
October - December 1998:					
SM - NLC, Kansas City					
KT - LOC, Portland					
B. Lee - LOC, Portland					
NN - LOC, Portland; NLC, Kansas City					
JT = JCPAC, Bend, OR					
BT = LOC, Portland; Making Cities Liveable, Santa Barbara; NLC, Kansas City					
January - March 1999:					
DK = Making Cities Liveable, St. Augustine, FL					
JT = fed lobbying and NLC, DC					
NN = fed lobbying, DC					
April - June 1999:					
JT=Kakegawa, Irkutsk Sister City trip					
NN=NLC, Telecommunications Subcommittee Mtg., Denver					
BT, SM, DK=Liveable Oregon Conference in SunRiver					

Mayor and Council Expenses - Fiscal Year 1998 (July 1, 1997 - June 30, 1998)

Name	July - September 1997	October - December 1997	January - March - 1998	April - June 1998	Total Per Person
	Total	Total	Total	Total	
Jim Torrey	\$ 1,393.20	\$ 751.78	\$ 2,265.63	\$ 823.10	\$ 5,233.71
Tim Laue	\$ 55.96	\$ 56.55	\$ 18.16	\$ 55.63	\$ 186.30
Betty Taylor	\$ 227.99	\$ 1,991.87	\$ 2,159.69	\$ 337.76	\$ 4,717.31
Bobby Lee	\$ 36.06	\$ 363.36	\$ 39.17	\$ 58.39	\$ 496.98
Laurie Swanson Gribkov	\$ 138.99	\$ 179.42	\$ 1,788.84	\$ 281.11	\$ 2,388.36
Ken Tollenaar	\$ 164.38	\$ 269.08	\$ 180.07	\$ 298.97	\$ 912.50
Pat Farr	\$ 287.04	\$ 207.66	\$ 118.30	\$ 480.64	\$ 1,093.64
Scott Meisner	\$ 2,231.61	\$ 1,016.08	\$ 336.04	\$ 559.09	\$ 4,142.82
Nancy Nathanson	\$ 182.82	\$ 2,127.60	\$ 1,630.86	\$ 790.81	\$ 4,732.09
Quarterly Totals	\$ 4,718.05	\$ 6,963.40	\$ 8,536.76	\$ 3,685.50	\$ 23,903.71
July - September 1997: JT, Bond Rating Trip, NYC; LOC Board, Pendleton SM, NLC Leadership, CO Springs					
October - December 1997:					
SM - Governing in Turbulent Times in S/R; Sustainable Cities, Seattle; LOC, PDX					
NN - LOC PDX, NLC, Philadelphia, Transforming Local Govt, San Jose					
January - March 1998:					
SM - Oregon Library Assoc - Eugene					
LSG - Federal Lobbying Trip, DC					
JT - Federal Lobbying Trip, DC					
BT - Making Cities Liveable - Carmel, CA					
NN - NLC (Committee), DC					
April - June 1998:					
SM - Oregon Livability Conf. - Welches					

Mayor and Council Expenses - Fiscal Year 1997 (July 1, 1996 - June 30, 1997)

Name	Total Per Person
Ruth Bascom	\$2,681.05
Barbara Keller	\$992.39
Kevin Hornbuckle	\$692.84
Laurie Swanson Gribkov	\$1,220.00
Jim Torrey	\$4,519.79
Pat Farr	\$932.01
Shawn Boles	\$263.67
Nancy Nathanson	\$1,827.35
Tim Laue	\$268.98
Betty Taylor	\$560.18
Bobby Lee	\$211.13
Ken Tollenaar	\$145.94
Scott Meisner	\$493.20
Annual Total	\$ 14,808.53

Mayor and Council Expenses - Fiscal Year 1996 (July 1, 1995 - June 30, 1996)

Name	July - September 1995	October - December 1995	January - March - 1996	April - June 1996	Total Per Person
	Total	Total	Total	Total	
Ruth Basom	\$543.91	\$834.37	\$1,258.11	3022.82	
Tim Laue	\$335.00	\$200.50	\$2,697.86	\$ 51.00	\$ 3,284.36
Barbara Keller	\$461.13	\$506.47	\$1,827.40	\$ 616.92	\$ 2,444.32
Kevin Hornbuckle	\$1,019.44	\$1,020.86	\$355.57	\$ 266.59	\$ 2,662.46
Laurie Swanson Gribkov	\$96.16	\$1,551.51	\$168.51	\$ 165.31	\$ 1,981.49
Jim Torrey	\$82.86	\$187.56	\$82.87	\$ 93.63	\$ 446.92
Pat Farr	\$309.75	\$2,034.01	\$82.60	\$ 281.17	\$ 2,707.53
Shawn Boles	\$81.24	\$288.77	\$2,070.84	\$ 193.74	\$ 2,634.59
Nancy Nathanson	\$95.80	\$182.52	\$101.19	\$ 99.92	\$ 479.43
Quarterly Totals	\$3,025.29	\$6,806.57	\$8,644.95	\$4,791.10	\$ 23,267.91

Mayor and Council Expenses - Fiscal Year 1995 (July 1, 1994 - June 30, 1995)

Attachment C

Name	Total Per Person
Ruth Bascom	\$3,431.85
Tim Laue	\$3,314.94
Barbara Keller	\$4,368.19
Kevin Hornbuckle	\$4,432.20
Paul Nicholson	\$165.49
Laurie Swanson Gribskov	\$306.97
Jim Torrey	\$689.76
Pat Farr	\$327.42
Shawn Boles	\$1,891.82
Nancy Nathanson	\$1,567.19
Bobby Green	\$306.16
Annual Total	\$ 20,801.99

Attachment N

CITY OF EUGENE
INTER-DEPARTMENTAL MEMORANDUM
CITY ATTORNEY – CIVIL DEPARTMENT

BY CHIEF OF POLICE
 JUL 17 1999

To: Mary Walston

Date: July 14, 1999

Subject: Alternative forms of compensation for Councilors

At the last committee meeting several questions were asked about possible forms of reimbursement for Councilors. Below is a discussion of those issues.

EXPLANATION OF ALTERNATIVE FORMS OF REIMBURSEMENT

Per diem is a daily dollar amount allocated to a person for expenses incurred in connection with work. It is usually a fixed daily amount based on the average a person would be expected to expend on actual expenses over a given time period. The federal government has established per diem daily rates for business related expenses such as meals and incidental expenses, lodging and travel expenses. When per diem is used in connection with compensation for a person's time it is considered the wages or salary paid for a day's service.

A stipend has traditionally been defined as a moderate amount of money to be paid at regular intervals to a person for services rendered. It originated as way to support the clergy. However today, it is usually associated with a grant of money given to someone to pay for expenses while attending school or, alternatively, for working without pay for an employer to receive experience. Regardless, any stipend amount above the reimbursement of actual expenses paid to the councilors would be considered a salary.

Payment of actual expenses, as is now the policy for councilors, is reimbursement for business related expenses and not considered a form of compensation.

TAX IMPLICATIONS OF EACH FORM OF REIMBURSEMENT

If the City decides to pay the Councilors a fixed amount of money above the anticipated actual business expenses they will incur, the excess will be gross income to the Councilors. It does not matter what term is applied to the excess money, any payment above actual costs expended will result in tax liability for the Councilors.

The Internal Revenue Service contemplates that business expenses besides travel, meals and entertainment will be reimbursed on an actual basis. If the expense is an ordinary and necessary expense paid in carrying on any trade or business, the Internal Revenue Code allows the business to deduct the expense on their income tax. Therefore, the actual expenses incurred by the Councilors for items other than travel, meals and entertainment should continue to be reimbursed on a cost basis.

Travel, meals and entertainment may be reimbursed on a per diem basis. The City can reimburse the Councilors by travel days, or miles, or some other fixed allowance. In this case, the Councilor is considered to have accounted to the City for the expense if the payments do not exceed rates established by the Federal Government. The government per diem rates for Lane County are \$64 for lodging and \$38 for meals and incidental expenses. Other than the amount of these expenses, the Councilors' business expenses must be substantiated (for example, the business purpose of the travel or the number of business miles driven). If the per diem or allowance paid exceeds the amounts specified by the Federal Government, the City must report the excess amount as gross income to the Councilors.

Therefore, any amount above actual expenses or the Federal Government's per diem travel and lodging amounts will result in tax liability for the Councilors as the excess money will be gross income. Additionally, if the excess money is compensation for the time the Councilors' spend on City business, the money is considered wages. Therefore, the appropriate tax deductions must be made from the amount for social security, Medicare and Federal unemployment taxes.

PERS ELIGIBILITY

Once a Councilor has completed six months' service for the City, without an interruption of more than 30 consecutive working days, the Councilor becomes eligible to be a member of PERS. The Councilor must give the PERS board written notice of the desire to join PERS within 30 days after taking the office or, in the event that the officer is not eligible to become a member of the system at the time of taking the office, within 30 days after becoming so eligible. As long as the City Councilor position requires more than 600 hours of service per year (50 hours per month), the Councilor is eligible to participate in PERS.

In addition, the statute defines salary as "remuneration paid an employee in cash out of the funds of a public employer in return for services to the employer. . . ." ORS 238.005(11)(a). Thus, if the City provides compensation beyond actual expenses, the excess amount is considered a salary and the Councilor will have a fixed amount withheld as an employee contribution to PERS. If the compensation is less than \$500 per month, the withholding is four percent (4%). If the compensation is more than \$500 but less than \$1000, the withholding is five percent (5%). For any compensation over \$1000 per month, six percent (6%) must be withheld.

ACCOUNTING FOR HOURS WORKED BY THE COUNCILORS

The Fair Labor Standards Act (FLSA) exempts elected officials and they are not covered by the minimum wage, overtime or record keeping provisions. As long as the individual holds a political office and is not subject to any civil service laws, then that individual is not an employee under the (FLSA). Therefore, federal law does not require that the Councilors keep a record of hours worked.

Mary Walston

July 14, 1999

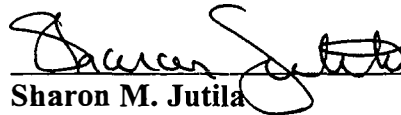
Page 3

The Oregon Employment Statutes exempt individuals engaged in administrative, executive or professional work from minimum wage, overtime and most record keeping provisions. The individual must perform predominately managerial tasks, exercise discretion and independent judgment and earn a salary and be paid on a salary basis. Therefore, state law most likely would not require that the Councilors keep a record of hours worked.

APPLICATION OF OREGON REVISED STATUTE SETTING COMPENSATION OF COUNTY COMMISSIONERS

The chapter dealing with compensation of county commissioners is Chapter 204, County Officers. The chapter is part of Title 20, Counties and County Officers. The statutes, ORS 204.112 -204.126, only deal with county officials and are not applicable to city councilors.

**HARRANG LONG GARY RUDNICK P.C. –
CITY ATTORNEYS**


Sharon M. Jutila

SMJ/alf

Council Agenda page 525

Final Report

Survey of Eugene City Councilors Time Requirements and Need for Compensation

By: Eben Fodor
(Research assistance and data analysis by Kevin Aaron)

For: Friends of Eugene
P.O. Box 50753
Eugene, Oregon 97405
(541) 343-0530

January 14, 1998

Executive Summary

Eugene's city councilors and mayor comprise the nine voluntary, elected representatives that govern our city of approximately 130,000 people with an annual budget of more than \$300 million. Current and recent past councilors and mayors were surveyed on their opinions regarding the demands this job places on them and whether or not they are able to adequately meet these demands as a volunteer. 11 of the 15 councilors contacted responded to the survey.

Councilors reported spending a substantial amount of time on city business, averaging from 25 to 40 hours per week. For most councilors, the time commitment of public office takes a heavy toll. Respondents reported lost wages, reduced business incomes and missed professional opportunities as a result of their service. All non-retired councilors reported that their professional income and careers have been negatively impacted by council service. Most of these councilors experienced dramatic declines in their ability to maintain their prior income level. A similar negative impact was reported on personal and family life, especially for councilors with children.

When asked about whether the responsibilities and time requirements of a city councilor warranted some level of compensation, most (9 of 11) agreed that some level of compensation was justified.

A telephone survey of all comparably-sized cities in the Northwest found that every city,

Council Agenda page 527

except Salem and Eugene, provide compensation to their city councilors. The survey included all comparable cities in Oregon, Washington and California (north of San Jose) with a population between 100,000 and 190,000.

In Washington and California, all of the 10 comparable cities pay their city councilors. The average salary is just over \$12,000 per year. It is assumed that these positions are considered part time. Mayors were generally paid more, reflecting the greater time required by this office. Annual mayoral salaries average approximately \$20,000 per year.

Purpose of Report

The purpose of this survey and report is to foster a better understanding of the obligations of public service as one of the nine elected officials who preside over our city government. This survey and report is the result of voluntary contributions by the authors on behalf of Friends of Eugene.

Eugene's Councilor are Volunteers

The eight City Councilors and Mayor serve as elected volunteers. Given Eugene's size, complexity and rapid growth, the position involves a great deal of time and responsibility. The idea of a voluntary council is appealing to many. As a voluntary position, the motivation for public service must come from a personal sense of accomplishment, or from the "rewards" of making a civic contribution. Some supporters of this voluntary system of representation feel that it attracts only those who are genuinely interested in public service, since the office is not likely to attract anyone seeking financial gain.

Voluntary citizen representation is appropriate for small communities and for positions that do not carry a great deal of responsibility or heavy workloads. However, with the current demands placed on Eugene City Councilors, there are serious questions about the appropriateness of continuing to depend on volunteers.

Responsibilities of the City Councilor

Each councilor represents one of eight geographic wards in the city. The population of each ward is about 16,000 people.

Councilors have a heavy load of meetings to attend. These include regular meetings, special meetings, emergency meetings, Council Committee meetings (each councilor serves on two committees), Standing Committee meetings, and council representation meetings where councilors serve on the boards of other local organizations such as the

Metro Planning Council or LRAPA. As a councilor, even Saturdays become times for city meetings.

The council has five regular meetings scheduled every month. Two of these (held the 2nd and 4th Monday) are actually two meetings in one – the council meets at 5:30 pm for a work session and then convenes again at 7:30 pm in the Council Chambers. The other three regular meetings are held Wednesdays at noon.

In addition to the official meetings of the council, a diligent city councilor will also attend the monthly meetings of the local neighborhood association. Many councilors represent more than one neighborhood. There are, of course, other community meetings and civic functions that a councilor will be expected to attend.

In order to be prepared for city council meetings, city staff provide the councilors with information packets. According to one councilor, this material amounts to between 200 and 400 pages that must be reviewed every week. Any independent research or policy analysis a councilor does will add to this substantial reading burden.

The issues are often complex and varied. Few people can be experts in all the areas a councilor is required to perform. The stakes are often high and frequently involve millions of dollars and policies that will have significant effects on the lives of people in the community.

Our system of representational democracy depends, to a large extent, on the ability of elected officials to communicate effectively with their constituents. Citizens will not be well represented if they are unable to express important viewpoints to their city councilor. This interaction requires time. Most councilors must work full-time jobs, if they are not retired, supported by a spouse or independently wealthy. This leaves evenings and weekends for correspondence (mail and e-mail), returning phone calls, meeting with citizens and attending civic functions. In this same time period (evenings and weekends), councilors must perform their basic duties of reading city briefing materials, researching policy issues, and preparing for and participating in council meetings.

For councilors who work full time, the above responsibilities of office must compete with their professional and personal lives. The solution to the time crunch may be to cut into their professional work time and sacrifice income or pass up opportunities for promotion or advancement. Councilors may also be obliged to reduce the time they spend with their families. This can be especially difficult if the councilor has children.

Methodology

A survey of Eugene's city councilors and mayors was conducted in November of 1997 to obtain information about the time requirements and demands of this volunteer position. All current and recent past city councilors and mayors were included. The survey instrument is provided as Attachment #1. The responses to each question are tabulated for each respondent in Attachment #2

Out of the 15 councilors who were mailed surveys, 11 responded by the deadline of November 15, 1997. No follow-up phone calls were made to solicit additional participation.

This report also includes a separate survey of city council compensation for comparable cities in the neighboring states of Washington and California (north of San Jose). For comparison purposes, all cities in the 100,000 to 190,000 population range were included in the survey.

Results

Time Requirements of Office

Councilors reported that, on average, they spend 25 to 40 hours per week on city business. Most councilors gave a range of time, noting that work loads varied. One councilor reported a low end of the scale at 10 hours per week and another a high of more than 50 hours per week.

When asked to give the *minimum* time required to do the job adequately, most councilors put the figure at 20 to 30 hours per week. The lowest figure given was 15 hours per week.

When asked about the *optimal* time for a city councilor to spend on council business, respondents indicated that the ideal amount of time is either at the level they are currently contributing or a slightly higher level. The two respondents who gave lower optimal times may have interpreted this question in a different way than it was intended (i.e. optimal from a personal perspective rather than a public service perspective).

Impact on Professional and Personal Life

All non-retired councilors reported that their professional income and careers have been negatively impacted by council service. Most of these councilors experienced dramatic declines in their ability to maintain their prior income level. Several reported that they have missed important professional opportunities as a result of council time

demands. Three respondents are or were retired at the time of service and reported no change in income.

All councilors, except one (Bascom), reported that council service has caused their family and personal lives to suffer. Three councilors reported that negative media coverage and public criticism was damaging to their reputation and their families. Councilors with children noted the difficulty finding adequate time to spend with them.

Time to Perform Essential Duties

All councilors indicated that they are usually able to devote adequate time to reviewing city information packets and other materials necessary to be prepared for the issues that are discussed at council meetings. However, five respondents noted that time limitations prevented them from researching issues as thoroughly as they would have liked. Several commented that the time limits make councilors overly dependent on city staff for information, rather than being able to perform independent research and analysis themselves.

Many of the councilors make constituent communications a high priority. However, most expressed difficulty finding adequate time for returning calls, emails, letters and arranging meetings.

Would Financial Compensation Help?

When asked if modest financial compensation would improve their ability to devote more time to the essential duties of their office, most (7 of 11) said that it would. Two of the four who said compensation would not help them are retirees.

When asked more generally about whether the responsibilities and time requirements of a city councilor warranted some level of compensation, most agreed that some level of compensation was justified (9 of 11).

Regarding appropriate levels of compensation, only half of the respondents offered an estimate. Reasonable compensation estimates included: "median city wage," "median family income in this area," and \$500 to \$1000 per month. One former councilor suggested that councilors should serve as department heads and be compensated at the rate of a 4J School District teacher.

The complete results of the City Council Survey have been tabulated and are included in Attachment #2.

Survey of Comparable Cities

A telephone survey was conducted of comparably-sized cities in the Northwest to see what policies other areas have regarding city council compensation. All cities in Oregon, Washington and California (north of San Jose) with a population size in the range of 100,000 to 190,000 were surveyed between November 17 and December 1, 1997.

In Oregon, Salem is the only other comparably-sized city that does not pay councilors. Salem's population is just slightly below Eugene's. Eugene is Oregon's second largest city with a population of almost 130,000. Portland does pay its city councilors and it also gives them the full-time administrative responsibility of serving as city bureau directors, but is outside the city size range of this survey.

All of the 10 comparable cities in Washington and California pay their city councilors. Annual salaries range from \$7,200 for Santa Rosa to \$18,000 for Spokane and Tacoma. The average salary is just over \$12,000 per year. It is assumed that these positions are considered part time.

Mayors in Washington and California are generally paid more than councilors, reflecting the greater time required by this office. Annual mayoral salaries range from \$9,086 to \$40,000. Average salaries for mayors is approximately \$20,000 per year.

It is interesting to note that all of the cities surveyed used a similar city manager form of government whereby the administrative duties are delegated to a single manager who is hired, rather than elected.

Other Salary Benchmarks

Lane County Commissioners preside over a total budget that is of similar size to Eugene's. Like the city, the county employs a chief administrator to handle all the administrative details of county business. County commissioners consider their positions to be full time and are compensated with an annual salary of more than \$48,000.

Many of the city's upper level managers are well compensated. The city manager receives an annual salary of \$102,000, plus additional benefits. Department directors make between \$80,000 and \$90,000 per year.

Conclusions

Many people in the city may not be aware that our city councilors serve as volunteers. Most are certainly not aware of the demands of the job and how hard our elected officials are working. We place great expectations on this small group of dedicated volunteers.

The growing responsibilities, heavy workload and substantial time requirements of city council office are a lot to expect of a volunteer. While our city councilors continue to provide an impressive civic contribution, it is now verging on becoming a full-time job.

We also demand access and accountability from our councilors. This means that we want them to listen to our concerns and respond to our inquiries. But, since they are volunteers who are already donating a tremendous amount of their time, a citizen cannot feel entitled to more of their time. Compensating councilors for their time would give the public a reasonable basis for expecting some degree of access.

Given the high level of responsibility and the demands of the job, some level of compensation is both deserved and warranted. While it is difficult to know whether compensation will result in better city government, it is reasonable to assume that it will allow councilors to devote the necessary time to constituents and city business without as many adverse impacts on their personal and professional lives.

Many skilled and qualified people may be discouraged from running for office by the extent of the commitment and the lack of compensation. Even at the lower end of the time scale, 25 hours per week is a tremendous commitment to require of a volunteer. Councilors who wage successful election campaigns are then faced with completing a four-year term of service.

In the past we have seen many council seats go to unopposed candidates. We are likely to see unopposed candidates again this election year. The council positions have not attracted enough competition to provide voters with the range of choices a democratic system representation requires. The rigors of a demanding nine-month campaign are too much for many potential candidates, included current councilor Ken Tollenaar.

Up to this point we have managed to rely upon a volunteer system of government to provide representation and policy-making for the 130,000 people in our city. It is now time to consider how to best provide a reasonable compensation for the demands of this critically important public office.

Recommendations

Friends of Eugene recommends that the City Council establish compensation for the councilors and mayor. We suggest that the compensation level be set at the average for cities surveyed in this report: \$12,000/yr for councilors and \$20,000/yr for the mayor. The council should take action now, but set the compensation to begin on January 1, 1999 when half the council will be newly elected or re-elected.

Some people may ask how we can afford to pay our city councilors, given the shortage of municipal funds. But the total cost for the recommended compensation levels is only \$116,000 per year, less than four hundredths of a percent of the \$300 million budget that we depend on the council to direct.

□

List of Attachments:

1. Survey Instrument
2. Survey Results
3. List of Councilors Contacted / List of Respondents
4. Survey of Comparable Cities in Northwest

friends of eugene

P.O. Box 50753 • Eugene, Oregon 97405

(541) 343-0530

October 28, 1997

Councilor [REDACTED]
[REDACTED]

Dear Councilor [REDACTED]

We would appreciate a few moments of your time in order to gain a better understanding of the demands of being a volunteer Eugene city councilor or mayor.

We are conducting a survey of all current and immediate past city councilors and mayors to find out how much of your time the position involves. The results will be summarized in a brief report that will be issue by our organization. Copies will be sent to all respondents. If you have any question about the survey, please call Eben Fodor, who is directing this project for Friends of Eugene at 345-8246.

Please try to reply by **November 15**. If you will be unable to respond by that time due to vacations or other reason, please let us know. Thank you in advance for your assistance.

Yours sincerely,

Greg McLauchlan
President

Council Agenda page 535

Councilor/Mayor: _____

CITY COUNCIL SURVEY

As a current or past Eugene city councilor or mayor, you are/were one of the nine voluntary, elected representatives that governs our city of approximately 130,000 people with an annual budget of more than \$300 million. We would like your opinions regarding the demands this job places on you and whether or not you are able to adequately meet these demands as a volunteer.

Please answer as many questions as you can. If you are not comfortable responding to any particular question, please skip to the next question. Use the back of the page if you need more space to reply. Thank you.

- 1) On average, how many hours per week do you spend on city council business?
- 2) What do you consider to be the minimum time required to do the job adequately? (average hours per week)
- 3) What do you think would be the optimal time for a city councilor to spend on council business? (average hours per week)
- 4) Has your professional income or career suffered or been diminished in any way as a result of your volunteer work as a city councilor? Please explain, if you can.
- 5) Has your family or personal life suffered or been diminished in any way as a result of your volunteer work as a city councilor? Please explain, if you can.
- 6) Do you find that you have adequate time to review city information packets and other materials necessary to be fully prepared for issues that will be discussed at the Council's meetings?
- 7) Do you find that you have adequate time to meet with constituents and to respond to constituent phone calls, letters and emails?
- 8) Do you think that modest compensation would improve your ability to devote more time to the essential duties of your office?
- 9) Do you believe that the degree of the responsibilities of a city councilor and the time requirements warrant some level of financial compensation?
- 10) If so, do you have any particular level of compensation you think would be reasonable?
- 11) Any other comments?

*Thank you for your time! Please return survey by November 15, 1997 to:
Friends of Eugene PO Box 50753, Eugene, OR 97405.*

Council Agenda page 536

Current and Past City Councilors Surveyed

Ruth Bascom
Shawn Boles
Pat Farr
Bobby Green
Laurie Swanson-Gribskov
Kevin Hornbuckle
Barbara Keller
Tim Laue
Bobby Lee
Scott Meisner
Nancy Nathanson
Paul Nicholson
Betty Taylor
Ken Tollenaar
Mayor Jim Torrey

Councilors Responding

Current Councilors:

Bobby Lee
Scott Meisner
Nancy Nathanson
Betty Taylor
Ken Tollenaar
Jim Torrey (Mayor)

Past Councilors:

Ruth Bascom (past Councilor and Mayor)
Shawn Boles
Barbara Keller
Paul Nicholson

City Council Survey Results - Friends of Eugene - November 1997

Respondents	Q1	Q2	Q3
Ruth Bascom	20 - 30	20 - 30	20 - 30 (More as Mayor)
Shawn Boles	10 - 30 depending on load.	15	20
Barbara Keller	~40	30	50 - 60
Bobby Lee	40 - 45	30 - 35	50
Scott Meisner	35 - 40 some weeks in excess of 50.	35 - 40 just for direct council committee, staff work and preparation.	40 - full time
Nancy Nathanson	25 - 30	25	45? 35?
Paul Nicholson	~25	125	168
Laurie Swanson-Gribskov	35-40	25	15 to 20
Betty Taylor	25 - 30	20	30
Ken Tollenaar	30 - 35 (based on a log I kept for two week period)	20, if you're a fast reader and don't have a lot of constituent demands.	15 - 20. That would require more reliance on council committees and more delegated decision-making to staff.
Jim Torrey (Mayor)	45 as mayor and 35 as councilor.	35 as mayor and 20 as councilor.	15

Council Agenda page 538

City Council Survey Results - Friends of Eugene - November 1997

Attachment C

Respondents	Q4	Q5
Ruth Bascom	No. More likely enhanced.	No. More likely enhanced. My family participated and felt the experience very rewarding.
Shawn Boles	Yes. I made only \$8,000 my first year on the council. Total income opportunity foregone across eight years: ~ \$50,000.	Yes. Night meetings away from family. Also, press coverage was damaging to reputation.
Barbara Keller	Drastically declined.	Absolutely - less time less privacy, public attacks affect children.
Bobby Lee	Yes. I can't get a part time job as a full time graduate student for additional income.	Yes. I have no life.
Scott Meisner	Yes. City duties and constituent demands interfere with both time and scheduling for independent work, so that only weekends are freely available.	Yes. Emotionally through threats, and through difficulty in setting aside city demands to spend daytime hours with my child.
Nancy Nathanson	Yes. Since I work approx. 70+ hours per week altogether.	Yes
Paul Nicholson	My income has more than doubled since leaving the council.	Mostly. Inadequate time to spend with kids.
Laurie Swanson-Gribskov	Yes. Am not available full time for my consulting business.	Yes. I am unable to volunteer in my elementary school childrens' classrooms.
Betty Taylor	No. Because I am not employed.	Yes. I rearrange most commitments to friends and family for special council meetings.
Ken Tollenaar	No. I'm retired.	We're a one car family, and that's been a problem sometimes. Otherwise, no.
Jim Torrey (Mayor)	Yes. I hired a full time and a half time person(s) to take my place. In addition, I have lost opportunities that would have required my personal involvement.	Yes. City activities take away from family activities.

City Council Survey Results - Friends of Eugene - November 1997

Council Agenda page 540

Respondents	Q6	Q7
Ruth Bascom	Yes	Yes
Shawn Boles	Yes	Yes
Barbara Keller	I made adequate time to review packets. They were, however, never complete information. I often did not have time to get at the truth.	No
Bobby Lee	City information is just one dimension of the "total" information. Time for research is limited.	No, but I try my best.
Scott Meisner	I make the time available.	No. Staff support could help with this.
Nancy Nathanson	Yes	No
Paul Nicholson	No. The packet was always full of manure. I couldn't find the essential information without sifting for gold.	I made responding to all constituent communications a matter of principle.
Laurie Swanson-Gribskov	Sometimes	sometimes
Betty Taylor	I make the time.	If I eliminate other activities.
Ken Tollenaar	There's enough time to absorb the council packets before meetings, but one can't be "fully" prepared because the issues are two complex and too numerous.	Yes, but this varies by ward. My constituents are generally not activists, but that's not the case for Bobby, Scott, and others.
Jim Torrey (Mayor)	Yes. See #1. That's why it takes so long.	Yes. See #1. That's why it takes so long.

City Council Survey Results - Friends of Eugene - November 1997

Attachment C

Council Agenda page 541

Respondents	Q8	Q9
Ruth Bascom	No. Generous and competent staff support and reimbursement for all out of pocket expenses are important forms of compensation. The system provides these.	See Answer to #8. Compensation is presently provided in the forms of generous staff assistance, equipment needs plus expense reimbursement.
Shawn Boles	Yes. One-half median compensation for councilors. Median income for mayor.	Yes
Barbara Keller	Yes, but looking at the County Commission, I'm not sure it will bring out/elect better candidates.	Yes
Bobby Lee	Yes	Yes
Scott Meisner	Yes	Yes. Absolutely. I am willing to live even more simply, but others may not find it possible.
Nancy Nathanson	Yes	Yes
Paul Nicholson	In my case it would not have.	Yes
Laurie Swanson-Gribbskov	Yes	yes
Betty Taylor	Yes. I could hire the yardwork done. Reduce food shopping and preparation time.	Yes
Ken Tollenaar	No	No. A better approach is to keep working on council time management and to strengthen staff support for council.
Jim Torrey (Mayor)	No	Yes, because most people are not financially able to spend their time.

City Council Survey Results - Friends of Eugene - November 1997

Respondents	Q10	Q11	Current/Past	Retired
Ruth Bascom	No Answer	See additional text supplement	Past	Yes
Shawn Boles	See #8	No Answer	Past	No
Barbara Keller	Median city wage.	Payment would allow people to run who had to work but hold an inflexible job or are self employed and cannot afford to get that much time away. It might make for more diverse representation and adequate oversight.	Past	No
Bobby Lee	Maybe? \$1,000 per month - \$1,200 for president??	Good luck! Public's expectation of public officials' attention is very high. It is unfortunate that some can't afford to do that in the council.	Current	No
Scott Melsner	No more than median family income in this area.	The work load is ever increasing, and issues even more weighty. Full-time council work without compensation limit/prevents many from seeking city office and also creates class conflict for those city councilors whose employers, in essence "donate" their services.	Current	No
Nancy Nathanson	No Answer	A council initiated proposal seems inappropriate at this time of extreme stress on the community and organization, given sharply decreased resources and service reductions.	Current	No
Paul Nicholson	I think we should have a commissioner system - each councilor will be a department head. Salary will be equal to that of a 4J teacher with ten years of experience.	No Answer	Past	No
Laurie Swanson-Gribskov	Survey other communities	Suggest start with Mayor first	Current	No
Betty Taylor	\$500 per month (including expenses) This is considering what is possible. We really should get paid as much as county commissioners.	I would like to see the position of city manager eliminated - or the power reduced.	Current	Yes
Ken Tollenaar	No Answer	Major concern right now is the Measure 50 cuts we've made in Council and Intergovernmental Services, which will exacerbate the time crunch of councilors.	Current	Yes
Jim Torrey (Mayor)	I'm evaluating other cities our size.	Thank you! We must find ways to better organize our activities and limit our micro management. Policy not administration is the key.	Current	No

City Council Survey Friends of Eugene – November 1997

Cluth Bascom's response to question 11:

City elective office is exciting and rewarding. Our entire society depends on the concept of volunteerism. Few volunteer positions offer the kind of compensation available to councilors/ mayor – i.e. generous staff support, equipment needs, and reimbursement of all out-of-pocket expenses. I do not believe that additional monetary inducement will increase the number, the quality nor the diversity of people willing to serve as councilor/mayor.

The essential ingredient must still be commitment and a willingness to put aside other interests and activities.

City Council Survey Friends of Eugene – November 1997

Important data of cities in the Pacific Northwest of comparable population size to Eugene have been compiled here, in order to provide a wider context through which the survey results can be viewed. The population range is 100,000 – 190,000 and encompasses every city in Washington, in addition to all cities in California located North of the 37th parallel (essentially, everything North of San Jose) that meet the population criteria. Population statistics come from 1996 estimates of the United States Census Bureau, which released this information in June, 1997. The other information was acquired by phone from the League of California Cities and the offices of various city halls, city managers, and mayors.

	Population	Form of City Govt.	# of City Councilors	Salary/ Mayor	Elected/Appointed		Salary/ Mayor
					Elected	Appointed	
Washington:	Spokane:	Full-time City Mgr.	6	\$18,000	Elected		\$36,000
	Tacoma:	Full-time City Mgr.	8	\$18,000	Elected		\$40,000
	California:						
	Berkeley:	Full-time City Mgr.	8	\$10,500	Elected		\$21,000
	Concord:	Full-time City Mgr.	4	\$9,086	Appointed		\$9,086
	Fremont:	Full-time City Mgr.	5	\$13,800	Elected		\$19,800
	Hayward:	Full-time City Mgr.	6	\$10,456	Elected		\$23,038
	Modesto:	Full-time City Mgr.	6	\$10,800	Elected		\$12,800
	Santa Rosa:	Full-time City Mgr.	6	\$7,200	Appointed		\$10,800
	Sunnyvale:	Full-time City Mgr.	6	\$12,924	Appointed		\$17,232
	Vallejo:	Full-time City Mgr.	6	\$9,800	Elected		\$10,000

MAYOR/COUNCIL TRAVEL EXPENSES - FY97, FY98 AND FY99									
FY97									
Ruth Bascom	\$ 2,000.00	(Chinju, Korea - as mayor)							
Jim Torrey	\$ 3,234.00	(DC lobby trip and President's Youth Summit in Philadelphia - first term as mayor)							
Laurie Swanson Gribkov	\$ 504.00	(LA Conference, "Youth out of the Mainstream")							
Barbara Keller	\$ 239.00	(Housing Conference, Portland)							
Nancy Nathanson	\$ 1,293.00	(NLC, San Antonio)							
Total FY97 Travel	\$ 7,270.00								
FY98									
Jim Torrey	\$ 2,683.00	(Bond Rating Trip; LOC, Portland; federal lobby trip)							
Betty Taylor	\$ 3,539.00	(NLC, Philadelphia; LOC, Portland; Making Cities Liveable, Carmel, CA)							
Scott Meisner	\$ 2,654.00	(NLC Leadership Conf., Co. Springs; Gov'g in Turbulent Times, SunRiver; Sustainable Bldg. Conf., Seattle)							
Nancy Nathanson	\$ 3,514.00	(NLC, Philadelphia; LOC, Portland; NLC, DC; Transforming Local Gov't Conf., San Jose @ the request of the city manager)							
Laurie Swanson Gribkov	\$ 1,720.00	(DC lobby trip)							
Total FY98 Travel	\$ 14,110.00								
FY99									
Jim Torrey	\$ 9,545.00	(White House on School Safety, DC; US Conf. of Mayors, Salt Lake City; NLC & federal lobby trip, DC; Kakewaga & Irkutsk)							
Betty Taylor	\$ 4,565.00	(Making Cities Liveable, Santa Barbara; NLC, KC; LOC, Portland; Liveable Oregon Conf., SunRiver)							
Bobby Lee	\$ 255.00	(LOC, Portland)							
Ken Tollenaar	\$ 332.00	(LOC, Portland)							
Scott Meisner	\$ 2,444.00	(NLC, KC; Liveable Oregon Conf., SunRiver)							
David Kelly	\$ 2,913.00	(Making Cities Livable, St. Augustine, FL; Liveable Oregon Conf., SunRiver)							
Nancy Nathanson	\$ 4,095.00	(LOC, Portland; NLC, KC; federal lobby trip, DC; NLC, Telecomm.Conf., Denver as Nancy is on the Nat'l Steering Comm.)							
Total FY99 Travel	\$ 24,149.00								

ppendix Q

**CITY OF EUGENE
INTER-DEPARTMENTAL MEMORANDUM
CITY ATTORNEY - CIVIL DEPARTMENT**

To: Mary Walston - OCM

Date: July 21, 1999

Subject: City "Officer"

Section 18 of the Charter includes a reference to "... the compensation of other officers . . ." You have asked to whom that reference applies.

Based on the provisions of Sections 16 and 17, we believe that reference to "other officers" is to the City Manager and Municipal Judge(s). The City Council has authority under the Charter to appoint the City Manager (Section 16) and Municipal Judge(s) (Section 17) and to specify the salaries for each. Under Section 16 the City Manager has exclusive authority with respect to the appointment and/or assignment of duties of all other employees, including department heads.

If you have additional questions, please contact me.

**HARRANG LONG GARY RUDNICK, P.C.
CITY ATTORNEYS**


Glenn Klein

GK:jw

CITY OF EUGENE CANDIDATE HISTORY MAYOR AND CITY COUNCIL 1978 - 1998

July 26, 1999



Council Agenda page 549

PRIMARY ELECTION DATE	WARD	CANDIDATE	OCCUPATION	GENERAL ELECTION DATE	CONTESTED RACES
No Primary Election - (The use of the primary election was created by an ordinance on January 18, 1978)	Mayor	R.A. "Gus" Keller * Neil Murray Jerome Kernoschak	Not Available Not Available Not Available	November 2, 1976 - First election held with 8 Wards (4 Wards previously)	N/A
	Council - Ward 2	Betty Smith * Jack J. Craig	Not Available Not Available		N/A
	Council - Ward 3	Thomas Moreland Jack Delay *	Not Available Not Available		N/A
	Council - Ward 7	Gary Bond Scott Lieuallen * William Carlstrom Richard Charters	Not Available Not Available Not Available Not Available		N/A
	Council - Ward 8	Brian Obie * John Watson Hazen II Edna Shirey	Not Available Not Available Not Available		N/A

Appendix R

* Received greater than 50% of the vote.

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PRIMARY ELECTION DATE	WARD	CANDIDATE	OCCUPATION	GENERAL ELECTION DATE	CONTESTED RACES
May 23, 1978	Council - Ward 1	James E. Johnston Robert Lyford Emily Schue *	Design Supervisor Not Available Housewife, former teacher	November 7, 1978	No
	Council - Ward 4	J. Douglas McKay Gretchen Miller *	Business Owner Attorney		No
	Council - Ward 5	D.W. (Bill) Hamel * Elizabeth M. Heath	Sales Manager Executive Director/Non-Profit		No
	Council - Ward 6	Ted J. Brandt Eric Haws Harley Spencer	Not Available Attorney Not Available		Ted J. Brandt Eric Haws *

* Received greater than 50% of the vote.

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PRIMARY ELECTION DATE	WARD	CANDIDATE	OCCUPATION	GENERAL ELECTION DATE	CONTESTED RACES
May 20, 1980	Mayor	R.A. "Gus" Keller * Catherine Lauris	Not Available Not Available	November 4, 1980	No
	Council - Ward 2	Sharon Posner Betty Smith *	Not Available Not Available		No
	Council - Ward 3	David Jennings Mark Lindberg *	Not Available Not Available		No
	Council - Ward 7	John M. Perry Cynthia Wooten *	Not Available Not Available		No
	Council - Ward 8	Bill Groesz Brian Obie *	Not Available Not Available		No

* Received greater than 50% of the vote.

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PRIMARY ELECTION DATE	WARD	CANDIDATE	OCCUPATION	GENERAL ELECTION DATE	CONTESTED RACES
May 18, 1982	Council - Ward 1	Harold Hyman Emily Schue *	Not Available Not Available	November 2, 1982	No
	Council - Ward 4	Dick Hansen * Susan Sowards	Not Available Not Available		No
	Council - Ward 5	Freeman Holmer * Ron Spidell	Government Affairs Coordinator, U of O Not Available		No
	Council - Ward 6	John Ball * Thomas Poage	Broker Civil Engineer		No

Council Agenda page 552

* Received greater than 50% of the vote.

PRIMARY ELECTION DATE	WARD	CANDIDATE	OCCUPATION	GENERAL ELECTION DATE	CONTESTED RACES
May 15, 1984	Mayor	Jerry Campbell Michael Gravino Brian Obie * G.V. Stathaakis Dave Sweet	Craftsman, self-employed Executive Director Business Owner Business, self-employed Not Available	November 6, 1984	No
	Council - Ward 2	Ruth Bascom * Katherine Eaton	Homemaker Professor		No
	Council - Ward 3	Debra Ehrman * Joyce Nichols	Attorney Manager		No
	Council - Ward 7	Clyde Baxter Cynthia Wooten *	Not Available Legislative Assistant		No
	Council - Ward 8	Roger Rutan	Business Owner		No

* Received greater than 50% of the vote.

PRIMARY ELECTION DATE	WARD	CANDIDATE	OCCUPATION	GENERAL ELECTION DATE	CONTESTED RACES
May 20, 1986	Council - Ward 1	Emily Schue * Jon M. Silvermoon	Housewife Archaeologist	November 4, 1986	No
	Council - Ward 4	Robert Bennett * Robert Fredrickson	Business Owner Not Available		No
	Council - Ward 5	Freeman Holmer	Not Available		No
	Council - Ward 6	Jeffrey Miller	Minister		No

* Received greater than 50% of the vote.

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PRIMARY ELECTION DATE	WARD	CANDIDATE	OCCUPATION	GENERAL ELECTION DATE	CONTESTED RACES
May 17, 1988	Mayor	John Green Kent Luttrell Jeff Miller Bob Pedersen Randy Prince Emily Schue Sean Smith Nancy Steel	Not Available Not Available Not Available Not Available Not Available Not Available Not Available Not Available	November 8, 1988	Jeff Miller * Emily Schue
	Council - Ward 2	Steven Andresen Ruth Bascom *	Not Available Not Available		No
	Council - Ward 3	Debra Ehrman	Not Available		No
	Council - Ward 7	Shawn Boles	Not Available		No
	Council - Ward 8	Roger Rutan	Not Available		No

* Received greater than 50% of the vote.

PRIMARY ELECTION DATE	WARD	CANDIDATE	OCCUPATION	GENERAL ELECTION DATE	CONTESTED RACES
May 15, 1990	Council - Ward 1	Richard (Dick) Briggs Tim Laue Randy MacDonald	Not Available Contractor/Student Not Available	November 6, 1990	Richard (Dick) Briggs Randy MacDonald *
	Council - Ward 4	Robert Bennett Paul Nicholson *	Real Estate Developer Business owner		No
	Council - Ward 5	John Patrick Moniz Kaye Robinette Ken Tollenaar	Adolescent Counselor Not Available Not Available		Kaye Robinette * Ken Tollenaar
	Council - Ward 6	Bobby Green, Sr. * Darrell Grundman	Not Available CPA		No

* Received greater than 50% of the vote.

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PRIMARY ELECTION DATE	WARD	CANDIDATE	OCCUPATION	GENERAL ELECTION DATE	CONTESTED RACES
May 19, 1992	Mayor	Ruth Bascom Mary McCauley Burrows Greg Evans James "Izzy" Whetstine	City Councilor Legislative Consultant Loan Officer Railroad Yardmaster	November 3, 1992	Ruth Bascom * Mary McCauley Burrows
	Council - Ward 2	Barbara Keller	Business Owner		No
	Council - Ward 3	Eben Dobson Kevin Hornbuckle Emile Mortier Bob Steringer	Retired Social Worker Business Owner Lead Merchandise Receiver		Eban Dobson Kevin Hornbuckle *
	Council - Ward 7	Mike Barba Shawn Boles * Gloria Wolf	Director, Non-Profit Psychologist Volunteer		No
	Council - Ward 8	Mary Hudzikiewicz Nancy Nathanson Tom Slocum Rick Szakalski	Administrator, U of O Database Mgr. U of O Real Estate Broker Grocery Dept. Manager		Nancy Nathanson * Thomas Slocum

* Received greater than 50% of the vote.

PRIMARY ELECTION DATE	WARD	CANDIDATE	OCCUPATION	GENERAL ELECTION DATE	CONTESTED RACES
May 17, 1994	Council - Ward 1	Tim Laue * Kiki Metzler	Self-Employed Consultant Artist	November 8, 1994	No
	Council - Ward 4	Laurie Swanson Gribskov * Peter Wotton	Organizational Design Consultant/Student Assistant Administrator		No
	Council - Ward 5	James Torrey	Business Owner		No
	Council - Ward 6	Bobby Green, Sr.	Branch Sales Manager		No

Council Agenda page 558

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* Received greater than 50% of the vote.

PRIMARY ELECTION DATE	WARD	CANDIDATE	OCCUPATION	GENERAL ELECTION DATE	CONTESTED RACES
May 21, 1996	Mayor	Mike Albers Neale Hyatt Tim Laue Ron "Misha" Seymour Frank P. Soifer Dave Sweet Jim Torrey James H. Weaver James "Izzy" Whetstine	Self-employed Consultant Business Consultant Community Activist Retired None Business Owner Writer Railroad Yardmaster	November 6, 1996	Jim Torrey * James Weaver
	Council - Ward 2	Ryan Darwish Anne Marie Levis R. Thomas More Betty L. Taylor	Financial Planner Small Business Coordinator Grocer Retired		Anne Marie Levis Betty Taylor *
	Council - Ward 3	Bobby Lee * John F. Walsh Adam Young	Student None Shoemaker		No
	Council - Ward 6	Pat Farr	Sales		No
	Council - Ward 7	Scott Meisner * Tom Musselwhite	Administrative Director Coordinator, Non-Profit		No
	Council - Ward 8	Marlene "Mitzi" Colbath Nancy Nathanson *	Accountant Catalogue Coordinator, U of O		No

* Received greater than 50% of the vote.

PRIMARY ELECTION DATE	WARD	CANDIDATE	OCCUPATION	GENERAL ELECTION DATE	CONTESTED RACES
May 19, 1998	Council - Ward 1	Tim Laue Gary E. Rayor *	Self-employed Civil Engineer	November 3, 1998	No
	Council - Ward 4	Mary Ann Holser David Kelly Mike Lewis	Retired Computer Systems Consultant Attorney		David Kelly * Mike Lewis
	Council - Ward 5	Gary D. Papé	President, Papé Properties		No
	Council - Ward 6	Pat Farr * Pamela Driscoll	Sales - Wholesale Self-employed		No

* Received greater than 50% of the vote.

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Recommendation from the Citizen Committee on Mayor and Council Compensation

Meeting Date: February 9, 2000
Department: City Manager's Office
www.ci.eugene.or.us

Agenda Item Number: D
Staff Contact: Mary Walston
Contact Telephone Number: 682-5406

AGENDA ITEM SUMMARY

This will be the presentation by the Citizen Committee on Mayor and Council Compensation of the recommendation of a charter amendment which would call for compensation for the mayor and city council. The chair of the committee, Jon Belcher, will present the report to the mayor and council.

BACKGROUND

Council Action History

The 1999-2000 council goals include an action priority to "authorize/appoint charter review commission (including council compensation)". As a result of this goal and action priority the City Council on June 14, 1999, voted to create the Citizen Committee to Review City Charter on Council Compensation, composed of 15 to review the issue of compensation for the mayor and council. The committee was to make a final recommendation to the City Council by August 1, 1999.

The scope and charge to the citizen committee was limited. The specific charge to the committee was to review the issue of pay for the mayor and councilors. Several outcomes were possible, the placement of a charter amendment on the November, 1999 ballot, or a recommendation back to the council regarding larger, broader scope charter issues. The committee work was to be completed before August 11, 1999. That committee reported back to the City Council in August and recommended that additional study and research be completed before the referral of a charter revision to the voters to allow compensation for the Mayor and City Council.

During the course of the discussion on the committee report, Councilor Kelly made a motion to refer a charter revision measure to the voters to remove the compensation prohibition and to create a citizen committee to set the compensation. The text of Councilor Kelly's motion follows:

"... that the council place a charter amendment on the May 2000 ballot that calls for compensation for the mayor and city council. The council will appoint a seven-member committee to draft a viable and equitable charter amendment for review and referral by the council. Applications for the citizen committee will be accepted until September 20, 1999. The council will appoint the committee no later than October 20, 1999, and the committee will complete its work and forward a charter amendment draft to the council no later than February 1, 2000".

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This motion was tabled until September 8, 1999 at which time the council amended the motion and by changing the deadline for application and appointments from September 20 to October 8 and October 20 to October 27. This motion to create the committee with the above noted charge passed unanimously.

As per the direction of the City Council, the members of the new committee, the "Citizen Committee on Mayor and Council Compensation" were appointed on October 25, 1999. The first meeting of the committee was on November 3, 1999. The individuals appointed to the committee were Jon Belcher, (who served as the chair of the committee), Don Bishoff, Marv Glover, David Hinkley, Pat McDaniels, Matt Donohoe and Rob Zako.

Policy Issues

Other Background Information

The Eugene Charter, 1976, Chapter VI, Section 18 addresses compensation for the mayor and councilors. The section states, "The mayor and councilors may receive no pay for their services, and the compensation of other officers shall be prescribed by the council." If the council is to be compensated, the Charter must be revised to allow pay for the mayor and councilors. The Eugene Charter was last revised in 1976. (There have been four amendments to the Charter approved since 1976.)

The committee met on November 12, December 2, December 9, December 13, January 6, January 20, January 26 and February 3. In addition two public forums were held, one on November 18 at the Sheldon Community Center and one on January 13 in the City Hall Council Chamber. At each meeting of the committee opportunity was provided for public comment. A web page for the committee was created with an email link so that individuals could comment in via email, in writing or in person.

The members of the committee reviewed the report and supporting information from the work of a previous committee (created in the summer of 1999). This report included information on compensation for elected officials in other comparable western cities, the number of hours spent by Eugene elected officials on city business, the process used by other cities to set and adjust compensation for elected officials and of a 1998 survey by the Friends of Eugene.

In addition, the committee requested information on health benefits offered to City of Eugene employees and the cost of this and solicited additional information from current and past Eugene elected officials.

The committee is recommending the follow charter amendment be placed on the May 2000 ballot:

- (1) Beginning on July 1, 2001, the mayor shall receive a stipend of \$1,500 per month and the city councilors shall receive a stipend of \$1,000 per month.
- (2) At the beginning of each fiscal year thereafter, the stipends authorized above shall be adjusted by a percentage increase or decrease equal to that during the previous calendar year of the Consumer Price Index (CPI) for the Portland, Oregon area, or its successor. If that index ceases to exist, another consumer price index representing substantially the Eugene area shall be used. In any case, if a consumer price index covering the Eugene area is developed that index will automatically be used in place of the Portland CPI.
- (3) The stipends above are in addition to, and not in lieu of, reimbursement for actual official expenses incurred.

- (4) The mayor and councilors shall receive no fringe benefits except for those required by state law, but the mayor and councilors may purchase health insurance from the city health insurance plan.
- (5) The compensation of other officers shall be prescribed by the council.

Timing

It this is to be placed on the May 2000 primary ballot, the council will need to take final action not later than March 9, 2000. Should the council wish to hold a public hearing on this topic that will need to be scheduled in advance of March 9.

OPTIONS

The council can accept the recommendation as presented, modify it, any other number of combinations.

STAFF RECOMMENDATION

Staff has no recommendation on this item.

SUGGESTED MOTION

Move to accept the report of the Citizen Committee on Mayor and Council Compensation.

ATTACHMENTS

- A. Committee Report (plus attachments to that report)

FOR MORE INFORMATION

Staff Contact: Mary Walston
Telephone: 682-5406
Staff E-Mail: mary.f.walston@ci.eugene.or.us

THE LAST MEETING OF THE CITIZEN COMMITTEE ON MAYOR AND COUNCIL COMPENSATION WILL BE ON FEBRUARY 3, 2000.

DUE TO THIS LATE DATE, THE REPORT WAS NOT AVAILABLE WHEN THE AGENDA PACKET WENT TO PRESS.

THE REPORT FROM THE COMMITTEE WILL BE DELIVERED TO THE MEMBERS OF THE COUNCIL ON FRIDAY, FEBRUARY 4. IT WILL BE AVAILABLE TO THE PUBLIC ON THE AFTERNOON OF FRIDAY, FEBRUARY 4.

REPORT TO THE CITY COUNCIL FROM THE CITIZEN COMMITTEE ON MAYOR AND COUNCIL COMPENSATION

February 9, 2000

Kate Rowles
CMO
Room 105, City Hall
L

Executive Summary

A seven member committee, appointed by the City Council on October 25, 1999, met from early November 1999, through early February. The charge to this committee was to draft a "viable and equitable charter amendment for review and referral by the council" that calls for compensation for the mayor and city council. The committee held nine meetings, conducted two public forums, reviewed the report of a previous committee on compensation, surveyed and interviewed current and former elected officials and studied data from other Pacific Northwest cities. The committee is recommending that: 1) the charter prohibition on compensation for the mayor and council be removed; 2) that the mayor be paid a stipend of \$1,500 per month; 3) that councilors be paid a stipend of \$1,000 per month; 4) that the stipends be adjusted annually based upon the Portland Consumer Price Index (Portland CPI); and 5) that both the amount of compensation and method of adjustment be set in the charter.

Background

The Eugene Charter, 1976, Chapter VI, Section 18, addresses compensation for the mayor and councilors. The section states, "The mayor and councilors may receive no pay for their services, and the compensation of other officers shall be prescribed by the council." If the council is to be compensated, the Charter must be revised to allow pay for the mayor and councilors. The Eugene Charter was last revised in 1976. (There have been four amendments to the Charter approved since 1976.)

The 1999-2000 Council Goals include an action priority to "authorize/appoint a charter review commission (including council compensation)". As a result of this goal and action priority the City Council on June 14, 1999, voted to create the Citizen Committee to Review City Charter on Council Compensation, (CCRCCCC) composed of 15 persons to review the issue of compensation for the mayor and council. The committee was to make a final recommendation to the City Council by August 1, 1999.

The scope and charge to the CCRCCCC was limited. The specific charge to the committee was to review the issue of pay for the mayor and councilors. Several outcomes were possible, the placement of a charter amendment on the November, 1999, ballot, or a recommendation back to the council regarding a larger, broader scope charter issues. The committee's work was to be completed before August 11, 1999. The CCRCCCC reported to the City Council in August and recommended that additional study and research be completed before the referral of a charter revision to the voters.

During the course of the discussion on the CCRCCCC report, Councilor Kelly made a motion to refer a charter revision measure to the voters to remove the compensation prohibition and to create a citizen committee to set the compensation. The text of Councilor Kelly's motion follows:

" . . . that the council place a charter amendment on the May 2000 ballot that calls for compensation for the mayor and city council. The council will appoint a seven-member committee to draft a viable and equitable charter amendment for review and referral by the council. Applications for the citizen committee will be accepted until September 20, 1999. The council will appoint the committee no later than October 20, 1999, and the committee will complete its work and forward a charter amendment draft to the council no later than February 1, 2000."

This motion was tabled until September 8, 1999, at which time the council amended the motion and by changing the deadline for application and appointments from September 20 to October 8 and October 20 to October 27. This motion to create the committee with the above noted charge passed unanimously.

As per the direction of the City Council, the members of the new committee, the "Citizen Committee on Mayor and Council Compensation," were appointed on October 25, 1999. The first meeting of the committee was on November 3, 1999. The individuals appointed to the committee were Jon Belcher (who served as the chair of the committee), Don Bishoff, Marv Glover, David Hinkley, Pat McDaniels, Matt Donohue and Rob Zako.

The committee also met on November 12, December 2, December 9, December 13, January 6, January 20, January 26 and February 3. Minutes of these meetings are attached to this report. In addition, two public forums were held, one on November 18 at the Sheldon Community Center and one on January 13 in the City Hall Council Chamber. At each meeting of the committee, opportunity was provided for public comment. A web page for the committee was created with an email link so that individuals could comment via e-mail, in writing or in person. Copies of the informational sheets prepared for both of the public forums are attached to this report. The web page information is attached.

The members of the committee reviewed the report and supporting information from the work of the CCRCCCC. This report included information on compensation for elected officials in other comparable western cities, the number of hours spent by Eugene elected officials on city business, the process used by other cities to set and adjust compensation for elected officials and of a 1998 survey by the Friends of Eugene.

The committee reviewed information on health benefits offered to City of Eugene employees, cost of these health benefits, and solicited additional information from

current and past Eugene elected officials. The committee also received written testimony from several individuals at the public forums, most notably research on other cities with the council/manager form of government having eight city councilors. Attached to this report are copies of that information.

The Proposed Charter Amendment

At the present time, Section 18 of the Eugene Charter prohibits compensation for the mayor and council. The committee recommends that the charter be amended as follows:

Section 18. Compensation.

~~The mayor and councilors may receive no pay for their services, and the compensation of other officers shall be prescribed by the council.~~

- (1) Beginning on July 1, 2001, the mayor shall receive a stipend of \$1,500 per month and the city councilors shall receive a stipend of \$1,000 per month.
- (2) At the beginning of each fiscal year thereafter, the stipends authorized above shall be adjusted by a percentage increase or decrease equal to that during the previous calendar year of the Consumer Price Index (CPI) for the Portland, Oregon, area or its successor. If that index ceases to exist, another consumer price index representing substantially the Eugene area shall be used. In any case, if a consumer price index covering the Eugene area is developed, that index shall be used in place of the Portland CPI.
- (3) The stipends above are in addition to, and not in lieu of, reimbursement for actual official expenses incurred.
- (4) The mayor and councilors shall receive no fringe benefits except for those required by state law, but the mayor and councilors may purchase health insurance from the city health insurance plan.
- (5) The compensation of other officers shall be prescribed by the council.

In developing the proposed amendment, members of the committee sought to meet the charge to the committee, in short a "viable and equitable" proposal to be placed on the ballot in May, 2000. As such the committee felt it was important to review the thoughts and rationale behind the development of each section of the proposed amendment.

Subsection 1

"Beginning on July 1, 2001, the mayor shall receive a stipend of \$1,500 per month and the city councilors shall receive a stipend of \$1,000 per month."

Members of the committee chose the term "stipend" instead of the word "salary" to

reinforce the distinction between elected officials and city employees. While the members of the committee fully understand that the compensation proposed is fully taxable, there was a concern that this not be seen as a salary. The committee members also realize that the amounts proposed do not fully compensate for the actual number of hours worked by the mayor and/or councilors, but offer a small remuneration for the amount of time required to serve as an elected official.

Much of the committee's discussion focused on the amount to propose. While there were several proposals for a larger amounts for both the mayor and councilors, the committee decided upon amounts which they felt were more politically viable. In fact, most members of the committee were in favor of higher amounts, but ended up agreeing upon a smaller amount because it would increase the probability of approval by the voters. The committee felt that a small amount of pay would be better than no pay at all. The committee members also sought to recommend an amount which would serve to attract a larger number and more diverse set of candidates running for the Eugene City Council, but did not want to recommend an amount which would attract "professional politicians". The suggested range of compensation for the mayor by committee members was from \$1,500 per month to \$4,000 per month; the range for the councilors was from \$950 per month to \$2,000 per month. There was agreement by the members of the committee that the mayor, because the job requires more time, should receive an amount higher than that of the councilors.

At the public forums and regular meetings the committee heard a number of proposals regarding how much the mayor and councilors should be paid. These proposals ranged from \$100,000 for the mayor on the theory that the position was equivalent to that of a chief executive officer for a large corporation, to a rate of 20 times the minimum hourly wage, to the cost of running an election campaign. At the public forums several persons said the compensation should be much higher than that proposed by the committee. One individual submitted research on over 100 cities similar in population and recommended that the mayor be paid the same salary as that of a county commissioner and that the number of councilors be reduced from 8 to 4 in order to pay those 4 councilors a reasonable salary. The minutes of those meetings are included in the attachments to this report.

The members of the committee wanted to include the amount and method of adjustment of compensation in the charter itself in order to make it clear to the voters and to assure the voters that the amount could not be changed without their approval.

The estimated annual cost would be \$15,263.62 for each councilor and \$22,895.42 for the mayor. The estimated annual total cost is \$145,004.38. Details of this estimate are attached to this report.

With regard to the proposed starting date for pay, the committee members felt it was

important to place the issue far enough in advance so that city budget could be adjusted accordingly. While there was some discussion about whether councilors should stand for election prior to receiving compensation, the final decision by the committee was to start the compensation on the same date for all members of the council, regardless of when the person was elected to the office.

Subsection 2

“At the beginning of each fiscal year thereafter, the stipends authorized above shall be adjusted by a percentage increase or decrease equal to that during the previous calendar year of the Consumer Price Index (CPI) for the Portland, Oregon, area or its successor. If that index ceases to exist, another consumer price index representing substantially the Eugene area shall be used. In any case, if a consumer price index covering the Eugene area is developed, that index shall be used in place of the Portland CPI.”

The committee selected the Portland CPI, with the rationale that this is easier to understand and explain than median income or other available indices. Furthermore, the CPI is understood and recognized by the public, it is objective, it is self-contained, and it is insulated from local city influence. The committee members considered the use of the blended indices used by the city budget staff to forecast cost of living increases, but decided against that because it is complex and subject to outside influences. The committee also rejected a proposal to mirror the annual adjustment for the elected officials with that of the city's exempt employee group in order to avoid any perception that the elected officials are employees.

Members of the committee wanted the amendment to have an on-going and reliable outside index on which to base annual adjustments, so the language regarding a substitute index was included. In agreeing upon a substitute, the members of the committee wanted to ensure that any new index be representative of the Eugene area.

Subsection 3

“The stipends above are in addition to, and not in lieu of, reimbursement for actual official expenses incurred.”

This subsection was included by the committee to clarify that expenses are still covered for official city business.

Subsection 4

“The mayor and councilors shall receive no fringe benefits except for those required by state law, but the mayor and councilors may purchase health insurance from the city

health insurance plan.”

While the members of the committee wanted to distinguish that the elected officials are not regular employees of the City, there was a proposal that the mayor and council be covered under the city group health insurance. However, the committee decided not to recommend that the elected officials be covered under the plan as it was another form of compensation and one less obvious to the voters. The compromise position reached was to offer the purchase of health insurance under the city's plan to those elected officials who would want it. This proposal would not result in additional cost to the city and would only be used by those who need it. The inclusion of the phrase “except for those required by state law”, was to acknowledge that some mandatory benefits, such as Public Employees Retirement System, (PERS), will be a cost an addition to the city. In order to address the issue of the real actual cost of the compensation the committee requested that the voter's pamphlet include a fiscal impact statement for all required state and federal benefits required by law.

Subsection 5

“The compensation of other officers shall be prescribed by the council.”

The current charter contains similar language, “and the compensation of other officers shall be prescribed by the council”. The concept of this section was not changed. This allows the council to continue to set the pay for the City Manager and the Municipal Court Judge. The subsection was modified only to conform to the subsections above it.

Placing the Measure on the May Ballot

The committee also discussed whether the charter amendment should be placed on the May 2000, primary ballot or the November 2000, general election ballot. There was discussion of the possible negative synergistic effect of several local revenue measures on the same ballot in May; that is city's anticipated police and fire measure, and a 4J revenue measure. There were, however, similar concerns about the November ballot. That election will have a larger state and national focus and is anticipated to be very long due to the large number of initiatives expected to be on the ballot. In the end, the committee decided to recommend, although not unanimously, that this charter amendment seeking compensation for the mayor and council be placed on the May 2000, primary ballot.

ATTACHMENTS

Attachment A	Meeting Minutes, November 3, 1999
Attachment B	Meeting Minutes, November 12, 1999
Attachment C	Notes from Public Forum, November 18, 1999
Attachment D	Meeting Minutes, December 2, 1999
Attachment E	Meeting Minutes, December 9, 1999
Attachment F	Meeting Minutes, December 13, 1999
Attachment G	Meeting Minutes, January 6, 2000
Attachment H	Meeting Minutes, January 13, 2000
Attachment I	Meeting Minutes, January 20, 2000
Attachment J	Meeting Minutes, January 26, 2000
Attachment K	Committee's Web Page
Attachment L	Flyer for November 18, 1999, Public Forum
Attachment M	Flyer for January 13, 2000, Public Forum
Attachment N	Response Regarding Compensation from Gary Rayor
Attachment O	Response Regarding Compensation from Debra Ehrman
Attachment P	Response Regarding Compensation from Roger Rutan
Attachment Q	Response Regarding Compensation from Emily Schue
Attachment R	Response Regarding Compensation from Bobby Green
Attachment S	E-Mail Messages from Public Regarding Compensation
Attachment T	Payment for Mayor and Councilors Election History
Attachment U	Memorandum from Myrnie Daut Regarding Health Insurance
Attachment V	Local Government Personnel Institute Report on Compensation
Attachment W	Information on Cities with Eight Councilors Submitted by Jim Hale
Attachment X	Cost out of Compensation with Statutory Benefits for Mayor and Council

ATTACHMENT A

S U M M A R Y M I N U T E S

Citizen Committee on Mayor and Council Compensation
McNutt Room- City Hall- 777 Pearl

November 3, 1999
5:30 p.m.

PRESENT: John Belcher, Chair; Don Bishoff, Matt Donahue, Marv Glover, David Hinkley, Pat McDaniels, Rob Zako, members. Mary Walston, staff;

I. I N T R O D U C T I O N S

Those present introduced themselves and gave brief personal histories.

II. G R O U N D R U L E S

Members discussed the appropriateness of E-mail communication between members. It was decided, by general consensus that there would be no E-mail communication of committee business since that would violate the public meeting status of the committee.

III. S E L E C T I O N O F A C H A I R

Mr. Belcher was appointed as committee chair by general consensus.

IV. R E V I E W O F C O M M I T T E E C H A R G E

Ms. Walston provided background information regarding the charge of the committee.

She clarified what the City Council's intention for the committee was. She said that they had already decided that there was to be a ballot for a charter amendment in May and that the committee's charge was to craft charter amendment language for the ballot.

Mr. Zako commented that he thought that the charge of the committee was to come up with a choice that could be taken to the voters.

Ms. Walston distributed packets containing all of the research that had been done for the previous committee on compensation.

Mr. Bishoff suggested that two public hearings be held; one at the beginning of the process and one when the draft language was to be released.

SUMMARY MINUTES--Citizen Committee on Mayor
and Council Compensation

November 3, 1999

Page 2

Members discussed a timeline for submitting a draft document and when the best times would be to hold public forums.

Mr. Zako, seconded by Mr. Hinkley, moved to hold a public forum between November 15 and 19, and to hold a second public forum between January 10 and 14, and to have those hearings drive the work schedule for the committee.

There was general discussion of the exact dates to hold the forums. Members decided that the dates would be November 18, for the first forum and January 13, for the second.

The motion passed unanimously.

Members went on to discuss what to cover in the public forums and the goals that the committee would try to accomplish. Mr. Donahue stressed that the forums should be a request for information/ideas from the public on a mechanism for dealing with the charter amendments and not a request for comments on whether there should be compensation.

Moving on to language that could be included in the draft document, Ms. McDaniels raised concern over putting an actual amount for compensation into the charter. Mr. Hinkley opined that a ballot would not pass unless there was a number attached.

Mr. Donahue raised concern over how compensation could be implemented. He stressed the importance of getting public input and ideas so that they were not just speaking hypothetically. Mr. Zako agreed and said that the public forum would be a good avenue to get input on those kinds of policy decisions. Members also agreed to get public input on how much compensation would be appropriate, a mechanism for compensation, and ways of changing or modifying that compensation.

Mr. Bishoff stressed the importance of getting public input on only the specific questions that the committee was charged to answer.

Members discussed how to advertise for the forum. Mr. Donahue suggested a press release stating the question that the committee needed deal with instead of just placing an add.

It was agreed that Ms. Walston would try to get the Campbell Center for the location of the forum and that it would start at 7:30 p.m.

V. NEXT MEETING

The next meeting was scheduled for November 12, from 6-7:30 p.m.

The meeting adjourned at 7:25 p.m.

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ATTACHMENT B

MINUTES

Citizen Committee on Mayor and Council Compensation
McNutt Room--City Hall

November 12, 1999
6 p.m.

PRESENT: Jon Belcher, Chair; Don Bishcoff, Matt Donohue, Marv Glover, David Hinkley, Pat McDaniels, Rob Zako, members; Mary Walston, members.

Mr. Belcher called the meeting to order.

1. APPROVAL OF MINUTES

Referring to page 2 of the minutes of November 3 Mr. Hinkley asked that the word "measure" be added after the word "ballot." He also asked that the minutes be revised to indicate that Ms. Walston would "attempt" rather than "try" to schedule a public forum.

Mr. Belcher asked members to confirm that the committee agreed in general to meet on Thursday evenings; the committee's minutes did not reflect the committee's discussion of scheduling.

Mr. Glover moved, seconded by Mr. Hinkley, to accept the minutes as amended.
The motion passed unanimously.

2. PUBLIC COMMENT

Kevin Hornbuckle proposed to the committee that it propose to the public two charter amendments with differing amounts and let the voters decide. If a measure has more than 50 percent than the other measure it would pass. He believed that two measures were preferable because he thought citizens believed the council was already compensated. Mr. Hornbuckle averred that *The Register-Guard* and Eugene Chamber of Commerce were worried that the council would become compensated, and were relying on their beliefs the committee would propose a "paltry" amount of compensation that would have no effect on increasing participation in council races.

Members asked Mr. Hornbuckle questions clarifying his proposal. Mr. Bischoff asked Mr. Hornbuckle about the legality of his proposal. Mr. Hornbuckle said that it was legal and the County had used the method several years earlier. Mr. Belcher expressed concern that having two measures on the ballot would mean the measure with the lower amount would win. Mr. Zako agreed. Mr. Hornbuckle concurred that there was that potential. He said that it was his intent to give the voters a choice. Responding to a question from Mr. Zako about the level of compensation, Mr. Hornbuckle suggested \$26,000 per year for councilors and perhaps double that amount for the mayor. Mr.

MINUTES—Citizen Committee on Mayor and Council Compensation November 12, 1999 Page 1

Donohue asked if Mr. Hornbuckle was basing proposal that on the cost of living. Mr. Hornbuckle said yes.

3. PREPARATION FOR PUBLIC COMMENT SESSION ON NOVEMBER 18, 1999

Ms. Walston noted that the public comment session was scheduled for November 18, 1999, at 7:30 p.m. in the Sheldon Community Center.

Committee members discussed the format for the session and what information should be discussed with the public. The committee agreed to ask the public the following questions:

- ▶ What issues do you want this committee to consider regarding pay for the Mayor/City Council?
- ▶ Do you favor paying the Mayor? Paying the City Council? Why or why not?
- ▶ If yes, how much?
- ▶ How to set pay? By whom? Initially and overtime?

The committee agreed that it would distribute a facts sheet at the session.

Ms. Walston said that she would post the questions on the City's Web page and leave copies at public information counters throughout the City so people could respond via e-mail or through the mail.

Mr. Belcher called the committee's attention to the advertisement for the public session printed in *The Eugene Weekly* and an article about the committee's work by Alan Pittman.

4. ITEMS FROM THE COMMITTEE

Mr. Zako wanted to know how past and current city councilors afforded to have the job, and wished to request information from those individuals about their annual incomes. Mr. Belcher suggested that the committee discuss whether it wished to interview the mayors.

Mr. Bischoff said that Mayor James Torrey had discussed the issue of compensation with four former mayors, and found the range of opinion to be divided; also, Mayor Torrey suggested their input may be valuable to the committee. He suggested that both former mayors and former councilors be invited to a meeting to discuss the issue.

The committee agreed to invite the former councilors and mayors to a meeting. The committee agreed that the letter of invitation would indicate that comments to the committee could be made either in person or in writing. Mr. Belcher recommended that the letter be sent the mayors and the councilors from the last two councils, or four election cycles. The committee accepted a suggestion from Mr. Zako to include the Friends of Eugene survey in the letter to provide structure for the discussion.

The committee briefly discussed the need to provide rationale for the ballot measure it was charged to put together.

Mr. Bischoff expressed interest in having a legal opinion about Mr. Hornbuckle's suggestion. Ms. Walston said that the City's legal counsel had advised the City that it could hold a preference voting election if it wished to pay those costs. She indicated she would request an opinion from the City Attorney Glenn Klein.

Mr. Belcher acknowledged a request from a member of the public to speak to the committee.

Bruce Miller advocated for the committee to prepare a job description for the jobs of councilor and mayor. He said that a job description was necessary if the community wanted to compensate its elected officials.

The meeting adjourned at 7:33 p.m.

(Recorded by Kimberly Young)

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NOTES FROM PUBLIC FORUM ON MAYOR AND COUNCIL COMPENSATION
THURSDAY, NOVEMBER 18, 1999
Heldon Community Center

ATTACHMENT C

Bob Warnberg: (40 years resident)

Mayor - spent \$47,600 for a job that does not pay . He does not agree with City Council - especially with 20-2 Measure. This money to County a pork-barrel Council would get - over 7 years \$29 million - according to the measure.

Thought people who serve do so to pay back for living in Eugene.

Bruce Miller:

Copy to submit - Joe Rubenstein's problems with street. Mayor and City Council can't get him out of jam. Exit blocked. Symptom of unpaid mayor & council who are will intentioned. Few showed up for November 17 work session for important issue. Up until Mayor announced only two inexperienced people had filed. Symptomatic of unpaid. Second largest City with large budget we are competing against large cities for funds. Need quality people.

Average person wants to stay home. Need to pay people to participate. Unpaid don't have ability.

John Clamer:

Should be paid. Putting in time. But, should not reward; not high pay, that would get voted down. Once in charter, pay can't be adjusted. Pay minimum prevailing wage. 20 hours for City Council. 30 hours for Mayor.

Jim Hale:

Has done some research of 100 cities in population range. Checked Web sites. Vast majority of mayors/councilors are retired, or homemakers, or with 2 incomes. Mayors and councilors are paid more when there are fewer councilors. Reduce to four councilors and pay living wage. Most cities with same amount of Councilors pay a pittance.

- Submit chart.
- Tacoma pays \$3,300/ month for Mayor; \$2,400 / month for City Council.
- Lake Wood, Colo.- Tallahassee, Fl. Pay of Mayor equal to County Commissioners. Strong Mayor.

Pay our Mayor equal to Lane County Commissioners with lower wage for councilor.

Bob Cassidy:

Supports pay - compensate for expenses - getting elected is an expense.

Include that concept in proposal

PANEL QUESTIONS & ANSWERS

QUESTION/S	ANSWERS / COMMENTS
What do we do to make it palatable to voters?	Eugene people are cheap, until problems come to your door. Get personal testimonials in Voter's pamphlets as to why we need quality Mayor and City Council. Have two year terms at first in case we get lemons. Amount of pay set in charter. No exception. Keep at 40 hours a week
Relationship in Mr. Hale's evaluation between council/city manager form of government?	Newer cities have 4-6 councilors. Tendency is fewer councilors. Pay living wage and have fewer councilors.
How much to pay council?	Jim Hale - \$1,000 per month. 2 separate ballot measures for Mayor and City Council pay. High on Mayor; low on City Council.
How do we compensated for running?	Councilors need compensation for running. \$1,000 per month. None for Mayor.
Should they receive benefits?	Complicated. Different situations. Jim Hale: 4 of 16 with 8 councilors pay full benefits. Some just medical & dental. Some car allowance. Do polling.
Paid minimum wage \$6.50/hr. = \$6,000 to \$7000 per year. What if some work more or less?	
What would paying each at that level accomplish?	For low income it is a substantial contribution. Some cities pay for attending regular meetings.
Any qualifications?	Bischoff. Narrow scope of committee. Other issues need to be addressed. Role/Numbers. Jim Hale: Pay Mayor by curtailing paid staff. If you put large amount of ballot, won't pass.
If measure cost of living etc, will require periodic adjustments . How should that happen?	Councilors have a sense politically of how to do it. Set Mayor's pay the same as that of a county commissioner. Go with CPI. No citizen commission; add a COLA into charter.

MINUTES

ATTACHMENT D

Citizen Committee on Mayor and Council Compensation
McNutt Room--City Hall

December 2, 1999
6 p.m.

PRESENT: Jon Belcher, Chair; Don Bischoff, Matt Donohue, Marv Glover, David Hinkley, Pat McDaniels, Rob Zako, members; Kate Fieland, Kate Rowles, City Manager's Office staff; Ruth Bascom, Shawn Boles, Laurie Swanson Gribskov, Paul Nicholson, guests.

Mr. Belcher called the meeting to order.

1. PUBLIC COMMENT

There was no one present wishing to offer public comment.

2. DISCUSSION WITH FORMER COUNCILORS AND MAYORS

Committee members were joined by former councilors Laurie Swanson Gribskov, Shawn Boles, and Paul Nicholson, and former Mayor Ruth Bascom. Mr. Belcher asked the former elected officials to comment on the subject of compensation for the mayor and City Council.

Ms. Swanson Gribskov supported a salary for the mayor and a stipend for the councilors. She noted her experience at a National League of Cities Conference, during which she had learned the majority of city councilors in attendance were paid. She said that there were hidden costs to being a City Councilor in the form of lost family time and the need to juggle competing schedules. She had also experienced some loss of income. If, at the end of the month, a small check came that allowed her family to, for example, visit the coast, it would have had a very positive impact on her family, and would have acknowledged a sensitivity to the price she and her family paid for her to be a councilor.

Ms. Swanson Gribskov said that people did not know the extent of meetings that councilors were required to attend in the form of subcommittee assignments and intergovernmental committees. She suggested another option to a flat rate stipend was a nominal stipend for each meeting that councilors attended in an official capacity, excluding neighborhood meetings, which would heighten both the community and staff's awareness of the number of meetings councilors attended. Ms. Swanson Gribskov recommended that the committee call upon the resources of the National League of Cities for more information about compensation, noting that some cities have added councilors to their health benefits package. She believed those costs would be nominal because it involved a shared pool of covered individuals.

Ms. Swanson Gribskov said that the mayor easily worked twice as hard as the council and should receive a commensurate salary. She pointed out that issues facing the council and mayor were

MINUTES—Citizen Committee on Mayor and Council Compensation December 2, 1999 Page 1

increasingly complex and often involved intergovernmental work. While priding herself on her time management skills, she had been unable to do the necessary work in the 15 to 20 hours weekly she had originally estimated would be required.

Mr. Boles said that the issue of council and mayor compensation had been discussed for many years. Former Mayor Jeff Miller had formed a committee around the issue and, as a result, councilors had kept track of the time they spent on council work. At that time, he spent approximately 30 hours weekly on council work. He recommended that the committee take advantage of the information collected by Mr. Miller's committee.

Mr. Boles noted the negative impact of his council service on his income during the first year he served on the council.

Mr. Boles favored paying the mayor and City Council. He said that most cities Eugene's size paid their elected officials. Mr. Boles said that paying the mayor and council would broaden the pool of those who could serve, which was very important to him. He did not think that those whom with he served was an adequate representation of the community.

Mr. Boles did not support a per meeting stipend. He suggested that when paid on a per meeting basis, elected officials would be tempted to have lots of meetings. Mr. Boles doubted he would have been interested in taking advantage of fringe benefits such as health benefits, adding that personal circumstances would differ. He was largely neutral on the subject of fringe benefits.

Mr. Nicholson arrived at the meeting.

Regarding the level of pay, Mr. Boles advocated for paying councilors half the Eugene median family income and the mayor the Eugene family median income, and recommended that level of compensation be instituted in the charter. That would allow compensation to be adjusted up or down appropriately, and the amount was not so large that it would attract "hacks."

Mr. Boles asked the committee to consider undertaking examination of other issues, including staff compensation. He said that senior executives were given substantial automobile allotments. He said that the manager makes that allotment to the senior executives, and then receives the same benefit by pointing out it was the same benefit the senior executives received. He asked why the City would want to compensate senior executives for driving "huge" automobiles to work.

Mr. Boles hoped the committee would oppose anything but ward-based elections; he believed that at-large elections constrained the pool of potential candidates to those who were well-to-do.

Mr. Boles said that if the committee could make recommendations regarding the length of council terms, he would argue for one six-year term for the council and mayor, with no possibility of reelection unless one sat out a term. He felt that it took four years for a councilor to get something done, but two four-year terms were two years too many.

Mr. Nicholson endorsed Mr. Boles' recommendations for council compensation as a reasonable proposal. However, his position was more radical. He recommended that the committee tell the

council that it needed to change the committee's scope of work or it could not do its job. He saw no reason to pay the council as long as the city manager form of government existed. Mr. Nicholson said there was no point to having an elected council in such a structure. He advocated for elimination of what he termed the "corporate attorney" form of government, and recommended that three candidates be selected from each ward from the frequent voters list, and their campaigns be publicly financed to avoid what he termed corruption by local industries. He wanted a strong mayor/council form of government if representatives were to be paid.

Mr. Nicholson said that when he described the Eugene form of government at the National League of Cities, his remarks were received with incredulity. He said that a city manager form of government was utterly inappropriate for a city of Eugene's size. He believed that the City Attorney's power canceled out the City Council's. When he had served on the council any action dangerous to the status quo was immediately pronounced illegal for no reason he could discern. Mr. Nicholson said that the council did not have enough power to do its job, and if it was to be paid it should be given power.

Mr. Donahue asked Ms. Swanson Gribskov how many meetings she attended each month on average. Ms. Swanson Gribskov estimated she attended 20 meetings each month.

Mr. Hinkley requested information about the preparation time required for council meetings. Mr. Boles estimated between one and seven hours per meeting, depending on the complexity of the material involved and his other commitments. For additional major committee meeting assignments, he estimated another two to three hours of preparation time weekly. He added that thinking about what one has read and attempting to make sense of it also took time.

Mr. Nicholson said that he was not as diligent as Mr. Boles in reading the packet, but his experience with committee work was the same and Ms. Swanson Gribskov's estimate of the number of meetings attended seemed appropriate. He had responded to every constituent contact, which took considerable time; he estimated he spent three to four hours weekly on constituent service. Mr. Boles agreed that constituent service took a considerable amount of time.

Ms. Swanson Gribskov said that she reviewed the packet in about three hours, although not cover-to-cover; then she would contact staff and other parties for input and information. She said that she responded to constituent contacts by telephone, but had been unable to respond to all written correspondence. She said that councilors were often forced by the amount of work to make choices about where they would spend their time.

Mr. Bischoff asked how the former councilors felt about editorial comments from the local newspaper that councilors spent more time on the job because of a tendency to micromanage the City, and arguments that the council should let the manager do his job. Mr. Boles responded that given the City Attorney had informed the council that neither the council or staff was bound by adopted policy, if the council wanted to see its policies implemented it was going to have stay on top of things. He did not think it was micromanagement to call into question fundamental errors in the presentation of material or the lack of development of options for the council to consider, which he believed was the origin of the accusation.

MINUTES—Citizen Committee on Mayor and Council Compensation December 2, 1999 Page 3

Ms. McDaniels asked if Mr. Boles was stating that the manager and staff acted in opposition to the council's wishes. Mr. Boles and Mr. Nicholson said yes. They offered to share examples of such instances. Ms. Swanson Gribskov said that while she appreciated the comments of Mr. Boles and Mr. Nicholson, she was not as unhappy with or as critical of the existing system. Her questions were answered by staff, she was treated with respect, she felt that she had power, and did not feel that the council's will was disregarded by staff. She noted that she was the most current former City Councilor present; Mr. Boles having served two years with Mr. Nicholson and two years with her, so he was the bridge between the councils. She suggested it was difficult to make firm assessments, pointing out that since Mr. Nicholson served, personalities and personnel had changed. She did not think the public was ready to change the structure of local government, and she thought the city manager form of government worked. Ms. Swanson Gribskov did not advocate for an enlarged committee scope of work.

Mr. Nicholson said that one's feeling about whether policy was carried out depended on whether they served on a council that was propagating policy consistent with what the city manager wanted to do. He maintained that policy contrary to the manager's preferences were not carried out.

Ms. Swanson Gribskov disagreed with the conclusions of the local newspaper, saying she believed the issue was one of the complexity of being the governing board of a multi-million dollar organization over which the board did not have complete control because of many variables, such as the interconnections between bodies of government. She said that the job is not simple, and some people wished that it was.

Mr. Nicholson said he worked a long time on community policing, and he did not believe that beating and gassing ordinary citizens engaged in peaceful protest was consistent with those policies. He said that the community should not have a system that was dependent on the manager's willingness to carry out the council's wishes. He said that in the current system, the council was so weak it only one policy enforcement option, which was to fire the manager. Mr. Nicholson said that if the manager was willing to respond to the council, fine; if not, the council was powerless to do anything about it.

Ms. Bascom arrived at the meeting. Mr. Belcher invited her comments.

Ms. Bascom suggested that the survey sent out by the committee asked the wrong questions, and it should have asked if the respondents' personal opportunities were enhanced by their service on the council. She believed that council service gave individuals a platform for expressing their views they would not otherwise have had. Ms. Bascom thought that former councilors were well-rewarded by the experience.

Ms. Bascom acknowledged the impetus behind the committee's work but pointed out that even councilors with limited incomes had served on the council of which she had been mayor. She said that she was not bothered by the fact she was not paid as mayor. Ms. Bascom said that the United States was unique in that it was the only place in the world that ran on volunteers. She cited the Sister City Foundation as an example of unrecompensed volunteerism, and said that a study by Cornell University indicated volunteerism was increasing. She did not think a lack of pay deterred people from giving of themselves to community efforts.

MINUTES—Citizen Committee on Mayor and Council Compensation December 2, 1999 Page 4

Ms. Bascom said that in discussions with others about the issue, people had suggested that if the council was paid, the commissioners on the Eugene Water & Electric Board and school boards should be paid for the complex work they do. She did not believe the community could ever adequately compensate elected officials for the work they do, and suggested the committee reconsider whether a lack of pay would prevent people from serving and whether the motivation to serve one's community could be impacted by compensation.

Mr. Bischoff asked Ms. Bascom to respond to the question he had asked the former councilors regarding micromanagement and its relationship to the time spent on council work. Ms. Bascom said that the council needed to use its time wisely and to choose the issues it wished to spend time on carefully. Mr. Bischoff asked Ms. Bascom if she favored paying the council and mayor. Ms. Bascom said no. She pointed out that the mayor received some compensation in the form of an office and a full-time administrative assistant, which was a very big help.

Mr. Zako asked Ms. Swanson Gribskov if a \$50 per meeting stipend would have been sufficient. Ms. Swanson Gribskov said that she would look at National League of Cities' data for more guidance; she was unprepared to suggest an amount. Mr. Zako believed that a per meeting stipend approach would focus councilors on meetings and make them less inclined to do work outside the meeting setting. Ms. Swanson Gribskov reiterated that her suggestion for a stipend was just one option.

Mr. Zako questioned whether the council could reduce the amount of time it currently spent on council business given the number of issues it was being called upon to address.

Mr. Nicholson argued for the importance of micromanagement. He asked how the public's interests were otherwise protected. He said that the council must ensure that the implementation of its policy were done in accordance with its wishes, and that was not currently occurring because councilors were not paid and did not have time to follow-up. Mr. Nicholson also argued that an unpaid council was not likely to be very well-respected.

Mr. Boles said that the council was accused of micromanaging when it asked uncomfortable questions that conflict with the staff's interpretation of the appropriate direction the City should take. It was a convenient code word for "leave us alone; we know what we're doing."

Ms. McDaniels said that many of the issues raised by the former elected officials were unrelated to the work of the committee. She said that another committee for a more comprehensive charter review was envisioned, but the charge of the committee was limited. Mr. Bischoff suggested that the issue of micromanaging needed to be dealt with because it would be raised if a measure regarding compensation was placed on the ballot.

Ms. Bascom said that for local government to work, there must be some level of trust in staff. She said that Mr. Boles and Mr. Nicholson represented the point of view that the council should be watch dogging and more suspicious of staff, but she believed that could use up an enormous amount of time and lead to a break down in organizational morale.

Mr. Nicholson left the meeting.

Mr. Zako asked Ms. Bascom if she had been able, as mayor, to reduce the number of items on the council's agendas. Ms. Bascom said that the council assisted in both approving the agendas and the amount of time devoted to each item, and it had been very helpful to use that approach because everyone was in concurrence as to how to proceed. Ms. Swanson Gribkov emphasized the complexity of the issue the council addressed, and said that the council had attempted to reduce the number of items at each meeting to ensure that adequate amount of time was spent in substantive discussion. Mr. Boles added that the council, if disciplined, could make a short list of what it wanted to work on, and if that list drove the various work plans in the organization the council could spend less time on council work. However, the council was not the only factor driving the agenda; many unplanned for issues arose that must be taken care, such as the potential sale of City Hall. Neither the council nor staff put that item on the agenda, but it must be dealt with. He said that the council had attempted different approaches to agenda items to save time with varying levels of success.

Ms. Swanson Gribkov left the meeting.

Mr. Zako asked Ms. Bascom if she believed it would make sense to have a volunteer police chief, for example, and the distinction between the staff and council. Ms. Bascom suggested that the distinction to some degree was the professional qualifications required for certain jobs.

Mr. Belcher asked if Mr. Boles and Ms. Bascom believed there would be a different perception of the council and mayor's responsibilities and duties if they were paid. Mr. Boles said that the public would be less tolerant of councilors who failed to provide constituent service, or who were unprepared to take action on an issue. He agreed with Ms. Bascom as to the importance of volunteerism, but suggested that a volunteer job that involved 25 to 30 hours weekly and the management of a large corporation was a perversion of the term "volunteerism." Ms. Bascom did not think expectations would change.

The committee thanked Ms. Bascom and Mr. Boles for their time.

Ms. Bascom and Mr. Boles left the meeting.

3. REVIEW OF COMMENTS FROM NOVEMBER 18 PUBLIC FORUM

The committee agreed on a tentative goal of having a draft proposal developed by the end of the next meeting, and further agreed to hold a public forum on the proposal on January 13, 2000, at the Council Chamber if possible.

Mr. Bischoff distributed copies of a motion he had prepared that called for compensation to the mayor and councilors at the rate of \$1,500 and \$1,000 respectively, with the amounts to be adjusted annually by the Consumer Price Index for Portland.

Mr. Belcher asked if the committee had all the information it needed before it proceeded to discussion of Mr. Bischoff's motion. Mr. Hinkley requested information on the committee formed by former mayor Jeff Miller mentioned by Mr. Boles and the information from the National League of Cities mentioned by Ms. Swanson Gribkov.

Mr. Belcher read Mr. Bischoff's motion:

*To recommend the following amendment to the Eugene Charter, Chapter VI, Section 18:
 "The mayor shall be paid \$1,500 per month and councilors shall be paid \$1,000 per month.
 The amount shall be adjusted annually be a percentage equal to that of the federal
 Consumer Price Index for Portland. Neither mayor nor councilors shall receive any City
 fringe benefits. Compensation of other officers shall be proscribed by the council.*

Mr. Bischoff explained the rationale behind his motion, saying he weighed different factors. Half the median income could be closest to being fair, but he did not think the citizens would support the figure. He said that it was easier for people to deal with round numbers, so he arbitrarily chose \$1,000 per month. Regarding adjustments to that figure, Mr. Bischoff said he considered how that might occur, and using the CIP seemed most straightforward and was generally used for the entire state; the information was also readily available.

Regarding fringe benefits, Mr. Bischoff said that it seemed to him to be a political quagmire. It was cleaner and simpler to pay the councilors a stipend, and fringe benefits were something one paid an employee.

Responding to a question from Mr. Zako, Mr. Bischoff said that the measure would take effect in two years, January 2002. He noted that Mr. Zako had advocated for a measure to be instituted four years hence to avoid the appearance of benefitting current councilors. Responding to a question from Mr. Zako, Ms. Fieland indicated the new City budget took effect each year on July 1. Mr. Zako suggested tying the effective date to the budget cycle. Mr. Bischoff did not think that was necessary.

Mr. Glover felt Mr. Bischoff's proposal had merit. He felt the amount was reasonable and close to his own position.

Mr. Hinkley said that there was merit to including a health insurance benefit because many firms did not provide such insurance to part-time people; those who dropped hours to take a council position could lose their benefits. He did not think the cost of adding nine people to an insurance pool was significant. He said that the amount proposed by Mr. Bischoff was low as he had been contemplating \$15,300 annually, or something close to half the median income. He did not see why the measure could not be effective the first January after the election.

Ms. McDaniels advocated for paying the mayor and council a lower amount, suggesting as a starting point \$950 monthly for councilors. She would not put the measures in the charter, although she would amend the charter to delete the provision that no elected officials would be paid. She said that the measure should be implemented as an ordinance referred to the people, and a charter revision measure proposed at the same time. If the measure failed and the charter revision passed, it would provide an opportunity for the City to revisit the issue. Ms. Fieland pointed out that if the charter amendment failed and the ordinance passed, the ordinance would be void.

The committee briefly discussed whether to put the issue in a charter amendment and the potential a future council could change the amount they were to be paid by simple vote.

Mr. Bischoff requested legal counsel be provided as the committee framed its ballot measure.

Mr. Hinkley requested information regarding the current Eugene median income for a family of four, who provided that information, and how frequently. Mr. Belcher asked what measures of income were available locally. Mr. Bischoff requested information about the agency that produced the Consumer Price Index for Portland.

Mr. Zako commented on Mr. Bischoff's proposal, suggesting that 2003 was too far out, and recommending that the proposal take effect July 1, 2001. Regarding health benefits, he suggested that councilors could be given the option to buy into the insurance pool.

The meeting adjourned at 8:10 p.m.

(Recorded by Kimberly Young)

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MINUTES

ATTACHMENT E

Citizen Committee on Mayor and Council Compensation
McNutt Room--City Hall

December 9, 1999
6 p.m.

PRESENT: Jon Belcher, Chair; Don Bishoff, Matt Donohue, Marv Glover, David Hinkley, Pat McDaniels, Rob Zako, members; Mary Walston, City Manager's Office; Jerry Lidz, City Attorney's Office.

Mr. Belcher called the meeting to order. Ms. Walston introduced Mr. Lidz, City Attorney for the City of Eugene. Members also reviewed a copy of the web page on the Citizen Committee on Mayor and Council Compensation included in their advance packets. Also in those packets were surveys from the following individuals: Gary Rayor, Debra Ehrman, Roger Rutan, Emily Schue; and a Memo from David Oaks, Support Coalition International, dated December 9, 1999.

1. PUBLIC COMMENT

There was no public comment.

2. WORK SESSION ON COMPENSATION RECOMMENDATIONS

Committee members were given to a memorandum from committee member Matt Donohue (Donohmat@aol.com) dated December 6, 1999, which provided sample language which might be used for the charter amendment. Members also had available to them 1) a chart (matrix) of *American cities with Eight City Councilors, Population 120,000 to 220,000*, dated stamped December 3, 1999 and 2) the motion by Mr. Bishoff from the previous meeting, which also proposed sample language and set compensations rates for both the mayor and council members.

Mr. Lidz began the discussion by reminding committee members that a charter amendment requires a vote of the people. He commented that the committee might want to propose an amendment drafted such that this issue would not have to be revisited every couple of years. He then stated his view that the committee had to decide how it wants to set the compensation amounts, then set a compensation amount. He noted that if the mayor and council members are compensated, then they are required to participate in the Public Employees Retirement System (PERS) and are entitled to PERS contributions.

The committee began a discussion about how language could be drafted to allow for the inclusion of PERS contributions, but exclude other benefits, except those purchased by council members and/or the mayor. Mr. Lidz suggested language such as, "shall not include benefits, other than those required by law." It was noted that other benefits could be deducted from compensation. Mr. Lidz suggested that

committee allow the city attorney's office to draft charter amendment language following guidelines set by the committee. He indicated that by doing so, the language would be legally correct, yet follow the direction of the committee.

Mr. Zako asked if the draft could be available for Monday's meeting. Mr. Lidz indicated he would attempt to do so but could not make a firm commitment.

Mr. Belcher suggested the committee deal with process questions first, then set the dollar amount after process questions had been answered. Committee members concurred with the process outlined by the chair, and discussed the following several questions:

- 1) What options could be given to voters in allowing them to decide about compensation for council members and/or the mayor? (i.e. chose one of three options for compensation, set compensation rate by charter amendment or by ordinance)
- 2) Should there be language to address cost of living adjustments and if so, should those adjustments be tied to an index. If yes, what index?
- 3) Should the committee recommend a fixed compensation rate or tie it to a recognized index? If tied to an index, what index should be used?
- 4) When should the compensation begin and when should salary adjustments be made?
- 5) Should benefits be available for purchase?
- 6) At what level should the base salary be set?

Following is the committee's discussion of the questions.

- 1) **What options could be given to voters in allowing them to decide about compensation for council members and/or the mayor? (i.e. chose one of three options for compensation, set compensation rate by charter amendment or by ordinance)**

Mr. Bishoff asked Mr. Lidz if there was any way to create a ballot measure that would give voters three options for compensation levels, allowing them to choose a single option. Mr. Lidz said that to the best of his knowledge, this was not permissible. However, he raised a question about home rule and if there might be some provision that could be challenged to allow such a preference vote. Mr. Lidz also noted that an advisory vote would only be advisory, but would not change the City Charter. A charter amendment is required to allow any compensation for council members and/or the mayor.

Mr. Zako asked about a process whereby there was a charter amendment to allow for compensation, but a City ordinance voted on by the people to set the compensation rate. Mr. Lidz noted that an ordinance could then be amended by the City Council. If the ordinance required another vote to set future compensation rates, then it would probably be considered included in the City Charter. Mr. Lidz said he had not considered that structure before.

In responding to a statement by Mr. Lidz that amending the charter can be burdensome, Mr. Zako noted that both charter amendments and city ordinances can be approved with a simple majority. He asked if it would make it more complicated to try a two prong approach. Mr. Lidz said that it seems to be more complicated than need be. He added that the burden was that putting anything out for election was more burdensome than getting a change through the City Council and that in proposing

any election was expensive. He said he did not mean to imply that putting all of the provisions within the charter amendment was a bad idea. He added that tying the compensation amount to an inflation factor made sense.

Mr. Zako asked if there was anything that was being discussed which would prohibit future councils from putting additional charter amendments on the ballot regarding compensation. Mr. Lidz said there was no prohibition.

Mr. Glover arrived.

Committee members agreed that any future change to the proposed compensation should be sent to a vote of the public. Ms. McDaniels noted that the committee had also already agreed that it was appropriate for council members and the mayor to receive compensation.

- 2) Should there be language to address cost of living adjustments and if so, should those adjustments be tied to an index. If yes, what index?**

Before continuing, committee members agreed verbally that they want to include some sort of adjustment for inflation.

Committee members spoke first about using the Consumer Price Index (CPI)-Portland as the referenced index. Further discussions tied both questions two and three together.

- 3) Should the committee recommend a fixed compensation rate or tie it to a recognized index? If tied to an index, what index should be used?**

Mr. Donohue reviewed a proposal he had submitted to the committee, dated December 7, 1999. This proposal uses the CPI-Portland/Salem.

Mr. Belcher asked committee members if they wanted to use the Bureau of Labor and Industry (BOLI) statistics, which include the CPI. Mr. Lidz said he thought Mr. Donohue's proposal made sense, but recommended the committee allow the attorneys to draft language which will meet legal tests. Mr. Belcher noted his desire to tie any index as closely as possible to Eugene area statistics.

Mr. Hinkley distributed a copy of an untitled proposal he had written. This proposal was tied to the "...median income of Lane County Oregon as reported by United States Department of Housing and Urban Development." Mr. Hinkley expressed his belief the mayor and council should get health insurance benefits and therefore he included in this proposal as Section E. He explained the rationale that a 50 percent compensation level was tied to the belief that the council responsibilities were half-time.

During the discussion of this proposal, there was a subsequent discussion about how to make adjustments or correction when indexes became skewed. Mr. Bishoff commented that there may be a mechanism within BOLI statistics to make periodic adjustments, which he believed kept their statistics more accurate. Mr. Donohue suggested that the attorney call the BOLI and ask what index is the best to use over the long haul, which would provide the most stable with lowest volatility. This was in

response to questions raised by Mr. Lidz about using indexes as a reference which in the future might change or be eliminated.

Mr. Belcher asked for clarification from committee members: had they agreed that it was not prudent to tie the compensation rates to the pay of the county commissioners? Committee members agreed that it was not their desire to tie the two compensation rates.

Mr. Belcher articulated the next set of questions to be answered included, 1) How do we set the compensation rates, 2) how do we adjust the rates for inflation, and 3) what method will be more politically viable.

After committee discussion, Mr. Belcher asked for a straw poll on whether members preferred to set a fixed dollar amount for compensation rates or use the median income figures proposed in Mr. Hinkley's draft. All members, except Mr. Hinkley voted to use a fixed dollar amount as the base compensation.

In further discussion, committee members agreed that adjustments to the compensation rate should be tied to an index, specifically the CPI, the median income figures, or some other index that might be recommended by the City Attorney. Members spoke about the desire to tie the change in compensation rate to indexes which were meaningful in Lane County, but which the public would recognize and understand.

The committee asked Ms. Walston and Mr. Lidz to research if other indexes would be appropriate for consideration and to report back to the committee with a recommendation for which index would be preferable. Committee members asked for information about the median housing index and the CPI. Ms. Walston noted that the CPI-Portland is used when building City budgets and was often a factor in providing for cost of living adjustments (COLAs) for City employees. It was an easily referenced index. Committee members noted that it was their intent to tie any adjustment for compensation to a non-political standard. Further information will be provided by staff.

Ms. Walston also noted that if the committee was going to discuss benefits being available for purchase by council members and/or the mayor, the committee would need to discuss which level of benefits would be offered, noting that the City has four different bargaining units with four different levels of compensation.

Before proceeding, Mr. Belcher set out the decisions remaining before the committee: 1) When will the compensation be initiated? 2) What about benefits? 3) What is the dollar amount the mayor and council should be paid? Committee members agreed on the three issues to be discussed.

4) When should the compensation begin and when should salary adjustments be made?

The discussion of when compensation should begin focused on two dates: January 1, the beginning of the calendar year, and July 1, the beginning of the fiscal year. There was also discussion about when current council members and/or the mayor would be eligible for compensation or if they should be re-elected prior to receiving any compensation. Discussion to begin benefits at the beginning of the fiscal year emphasized two points: 1) this would allow for proper budgeting for the expenditures and 2) it

would allow council flexibility in deciding when to submit the proposal to the voters (either May or November).

Ms. McDaniels stressed that compensation was attached to each position, not to a specific councilor or the mayor. This was in response to further discussions about staggering council members into compensation based on when they were elected. Concern was voiced about beginning compensation for any council position, and the inequity it would create if all members did not begin receiving compensation at the same time.

It was move by Mr. Zako and seconded by Mr. Bishoff that compensation start on July 1, 2001, and be adjusted thereafter on July 1 of each year, in cycle with annual City budget. The motion passed unanimously.

5) Should benefits be available to council members and/or the mayor?

The discussion about benefits for the council members and the mayor focused in two areas: 1) benefits "as required by law" and benefits that council members and/or the mayor might buy into.

Mr. Hinkley expressed concern that being an elected official did not allow people to work in other positions which were likely to offer benefits such as health insurance. He suggested that council members and the mayor be allowed to buy insurance with other City employees, using the lowest level of benefits as the standard.

Mr. Bishoff suggested an amendment to the proposal written by Mr. Donohue. ". . . Neither mayor nor councilors shall receive any fringe benefits, but may and councilors shall have the option of purchasing health insurance from the City health insurance pool ~~at a reasonable cost not to exceed the cost to include another individual in the City health insurance pool.~~" Committee members seemed in agreement to the amendment. In addition, committee members had previously asked Mr. Lidz to include language about benefits, "other than those required by law," as it was council's opinion that participation in PERS was required if compensation was given to council members and/or the mayor.

Mr. Zako said that while he agrees with Mr. Hinkley's proposal he felt that it was politically very sensitive to offer other benefits to the council or mayor. Mr. Lidz was asked if offering benefits to council members and/or the mayor would be considered a "benefit" because they could receive health insurance at a discount. Mr. Lidz said that he would have to give this issue further consideration. He added that he was not clear if there was a "City health insurance pool" but that he understood the committee's intent and would try to draft language to address this issue.

Other questions about compensation included: 1) Does reimbursement count as compensation? Mr. Lidz said no. 2) Could buying into a health insurance could be construed as a compensation because of the discount on health insurance premiums? Mr. Lidz said he would research this further. 3) Are trips and seminars considered benefits or compensation? Is reimbursement for City-related expenses compensation? Mr. Lidz replied that they are currently considered "City business" and would continue to be treated in the same manner. They were not benefits or compensation and did not need to be addressed in the charter amendment.

Mr. Bishoff voiced his preference for something similar to that proposed by Mr. Donohue. Committee members concurred and Mr. Lidz noted the committee's intent to allow council members and/or the mayor to have the option to purchase health insurance out of the compensation they were given.

There was further discussion about what was required to become vested in PERS and how the employee and employer contributions were made from the City to PERS. PERS contributions are required for anyone working 600 hours or more annually and both employee and employer contributions must be made. The City currently makes both employee and employer contributions for other City employees and therefore, would have to make the same contributions for council members and the mayor.

Mr. Belcher asked if there was agreement amongst committee members that the mayor and council members should be able to get health insurance benefits, but that they would have to purchase those benefits. No other benefits would be offered to the mayor and/or council members. There was no objection from any committee member to this concept. Mr. Lidz was asked to draft language that encompassed the concept of offering health insurance buy-in as drafted in Mr. Donohue's proposal.

Having made the substantive decisions needed for Mr. Lidz to draft a sample charter amendment, except for compensation levels, Mr. Lidz left.

6) At what level should the base salary be set?

Before proceeding, committee members reviewed what had been agreed upon:

- 1) The mayor and City Council members should be paid, beginning July 1, 2001 at a rate yet to be determined.
- 2) The compensation should be adjusted by some commonly used index, tied as closely as possible to the Eugene community.
- 3) No fringe benefits will be offered except those required by law. (PERS)
- 4) The mayor and council members will be offered an option to buy into health insurance offered other City employees, if permissible. (Lowest level health insurance package)

Committee members were asked to set identify specific amounts for compensation for the mayor and for council members. Those who offered specific proposals are outlined below.

	Proposed Mayor Compensation	Proposed Council Compensation
Mr. Bishoff	\$1,500	\$1,000
Mr. Donohue	\$2,000	\$1,200
Mr. Hinkley	\$3,000	\$2,000
Ms. McDaniels	\$1,200	\$950

During the discussion of setting compensation amounts, members were also asked to explain their thinking for each proposal.

Mr. Bishoff said that although arbitrary, his proposal was based on what he perceived would be politically "saleable." He said he felt the actual compensation amount should be doubled, but had concerns about the political issues.

Mr. Donohue said his proposal was for higher compensation amounts to "push the issue" and see where limits really were in providing compensation. He said that access of candidates to serve in office is limited by lower levels of compensation. He spoke in support of any rate that was politically at the top of the saleable level, but within what the public believes is reasonable and below average income.

Mr. Zako commented that he rejected Bob Cassidy's premise from an earlier meeting that successful council members should be compensated for their election costs and that this was a mechanism for accomplishing that. He concurred that an important issue was enlarging the candidate pool. He asked if there was an amount high enough to allow citizens to serve who could not serve now? He suggested that no rate be set tonight, but that the committee wait until the public forum in January for input. He voiced concern that \$1,000 might be too low to make a difference, but may be as high as is politically feasible.

Mr. Glover concurred that the compensation should not be tied to any notion of paying for campaign costs. He said that he believes a higher amount is more realistic, but did not believe it could be sold at the ballot box. He felt that the \$1,000 rate was pushing the tolerance of the electorate. He stressed that there would still be a long education process. He would not go less than \$1,000.

Mr. Hinkley said his proposal of \$2,000 for council members and \$3,000 for the mayor was based on compensations offered to area legislators. He also asked committee members to keep in mind that taxes would take at least 30 percent of the compensation. He said he could support rates down to \$1,500 for council members, but felt that starting at a higher rate would be politically better.

Ms. McDaniels said that while she personally liked the higher figures used by Mr. Hinkley, she felt Mr. Bishoff's proposal was more politically on target. She went on to support the recognized the survey suggestion of Emily Schue to offer council members \$800; the mayor \$1,200. She suggested a council amount of \$950.

Mr. Belcher noted that this is the eighth time a charter amendment has been proposed on this issue in the last century. None had been successful. He said he sensed a significant percentage of the population that does not feel that there should be adequate pay to allow someone get a "living wage" by being a part-time councilor. He supported Mr. Bishoff's proposal.

Mr. Zako expressed concern that there was no real scientific survey or data which had been used to propose various rates, but that all were less than a living wage. He underscored the overall committee's concern about what would be politically attractive. He suggested that the committee propose one of the higher compensation rates and then seek input at the public forum. He said that the committee could then move that number downward if public comments suggested that lower rate were more appropriate.

Mr. Belcher spoke to using a process of surveying during the public forum to use three or four figures and get a preference vote from those attending the forum. Ms. McDaniels supported an advisory vote at the January forum.

It was moved by Mr. Bishoff and seconded by Ms. McDaniels to set the compensation rates at \$1,000 for council members and \$1,500 for the mayor.

After further discussion of the issue, Ms. McDaniels moved to table the discussion to the next meeting (Monday, December 13). The motion was seconded by Mr. Donohue. The motion to table passed unanimously.

The meeting adjourned at 8:20 p.m.

(Recorded by Kris Aanderud)

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MINUTES

ATTACHMENT F

Citizen Committee on Mayor and Council Compensation
McNutt Room--City Hall

December 13, 1999
6 p.m.

PRESENT: Jon Belcher, Chair; Don Bishoff, Marv Glover, David Hinkley, Pat McDaniels, Rob Zako, members; Mary Walston, City Manager's Office staff.

ABSENT: Matt Donohue, member.

Mr. Belcher called the meeting to order and reviewed the agenda.

1. PUBLIC COMMENT

No one wished to provide comment.

2. WORK SESSION ON COMPENSATION REQUIREMENTS

Ms. Walston provided the committee with the most recent data regarding the Lane County median household income, which was provided by Lane Council of Governments. She explained that the number of people in a household was not defined, and that data specific to Eugene was not available. She concurred with a statement from Mr. Belcher that the information was not computed annually.

Ms. Walston provided information on City-provided health benefits, saying she had consulted with City Benefits Manager Myrnie Daut. Ms. Daut had suggested that rather than offering councilors the opportunity to purchase into the City health plan, the City simply include the councilors in the plan, which would probably save money in the long-term and was lower in cost because all participants had equal coverage. She estimated the costs of health benefits at approximately \$4,500 per year. Ms. Walston indicated she would secure more detail about health benefits.

Mr. Bishoff asked if any of the costs of health insurance was currently shared by employees. Ms. Walston indicated that some employees shared in some of the costs of covering their families.

Committee members briefly discussed the costs of health insurance and what was included in those costs. Mr. Zako urged the committee to focus on writing a charter amendment that was sufficiently flexible to accommodate health insurance later, if necessary. Mr. Bishoff disagreed, suggesting that given the costs it would be best to be upfront about what was involved. He believed the committee should take another look at the issue of providing health insurance.

Mr. Glover suggested that the City could make insurance available to councilors but not pay it. He believed health insurance could be secured at a lower rate elsewhere.

Mr. Zako did not think the committee wanted to incorporate benefits in to the charter amendment. Ms. McDaniels agreed. Mr. Belcher concurred, saying it would be a fatal flaw if the committee included benefits in the amendment and was not clear about that fact.

Mr. Belcher referred to previous information requests and asked if staff had any knowledge about a report about council compensation done during the administration of Jeff Miller. Ms. Walston did not recall a formal City process, and indicated she would follow up to see if it was a private effort. Mr. Belcher asked if staff had been able to secure any more information about compensation from the National League of Cities (NLC). Ms. Walston said no. Mr. Bishoff questioned why more information was needed given the information already provided. Mr. Hinkley recalled that the committee requested the information to ensure that there were no surprises. Mr. Belcher said he had looked at the NLC Web site and had not been able to find any information. The information already provided had been secured from similarly sized cities.

Mr. Belcher asked Ms. Walston to secure copies of the memorandum drafted by City Attorney Glenn Klein regarding preference voting for distribution to committee members. Ms. Walston indicated she had copies and would provide them.

The committee reviewed former councilor Bobby Green's responses to its survey regarding council and mayor compensation.

The committee considered a draft charter amendment, as follows:

Section 18 of the Eugene Charter of 1976 is hereby amended as follows:

Section 18. Compensation

(1) The mayor shall be paid \$_____ per month and the city councilors shall be paid \$_____ per month. The amount of compensation for mayor and councilors shall be adjusted annually be a percentage increase or decrease equal to that of the Consumer Price Index for the Portland, Oregon area, or if that index ceases to exist, another index that measures the changes in the cost of living. The mayor and councilors shall receive no fringe benefits except those required by state law, but the mayor and councilors shall have the option of purchasing health insurance from the city health insurance plan.

(2) The compensation for services authorized in subsection (1) above is in addition to, and not in lieu of, reimbursement for actual services incurred by the mayor and city councilors in the performance of their services as mayor and city councilor.

(3) The mayor and councilors shall begin receiving compensation authorized in subsection (1) above on July 1, 2001, and annual adjustments shall take effect on July 1 of each year.

(4) The compensation of other officers shall be proscribed by the council.

MINUTES—Citizen Committee on Mayor and Council Compensation December 13, 1999 Page 2

The committee briefly discussed the appropriateness of the Consumer Price Index to make adjustments to the compensation paid to the mayor and council. The committee agreed that it was important that the mechanism to raise compensation levels should be defensible to the public.

Mr. Bishoff moved, seconded by Mr. Hinkley, to retain the text related to the Consumer Price Index in section (1) of the draft charter amendment, and to modify the text as follows: ". . . another index that measures the changes in the *local* cost of living. . ."

Mr. Bishoff said that most people could identify with and understand the CPI; he believed other methods were more speculative. He said for political reasons, the measure should be as clear and understandable as possible. Mr. Zako agreed, but asked what would happen if the Portland Consumer Price Index ceased to exist; who would decide the appropriate index to use? What would compensation be indexed to? The committee briefly discussed Mr. Zako's concern, and Mr. Bishoff withdrew his motion, with the concurrence of Mr. Hinkley, until the committee had more information on available indexes.

The committee noted that section 4 in the draft amendment was erroneously labeled as section 3 and revised the draft to correct the error.

Responding to a question from Mr. Zako, the committee agreed to retain the text related to health insurance until it had more information. Mr. Bishoff pointed out that the text represented no additional costs to the City.

Mr. Zako moved, seconded by Mr. Hinkley, to modify the text in the draft amendment to change the effective date for annual adjustments to the beginning of the new fiscal year instead of July 1.

The committee discussed the City's fiscal year and the potential that the fiscal year end could be changed in the future.

Mr. Hinkley suggested that the text be modified to indicate that starting effective 2002, annual adjustments shall take effect after the beginning of each fiscal year. Mr. Belcher suggested that alternatively, the text be modified to read "shall take effect thereafter at the beginning of each fiscal year." The committee concurred. Mr. Zako suggested that the committee articulate its concerns and refer the motion to the City Attorney's Office for the appropriate text. The committee concurred, and Mr. Zako and Mr. Hinkley withdrew the motion.

The committee discussed a series of figures to consider as compensation levels for the council and mayor. Mr. Hinkley said that the committee needed to ensure that the number was not only acceptable to the public, but could be justified to the public as well. Mr. Belcher concurred. Mr. Zako said that the committee may not have time to justify the figures in time for the public forum, but could do so before it forwarded its recommendation to the council. He added that some committee members think some compensation levels are more fair than others, but not necessarily more justified. Ms. McDaniels said that the committee should not lose sight of the politics of the issue, however.

Mr. Bishoff urged the committee to be upfront about the fact that many members wished to pay the mayor and council higher amounts than those proposed, but did not think they were acceptable to all members of the community. Mr. Belcher observed that there was community resistance to paying the councilors because citizens did not wish for council service to be the source of councilors' primary livelihood. He suggested that the amount the committee recommended was a balance between those tensions. Mr. Glover pointed out that bad publicity could be generated if the committee's recommended figure was too high, making a subsequent attempt to compensate councilors even more difficult.

The committee briefly discussed how it would address public input following the public forum. Mr. Belcher asked what the committee would do if the input was very different from its recommendation. Mr. Bishoff said that whether he supported changes to the recommendation after the public hearing depended on the number of those who in attendance and the variety of attendees. He did not think the people who had attended the last forum were representative of the community. Mr. Belcher agreed that it was necessary to recognize the quantity and quality of input in terms of the breadth of community representation.

The committee returned to Mr. Bishoff's motion, tabled at the meeting of December 9:

It was moved by Mr. Bishoff and seconded by Ms. McDaniels to set the compensation rates at \$1,000 for council members and \$1,500 for the mayor.

Mr. Bishoff moved, seconded by Ms. McDaniels, to take the motion off the table. The motion passed unanimously, 6:0.

The committee discussed the amounts proposed for compensation for the City Council. Mr. Hinkley argued for a higher amount, such as \$2,000, which was closer to what was paid to State legislators. Mr. Belcher believed that a higher amount was problematic because voters would weigh the proposed amounts against what they earned. Mr. Glover agreed, saying that peoples' perceptions would affect their response to the issue. He supported \$1,500 monthly for the council. Mr. Zako was satisfied with the figures in the motion. He emphasized that the intent of compensation was to ensure more people could serve and questioned whether increasing or decreasing it by a few dollars would matter.

The committee agreed, by a vote of 5:1, with Mr. Hinkley voting in opposition, on a figure of \$1,000 monthly for council compensation.

The committee moved on to discussion of compensation levels for the position of mayor.

Mr. Zako and Mr. Hinkley supported paying the mayor \$2,000 monthly. The committee discussed the amount of time the mayor spent on the job, and agreed it was considerable. Mr. Zako said that outside the workload involved, the quality of those seeking the office was a factor for him. He did not think that one could be mayor and still hold a part-time job. It was pointed out to Mr. Zako that past mayors had worked both part-time and full-time. Mr. Zako did not think it was possible for someone who was not self-employed to effectively hold a job and still be mayor. Mr. Belcher observed that many recent mayors had either been retired or had been self-employed. He thought it was difficult for a person holding a regular job to serve as mayor.

Mr. Zako moved, seconded by Mr. Bishoff, to establish the compensation level for the mayor at \$2,000 monthly.

Mr. Zako suggested that since the mayor worked twice as hard as councilors, the mayor should be paid twice as much as councilors.

Mr. Bishoff indicated he seconded the motion for the sake of discussion, but believed that \$2,000 monthly was too high. Ms. McDaniels and Mr. Glover agreed. Mr. Belcher was undecided; he felt that some would see the amount as too much, and some would see it as too little.

The committee opposed, by a vote of 4:2; Mr. Zako and Mr. Hinkley voting yes, \$2,000 monthly for mayoral compensation.

The committee supported, by a vote of 6:0, compensating the mayor at a level of \$1,500 monthly.

The committee discussed the upcoming public forum at which its recommendation would be considered by the public, and agreed that Mr. Belcher would make himself available to the press to answer questions. The committee further agreed that members would attempt to do community outreach through local radio programs, such as the Victor Boc Show on KUGN and Allen Siporin's public affairs program on KLCC.

The meeting adjourned at 7:50 p.m.

(Recorded by Kimberly Young)

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MINUTES

ATTACHMENT G

Citizen Committee on Mayor and Council Compensation
McNutt Room--City Hall

January 6, 2000
6 p.m.

PRESENT: Jon Belcher, Chair; Don Bishoff, Marv Glover, David Hinkley, Pat McDaniels, Rob Zako, members; Mary Walston, City Manager's Office.

ABSENT: Matt Donohue, member.

Mr. Belcher called the meeting to order. He then asked committee members for agenda items. The agenda set by the committee included: 1) review of minutes from previous meetings, 2) media outreach, 3) structure for the public forum scheduled January 13, 2000 at 7:30 p.m., and 4) health insurance issues.

1. APPROVAL OF MINUTES

The following corrections were noted for minutes:

Minutes of November 12, 1999:

in the lead section, "PRESENT" (the listing for members and staff present), Mary Walston should be listed as staff with the City Manager's Office and Don Bishoff's name is misspelled.

Minutes of December 2, 1999:

in the lead section, "PRESENT", Mr. Bishoff's name is again misspelled.

Minutes of December 9, 1999:

On page 5, in the paragraph beginning with, "Mr. Bishoff suggested an amendment . . . but *may* and councilors shall have the option of purchasing . . ." It should read, ". . . but mayor and councilors shall have the option of purchasing . . .".

On page 7, in the paragraph beginning with, "Ms. McDaniels said that while she personally liked . . . She went on to support the *recognized the survey* suggestion of Emily Schue . . .". This sentence should read, ". . . She went on to support the suggestion of Emily Schue . . .".

It was moved by Mr. Hinkley and seconded by Ms. McDaniels that the minutes of November 12, December 2, and December 9, 1999 be approved as corrected. The motion passed unanimously.

2. HEALTH INSURANCE BENEFITS

Ms. Walston provided members with a **Memorandum from Myrnie Daut, Human Resources and Risk Services**, dated December 27, 1999, that outlined and compared health insurance benefits which could be made available to the mayor and city councilors.

Mr. Bishoff asked why it was common practice in municipalities in Oregon to only allow councilor's who do not have other health insurance coverage to purchase coverage through the governments' plans, as noted in paragraph two of the memorandum. Ms. Walston suggested that one reason might be to limit the cost that other municipalities might pay for health insurance benefits for their city councilors. Mr. Bishoff noted that the proposal made by this committee was to potentially allow the mayor and city councilors to purchase health insurance, but did not cost the City any money.

Mr. Belcher asked committee members if they felt it was necessary to include the language about health insurance coverage in the charter amendment. Committee members concurred that the language should be included.

3. FEEDBACK ON COMMITTEE WORK

Mr. Belcher referred committee members to a **Memorandum from Rob Zako to Mary Walston** dated January 3, 2000 (8:22), which included input about the work of this committee from members of the Citizen's Committee on Public Accountability (CPA).

Ms. McDaniels suggested the input be included with the public comments received at the public forum next meeting.

Mr. Bishoff noted the suggestion that there be a sunset provision included in the charter amendment. Ms. McDaniels asked if a sunset provision could be included in a charter amendment. Ms. Walston was asked to review this issue with the city attorney's office. Without objection, the committee agreed to delay discussion of the comments until the public forum.

4. MEDIA INVOLVEMENT

Mr. Belcher reviewed for committee members his efforts on press outreach, included in a **Memorandum from Jon Belcher to Mary Walston**, dated January 4, 2000. Mr. Belcher reported that he had called into Alan Siporins program last Sunday. He noted Mr. Siporins expressed interest in a full media session as this issue was placed on the ballot and elections neared.

Mr. Belcher noted some of the comments from those in attendance at the Rubicon Society held today. He said his presentation included a brief history of the two committees and what was currently being proposed. He was asked by committee members to provide a written record of the comments he had received. Below is a list of items he reviewed with committee members:

- Expenses to the City should include all costs, including salary and Public Employee Retirement System (PERS) contributions, etc.
- Council members should be required to keep hourly records of the work they perform—paid for a certain number of hours per week, but mandatory reporting of all hours spent.

- Even at the proposed compensation levels, compensation might still attract people who were looking for a job, rather than people who wanted to serve the community.
- Suggestion for timing for placement on the ballot in May versus November.
- Suggestion that the state compensation package (legislative benefits) be used as the council compensation package (\$1,300 salary per month and benefits allowed)
- Suggestion to only compensate the mayor, not council members.
- Question - Should there be term limits for the mayor and/or for city councilors?
- Question - What would be the effective date for beginning compensation?
- Suggestion to not allow a council member to be paid until re-elected.
- Question - How is the issue going to be placed before the voters? Would the councilors be active in presenting the information?
- Question - Has the committee considered the increased number of litigations that might result from compensating the mayor and councilors?
- Question - If you pay the council, should you then pay members of the Planning Commission, Budget Committee, LCC Board, etc.? Committee members soundly said no, they are not comparable.

Mr. Belcher noted that he encouraged guests of the Rubicon Society to address comments to the committee or plan to attend the public forum next week.

Mr. Bishoff endorsed the suggestion to disclose all costs to the City, including PERS expenses. He noted that the disclosure did not have to be included in the charter amendment, but should be disclosed in discussions about the charter amendment. He also noted that PERS was required by state law and that it was not within the City's control to choose to participate or not.

Mr. Bishoff stated he believed city councilors could present information on this issue, and that he perceived this to be different than Congress, which sets its own salary. He noted, however, that this issue was clearly going to be political.

Mr. Hinkley asked that a short PERS "101" briefing be prepared, that members of this committee could use when trying to explain and discuss the PERS issue. Mr. Bishoff asked for a briefer statement, one that would include the actual costs the City.

Mr. Zako said there had been questions raised about how the City would pay for this proposal, which articulates the need to reflect the true costs of the proposal when discussing it publically.

Mr. Hinkley asked for a written summary of the comments Mr. Belcher had received.

Mr. Belcher noted another media contact he had made included Victor Boc of KUGN. Mr. Boc has scheduled Mr. Belcher or other committee members to be on his show next Wednesday at 4:00 p.m. for approximately 20 minutes. Mr. Belcher noted that this was the day before the public forum.

Mr. Zako suggested that two committee members be interviewed. It was suggested the Mr. Belcher and Ms. McDaniels represent the committee during the interview. They agreed to meet at Mr. Belcher's house.

Mr. Belcher also noted that he had contact with both the *Register Guard* and *Willamette Weekly* today. He noted a press release will be sent out tomorrow by Ms. Walston.

The committee briefly noted an editorial in the December 26, 1999, *Register Guard*, **Considering Council Pay**. It was commented that the editorial seemed more neutral on the issue of compensation, backing off their "strident opposition" noted in earlier editorials. A copy of the editorial was passed among members.

Mr. Bishoff asked if any committee members had seen an article in the *Oregonian* after the December 13, 1999, meeting. He said he had been told the *Oregonian* story misquoted that the recommendation for providing for compensation was a recommendation of the city council. Ms. Walston was asked to be sure Alice Talmage, the local *Oregonian* correspondence, receive a copy of the press release about the committee's upcoming public forum.

5. STRUCTURE FOR PUBLIC FORUM (scheduled January 13, 2000 at 7:30 p.m.)

Mr. Belcher first asked members to comment on a potential handout for next week's public forum, entitled "**What Do You Think About Pay?**" drafted by Ms. Walston at Mr. Belcher's request. Committee members liked the concept of the handout. Ms. McDaniels suggested that the current charter language be included in the handout. A typographical error was also noted in fourth line of Section 1, ". . . Portland, Oregon area, or, if f that Index ceases to exist, . . ." Delete the "f" after the word "if".

Mr. Belcher handed out a **Draft Preference vote ballot** that he had designed. Committee members also expressed approval of this as a tool for gathering public input. Mr. Zako suggested that the notations of "1st", "2nd", "3rd", and "4th" be dropped in the instruction section, although he voiced approval of the instructions. Two typographical errors were noted: 1) in the title, ballot is misspelled and 2) in the fifth line of the Mayor Compensation section, "\$2400" should be "\$24,000".

Mr. Belcher suggested that at the public forum scheduled for next week, the format include a brief introduction statement on the work of this committee and how this proposal has progressed during the process. Committee members noted their desire to sit in the well of the council chamber, not on the dias.

Based on the number of public in attendance and wishing to make comment, the following 3 options will be entertained in receiving testimony:

- 1) Take testimony allowing no questions or comments from committee members.
- 2) Take testimony allowing only clarifying questions.
- 3) Take testimony and committee members will be allowed to ask questions and/or give comments.

Referring back to the proposed handout, **What Do You Think About Pay?**, Mr. Hinkley noted the exclusion of the compensation rates of Portland and Seattle city councils. Committee members asked Ms. Walston to expand the list of bullets or make amendment to the footnote to more accurately reflect the inclusion or exclusion of certain cities like Portland, Seattle, Spokane, etc. Committee members declined to expand the list of bullets for other areas (i.e. councilors review on average 7000 pages of

paper) which might be considered more politically in support of providing compensation.

6. FUTURE MEETINGS AND COMMITTEE REPORT TO COUNCIL

Mr. Bishoff stated his belief that the committee won't need three additional meetings following the public forum. Committee members agree after the public forum, they would be better able to determine the need for future meetings.

Mr. Hinkley spoke to the committee's report to city council. He suggested the report include the proposed charter amendment language, a brief discussion of the process, and the options considered on all the major subject issues discussed by the committee, including the ranges of compensation considered. Mr. Hinkley also suggested the committee include a brief discussion of the committee's thoughts on the timing for placing the charter amendment on the ballot (May versus November). Although the committee has not reached consensus on when the amendment should be placed on the ballot, members agreed that this issue should be included in the report.

Mr. Zako asked if the committee wanted to include its own arguments both in support and opposition of the proposal, including the comments the committee has received from the public. Committee members suggested that the report to the city council be a brief executive summary--less than six pages--three pages front and back--with addendums following, including minutes, e-mails, testimony, etc.

Mr. Belcher, as chair of this committee, agreed to appear before the city council to make a brief presentation and to answer questions council members might have during their consideration of the charter amendment.

Ms. Walston noted that the city council's public hearing for the charter amendment is scheduled for February 14, 2000. The council needs to make a decision about placing the amendment on the ballot in May by February 25, to be able to include information in the voter's pamphlet. Mr. Hinkley requested these two dates be included in the proposed handout for the public forum.

Mr. Bishoff moved for adjournment. Mr. Zako seconded. The motion passed unanimously.

The meeting was adjourned at 7:30 p.m.

(Recorded by Kris Aanderud)

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MINUTES

ATTACHMENT H

Citizen Committee on Mayor and Council Compensation
McNutt Room--City Hall

January 13, 2000
7:30 p.m.

PRESENT: Jon Belcher, Chair; Don Bishoff, Matt Donohue, Marv Glover, David Hinkley, Pat McDaniels, Rob Zako, members; Mary Walston, City Manager's Office.

1. PUBLIC HEARING ON PROPOSAL FOR MAYOR AND COUNCIL COMPENSATION

Mr. Belcher called the meeting to order. He asked committee members to introduce themselves.

Mr. Belcher reviewed the rules of the public hearing, noting that each person offering testimony would be given five minutes to do so.

At Mr. Belcher's request, staff distributed copies of a preference ballot regarding compensation levels for the mayor and council to those present. Mr. Belcher asked those present to complete the ballot and return it to staff.

Mr. Belcher provided background on the proposed charter initiative, describing the previous committee formed to consider the issue of council and mayor compensation as a short-term committee that had reached the conclusion there should be some form of compensation, but no consensus on what form that compensation should take. He said the committee considered a variety of options before submitting a final report to the council that lead to the appointment of the current committee.

Mr. Belcher reviewed the charter amendment proposal.

Mr. Belcher opened the public hearing.

Bruce Miller, 88 West 29th Avenue, distributed copies of recent articles and editorials related to council and mayor compensation from *The Register-Guard*.

Referring to the proposed amounts in the preference ballot, Mr. Miller advocated for paying the mayor the highest amount, \$100,000 annually. He said that the City's elected officials were dealing with people such as lobbyists and administrators who are top professionals in their fields, and businesses employing those people were not sending volunteers to deal with the City of Eugene. Mr. Miller said that the council and mayor needed to be the best people that could be found. He said that it was penny-wise and pound-foolish for Eugene to have uncompensated elected officials. Mr. Miller suggested that the mayor and council could cause harm through such things as the Ferry Street Bridge project, and questioned whether the project was worth it given the harm to businesses.

MINUTES—Citizen Committee on Mayor and Council Compensation January 13, 2000

Page 1

Mr. Bischoff asked Mr. Miller how realistic it was to expect voters to support compensating the mayor at the level of \$100,000 annually. Mr. Miller did not know, and said the proposal should be considered even if it was ultimately rejected. He believed that his arguments in support of compensation, if presented to the public, could sway public opinion to favor that position as well.

Rob Handy, 455-½ River Road, believed a stipend or salary for the City's elected officials was not unreasonable. He did not have an opinion on how much such a stipend or salary should be, and said he would leave that to the committee. Mr. Handy went on to speak about his concerns regarding the manner in which councilors were elected in Eugene, opposing any switch from the ward system to an at-large system. He said that in at-large campaigns money was the dominant factor, and elected officials in such systems lose touch with their constituents. He said that if the City did move to an at-large system, it should employ preference voting, which works well in other communities.

Nick Urhausen, 2858 Warren Street, said that he would agree with the other speakers if the City had a strong mayor rather than a mayor that carried out mostly ceremonial duties. For example, he said, the mayor had been unable to address his concerns about the City's institution of domestic partner benefits. Mr. Urhausen said that he would support compensation for the council if it had more power. However, given the current situation, he opposed compensation for the City's elected officials.

Mr. Urhausen suggested that if the committee went forward, it place two initiatives before the voters, one specific to the mayor and one specific to the council. He recommended that the committee also propose that the mayor be given the power to vote in all instances, rather than only break tie votes. He said that the mayor was elected by all people but had the least power among the elected officials.

Mr. Urhausen also urged the committee to keep separate the concept of elected officials and public employees. He opposed offering elected officials either health insurance or PERS (Public Employees Retirement System) benefits.

Mr. Urhausen provided copies of a pamphlet distributed by the Social Security Administration related to recipient benefits, and said that those who were disabled or retired would lose their Social Security benefits if their compensation was considered "substantial." The federal government considered \$700 monthly to be the threshold for "substantial" earnings. He suggested that a stipend of \$700 and a per diem as an alternative, maintaining that per diem payments do not count against disability benefits.

Responding to a question from Mr. Glover, Mr. Urhausen did not think that a Social Security recipient would be able to reject a salary that had been earned. Responding to a follow-up question from Mr. Bischoff, Mr. Urhausen said that the number of hours worked was not at issue to the Social Security Administration, which equated "substantial" with money rather than time.

Responding to a request from Mr. Zako to comment on the current structure of City government in Eugene, Mr. Urhausen said the elected officials did not have much power and could not hire or fire anyone. He reiterated his discontent that the elected officials had told him they were unable to discuss the subject of domestic benefits with him. He said that he did not like the city manager form of government because he believed Eugene was too big for it.

Kevin Hornbuckle, North Adams, believed that Mr. Urhausen was confused about the power the

mayor had. He disagreed that the mayor's duties were largely ceremonial, pointing out it was work to run a meeting, but ceremonial to act on the behalf of businesses. He believed that the mayor could have halted the June 1, 1997, disturbance by directing staff to wait on tree removal.

Mr. Hornbuckle believed that the elected officials were compensated by job offers and other subtle forms of compensation, and that those forms of compensation had the effect of impacting councilors' votes. He said that current councilors had several conflicts of interest that were not being addressed, and asserted the mayor had benefitted financially from inside information related to the location of Hyundai in west Eugene.

Mr. Hornbuckle supported giving councilors the same health benefits given to department heads. He said that councilors have to pay for housing and food, and should be compensated; whenever a councilor was not working they were losing money. He said that his financial situation was not improved by his service as a councilor.

Responding to a question from Mr. Donahue, Mr. Hornbuckle did not recall the figures he had previously suggested for compensation, adding that he was unsure that any figure made a difference without the inclusion of health insurance. He said that health insurance costs were so high they would consume a considerable percentage of the figures suggested by the committee.

Mr. Bischoff asked Mr. Hornbuckle what compensation figure he believed was politically viable. Mr. Hornbuckle was unsure, believing that the information campaigns run by the local media and business community would have an impact.

Mr. Hornbuckle addressed accusations of council micromanagement, suggesting that it was not micromanaging to raise a question about a department, and adding that the "ruling elite" did not want councilors to have either the time or money to investigate policies that served them.

Mr. Hornbuckle disagreed with the conclusion of the City Attorney's Office that the City could not place two questions on one ballot.

Tim Laue, , questioned the inclusion of subsection (4) in the charter amendment, saying it was confusing. He agreed with Mr. Hornbuckle that health insurance should be included in the compensation package. Mr. Laue also agreed with Mr. Hornbuckle that service on the council could negatively impact one's financial status. He suggested that the committee think of the issue in terms of a single mother with two children; what would it take to support that family? Mr. Laue supported the current structure of City government, and suggested that the separation be kept clear by referring to the compensation as a stipend. He proposed a stipend of \$1,500 for duties performed, plus health insurance, for the council. Mr. Laue urged the committee to avoid the Portland model of government, where a 28-year old could serve as the director of public works.

Mr. Laue favored compensating the mayor at the level of \$2,000 to \$2,500 to recognize the amount of work involved in the position as well as the size of the organization. He likened the mayor to the director of a large company, and said that such an individual would earn at least \$100,000 annually.

Mr. Bischoff asked Mr. Laue the legal significance of paying the councilors and mayor a stipend rather

MINUTES—Citizen Committee on Mayor and Council Compensation January¹³/₆, 2000 Page 3

than a salary. Mr. Laue responded that calling compensation a stipend made it clear that the intent of the measure was not to make councilors paid employees.

Mr. Hinkley explained to Mr. Laue that the City Attorney's Office recommended that the committee retain subsection (4) because it authorized the council to set compensation levels for the city manager and Municipal Court judges.

Mr. Hinkley asked Mr. Laue what compensation for the council he believed the public would find acceptable. Mr. Laue suggested \$1,500 would recognize the work done by councilors but was not so high that it would be an incentive to run, but it would allow people who currently could not afford to run for the council to do so in the future.

George Beres, , said the statements made by Mr. Hornbuckle were the rationale for his points. He recommended that the committee propose compensation levels double those in the proposal under consideration. Mr. Beres said that elected officials should be paid to broaden the list of those who could run for office. He said that it could enable parents of school age children to run for office. He believed the higher levels of compensation he proposed were necessary to counter the impact of money from campaign supporters that could create a conflict of interest, as well as lessen temptation. Mr. Beres suggested that if the elected officials were paid the City might go further and establish publicly funded campaigns to avoid high priced races for office with disproportionate contributions from wealthy people.

Mr. Hinkley asked if Mr. Beres felt his proposal would be acceptable to the voters. Mr. Beres believed that a public information campaign based on the points he made and Mr. Miller's point about sending volunteers to deal with professionals would help ensure its passage. Mr. Hinkley asked Mr. Beres if, given the scope of the committee's charge and its inability to address the issue of publicly financed campaigns, he still supported compensation for the council and mayor. Mr. Beres said yes.

Jim Hale, , advised the committee to include health care benefits in the amendment, suggesting that to do otherwise would complicate the issue. He believed that many councilors would not need to take advantage of the benefit anyway because of personal circumstances. Mr. Hale recommended that the benefits offered councilors be the same as those offered to members of the City's largest bargaining unit.

Mr. Hale advocated for paying the mayor more than what the committee proposed in the charter amendment. He said that the City needed a full-time mayor. He recommended for paying the mayor the same amounts paid to the Board of County Commissioners.

Mr. Hale observed the fact that the current mayor choose to run again unsalaried might work against a ballot measure.

Mr. Hale agreed with Mr. Hornbuckle that it was possible to put more than one question on a ballot. He suggested that rather than put a measure on the May ballot, the committee wait until the November ballot and then ask the voters to choose between two levels of compensation. He believed that putting the measure on the same ballot as council candidates was unwise, and thought more discussion was needed about issues such as the number of councilors, the manner of election to ensure citywide

representation, and the power of the council relative to appointing the City Attorney. Mr. Hale supported publicly financed campaigns for City office. He suggested that councilors and the mayor be limited to two terms if voters supported the higher level of compensation.

Regarding Mr. Hale's comments about offering the voters two levels of compensation, Mr. Hinkley said that voters supporting a higher level of compensation would also support a lower level of compensation, which would then be more likely to garner majority support.

Responding to a request for clarification from Mr. Donahue regarding the level of compensation for councilors Mr. Hale supported, Mr. Hale suggested councilors be compensated at the level of a journeyman checker at a grocery store, or about \$25,000 annually.

Mr. Zako questioned why Mr. Hale proposed postponing the measure to November, pointing out that the council was not proposing to pay itself and it would take time to implement the measure. Mr. Hale responded that the council would refer the measure to the ballot and people would see the council as supporting it.

Mr. Belcher closed the public hearing.

The committee then had a general discussion of issues with those members of the audience who wished to remain. Points touched on included the constitutionality of not compensating individuals for office because it precluded people with special health needs from serving as councilors; the lack of child care compensation for councilors with children; whether health benefits would be considered a hidden form of compensation by the voters and build political opposition to a charter amendment; whether voters would feel better about giving councilors health benefits than compensation; the relationship between compensation and authority; and the potential that offering voters a low figure for political expediency would mean the City was "stuck with" that amount while if voters rejected a higher compensation figure another charter amendment could be crafted. The committee and audience members also discussed the method of electing councilors in Eugene and the nature of campaigning and how it would be changed by a change in the election method.

Mr. Bischoff referred to the memorandum from Kitty Murdoch of Administrative Services Department and asked Ms. Walston to see if Ms. Murdoch was available to attend the committee's next meeting to answer questions from the committee. Ms. Walston agreed to see if Ms. Murdoch was available.

The meeting adjourned at 9:15 p.m.

(Recorded by Kimberly Young)

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ATTACHMENT I

MINUTES

Citizen Committee on Mayor and Council Compensation
McNutt Room—City Hall

January 20, 2000
6 p.m.

PRESENT: Jon Belcher, Chair; Don Bishoff, Matt Donohue, Marv Glover, David Hinkley, Pat McDaniels, Rob Zako, members; Mary Walston, City Manager's Office; Kitty Murdoch, Budget staff, City of Eugene.

Mr. Belcher called the meeting of the Citizen Committee on Mayor and Council Compensation to order. Committee members asked to possibly reschedule next week's meeting, due to conflicts. This was added to the agenda as item number seven.

1. PUBLIC COMMENT

There was no public comment.

2. DISCUSSION OF CPI INDEX—KITTY MURDOCH

Ms. Murdoch of the Budget Office was present to discuss the various Consumer Price Index (CPI) standards: CPI-U (CPI - US All City), CPI-W (CPI-Wage Earner) and CPI-Pdx (CPI-Portland, Oregon Index). See *MEMORANDUM: To Mary Walston, From Kitty Murdoch*, dated January 11, 2000. Ms. Murdoch noted in her memorandum the recommendation to the use CPI-US All City indexes. She distributed information from the Bureau of Labor and Industries Statistic Web site on the CPI to committee members and referred them to page 9 of 17. This referred to an opinion that when using CPI indicators as escalator clauses in salary agreements, one should use as broadly based an indicator as possible. She noted the CPI-US All City was the broadest base index available, considered less volatile and statistically had fewer sampling errors.

Ms. Murdoch explained that when the Budget Office developed the budget it had been separating the inflation rates for materials and services from personnel services. She noted that materials and services inflation rates has been averaging only between 1.7 -2.0 percent. She said that the City surveys economists from various bank, labor and government industries, as well as using the bargaining agreements with city employees to determine what inflation rate to budget for the next fiscal year. After assessing this information, a recommendation is made to the Executive Management Team, usually in August of each year for the next fiscal year, which runs July 1 through June 30.

In response to a question, Ms. Murdoch explained that each bargaining unit has negotiated on which index or set of factors will be used in calculating the salary rate adjustment, with the exception of the exempt employees. Salary adjustments for exempt employees are recommended by the Budget Office

after looking at index factors, talking with various economists and comparing what other bargaining units are anticipated to receive in salary adjustments for the same period. The Budget Office makes a recommendation to the City Manager and it becomes part of the manager's budget, which is submitted and reviewed by the Budget Committee before it was forwarded to the City Council. She noted that because the City Council had to approve the final budget, it will have to approve its own pay, although it is part of the City Manager's Office budget.

Ms. Murdoch noted that the State of Oregon does not use the CPI, but uses the Gross Domestic Price Deflator (GDPD). Mr. Donohue asked if the GDPD was considered more stable than the CPI indexes. Ms. Murdoch said that she did not have that expertise. She said the GDPD takes into account some costs of government services. Recently, the GDPD has been lower than the CPI, but she could not provide specific historical information.

Mr. Hinkley expressed his concern about using a factor that would be representative of what is happening economically in our own region. He asked if the CPI-US All City would generally reflect what is happening in Eugene. Ms. Murdoch said that it would be generally true, but noted again that the City takes advice from various sources.

Mr. Zako remarked that the direction the committee has taken has been to make any pay adjustments as automatic as possible, removing the political implication that the City Council can adjust its own pay. He expressed continued interest to have any pay adjustment for the Mayor and City Council mirror what other employees are receiving.

Mr. Hinkley expressed the two possible concerns: 1) that the council would over-compensate for political concerns and would not increase its own compensation fairly or 2) that the council could increase its compensation at a rate unequal to other City employees. He said this was why he supported basing any salary adjustments on a easily identifiable index, which reflects Eugene's economic condition.

Mr. Bishoff arrived.

In response to another question, Ms. Murdoch reported the most recent index rates for 2000: 1) GDPD + 1.6 percent change, 2) CPI-Pdx + 3 percent, and 3) CPI-US All City + 2.7 percent. She noted that the adjustments to exempt wage rates were generally slightly higher than the CPI.

Mr. Glover asked what might be considered the downside to tying council pay adjustments to those given exempt employees. Mr. Donohue said that he thought that tying the council increases to an index would eliminate any "implied employee status" to the City Council. Mr. Belcher said that it also gives the council an opportunity to vote on which index it uses to make its own pay adjustments. Mr. Hinkley added that tying the council adjustment might not be in the best interest of the exempt employees, as councilors may be accused of setting exempt employee pay rates artificially to either increase or decrease their own pay.

Mr. Bishoff noted that the City's use of a blended factor using indexes and economist projections creates a circumstance of using both past performance (CPI) and a forecast of future performance. Ms. Murdoch explained that the City also uses other forecasts of future inflation, including CPI

predictor indexes. She again noted that the initial budget information is developed in August of the year preceding the budget year, running July 1 to June 30 of the next year.

Mr. Zako asked who was included in the exempt employee status. Ms. Walston responded that it included approximately 300 employees, including mid-managers, executive managers, and other professional staff. Ms. Walston also named the four represented employee groups within the city: 1) police, 2) fire, 3) Hult Center stage hands, and 4) general service employees.

Ms. McDaniels asked if the City of Portland uses the CPI-Pdx. Ms. Murdoch did not know. She said that the City of Eugene uses a blended factor because it provides a more accurate measure. She explained that the CPI is a measure of goods, not necessarily a cost of living index or an index of wage rates.

Mr. Belcher asked how much control the City Council had over the budget process. Ms. Murdoch said that in practice, the City Council would have to change to adjustment rates set in the budget, as recommended by the Budget Office, approved by the City Manager and adopted by the Budget Committee. She said that it has not been the practice of the City Council to change this part of the budget.

Mr. Bishoff asked if there was a check on how accurate the estimated blended rate compared to actual inflation rates. Ms. Murdoch said staff does not make that comparison, as the adjustment is for wages, not a direct correlation with the CPI, which measures goods and services. She noted that the adjustment in wages for exempt employees has been in line with other wage increases negotiated with other bargaining units.

Mr. Bishoff asked what index would keep salaries in pace relative to inflation. Ms. Murdoch said that the CPI-US All City would be her recommendation. Mr. Bishoff noted the small difference of .3 of one percent difference between the CPI-Pdx (3 percent) and CPI-US All City (2.7 percent), which would calculate to less than \$300 per year for all of the proposed compensation for the Mayor and all City Councilors. In response, Ms. Murdoch noted that the salary adjustment for exempt employees has been at 3 percent.

Mr. Belcher asked members if they wanted to deliberate this portion of the draft motion. Members concurred.

In their deliberations, committee members noted the following concerns or comments: Mr. Donohue said that because the City Manager decides on how to increase or hold exempt employee salaries, it could potentially politicize the process if the City Council compensation is tied to the exempt employees salary rate adjustments. Mr. Belcher noted that the amount of funds spent on the compensation for the Mayor and City Councilors was statistically insignificant by comparison with the number of exempt employees group. Mr. Zako said that in reality, he did not believe that the process would be political to have the rate adjustments tied to other exempt employees, but that the perception of reality could raise continued political questions.

Ms. McDaniels expressed concern about micro-managing the City. She noted that there might be a potential conflict because the City Manager is hired by City Council, and then the City Manager decides what the City Council is going to be paid. Mr. Hinkley said he did not want to see the

headline, "City Council votes to raise salary," which, by adopting the budget, would be political reality. Mr. Donohue, responding to Mr. Zako and Ms. McDaniels, said that he believed the committee had been politically sensitive to everything during the process. Reality was the perception—the City Manager could potentially politicize exempt employees' pay increase because of issues he/she may have with the City Council. Mr. Donohue recommended the CPI-US All City be the index to tie the City Council, which was fairly neutral, but has no political "clouds."

Ms. Murdoch again noted the difference between the CPI-U (CPI-US All City) and the CPI-W, which samples wage earners and measures hourly wage employees and the cost of goods and services they purchase. It is an index of past performance and also projects into the future.

Mr. Bishoff concurred with Mr. Donohue that the political element was important for the committee to keep in mind. He said the goal of this committee has been to keep the proposed charter amendment as simple and politically saleable as possible. Mr. Bishoff recommended the committee use the CPI-Portland, based on cost of living increase for the past year. He added that he would still support adding a reference to using a Eugene based CPI, if one ever becomes available. Mr. Bishoff asked for clarification on how the monthly and quarterly indexes were measured. Ms. Murdoch said that the CPI for 1999 would include the historical information for the four quarters of 1999. Ms. Murdoch noted that many bargaining contracts use the December to December CPI for a specific calendar year.

Mr. Bishoff continued, stating that the CPI was something that most people could identify with. He expressed concern tying the compensation to the CPI-US All City index, as it would be more confusing to the general public. He expressed a desire to not designate the Mayor and Councilors as employees and therefore, would not support tying any adjustments to their compensation to an index used by any employee group. He again expressed support to identify a specific index in the charter, to make it clearer to the public. He supported using the CPI as it most closely mirrors inflation rates.

Mr. Zako said he was being swayed by Mr. Bishoff's and Mr. Donohue's arguments. He expressed concern about the budget process, which starts in August. He suggested that the proposed charter amendment be fixed to reflect which specific period of the index should be used. Mr. Hinkley concurred that although the CPI-US All City might be a more accurate index, using the local CPI-Portland index was probably better known. He suggested that the calendar year from the previous year's CPI index be used, keeping away from predictions.

Mr. Belcher identified one issue to be decide was if council compensation should be tied to an index or to exempt employees.

Mr. Bishoff moved, seconded by Mr. Hinkley, to retain the CPI-Portland index as the adjustment factor in the proposed charter amendment.

Mr. Glover said he was ready to recommend the CPI-Portland for the following reasons because it was a known entity. He also supported using a known index rather than tying adjustments to the exempt employees.

Mr. Zako suggested the fact the Portland CPI has been higher than the CPI-US All City rates could be a political problem. Mr. Donohue acknowledged the concerns by Mr. Zako, but noted that both the City's blended rate was three percent and CPI-Portland was three percent, so he would support the

motion. He recalled the committee's earlier discussion to keep this a completely separate piece of legislation, standing alone.

The motion passed unanimously.

Mr. Belcher then opened the discussion of the temporal issues of which time frame to use. Ms. Murdoch suggested one option was to use June 30 for a budget year, for the prior year.

Mr. Hinkley said he favored using past information, rather than any projected index basis. He said that it would be easier to use accurate figures than projections for budget purposes. Ms. Murdoch said she did not have a recommendation.

Mr. Bishoff suggested the City use the figures for the preceding calendar year. The City would not have the figure when developing the budget in August, but would have it in time to make budget adjustments, prior to approval or adoption of the budget.

Mr. Hinkley moved, seconded by Mr. Donahue, to use the previous calendar year as the basis for compensation adjustments. The motion passed unanimously.

3. DISCUSSION OF JANUARY 13, 2000, PUBLIC FORUM

Mr. Belcher distributed a handout of the result of the committee's mock preference vote held at the public forum. There were eight ballots returned. Mr. Belcher explained the notes on the back of the mock preference vote. If this was a true preference vote election, \$4,000 would be the preference for the mayor's compensation and \$1,500 - \$2,000 were the preference for the council compensation. Mr. Belcher said the preference vote was a not valuable exercise because there were few participants, with several options. He added that the sampling was atypical, or not representative of the public at large.

Mr. Zako noted interest in continuing to change the City Charter. He said that he was comfortable with keeping the compensation rates lower, allowing further modifications to the charter in the future.

Ms. McDaniels noted that the Mayor may ask a committee to review the City Charter in its entirety. She discussed the Mayor's private initiative from last fall, indicated that a list of 16-18 items had been identified for possible review.

Mr. Hinkley noted that the limited testimony pushed for consideration of adding benefits to the package, and a \$500 increase on the council compensation rate. Together, that would make about a \$,1000 increase per month. Although there may be merit in both, he did not think they could be sold together. However, he said he would support either suggestion alone.

Mr. Donohue said that after reviewing the testimony, he supported providing health insurance, on a philosophical level. Providing health insurance benefits might allow individuals to run for office, in light of the fact that they would probably have to go from full time to part time work, if elected.

Mr. Glover acknowledged the viewpoint, but said it was probably not "saleable." He stated his support to allow benefits to be purchased, not offered as a benefit.

Committee members continued the discussion of the public forum, and discussed the political realities of the several options. Mr. Bishoff noted the recommendation to change the language to stipend and said he supported this recommendation. Mr. Zako concurred.

Mr. Belcher asked committee members what would cause them to change their minds about moving the pre-selected stipends upward. He said that although he was grateful for the expertise of those who testified, they represented a small self-selected sample, not the public at-large. Mr. Donohue concurred. He said that it was important to ensure that there was an allowance for change in the future, but that he wanted something that could be approved by the voters today. The question of whether stipend rates should be raised, could be addressed in the future. He again noted his support for the current language.

Mr. Belcher commented that he felt that the rates selected allowed voters to focus on whether or not to pay Eugene's mayor and council— not at what rate.

4. DISCUSSION OF COUNCILOR DAVID KELLEY'S E-MAIL NOTE OF JANUARY 11, 2000

Committee members had been furnished with an e-mail message from Councilor David Kelley. The committee discussed the message and the number of hours councilors actually work on council issues. While members felt the fact sheet may be moot at this point, Ms. Walston said that she updated the fact sheet and will ensure that the Web page is updated as well. A copy of the updated fact sheet, *What Do You Think About Pay?*, was distributed to members.

Mr. Belcher asked if the City Attorney had given an opinion on the question of preference voting. Ms. Walston said that she had received preliminary information. City Attorney Klein wrote, "Your recollection is basically correct. Preference voting could not occur as part of an official state/county election. We believe that the city could, however, conduct a completely separate election and use preference voting. However, it is unclear whether we could amend the charter through the use of preference voting, or for that matter, pass a bond measure. I think it would fairly safe to use preference voting to decide what kind of charter amendment to officially place before the voters as a subsequent state election." Ms. Walston said that she had hoped to get the opinion written by Oregon Secretary of State Phil Kiesling, but did not have it at this time.

Committee members discussed the opinion offered by Mr. Kiesling that State funds could not be used to facilitate a preference vote and that such a vote could not take place in the primary or general elections during May or November. Some committee members suggested this might be a good test case to demonstrate preference voting, but other members said they would not support a preference vote on this specific charter amendment. Further concerns were raised if whether preference voting was legal.

Mr. Belcher said he would like to let council know if there was an option to use preference voting for this issue. He asked for Mr. Kiesling's memorandum.

Mr. Bishoff said he had no interest in pursuing this issue further. Mr. Zako asked for historical information on advisory votes and other similar balloting tools. He said he believed there were choices that were non-binding.

Mr. Belcher called for an advisory vote on whether Ms. Walston should pursue this issue further. The advisory vote was 4-3 against pursuing preference voting, with Mr. Zako, Mr. Bishoff, Mr. Glover, and Ms. McDaniels voting no.

5. REVIEW OF DRAFT MOTION

Mr. Zako moved to use the word "stipend" in the proposed charter amendment. The motion died for lack of a second.

Mr. Bishoff offered suggested language changes for the proposed charter amendment. His proposal focused on use of the word "stipend" rather than "paid" or "compensation," inserting the word "official" in describing actual expenses, and quantifying the CPI to be used to the "previous calendar year's Portland, CPI."

Committee members discussed specific language change suggestions, which were incorporated into the draft below. Members asked that the City Attorney review the proposed language and offer suggestions for changes prior to the next committee meeting.

Mr. Donohue expressed concern with the use of the word "stipend." He noted that the charter amendment was a statutory document, and the language of a "stipend" may not be common use. He questioned if a stipend may be used in a different context in another area of the charter. He also questioned if there was any legal problem with the definition of a "stipend." He cited the example of using the word stipend to define a specific payment for meals when on a business trip. He also asked if there were any tax implications— are stipends tax exempt or taxable? Would Public Employee Retirement System contributions be applied? He said that it was his understanding that stipends were not taxable.

Mr. Belcher read a definition given to Ms. Walston from the City Attorney's Office. Committee members concurred that there needs to be legal clarification on this issue. There was also consensus that they did not want the compensation to be referred to as salaries. Calling the compensation a stipend was an effort to try to avoid any appearance that city councilors were employees of the City. Committee members agreed to use the word "stipend" in the proposed charter amendment, unless they received advice from counsel to the contrary.

Mr. Donohue suggested that the committee not take final action on the proposed language changes, but that members take the information home and think about it. He said he would like to consider the proposed changes at the next meeting.

Mr. Zako concurred and offered the suggestion that the proposed language might be re-drafted into five subsections that were shorter and better organized. He suggested the five subsections could each address a separate issues: 1) the repeal of the prohibition, 2) the amount to be paid, 3) how adjustments will be made, 4) what to do if the Portland CPI goes away, and 5) a start date.

Committee members offered support for the suggestion to reorganized the proposed charter amendment and agreed to postpone action, but asked that the suggested language be taken to the City Attorney for consideration.

Mr. Belcher said that committee members could draft sample language, without responding to any other committee members' suggestion. Then other proposals could be discussed at the next meeting.

Ms. Walston read the proposed text in it's entirety (deletions are noted in [brackets] and ~~strikeout~~; additions are underlined and **bold**):

"Section 18 of the Eugene Charter of 1976 is hereby amended as follows:

Section 18. Compensation

- (1) The mayor shall ~~[be paid]~~ **receive a stipend of \$1,500** per month and the city councilors shall ~~[be paid]~~ **receive a stipend of \$1,000** per month. The ~~stipends~~ **stipends** ~~[amount of compensation for the mayor and councilors]~~ shall be adjusted annually by a percentage increase or decrease equal to that of the Consumer Price Index for the Portland, Oregon area, or, if that Index ceases to exist, another Index that measures the changes in the cost of living. The mayor and councilors shall receive no fringe benefits except for those required by state law, but the mayor and councilors ~~[shall]~~ **may** ~~[have the option of purchasing]~~ **purchase** health insurance from the city health insurance plan.
- (2) The ~~[compensation for services]~~ **stipend** authorized in subsection (1) above is in addition to, and not in lieu of, reimbursement for actual **official** expenses incurred. ~~[by the mayor and city councilors in the performance of their services as mayor and city councilor:]~~
- (3) The mayor and councilors shall begin receiving ~~[compensation]~~ **stipends** authorized in subsection (1) above on July 1, 2001, and annual adjustments shall take effect thereafter at the beginning of each fiscal **year, based upon the previous calendar year's Portland, CPI.**
- (4) The compensation of other officers shall be prescribed by the council."

Committee members asked Ms. Walston to request counsel to address two specific issues when considering the language changes: 1) use of "stipend" in lieu of "compensation" or "paid" and 2) reorganizing the proposed charter amendment into the five separate issues noted earlier.

6. DISCUSSION OF REPORT DEVELOPMENT

Committee members postponed this discussion until next meeting.

7. NEXT COMMITTEE MEETING

After discussion, committee members agreed to Wednesday, January 26, 2000, at 6:30 p.m. as the next meeting of the Citizen Committee on Mayor and Council Compensation. Ms. Walston will schedule the meeting place.

The meeting was adjourned at 8:20 p.m.

(Recorded by Kris Aanderud)

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MINUTES

ATTACHMENT J

Citizen Committee on Mayor and Council Compensation
East Wing Conference Room—City Hall

January 26, 2000
6:30 p.m.

PRESENT: Jon Belcher, Chair; Don Bishoff, Matt Donohue, Marv Glover, David Hinkley, Rob Zako, members; Mary Walston, City Manager's Office.

ABSENT: Pat McDaniels, member.

Mr. Belcher called the meeting of the Citizen Committee on Mayor and Council Compensation to order and reviewed the agenda.

1. PUBLIC COMMENT

There was no public comment.

2. APPROVAL OF MINUTES: DECEMBER 13, 1999; JANUARY 20, 2000

The **Minutes of December 13, 1999 and January 20, 2000** were distributed and reviewed by committee members. The following correction was noted: in the minutes of December 13, 1999, on page 4, Mr. Bishoff's name was misspelled in the second motion (Bishcoff, should be Bishoff).

Mr. Hinkley moved, seconded by Mr. Zako to accept the minutes of December 13, 1999, as corrected, and the January 20, 2000 minutes, as presented. The motion passed unanimously.

3. DISCUSSION OF DRAFT OF PROPOSED CHARTER AMENDMENT

The following items were distributed to committee members: **E-Mail Message from City Attorney regarding latest draft of Charter Amendment; E-Mail Message from Pat McDaniels (Committee Member) regarding draft amendment; E-Mail Message from Matt Donohue (Committee Member) regarding draft amendment; E-Mail message from Rob Zako (Committee Member) regarding draft amendment; a History of Previous Mayor/Council Compensation; and the Results of Community Survey Questions.**

Mr. Belcher began the discussion of the draft, by addressing concerns from the City Attorney, Jerry Lidz. He noted the approval of the use of the word "stipend" rather than "compensation." The ambiguity noted

by Mr. Lidz between sections 1 and 3 may be irrelevant, based on the most recent proposals by committee members.

Mr. Zako suggested the committee look at the two proposals by himself and Mr. Donohue, which he viewed as similar. Mr. Zako noted that he kept the wording, as proposed, but rearranged the organization into five sections: 1) beginning stipends for each group, 2) rate adjustments, 3) purpose of stipends, 4) fringe benefit issues, and 5) allowance for compensation for other officers.

Mr. Donohue noted that his draft combined the thoughts in paragraphs 1 and 3 from Mr. Zako's draft into a single section. He concurred that the other components were basically the same.

Mr. Bishoff said he could support either. He added a suggestion that Ms. McDaniels comments regarding the potential for a Eugene Consumer Price Index (CPI) be considered for inclusion.

Mr. Hinkley expressed concern with Mr. Donohue's language regarding "another CPI representing substantially the same geographic area." Mr. Donohue explained that his intent was to try to accommodate the potential addition of another CPI, like a Willamette Valley CPI. Mr. Hinkley also expressed concern about the potential to change the name of the CPI in the future. Mr. Zako noted the language he used to try to address this concern, "If that index ceases to exist, the City Manager shall select another Index that best measures the changes in the cost of living for the Eugene area." Members expressed support for this kind of language.

Mr. Donohue suggested adding a clarifying sentence to address the potential addition of a Eugene CPI index. He spoke about the need to be clear and unambiguous about what kind of index should be used.

Mr. Zako suggested that the committee begin its deliberations with section 1 and work through each section. Another proposal was to start with the last section and work back. The committee decided to start at the beginning and work through the proposal section by section.

Section 1.

Mr. Bishoff expressed preference for Mr. Zako's draft for section 1.

Mr. Bishoff moved, seconded by Mr. Hinkley, to accept the language suggested by Mr. Zako.

“(1) Beginning on July 1, 2001, the mayor shall receive a stipend of \$1,5000 per month and the city councilors shall receive a stipend of \$1,000 per month.”

Mr. Zako asked about including language from Mr. Donohue draft, "This stipend is in addition to, and not in lieu of, reimbursement for actual official expenses incurred." No action was taken on this suggestion.

The motion passed unanimously.

Section 2.

Regarding Section 2, the committee discussed the legal use of the “subsection (1)” or “subsections (1) and (2)” as references in subsequent sections.

Mr. Zako asked that the committee approve the language, without reference to previous subsections, but ask the City Attorney to insert it such references, if determined to be legally important. Committee members concurred.

Mr. Zako spoke to using his proposal. Mr. Bishoff suggested to add the language proposed by Ms. McDaniels. Committee members agreed to add language to the end of Mr. Zako’s proposed language which addressed Ms. McDaniels suggestion. It was also suggested that the order and the issue of supremacy be established with the drafting of the language in this section.

Mr. Hinkley questioned if the CPI-US All City was inclusive any survey of Eugene/Springfield area, would it then take precedence over the proposed use of the Portland CPI.

Committee members drafted the following language for section 2:

“(2) *At the beginning of each fiscal year thereafter, the stipends authorized above shall be adjusted by a percentage increase or decrease equal to that during the previous calendar year of the Consumer Price Index (CPI) for the Portland, Oregon area, or its successor. If that index ceases to exist, another consumer price index representing substantially the Eugene area shall be used. In any case, if a consumer price index covering the Eugene area is developed that index will automatically be used in place of the Portland CPI.*”

There was consensus among committee members regarding the Section 2 language.

Section 3.

Mr. Zako spoke about his draft for Section 3, which was included in Mr. Donohue’s Section 1.

Mr. Bishoff moved, seconded by Mr. Zako, to accept Mr. Zako’s draft for Section 3, without reference to “subsections”.

“(3) *The stipends above are in addition to, and not in lieu of, reimbursement for actual official expenses incurred.*”

Mr. Donohue advocated changing the order of the sections, moving this Section 3 to Section 2, renumbering the remaining sections.

Mr. Bishoff called the question. The motion passed unanimously.

The committee discussed the merits of switching Sections 2 and 3,

Mr. Donohue moved, seconded by Mr. Hinkley, to change the order— move Section 3 to Section 2 and renumber the remaining sections. The motion failed 2-3 with Mr. Donohue and Mr. Hinkley voting in support, Mr. Zako, Mr. Bishoff and Mr. Glover voting against and Mr. Belcher abstaining.

Sections 4 and 5.

Mr. Hinkley moved, seconded by Mr. Glover, to accept Sections 4 & 5 as drafted by Mr. Zako. The motion passed unanimously.

“(4) *The mayor and councilors shall receive no fringe benefits except for those required by state law, but the mayor and councilors may purchase health insurance from the city health insurance plan.*”

“(5) *The compensation of other officers shall be prescribed by the council.*”

Mr. Zako again asked that the revised draft be taken to the City Attorney for review. The committee again reviewed the suggestions of the City Attorney, to make sure that the proposed draft answered the concerns expressed by Mr. Lidz. Committee members were satisfied that those concerns had been addressed, noting that the revised draft would again be sent to counsel for review.

Historical Review of Mayor/Council Compensation

The committee reviewed information provided by staff on previous efforts to address the issue of mayor and/or council compensation. They were given the **minutes from the Eugene City Council of April 19, 1989**, which referenced Mayor/Council Compensation, **minutes from the Eugene City Council of June 5, 1991**, which referenced council work load and council compensation, and information from a **process session, dated February 26, 1990**, which addressed council compensation. The committee expressed appreciation for the efforts by staff to get the historical information.

Mr. Belcher announced that he had agreed to speak on the Victor Boc show (KUGN radio) on February 10 at 4 p.m. He noted that he would invite Ms. McDaniels to be present for the interview.

The committee also reviewed initial results from the **1999 Results of the Community Survey Questions**, specifically addressing the amount of compensation for the mayor and councilors.

The committee also discussed the time line in presenting the proposal Charter Amendment to the City Council: February 9. The Council will hold a public hearing on February 14. If the council votes to reject the proposal on February 9, then the interview would be canceled.

Report to the City Council

Mr. Zako suggested that the report include not only an executive summary, with minutes of the meetings held by the committee, the draft of the proposed Charter Amendment and an explanation of the rationale from the committee. He requested that an executive summary of the committee’s work be posted to the website. Mr. Belcher suggested a historical review, including not only when the committee met, but also the steps the committee has taken in reaching the proposed Charter Amendment. He suggested a discussion

about each subsection of the proposed Charter Amendment, with a narrative describing how the committee came to the decisions for each section. This discussion might also include the argument in support and in opposition that the committee heard and/or discussed. He also concurred that supporting materials should be forwarded to the City Council, including minutes, correspondence, etc. Mr. Zako concurred and noted the report was the best chance to say what the committee wanted to do and why.

The committee discussed the need to be as clear as possible, to avoid misrepresentations about the committee's intent and efforts in proposing the Charter Amendment. Mr. Zako cited the concerns raised by Councilor David Kelly on the use of the word "required" versus "time spent"-- in reference to time the council spent on city activities, in the information sheet released by this committee.

Mr. Hinkley asked that the committee also address the merits of placing the proposed Charter Amendment on the May versus November ballot.

Mr. Zako suggested an outline for the report. Mr. Donohue suggested a short report, section by section, with pro and con arguments for each section. He advocated one person draft the report for the committee's consideration.

Committee members decided to discuss the ballot date issue, which will be included in the report. Members discussed options of recommending either the May or November elections, or sending the proposal to the City Council with a recommendation that they choose the date.

Mr. Hinkley said that because of the way the language was worded, he did believe it would make no difference for the implementation, if either election date was used. Mr. Hinkley expressed concern about a May election with a potential fire station or city hall measure and a school bond election being on the ballot. He noted, however, that in November, there will be a lengthy ballot as it is a presidential election and there are many anticipated initiatives that will be before voters. Mr. Bishoff said he would recommend the committee propose the May election. Mr. Zako asked if there was any potential impact with Measure 47/50, the double majority issue. Committee members concurred that the double majority wouldn't apply, as it only applied to property tax measures. Mr. Donohue expressed concurrence with Mr. Bishoff's proposal. Mr. Belcher said that he would prefer to make a list of pro's and con's.

Mr. Bishoff moved, seconded by Mr. Glover, to recommend that the City Council consider the May ballot for placing this proposed Charter Amendment before the voters. Mr. Bishoff called the question. The motion passed 5-1, with Mr. Belcher voting against.

To the report, Mr. Belcher reviewed the framework that had been expressed by committee members to include an executive summary, a discussion of each section of the proposed ballot measure, the pro's and con's of each section, and a separate piece to propose the May election. Supplemental materials would also be attached.

Mr. Donohue suggested that prior to the section by section discussion, a couple of paragraphs describing the input received by the committee, with a history of the process. Mr. Zako suggested the committee review each section

Committee discussion moved to determining who will write the report. The options discussed included 1) staff writing the report, 2) the committee, either as a whole or with representation, or 3) a combination of staff writing the historical piece and committee members drafting the pro and con sections. Mr. Bishoff said that he felt the flavor of the committee was important and therefore, the draft should be crafted by the committee. Mr. Donohue expressed concern about drafting a report, without having adequate time to complete the task. He advocated having staff write the report, with committee approval. When asked for her input, Ms. Walston said she could write the report, or write boiler-plate language, for the committee to use. She did not express any preference for any of the options.

Mr. Glover suggested that Ms. Walston write the report, then allow committee comment and edit. Mr. Hinkley concurred. The time line for writing the report was also considered. To be included with City Council packets for the February 9 meeting, the materials would have to be ready for a February 3 mailing. If the next committee meeting remains scheduled for February 3, the report could be sent under separate cover, or could be handed out Monday night, February 7, for the Wednesday, February 9, City Council meeting.

Mr. Bishoff asked to include the Friends of Eugene and Jim Hale's information. Again, Mr. Bishoff said he thought the committee should write the report, but would support asking staff to write the report. Mr. Zako disagreed that a committee member could not write the report to represent the committee in its entirety, without some "slant," noting that committee members keep coming back to a middle ground. However, he said it would be useful to talk about what sorts of interpretations should be included.

Mr. Zako offered to write a piece of the report. Mr. Bishoff supported Mr. Zako's offer.

Mr. Donohue moved, seconded by Mr. Bishoff, to have city staff write the report. The motion failed with Mr. Hinkley, Mr. Glover and Mr. Donohue voting in support; Mr. Zako, Mr. Bishoff, and Mr. Belcher voting in opposition to the motion and in support of having one or more committee members write the report.

Mr. Zako asked to continue to reach a consensus. He noted that the purpose of the report was to interpret what the committee had reached consensus on. Mr. Donohue said that each committee member had different reasons why there had been recommendations during the process. He asked how the committee could capture all of those ideas to represent the entire group.

Mr. Glover suggested that if the report was written by staff, it would be "closer to the middle of the road" and easier to move it to the left or right. Committee members further discussed who should write the report.

Mr. Donohue moved, seconded by Mr. Hinkley, to request staff write the report. The motion failed, 3-3 with Mr. Donohue, Mr. Hinkley and Mr. Glover voting in support; Mr. Bishoff, Mr. Zako and Mr. Belcher voting no.

Committee members asked Ms. Walston when a draft could be completed for committee member review. She said that by Friday morning, some kind of draft could be written. Mr. Zako said he would change his vote to affirmative, with the caveat that committee members could then come prepared to discuss the report.

at the next meeting. Mr. Zako suggested the committee direct Ms. Walston on what specific points should be included in the report.

Mr. Donohue called the question on the previous motion, seconded by Mr. Hinkley, that staff write a draft report for committee review. The motion passed 4-2, with Mr. Donohue, Mr. Glover, Mr. Hinkley and Mr. Zako voting in support, Mr. Bishoff and Mr. Belcher voting against.

Committee members discussed the option to suggest alternative language to the draft report could be sent to staff for compilation and distribution to committee members for discussion at the next committee meeting.

The first portion of the report will include a historical review of the committee's work. If the report is relatively short, committee members discussed excluding an executive summary. This decision was left to staff.

The committee then discussed the following issues / representations be included in the Section by Section portion of the report to City Council.

Section 1

- Why the word stipend was chosen
 - to make it clear it was not a salary
 - for tax and Public Employees Retirement System (PERS) purposes, it is a salary, but council are not city employees
 - also recognize, the proposed amounts are not adequate compensation for the work itself, thus a stipend
- regarding the amount of compensation
 - the \$1,000 and \$1,500 were a compromise
 - the compensation range discussed for city council was \$950 to \$2000 and for the mayor was \$1,500 to \$4,000
 - majority of the committee felt this was politically viable
 - not specifically high enough to encourage someone to run for office, because of the stipend amount
 - that the sense of the committee was that rates should be higher, but . . .
 - to allow a broader range of people to run, with some confession of ignorance if that will be the case
 - some commentary, that the committee wanted to make the language as clear as possible, by putting the figures in the charter. Not leaving the compensation amount decisions for the mayor, council or the City Manager.
 - a brief discussion about when it goes into effect— before some council are re-elected, but also addressing the budget process. Allows for next budget cycle.
 - have all city councilors paid the same amount in the same way
- Maybe add that the mayor has additional duties above the city council and spends more time on city duties.

Section 2

- why the committee used the CPI, rather than median income or other indexes, including that they were too complicated to easily explain. CPI is understood and recognized by the public.
- use of the CPI also avoids the city's use of blended rates, which is complex and subject to outside influences.
- the CPI is objective
- the CPI is self contained
- the CPI is insulated from local city influence
- why the committee did not tie rate adjustments to exempt employee group
- again, this is a stipend, not a salary, so not tied to salaried employees
- why the language from the last sentence of section 2 and "ceasing to exist" were included. The committee was trying to cover potential problems that could reasonably be anticipated
- also trying to get figures that were representative of the Eugene area

Committee members discussed the points brought forward by Ms. Murdoch from the Budget staff and decided not to include this discussion, as it could be too complex and confusing for the public to understand.

Section 3

- this section is simply there for clarification— that expenses are still covered for official city business

Section 4

- this section addresses fringe benefits
- there is no implication that the committee was trying to make councilors or mayor employees of the city
- no benefits ties to the concept of a stipend
- inclusion of PERS, as required by state law
- allowing councilors and/or the mayor to purchase health benefits will not be an additional cost to the city's health insurance plan

Committee members suggested that the actual costs for PERS be included in the voter's pamphlet. The discussion of "truth in advertising" was held, with committee members expressing the importance to declare the potential fiscal impact to the city and to be clear with the voters. It was noted that the costs might be estimates, in that some councilors or the mayor might not reach federal or state thresholds for certain employer costs, like worker's compensation.

Committee members also discussed the political reality that offering benefits, may have impacted who could run for these elected offices. Mr. Zako said he did not want this in the report. Mr. Donohue suggested this might be included with the committee recommendation.

Section 5

- this section is already in the charter amendment
- this section allows City Council set pay rates for the City Manager and Municipal Judge's

Mr. Bishoff suggested that a fiscal impact statement included in the report to council, including anticipated PERS expenses and any employee/employer costs, such as workers' compensation, Social Security withholding, etc.

Mr. Hinkley asked that the City attorney review which costs should be included.

4. NEXT COMMITTEE MEETING

The next meeting of this committee is scheduled for Thursday, February 3 at 6 p.m.

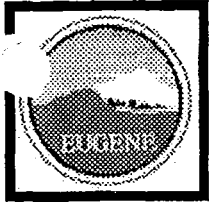
Mr. Glover noted that the committee had also talked about sunset provision for the charter amendment, but there was no discussion about including or excluding this from the report.

Mr. Belcher will present this to the City Council, with Ms. Walston present. Mr. Belcher asked committee members to also be in attendance.

The meeting was adjourned at 8:55 p.m.

(Recorded by Kris Aanderud)

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EUGENE
MAYOR and CITY COUNCILORS

ATTACHMENT K

CITIZEN COMMITTEE ON MAYOR AND COUNCIL COMPENSATION

On September 8, 1999 the Eugene City Council approved a motion place a charter amendment on the May 2000 ballot that calls for compensation for the mayor and city council. A seven-member committee was appointed to draft a viable and equitable charter amendment for review and referral by the council. The committee is to forward a charter amendment draft to the council no later than February 1, 2000.

MEETING SCHEDULE

Wednesday, November 3, 1999
5:30 p.m.
Meeting Minutes

Friday, November 12, 1999
6:00 p.m.
Meeting Minutes

Thursday, November 18, 1999
7:30 p.m.
Public Forum Notes

Thursday, December 2, 1999
6:00 p.m.
McNutt Room, 777 Pearl Street
Meeting Minutes

Thursday, December 9, 1999
6:00 p.m.
McNutt Room, 777 Pearl Street
Meeting Minutes

Monday, December 13, 1999
6:00 p.m.
McNutt Room, 777 Pearl Street
Meeting Minutes

Thursday, January 6, 2000
6:00 p.m.
McNutt Room, 777 Pearl Street
Meeting Minutes

Thursday, January 13, 2000
7:30 p.m.
Public Forum,
City Council Chamber, 777 Pearl Street
Meeting Minutes

Thursday, January 20, 2000
6:00 p.m.
McNutt Room, 777 Pearl Street

2/3/00

Meeting Minutes

Page 2 of 3

Wednesday, January 26, 2000
6:30 p.m.
East Wing Conference Room, 777 Pearl Street
Meeting Minutes

Thursday, February 3, 2000
6:00 p. McNutt Room, 777 Pearl Street
Meeting Minutes

FACTS ABOUT COMPENSATION FOR THE MAYOR AND COUNCIL

- the Eugene Charter prohibits pay for the Mayor and Council
- the Eugene Charter may only be changed by a vote of the citizens of Eugene
- the Mayor's work requires 30 - 50 hours per week
- the Councilor's work requires 15 - 30 hours per week
- the Mayor and Council attend approximately 100 council meetings a year
- the Mayor and Council attend about 10 other committee meetings a month
- these meetings average 2 hours each
- some councilors spend 30 - 35 hours per week on city business
- other cities of comparable size and structure in the Northwest pay their Mayor/Council
- Eugene is the largest city in Oregon with a council/city manager form of government
- compensation for mayors (except Portland) in Oregon ranges from \$0 to \$600 per month*
- compensation for councilors in Oregon ranges from \$0 to \$250 per month*
- some cities also provide other forms of compensation*
- in cities of comparable size in the Pacific Northwest region, pay for mayors ranges from \$0 to \$3,000 per month**
- in cities of comparable size in the Pacific Northwest region, pay for city councilors ranges \$0 to \$1,500 per month**

Sources: *LGPI Study, 1998 and **City of Bellevue Study, 1999

THE COMMITTEE WOULD LIKE TO HEAR FROM YOU ON THIS IMPORTANT TOPIC, SPECIFICALLY:

What issues do you want this committee to consider regarding pay for the Mayor/City council?

Do you favor paying the Mayor? Paying the City Council? Why or why not?

If yes, how much? How would pay be set? By whom? Initially and over time?

If you are unable to attend a public forum or do not wish to speak at this time on the topic, you can fax, mail, or e-mail your comments on this topic. The fax number is 682-5414; the mailing address is: Citizen Committee on Mayor and Council

Citizen Committee on Mayor and Council Compensation, General Information

Page 3 of 3

*Compensation, Room 105, City Hall, 777 Pearl Street, Eugene, OR 97401. You
can e-mail comments to mary.f.walston@ci.eugene.or.us*



City of Eugene Homepage

This page was updated on Tuesday, February 01, 2000

<http://www.ci.eugene.or.us/Council/CCMCC991112.htm>

2/3/00



City Council

City of Eugene
 777 Pearl Street, Room 105
 Eugene, Oregon 97401-2793
 (541) 682-5010
 (541) 682-5414 FAX
 (541) 682-5045 TTY

WHAT DO YOU THINK ABOUT PAY?

On September 8, 1999, the City Council decided to move forth with a measure to amend the City Charter to allow compensation for the Mayor and City Council. The Council also decided to appoint a committee to draft the charter amendment and to develop a proposal for the amount of pay.

FACTS ABOUT COMPENSATION FOR THE MAYOR AND COUNCIL

- ▶ the Eugene Charter prohibits pay for the Mayor and Council
- ▶ the Eugene Charter may only be changed by a vote of the citizens of Eugene
- ▶ the Mayor's work requires 30 - 50 hours per week
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- ▶ Eugene is the largest city in Oregon with a council/city manager form of government
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- ▶ compensation for councilors in Oregon ranges from \$0 to \$250 per month*
- ▶ some cities also provide other forms of compensation*
- ▶ in the Northwest region, pay for mayors ranges from \$0 to \$3,000 per month*
- ▶ in the Northwest region, pay for city councilors ranges \$0 to \$1,500 per month*

*Source: LGPI Study, 1998 and City of Bellevue Study, 1999

THE COMMITTEE WOULD LIKE TO HEAR FROM YOU ON THIS IMPORTANT TOPIC. SPECIFICALLY:

1. What issues do you want this committee to consider regarding pay for the Mayor/City council?
2. Do you favor paying the Mayor? Paying the City Council? Why or why not?
3. If yes, how much? How would pay be set? By whom? Initially and over time?

If you are unable to attend a public forum or do not wish to speak at this time on the topic, you can fax, mail, or e-mail your comments on this topic. The fax number is 682-5414; the mailing address is: Citizen Committee on Mayor and Council Compensation, Room 105, City Hall, 777 Pearl Street, Eugene, OR 97401. You can e-mail comments to mary.f.walston@ci.eugene.or.us

ATTACHMENT M

**City Council**

City of Eugene
 777 Pearl Street, Room 105
 Eugene, Oregon 97401-2793
 (541) 682-5010
 (541) 682-5414 FAX
 (541) 682-5045 TTY

WHAT DO YOU THINK ABOUT PAY?

On September 8, 1999, the City Council decided to move forth with a measure to amend the City Charter to allow compensation for the Mayor and City Council. The Council also decided to appoint a committee to draft the charter amendment and to develop a proposal for the amount of pay. This committee has been meeting for several months and has developed a proposed amendment to the Eugene City Charter which would remove the compensation prohibition currently in the Charter and would set compensation for both the mayor and city councilors.

Below is the text of the proposed Charter Amendment:

"Section 18 of the Eugene Charter of 1976 is hereby amended as follows:

Section 18. Compensation

- (1) *The mayor shall be paid \$1,500 per month and the city councilors shall be paid \$1,000 per month. The amount of compensation for the mayor and councilors shall be adjusted annually by a percentage increase or decrease equal to that of the Consumer Price Index for the Portland, Oregon area, or, if that Index ceases to exist, another Index that measures the changes in the cost of living. The mayor and councilors shall receive no fringe benefits except for those required by state law, but the mayor and councilors shall have the option of purchasing health insurance from the city health insurance plan.*
- (2) *The compensation for services authorized in subsection (1) above is in addition to, and not in lieu of reimbursement for actual expenses incurred by the mayor and city councilors in the performance of their services as mayor and city councilor.*
- (3) *The mayor and councilors shall begin receiving compensation authorized in subsection (1) above on July 1, 2001, and annual adjustments shall take effect thereafter at the beginning of each fiscal year.*
- (4) *The compensation of other officers shall be prescribed by the council. "*

THE COMMITTEE WOULD LIKE TO HEAR FROM YOU ON THIS IMPORTANT TOPIC. SPECIFICALLY:

1. What issues do you want this committee to consider regarding pay for the Mayor/City council?
2. Do you favor paying the Mayor? Paying the City Council? Why or why not?
3. If yes, how much? How would pay be set? By whom? Initially and over time?

OVER

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The fax number is 682-5414; the mailing address is: Citizen Committee on Mayor and Council Compensation, Room 105, City Hall, 777 Pearl Street, Eugene, OR 97401.

You can e-mail comments to mary.f.walston@ci.eugene.or.us or visit the web site at <http://www.ci.eugene.or.us/Council/CCMCC991112.htm>

FACTS ABOUT COMPENSATION FOR THE MAYOR AND COUNCIL

- ▶ the Eugene Charter prohibits pay for the Mayor and Council
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- ▶ in cities of comparable size in the Pacific Northwest region pay for city councilors ranges \$0 to \$1,500 per month**

*Source: LGPI Study, 1998

**City of Bellevue Study, 1999

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**Citizen Committee on Mayor and Council Compensation
Question for Elected Officials**

Name: Gary Rayer

1. What issues do you want this committee to consider regarding pay for the Mayor/City council?

Hours spent-somewhere betw. 15 & 40

2. Do you favor paying the Mayor? Paying the City Council? Why or why not?

Mayor - Yes

Council - Yes

The positions are required by law to carry on the business of the city, therefore-huge value added.

3. If yes, how much? How would pay be set? By whom? Initially and over time?

Per the surveys from other Cities, something like 800\$-1100\$ month for Council; 2x for mayor

4. In 1997, the Friends of Eugene sent a survey to mayor and members of the council concerning the demands of being a volunteer elected official. If you would like to respond to these questions and include that information please respond to those questions which are found on the back of this sheet.

See over

If you would like a copy of the results of this survey, please call 682-5406 and request a copy.

THANK YOU FOR YOUR TIME.

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CITY COUNCIL SURVEY

As a current or past Eugene city councilor or mayor, you are/were one of the nine voluntary, elected representatives that governs our city of approximately 130,000 people with an annual budget of more than \$300 million. We would like your opinions regarding the demands this job places on you and whether or not you are able to adequately meet these demands as a volunteer.

Please answer as many questions as you can. If you are not comfortable responding to any particular question, please skip to the next question. Use the back of the page if you need more space to reply. Thank you.

- 1) On average, how many hours per week do you spend on city council business? *15-20*
- 2) What do you consider to be the minimum time required to do the job adequately? (average hours per week) *15-20*
- 3) What do you think would be the optimal time for a city councilor to spend on council business? (average hours per week) *15-20*
- 4) Has your professional income or career suffered or been diminished in any way as a result of your volunteer work as a city councilor? Please explain, if you can. *Not yet. If I let the time commitment to increase, it would.*
- 5) Has your family or personal life suffered or been diminished in any way as a result of your volunteer work as a city councilor? Please explain, if you can. *Less time for friends & family*
- 6) Do you find that you have adequate time to review city information packets and other materials necessary to be fully prepared for issues that will be discussed at the Council's meetings? *Yes, Part 15-20 hours (More like 20)*
- 7) Do you find that you have adequate time to meet with constituents and to respond to constituent phone calls, letters and emails? *Yes, unless some huge issue comes along*
- 8) Do you think that modest compensation would improve your ability to devote more time to the essential duties of your office? *Makes no difference. Might help predecessors*
- 9) Do you believe that the degree of the responsibilities of a city councilor and the time requirements warrant some level of financial compensation? *Yes*
- 10) If so, do you have any particular level of compensation you think would be reasonable? *Follow surveys from other cities.*
- 11) Any other comments? *Do not let compensation mean you're an employee of the City or people. As volunteer, or nominally paid responsibility to voters shown*

ATTACHMENT O

**Citizen Committee on Mayor and Council Compensation
Question for Elected Officials**

Name: DEBRA EHRMAN

1. What issues do you want this committee to consider regarding pay for the Mayor/City council?

How will the role of our city manager be effected
we have councilors who might be more motivated to learn their keep.
potential write in candidates who are unemployed or with little community
experience
budget constraints

2. Do you favor paying the Mayor? Paying the City Council? Why or why not?

It would have to be all or none as too much internal
tension would result otherwise. While I never served with
people who wanted or needed pay, I can see that some citizens
simply can't afford to serve.

3. If yes, how much? How would pay be set? By whom? Initially and over time?

This will be difficult, you may need timesheets if hourly pay is basis,
but that seems the most equitable. If you set a stipend or salary, some
may benefit without performing.

4. In 1997, the Friends of Eugene sent a survey to mayor and members of the council concerning the demands of being a volunteer elected official. If you would like to respond to these questions and include that information please respond to those questions which are found on the back of this sheet.

If you would like a copy of the results of this survey, please call 682-5406 and request a copy.

THANK YOU FOR YOUR TIME.

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Please answer as many questions as you can. If you are not comfortable responding to any particular question, please skip to the next question. Use the back of the page if you need more space to reply. Thank you.

- 1) On average, how many hours per week do you spend on city council business?
- 2) What do you consider to be the minimum time required to do the job adequately? (average hours per week)
- 3) What do you think would be the optimal time for a city councilor to spend on council business? (average hours per week)
- 4) Has your professional income or career suffered or been diminished in any way as a result of your volunteer work as a city councilor? Please explain, if you can.
- 5) Has your family or personal life suffered or been diminished in any way as a result of your volunteer work as a city councilor? Please explain, if you can.
- 6) Do you find that you have adequate time to review city information packets and other materials necessary to be fully prepared for issues that will be discussed at the Council's meetings?
- 7) Do you find that you have adequate time to meet with constituents and to respond to constituent phone calls, letters and emails?
- 8) Do you think that modest compensation would improve your ability to devote more time to the essential duties of your office?
- 9) Do you believe that the degree of the responsibilities of a city councilor and the time requirements warrant some level of financial compensation?
- 10) If so, do you have any particular level of compensation you think would be reasonable?
- 11) Any other comments?

**Citizen Committee on Mayor and Council Compensation
Question for Elected Officials**

ATTACHMENT P

Name: _____

Roger Rutan

1. What issues do you want this committee to consider regarding pay for the Mayor/City council?
 - #1 - Should the Council be paid + why?
 - #2 - What if the Council stuck strictly to Charter-mandated issues. What would be the result?
 - #3 - Is the Council doing a good job of "managing the money"?
2. Do you favor paying the Mayor? Paying the City Council? Why or why not?

NO + NO. There is no compensation level that accomplishes anything but a "thank you." Paying the Mayor + Council is the whole answer to the whole question. Are they spending too much time? Solve the problem! Any pay would make it work.
3. If yes, how much? How would pay be set? By whom? Initially and over time?
4. In 1997, the Friends of Eugene sent a survey to mayor and members of the council concerning the demands of being a volunteer elected official. If you would like to respond to these questions and include that information please respond to those questions which are found on the back of this sheet.

If you would like a copy of the results of this survey, please call 682-5406 and request a copy.

THANK YOU FOR YOUR TIME.

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RECEIVED
BY CITY MANAGER
NOV 30 1999

CITY COUNCIL SURVEY

As a current or past Eugene city councilor or mayor, you are/were one of the nine voluntary, elected representatives that governs our city of approximately 130,000 people with an annual budget of more than \$300 million. We would like your opinions regarding the demands this job places on you and whether or not you are able to adequately meet these demands as a volunteer.

Please answer as many questions as you can. If you are not comfortable responding to any particular question, please skip to the next question. Use the back of the page if you need more space to reply. Thank you.

- 1) On average, how many hours per week do you spend on city council business? 20-25
- 2) What do you consider to be the minimum time required to do the job adequately? (average hours per week) 20
- 3) What do you think would be the optimal time for a city councilor to spend on council business? (average hours per week) 10-15
- 4) Has your professional income or career suffered or been diminished in any way as a result of your volunteer work as a city councilor? Please explain, if you can.
Yes. As a small business owner, I saw a direct, negative impact in many areas.
- 5) Has your family or personal life suffered or been diminished in any way as a result of your volunteer work as a city councilor? Please explain, if you can. NO
- 6) Do you find that you have adequate time to review city information packets and other materials necessary to be fully prepared for issues that will be discussed at the Council's meetings? Yes. (make the time & get out of office.)
- 7) Do you find that you have adequate time to meet with constituents and to respond to constituent phone calls, letters and emails? Yes
- 8) Do you think that modest compensation would improve your ability to devote more time to the essential duties of your office? NO WAY
- 9) Do you believe that the degree of the responsibilities of a city councilor and the time requirements warrant some level of financial compensation? NO WAY
- 10) If so, do you have any particular level of compensation you think would be reasonable?
- 11) Any other comments?
I have many if anyone is interested.

**Citizen Committee on Mayor and Council Compensation
Question for Elected Officials**

Name: Emily Schue 1979-90

1. What issues do you want this committee to consider regarding pay for the Mayor/City council? *Consider the time required, including regular study of issues and service with committees & other government groups. Also how more people could be freed to serve - such as teachers or sales people*
2. Do you favor paying the Mayor? Paying the City Council? Why or why not?
Yes. The job is demanding and time consuming. It is a job. Many able citizens are not able to serve because of the financial loss often involved.
3. If yes, how much? How would pay be set? By whom? Initially and over time?
I would set a % of the local median wage so that arguments over increases would be avoided. Council about \$600 a month. Mayor a bit more
4. In 1997, the Friends of Eugene sent a survey to mayor and members of the council concerning the demands of being a volunteer elected official. If you would like to respond to these questions and include that information please respond to those questions which are found on the back of this sheet.

over

If you would like a copy of the results of this survey, please call 682-5406 and request a copy.

THANK YOU FOR YOUR TIME.

CITY COUNCIL SURVEY

As a current or past Eugene city councilor or mayor, you are/were one of the nine voluntary, elected representatives that governs our city of approximately 130,000 people with an annual budget of more than \$300 million. We would like your opinions regarding the demands this job places on you and whether or not you are able to adequately meet these demands as a volunteer.

Please answer as many questions as you can. If you are not comfortable responding to any particular question, please skip to the next question. Use the back of the page if you need more space to reply. Thank you.

- 1) On average, how many hours per week do you spend on city council business? *It varied - average about 20.*
- 2) What do you consider to be the minimum time required to do the job adequately? (average hours per week) *20*
- 3) What do you think would be the optimal time for a city councilor to spend on council business? (average hours per week) *Depends on person and assignments to other groups - i.e. WRAPA, LCOG, LOC etc.*
- 4) Has your professional income or career suffered or been diminished in any way as a result of your volunteer work as a city councilor? Please explain, if you can. *Was not employed.*
- 5) Has your family or personal life suffered or been diminished in any way as a result of your volunteer work as a city councilor? Please explain, if you can. *No, but children were grown & my husband supportive.*
- 6) Do you find that you have adequate time to review city information packets and other materials necessary to be fully prepared for issues that will be discussed at the Council's meetings? *Yes*
- 7) Do you find that you have adequate time to meet with constituents and to respond to constituent phone calls, letters and emails? *Yes, with help from staff.*
- 8) Do you think that modest compensation would improve your ability to devote more time to the essential duties of your office? *Yes*
- 9) Do you believe that the degree of the responsibilities of a city councilor and the time requirements warrant some level of financial compensation? *Yes*
- 10) If so, do you have any particular level of compensation you think would be reasonable? *A % of the local median wage*
- 11) Any other comments?

WALSTON Mary F**ATTACHMENT R**

Subject: 'dbishoff@teleport.com'; 'jbelcher@efn.org'; 'donot
'thinkley@efn.org'; MCDANIELS David K (UO); 'rz
RE: Forwarded Note

Below is a note I received regarding compensation for the mayor and council. MW

Mary,

Here is the information as per your request regarding the survey pertaining to the issue of pay for the Council. I apologize for the tardiness. I hope and trust the information is still relevant. Please advise on how else I can provide input and be of help.

Just so you know, as a former City Councilor, I have always maintained that some of us should have received compensation! (smile)

Now that I am more experienced in these matters, I have adopted a much broader viewpoint. I will attempt to answer your questions in the same format on the attached letter (Nov. 17, 1999). I will only provide my responses and hope that you can correspond them with the questions.

Question 1.

On city council business, I spent an average of 20-25 hours per week.

Question #2

I believe the optimal time required to do the job adequately is a solid 25 hours, which may include preparation and study time. I believe this is doable (sic) even under self-employment conditions.

Question #3

See as answer on #2

Question #4

I can unequivocally say that my professional career did not suffer or was diminished by my volunteer work as a city councilor. The reason for this is because my employer at the time was extremely supportive of me and my willingness to serve the community in a capacity as an elected official and particularly as a volunteer. This position did not constitute any conflicts. Also, I accepted the role of city councilor as a matter of my civic duty and knew in advance that the position was one of a non-compensatory status.

Question #5

My family life was not diminished because my family understood and supported me in my efforts to serve the City of Eugene. There were many adjustments that needed to be made due to the fact that I had a young family, but they adjusted very quickly and city government business was never an obstacle to our quality time.

Question #6

It would have been more beneficial to have the packet of materials at least a week in advance of our meetings. Often time, I received the packet on Friday and needed to be prepared by Monday night. There were times where a "quick overview was more necessary than an in-depth study, however, the Wednesday agenda allowed me more time to embrace the materials. If at all possible, councilors should be able to receive their packets a week in advance. This may cause some additional work by staff, but if a councilor has at least a week to prepare, he or she should come ready to handle the affairs of the city in a responsible manner.

Question #7

There is never enough time to meet with your constituents. They are just too many, however, this is where the utilization of appropriate staff can assist councilors. I believe a personal contact should be made and every call should be returned by the councilor. If a councilor has a constituent concern/s, he or she can raise it during a work session under the items

on city councilors and request support from his or her colleagues to direct the city manager to follow-up and report back. I found that if I accessed the existing process, many of my constituent's needs were addressed.

Question #8

I think this matter of compensation should not be considered, regardless of the modesty in the amount. The position of councilor does not warrant compensation due to the huge support of staff. If the staff is appropriately utilized by the

elected official, the councilor's needs will be met. Travel considerations/ advances , supplies, telephones, meals and whatever tools are needed by the councilor can and should be picked up by the city and not at the expenses of the councilor, which I believe is the current practice.

Question #9

No, same as response on #8.

Question #10

No, same as response on #8.

Question #11

Please consider this. When private citizens choose or are encouraged to seek the office of councilor, it is made very clear within the Charter that the position is "volunteer". Any effort to change this practice should also change the form of city government. The Mayor would or should become the Chief Budget Officer, much like the big city administrations. Under the current form of council/manager form of government, councilors can execute the responsibilities of their office without expecting compensation. In fact, the oath of office is silent on the compensation matter. It does not imply that compensation will be forthcoming and it shouldn't.

I would also offer that those whose are misled into believing that paying or compensating councilors will attract a "better, larger or a more diverse pool of candidates" are wishful thinking. If that is true, does it mean those who volunteer are less qualified or not as "good"? I firmly believe that those who serve in the capacity of city councilor are serving their government well to the best of their abilities. They are performing their civic duty and their compensation should be in knowing that they are serving their fellow citizens.

Thanks for the opportunity to participate!

Bobby Green, Sr.

Former City Councilor

Ward 6

WALSTON Mary F

ATTACHMENT S

From: Rob Zako & Kayleen Hanna [rzako@efn.org]
 Sent: Thursday, November 18, 1999 11:40 AM
 To: Mary Walston
 Subject: Fwd: Re: Public Forum Thursday: Should city councilors and the mayor be paid?

Dear Mary,

Please include Eben's comments as part of the public input to be shared by our committee.

As I receive additional comments from my constituents, what would be the best way to share these with the rest of our committee?

Regards,
 Rob

----- Begin Forwarded Message -----

Date: 11/18/99 11:28 AM
 Received: 11/18/99 11:28 AM
 From: Eben Fodor, fodor@efn.org
 To: Rob Zako, rzako@efn.org

Rob,

I want to make the forum but cant be sure. Perhaps I have suggested this before, but just in case I didnt... It seems to me that the easiest strategy would be to simply seek to change the charter to allow compensation. The amount of compensation could be decided later and could be left up to the council. Establishing some fixed amount in the City Charter is likely to be difficult and lead to disagreements. Also, as time marches on, a fixed amount is eventually going to look too small and another vote will be required.

 Eben Fodor
 Fodor & Associates
 Community Planning Consulting
 394 East 32nd Avenue
 Eugene, OR 97405
 Phone: 541/345-8246
 Fax: 541/345-2747

----- End Forwarded Message -----

Rob Zako & Kayleen Hanna 1280-B East 28th Ave., Eugene, OR 97403-1616 (541) 343-5201 (voice) (541) 683-5828 (fax & voice)
--

capable people among the merchants, teachers, civic organizations, and the boards of the neighborhood organizations. I feel many of them would seek a t on the council if the pay, promotional opportunities, and benefits .e there.

If they remain unpaid, council's workload should significantly reduced, strictly limited to policy, not the administration of it. Perhaps a paid "chief of staff" could serve as a clearinghouse, distributing policy to council and administrative matters to the city manager. Perhaps a small paid staff of aides could provide briefings, executive summaries, etc to councilors to free them from wading though reduntant public testimony, heavily detailed staff reports. etc.

Just some off the top of my head thoughts. Perhaps you may find them useful.

Alan Wilm
344-3948

----- End Forwarded Message -----

----- Begin Forwarded Message -----

Date: 11/17/99 7:47 PM
Received: 11/18/99 6:37 AM
From: Paul Nicholson, pbwol@yahoo.com
Rob Zako, rzako@efn.org

I'm not going to the meeting so here's my two cents worth.

Councilors should be paid when and if they have power and responsibility. As things now stand, the council is purely decorative. Paying Nancy Nathanson would be a terrible waste of money.

Therefore, I support putting the question of paying council together in a package that includes getting rid of the city manager form of government.

----- End Forwarded Message -----

Rob Zako 1280-B East 28th Ave., Eugene, OR 97403-1616 (541) 343-5201 (voice) (541) 683-5828 (fax & voice)
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WALSTON Mary F

From: Robert John Cassidy [bcassidy@efn.org]
 Tuesday, November 23, 1999 12:27 PM
 To: mary.f.walston@ci.eugene.or.us
 Subject: Mayor pay.

11-23-99

I have previously commented on pay for the mayor and city councilors. I attended the last meeting to hear the discussion and was not prepared to comment with lucidity. So I wish to file a statement.

I note your paper "Facts about compensation for the mayor and council". It deals with hours worked and compensation rates and practices of other cities. What it does not mention is the cost of getting elected to these positions. It also does not mention the reimbursement of the types of expenses that the councilors are presently receiving.

A second issue that is lurking in the background of this discussion is the statement of the mayor that he would like to tie the compensation of the council to a different system of electing the councilors.

With these things in mind, I would like to suggest paying a full time salary for the mayor - comparable to the county commissioners. He must run "at large" for that position, and it would be good not to have the mayor wholly dependent on large contributions from a few individuals.

And the councilors should get a token compensation - say \$500. to \$1,000. per month. This should not be understood as pay for hours worked - as in a hired employee, but rather a recognition that a councilor has expenses incurred in offering his or her services as a representative of the citizens.

If the token remuneration is small enough, there may be no effort to change the present voting system that we have, unless maybe it would be to have two councilors elected from each ward - as has been suggested. And I would like that.

Future adjustments to the compensation schedule should be established by the council itself. Thank you,

Bob Cassidy
 1401 E. 27th
 Eugene 97403

WALSTON Mary F

From: Rob Zako & Kayleen Hanna [rzako@efn.org]
Sent: Friday, November 19, 1999 10:26 AM
To: Mary Walston
Subject: Fwd: Re: Public Forum Thursday: Should city councilors and the mayor be paid?

Dear Mary,
Here's two more for the record.

Rob

----- Begin Forwarded Message -----

Date: 11/17/99 10:40 PM
Received: 11/18/99 6:37 AM
From: AWILM36@aol.com
To: Rob Zako, rzako@efn.org

Rob,

Received your message to FOE, since I lurk there. Once in a while I pipe up,
so here goes:

There certainly is a need to provide an incentive for more qualified persons to seek a seat on the council. Pay is one way. One obvious question is, at what threshold would compensation lure a qualified person away from his/her current employment for a tour of duty on the council which is relatively short and where return rights to previous employment uncertain?

Would a paid councilor become a city employee and thus covered by health insurance, life insurance, and a retirement plan? Which benefits could be offered and are they portable? What would be a reasonable term of employment? Under what conditons could a paid councilor be removed from office? What return rights if any could be provided by previous employers? What incentives could be offered by the city to secure return rights?

Applicants for paid council positions should be recruited using published and consistently applied qualification criteria. Resume's should submitted accordingly and interviews conducted. Thorough orientation and training should be provided to successful candidates.

I believe the Mayor's idea of a combination of paid at-large councilors and volunteers from various wards may contain some pitfalls (i.e. an informal pecking order based on pay, unclear paths of succession to council offices and committee assignments, etc.)

My experience in Eugene (since '86) tells me that there are many extremely

WALSTON Mary F

From: David Oaks - Support Coalition International [dendron@efn.org]
Sent: Thursday, December 09, 1999 12:48 PM
To: Mary.F.WALSTON@ci.eugene.or.us
Subject: average modest salary okay for mayor, councilors

Dec. 9, 1999

To: Citizen Committee on Mayor Council Compensation

c/o Mary F. Walston
<Mary.F.WALSTON@ci.eugene.or.us>

From: David Oaks, co-coordinator
Support Coalition International
454 Willamette, Suite 216
Eugene, OR 97401

Re: average modest salary okay for Mayor, Councilors

This is a note in support of paying future Eugene mayors and city council members.

Also, I'd like to emphasize that it is okay to pay the mayor and city council a modest wage based on the hours the job description would require, and the average prevailing wage in Eugene.

The reason I feel it's important to note this, is that I understand some individuals oppose paying the Mayor and City Council *unless* a high "professional" wage is provided. Their argument is that we won't have a high-quality professional working, unless we pay what the average attorney or engineer makes.

I disagree with the reasoning behind pushing for a higher wage. For me, it's totally okay if a working person or low-income individual is elected to this position. Also, I feel an average and modest wage would be more acceptable to the general public.

Thank you for being open to e-mail comment. I am going to copy this to other Eugonians so they can have the opportunity to register their opinion.

1

I understand people without e-mail can comment by postal mail by writing to:

Citizen Committee on Mayor Council Compensation
City Manager's Office
Eugene City Hall
777 Pearl Street
Eugene, Oregon 97401
Or can phone for more information at: 682-5010

WALSTON Mary F

From: Rob Zako [rzako@efn.org]
Sent: Monday, January 03, 2000 8:22 PM
To: Mary Walston
Subject: Comments from CPA on City Councilor Compensation

Dear Mary,

A couple weeks ago, CPA discussed our draft proposal for compensating city councilors and the mayor. From what I heard, reactions were mixed. I asked for written comments and received the following. Please distribute these to the rest of the committee.

Thanks!
 Rob

----- Begin Forwarded Message -----

Date: 12/27/99 1:08 PM
 Received: 12/27/99 4:28 PM
 From: charlie, cimagee@pond.net
 To: Rob Zako, rzako@efn.org

Rob,

Based on one of the comments at a CPA general meeting. For your committee:

Is it possible to add a 5 year "sunset" clause to the charter amendment? Payment of councilors and mayor could cause unexpected and unforeseen changes to the way democracy is practiced in our city. What might seem like a good idea to the voters this year might look like a miserable idea in the future. The voters should have a way to vote for the continuation/discontinuation of this law on a regular basis.

Thanks,

Charlie Magee

----- End Forwarded Message -----

----- Begin Forwarded Message -----

Date: 12/27/99 3:15 PM
 Received: 12/27/99 4:28 PM
 From: Bo Adan, bojadan@oregon.uoregon.edu
 To: Rob Zako, rzako@efn.org
 CC: CPA Steering Committee, cpasc@efn.org

Okay, Rob, here are my off-the-top-o'-my-head views on this matter:

Arguments have been made supporting and opposing proposals to compensate those elected to serve on the Eugene City Council. While I certainly believe that "service" and "volunteerism" are a necessary antidote to de facto "big money in politics," nevertheless persons who commit days, evenings, and some weekends to the "job" of City Councilor ought to be

compensated for this level of commitment. Therefore, I support the principle of paying city councilors for their service.

I think, however, that if we are going to put this principle into practice, we need to consider some issues:

1) I agree that compensation should be modest--more or less the figures you've proposed. Modest compensation will not draw "big money" into campaigns for city council. (What continues to draw money into local politics, I believe, are the real-and-imagined perceptions of "power" and agenda-setting that derive from holding office.) Instead, as the argument goes, modest compensation would allow a broader range of citizens to run for/serve as councilors, since low(er)-income councilors would not have to choose solely between public service or maintaining their (other) current employment for economic "survival."

2) A corollary to this argument are the feelings expressed by past and present councilors that their service requires so much of their time that they feel as if they're working a nearly-full-time job. I appreciate these feelings. But then, if we are going to compensate councilors for doing a "job," I think we, the citizens, ought to have some means of holding their performance accountable. I do NOT mean holding them accountable for how they vote on any particular issue. What I DO mean is that councilors should actually--really and truly--be prepared and competent in their duties as councilors. They should be required (why aren't they now?!) to articulate responses to citizens' arguments for and against proposals, rather than simply justifying their own positions/votes. When citizens challenge councilors with articulate arguments, councilors must, to be minimally competent in their roles as councilors, respond on-point to such arguments. In short, councilors--like their "management"/"supervisor" counterparts in the private sector--need to be intelligent and responsive.

I have other thoughts, but the preceding are probably the big 'uns. Thanks for your work on this issue, Rob.

Bo

Bo Adan
Research Faculty
Project CBCN: Computer-Based Collaborative Notetaking
The Center for Electronic Studying (CES)
University of Oregon
1244 Walnut St., Suite D
Eugene, OR 97403

office: (541) 346-2853
fax: (541) 346-2565
home: (541) 343-7858
E-mail: bojadan@oregon.uoregon.edu

----- End Forwarded Message -----

----- Begin Forwarded Message -----

Date: 12/27/99 5:26 PM
Received: 12/27/99 9:29 PM
From: Jan Wostmann, jw@efn.org
To: Rob Zako, rzako@efn.org
CPA Steering Committee, cpasc@efn.org

2

I agree with much of Bo's earlier response. Paid elected officials are a mixed blessing. Surely the best argument in favor is one of fairness. We expect City Councilors to stay informed about and carefully consider a whole

range of issues. The time spent by current councilors is probably on the low side of what's necessary, judging by the quality of the debate. To expect them to exercise due diligence without any compensation is fundamentally unfair. Secondly, there is the balance of power issue. It is likely that a paid Mayor would exert more influence on City affairs now largely left to the City Manager (this is a good thing or a bad thing depending on who holds the mayor's office).

There are also a number of other arguments that crop up in favor of compensation. Probably the weakest of these is that the Chamber and the RG

will probably oppose compensation, therefore it must be a good idea. In my view this is without merit. A second argument often heard in favor is that people who currently won't run, will do so if they are compensated. While this is undoubtedly true, it does not follow that we would therefore be better represented. There are a number of things to consider when deciding whether this argument rightfully belongs in the 'for' or the 'against' column.

One thing to look at is the quality of elected officials who hold compensated positions vs. those that hold volunteer positions. We currently have a very competent group of State legislators representing most of Eugene, but as a whole the State legislature is considerably more conservative than the Oregon public. Consider the County Commission. (Perhaps consider Portland's City Council.) Compare those to the Eugene City Council, the 4J School Board, and the EWEB Board.

I am aware of one academic study which found that the voting records of paid municipal elected officials were more conservative than comparable volunteer municipal officials. This study however is more than 20 years old, and did not include Oregon cities.

It is also a common belief that poor people are less conservative than rich people are. We are particularly prone to this idea, because our friends are mostly progressive and mostly not wealthy. However as a generalization it doesn't hold up very well.

So whether increasing the number of people who are willing to run for office is good, bad or neutral is not an easy question, and deserves careful thought and debate.

3

Now for some arguments against. All of the successful campaigns of local progressive candidates in the past decade have been 'grass roots' campaigns.

Meaning that personal contact, networking, appearances by the candidate at neighborhood meeting, social clubs, etc. were more important than paid advertising. It is a fairly safe bet that money will play a larger role

incil elections if the positions are compensated. Those who currently able to serve without compensation will now have an extra \$12K, part of which will surely end up in their campaign coffers.

Secondly, the pressure for councilors to be elected citywide is likely to increase when they are paid. Voters are spread fairly evenly over the wards, but the collection of property taxes is not. Even if we manage to preserve the ward system, it would lend credence to those who expect councilors to serve the interests of property tax payer as opposed to voters, who are by no means the same group of folks. I think we all agree that citywide elections increase the costs of a campaign, and therefore the influence of large contributors.

Anyway, there is no easy answer. We hope to devote an entire CPA meeting to discussing this topic sometime in the near future. I hope you will participate in that discussion, Rob.

Jan
----- End Forwarded Message -----

+-----+
Rob Zako |
1280-B East 28th Ave., Eugene, OR 97403-1616
| (541) 343-5201 (voice) |
| (541) 683-5828 (fax) |
+-----+

ATTACHMENT T

PAYMENT FOR MAYOR AND COUNCILORS ELECTION HISTORY

City of Eugene records show that there have been six elections to consider compensation for the Mayor and City Council positions. All of elections resulted in a “NO” vote. This is a summary of the elections. If you are interested in additional information, please contact the City Recorder’s Office at 682-5683.

ELECTION DATE	CONTENT	YES	NO
6/28/1909	Charter Amendment authorizing salaries for Mayor and Councilors (\$420 for Mayor, \$360 for Council, annual)	270	538
4/3/1911	Charter Amendment providing annual salaries for Mayor and Council (\$300 for Mayor, \$240 for Council, annual)	639	740
4/1/1912	Charter Amendment: Mayor of the City of Eugene shall receive a salary of \$300 per annum and each councilman shall receive an annual salary of \$240	470	848
4/16/1914	Charter Amendment providing salary for Mayor and Councilors (Not able to determine the dollar amount intended)	543	1,571
5/23/1973	“Charter Amendment Regarding City Officers’ Salaries”	5,016	7,167
5/23/1973	“Advisory Measure Indicating Preference Of Range Of Compensation To Mayor And Council Members”		
	Mayor: \$100-\$200* Council: \$ 50-\$100*	4,615	
	Mayor: \$201-\$300* Council: \$101-\$150*	1,804	
	Mayor: \$301-\$400* Council: \$151-\$200* *Monthly	1,619	
11/5/74	Charter Amendment allowing Mayor and City Council members compensation for services	11,458	17,666

ATTACHMENT U

MEMORANDUM

Human Resource and
Risk Services

City of Eugene
777 Pearl Street, Room 101
Eugene, Oregon 97401-2793
(541) 682-5061
(541) 682-6831 FAX
(541) 682-8824 TTY

Date: December 27, 1999

To: Mary Walston, City Manager's Office

From: Myrnie Daut, Human Resource and Risk Services

Subject: Health Insurance Options for Councilors

In response to your request for additional information on options for providing health insurance coverage for Councilors, this memo outlines the two options we discussed, either giving Councilors a stipend to purchase coverage either through the city's group health plans or through an individual policy. Please let me know if you would like information on the benefits offered through these plans.

Coverage through the city's plans: The city offers employees a choice of two health plans: the City Health Plan, a self-insured PPO (preferred provider organization) plan administered by ODS Health Plans; or Blue Choice, an HMO (Health Maintenance Organization) plan offered by Regence BlueCross BlueShield of Oregon. The city also self-insures the dental and vision plans for all employees. I spoke with the City's insurance broker who said that it is a common practice in Oregon for municipalities to allow only those Councilors who do not have other health insurance coverage to purchase coverage through the governments' plans, and does not foresee any problems if this option is selected. The current premium rates for the city plans are below (premium rates change on July 1, 2000):

CITY HEALTH PLAN		
	Medical Only	Medical, Dental and Vision
Single	\$192.18	\$226.18
Two-Party	\$357.45	\$417.04
Family	\$495.82	\$584.07

REGENCE BLUE CHOICE		
	Medical Only	Medical, Dental and Vision
Single	\$125.95	\$159.95
Two-Party	\$259.10	\$318.69
Family	\$377.60	\$465.85

Memo to Mary Walston
 Health Insurance Options for Councilors
 December 27, 1999
 Page 2

Coverage through an individual plan: I have used plans offered by Regence BlueCross BlueShield and HMO Oregon as examples if the Councilors were given the option of purchasing an individual health insurance policy. These plans require completion of an application, including a health statement, which may be accepted or rejected by Regence. The premiums are based both on the age of the oldest family member and the number of covered members. I have used the age brackets 40 - 49 and 50 - 64 for the tables below.

REGENCE BLUECROSS BLUESHIELD OF OREGON				
	Consumer Advantage* (Medical Only)		Consumer Advantage* (with Dental/Vision through City)	
	Age 40-49	Age 50 - 64	Age 40-49	Age 50 - 64
Single	\$250.40	\$317.50	\$284.40	\$351.50
Married Couple (2-Party)	\$499.50	\$633.60	\$559.09	\$693.19
One Adult & Children (One or more children)	\$385.00	\$486.50	\$473.25	\$574.75
Family (Married couple & children)	\$561.90	\$696.10	\$650.15	\$784.35

*Consumer Advantage offers a selection of deductibles. These premiums are based on a \$200 deductible.

REGENCE HMO OREGON				
	Personal Blue Plus (Medical Only)		Personal Blue Plus (with Dental/Vision through City)	
	Age 40-49	Age 50 - 64	Age 40-49	Age 50-64
Single	\$168.75	\$215.00	\$202.75	\$249.00
Married Couple (2-Party)	\$336.50	\$428.75	\$396.09	\$488.34
One Adult & Children (One or more children)	\$258.75	\$329.50	\$347.00	\$417.75
Family (Married couple & children)	\$377.00	\$467.75	\$465.25	\$556.00

PAYMENTS TO CITY COUNCILORS & MAYORS - MAY 1998

Exp = Expense f

ement

	Pop	Mayor				Councilors			
		Salary/Stipend	Travel Per Diem	Exp	Other	Salary/Stipend	Travel Per Diem	Exp	Other
VILLAGE	565			X				X	
IS	260								
									10%/mo - def comp; 3%/mo - 401a plan; \$300/mo auto & other unreimbursed expenses
NY	37095	\$165/month		X		\$6760/month		X	
r	1195								
IGTON	485			X	\$.22/mile			X	\$.22/mile
			\$6/day - breakfast; \$7/day lunch; \$17/day dinner				\$6/day - breakfast; \$7/day - lunch; \$17/day dinner		
AND	18360	\$500/year		X	\$.31/mile	\$350/year		X	\$.31/mile
RIA	10130	\$100/month		X		\$60/month		X	
NA	1105			X	Water is free			X	Water is free
SVILLE	2585	\$80/month		X	\$.25/mile	\$60/month		X	\$.25/mile
IRA	675			X				X	
					*some prearranged city related meetings				*some prearranged city related meetings
R CITY	9870	\$150/year		X*		\$150/year		X*	
ON	2760			X				X	
S	570								
CITY	1130		\$21.50/day - meals	X	\$.25/mile		\$21.50/day - meals	X	\$.25/mile
ERTON	63145								
	32220	\$200/month	\$32.00/day	X			\$32.00/day	X	
DMAN	2580			X				X	
INZA	370			X				X	
KINGS	5400			X				X	
VNSVILLE	1415				none				none
IS	2935			X				X	
E FALLS	415			X				X	
IY	11430	\$200/month		X		\$100/month		X	
ON BEACH	1395			X				X	
ON CITY	705			X	Free water & sewer			X	Free water & sewer
ONVILLE	1265								
TON	1470				none				none
MADE LOCKS	1050			X				X	
JUNCTION	1300			X				X	
RAL POINT	10295	\$250/month		X		\$125/month		X	

6/3/98

Page 1

181 responses to date

PAYMENTS TO CITY COUNCILORS & MAYORS - MAY 1998									
Exp = Expense Reimbursement									
City	Pop	Mayor				Councilors			
		Salary/Stipend	Travel Per Diem	Exp	Other	Salary/Stipend	Travel Per Diem	Exp	Other
HILOQUIN	755								
JATSKANIE	1875			X				X	
DBURG	775			X				X	
CLUMBIA CITY	1465								
INDON	790								
JOS BAY	15520		\$27/day - meals	X	\$.325/mile		\$27/day - meals	X	\$.325/mile
TOUILLE	4225								
IRNELIUS	7475	\$50/month		X	\$50/mo per mtg to max of 4 mtgs per month	\$50/month		X	\$50/mo per mtg to max of 4 mtgs per month
IRVALLIS	49275	\$100/month less taxes		X				X	
ITTAGE GROVE	7870		Federal Rate	X*	*one day trips/mtgs		Federal Rate	X*	*one day trips/mtgs
IVE	600								
RESWELL	2715			X				X	
ILVER	795			X	\$.32/mile			X	\$.32/mile
ILLAS	11360		\$100/month	X				X*	*within budget
LYTON	1745		\$100/month	X				X	
YVILLE	185								
POE BAY	1045			X	\$.325/mile			X	\$.325/mile
TROIT	370				\$.35/mile				\$.35/mile
NALD	580			X				X	
AIN	1115			X				X	
FUR	605			X				X	
NDEE	2500								
NES CITY	1240								
RHAM	1575			X				X	
BLE POINT	3605		\$25/day	X			\$25/day	X	
HO	530			X*	*preapproved attendance by Council			X*	*preapproved attendance by Council
IRN	1715								
TON	180								
ENTERPRISE	2020			X				X	
ACADA	2065			X				X	
SENE	126325			X				X	
RVIEW	4670			X				X	
LS CITY	935				none				none
IRENCE	6400			X				X	

PAYMENTS TO CITY COUNCILORS & MAYORS - MAY 1998

Exp = Expense									
Mayor					Councilors				
Pop	Salary/Stipend	Travel Per Diem	Exp	Other	Salary/Stipend	Travel Per Diem	Exp	Other	
ST GROVE	15370	\$100/month		Training - \$400/yr budgeted for mayor or council	\$75/month			Training - \$400/yr budgeted for mayor or council	
L	515		X				X		
VALDI	960								
QN	620								
S	530		X*	*phone if requested			X*	*phone if requested	
HART	1205		X				X		
AIS	1080	\$19.50/mtg	X		\$19.50/mtg		X		
STONE	11605		X*	*occasional			X*	*occasional	
DALE	730								
BEACH	2115		X	\$.30/mile			X	\$.30/mile	
HILL	1240		X				X		
ITE	25		X				X		
TS PASS	20255	\$25/day for meals + lodging actual	X*	*or per diem		\$25/day for meals + lodging actual	X*	*or per diem	
S VALLEY	185		X				X		
AM	79350	\$25/day - only for out of town city business	X	Amex card for city business		\$25/day - only for out of town city business	X	Amex card for city business	
IS	440		X				X		
WAY	355	\$300/month	X				X		
EY	730	\$5.00/month	X		\$5.00/month		X		
Y VALLEY	2825						X		
ISBURG	2205	\$10/mtg attended	X		\$10/mtg attended		X		
	185		X				X		
IER	1480	\$268/month	X				X		
ISTON	11050	\$50/month; \$250/month effective 01/01/99	X		\$20/month; \$100/month effective 01/01/99 or 01/01/01		X		
BORO	52105	\$100/month	X	\$2000 life insurance - premium paid by city	\$50/month		X	\$2000 life insurance - premium paid by city	
	1525	\$50/month	X*	*motel & \$.25/mile	\$20/month	\$38/day - meals	X*	*motel & \$.25/mile	
RIVER	5110	\$100/month	X*	*\$5,\$7,\$12 -meals + lodging; \$.325/mile	\$50/month		X*	*\$5,\$7,\$12 -meals + lodging; \$.325/mile	
ARD	2185		X				X		
INGTON	575		X				X		

PAYMENTS TO CITY COUNCILORS & MAYORS - MAY 1998

Exp = Expense Reimbursement

City	Pop	Mayor				Councilors			
		Salary/Stipend	Travel Per Diem	Exp	Other	Salary/Stipend	Travel Per Diem	Exp	Other
DANHA	315			X*	*almost never requested. Training if agreed & voted on			X*	*almost never requested. Training if agreed & voted on
ABLER	310			X	City pays for workshops			X	City pays for workshops
DEPENDENCE	4985			X				X	
ONE	250								
IRIGON	1090				none				none
LAND CITY	865	\$631/month					\$16.50/mtg attended		
ACKSONVILLE	2025			X				X	
FFERSON	2145								
JOHN DAY	1940			X	Monthly water/sewer bill			X	Monthly water/sewer bill
JOHNSON CITY	625	\$20/meeting		X		\$20/meeting		X	
JORDAN VALLEY	385								
SEPH	1255			X				X	
JUNCTION CITY	4115			X*	*for required functions/meetings			X*	*for required functions/meetings
SIZER	27450			X				X	
NG CITY	2155			X				X	
AMATH FALLS	18765								
A GRANDE	12415	\$90/month		X	City paid attendance at community banquets	\$70/month		X	City paid attendance at community banquets
AYETTE	1795			X	\$.27/mile			X	\$.27/mile
KE OSWEGO	34005	\$254.69/month *		X	*Annual change based on CPI	\$113.20/month *		X	*Annual change based on CPI
KESIDE	1630								
KEVIEW	2655	\$220/month	\$5 per breakfast & lunch; \$10 per dinner	X		\$150/month	\$5 per breakfast & lunch; \$10 per dinner	X	
BANON	11995	\$150/month	\$32/day if requested	X	\$.325/mile; \$500 budgeted total for registrations	\$100/month	\$32/day if requested	X	\$.325/mile; \$500 budgeted total for registrations
XINGTON	295								
COLN CITY	6665								
ING CREEK	240			X				X	
ISTINE	235								
WELL	955			X				X	

PAYMENTS TO CITY COUNCILORS & MAYORS - MAY 1998									
Exp = Expense					Disbursement				
Mayor					Councilors				
	Pop	Salary/Stipend	Travel Per Diem	Exp	Other	Salary/Stipend	Travel Per Diem	Exp	Other
NS	1010			X*	*only council approved expenses, e.g. seminars			X*	*only council approved expenses, e.g. seminars
					Medical, Vision, & Dental insurance coverage required to reimburse for dependents if covered				Medical, Vision, & Dental insurance coverage required to reimburse for dependents if covered
DRAS	4770			X				X	
JN	750								
IZANITA	755			X				X	
JPN	495			X	\$.31/mile			X	\$.31/mile
WOOD PARK	795								
MINNIEVILLE	22880			X				X	
			\$38/day - without receipts; actual expense with receipts + 20% gratuity & taxes	X			\$38/day - without receipts; actual expense with receipts + 20% gratuity & taxes	X	
FORD	57155								
WILL	835								
			\$25/day - over night required	X*	*Per Diem or Exp		\$25/day - over night required	X*	*Per Diem or Exp
OLUS	640			X		\$45/month		X	
CITY	1640	\$80/month							
ERSBURG	740			X		\$500/year		X	
ON-FREEWATER	6055	\$2000/year							
VAUKIE	20065								
SHELL	180			X	Clerk/Water Supt				
ALLA	4505								
MOUTH	7385			X	LOC Conference			X	LOC Conference
IRDE	495								
UMENT	185			X				X	
IO	295			X				X	
IER	290			X				X	
ANGEL	3010			X				X	
ERNON	645								
CREEK	3410			X	\$.20/mile			X	\$.20/mile
POINT	2730			X				X	
ALEM	235			X				X	
BERG	16160	\$300/month	\$8/meeting attended	X			\$8/meeting attended	X	
PORT	9785			X				X	

PAYMENTS TO CITY COUNCILORS & MAYORS - MAY 1998									
Exp = Expense Reimbursement									
City	Pop	Mayor				Councilors			
		Salary/Stipend	Travel Per Diem	Exp	Other	Salary/Stipend	Travel Per Diem	Exp	Other
ORTH BEND	9885	\$25/council mtg	\$75/month			\$25/council mtg			
ORTH PLAINS	1470								
ORTH POWDER	555				none				none
YSSA	2970								
AKLAND	870			X				X	
AKRIDGE	3200			X				X	
NTARIO	10290	\$200/month		X		\$125/month		X	
REGON CITY	20410			X*	*with City Mgr approval			X*	*with City Mgr approval
WISLEY	345								
INDLETON	15900	\$37.50/meeting for 1st 2 per month		X	\$.30/mile	\$25/meeting for 1st 2 per month		X	\$.30/mile
HILOMATH	3300								
DENIX	3730	\$100/month							
LOT ROCK	1570								
ORT ORFORD	1050			X				X	
ORTLAND	503000								
OWERS	695			X				X	
LAURE CITY	1180				free water service				free water service
INEVILLE	6230			X				X	
UNIER	1755								
DMOND	11175			X				X	
EDSPORT	4860			X*	*over \$10			X*	*over \$10
CHLAND	185			X	\$.25/mile - own vehicle; mileage documented			X	\$.25/mile - own vehicle; mileage documented
DOLE	1170				none				none
ZERGROVE	300			X				X	
ICKAWAY BEACH	1195								
IGUE RIVER	1965				none				none
ISEBURG	19720		\$25/day				\$25/day		
IFUS	290			X				X	
LEM	120835		\$274/month				\$49/month		
JNDY	4895			X*	*Conferences			X*	*Conferences
JAPPOOSE	4130								
JO	665			X*	*pre-approved only & \$.28/mile			X*	*pre-approved only & \$.28/mile
OTTS MILLS	310								

PAYMENTS TO CITY COUNCILORS & MAYORS - MAY 1998

Exp = Expense									
Mayor					Councilors				
	Pop	Salary/Stipend	Travel Per Diem	Exp Other		Salary/Stipend	Travel Per Diem	Exp Other	
SIDE	5860			X				X	
ECA	230				none				none
DY COVE	2135			X*	*travel only			X*	*travel only
NIKO	30								
RIDAN	4800	\$100/year		X*	*up to \$150/year	\$75/year			
RWOOD	6600			X				X	
TZ	1170								
ERTON	6565			X	Seminar or conference tuition when appropriate			X	Seminar or conference tuition when appropriate
ERS	775			X				X	
AVILLE	260								
AY					none				none
NGFIELD	50140			X				X	
IELENS	8300								
AUL	355				none				none
VFIELD	1755	\$50/month		X		\$35/month		X	
					total budget limited to \$500. Officials pay most of their expenses			X	*total budget limited to \$500. Officials pay most of their expenses
RTON	6035			X*				X*	
JIMITY	1985	\$10/month		X		\$10/month		X	
PTER	175			X*	*frequently not requested			X*	*frequently not requested
BERLIN	5995			X				X	
ET HOME	7450	\$60/month	\$28/day or actual cost	X	\$.31/mile + lodging	\$50/month	\$28/day or actual cost	X	\$.31/mile + lodging
			\$5 - breakfast; \$6 - lunch; \$15 - dinner	X			\$5 - breakfast; \$6 - lunch; \$15 - dinner	X	
ENT	4765			X				X	
GENT	850			X				X	
DALLES	11460			X				X	
RD	35925	\$350/month		X	Health Insurance	\$250/month		X	Health Insurance
WOOK	4275			X	LOC Conference			X	LOC Conference
DO	3465			X				X	
					\$.325/mile; worker's comp; conference registration			X	\$.325/mile; worker's comp; conference registration
JTDALE	12750	\$600/month		X	\$20/month credit toward utility billing			X	\$20/month credit toward utility billing
ATIN	20040			X				X	

PAYMENTS TO CITY COUNCILORS & MAYORS - MAY 1998

Exp = Expense Reimbursement

City	Pop	Mayor				Councilors			
		Salary/Stipend	Travel Per Diem	Exp	Other	Salary/Stipend	Travel Per Diem	Exp	Other
JRNER	1330		\$30/day (in state) \$32/day (out of state)		\$.30/mile		\$30/day (in state) \$32/day (out of state)		\$.30/mile
IAH	280								
WATILLA	3310			X	\$.315/mile			X	\$.315/mile
JION	1955	\$150/quarter		X		\$75/quarter		X	
ITY	110				none				none
LE	1510								
NETA	2845	Voting May 26 on whether or not to pay \$50/mo to mayor & councilors		X		Voting May 26 on whether or not to pay \$50/mo to mayor & councilors			
RNONIA	2180			X				X	
ALDPORT	1750								
ALLOWA	755				\$528/year for water/sewer, while in office				\$528/year for water/sewer, while in office
ARRENTON	3940	\$50/month		X		\$30/month		X	
ASCO	390								
ATERLOO	220			X				X	
IST LINN	19960	\$480/quarter		X		\$280/quarter		X	
ISTFIR	280			X				X	
ISTON	680			X	free water & sewer (\$15 value)			X	free water & sewer (\$15 value)
HEELER	375				none				none
LLAMINA	1790								
LSONVILLE	10600								
NSTON	4170			X				X	
OD VILLAGE	2995			X				X	
ODBURN	15780	\$50/month		X	\$.25/mile	\$25/month		X	\$.25/mile
CHATS	655			X				X	
MHILL	960			X				X	
NCALLA	980			X				X	

American Cities with Eight City Councilors

Population 120,000 to 220,000

ATTACHMENT D
1999

CITY	1998* Population Estimate	FORM OF GOVERNMENT					MAYOR						COUNCIL								
		MGR APPOINTED BY	DEPT HEADS APPOINTED BY	Appointive Authority			YRS IN TERM	LIMIT YRS	ELECTED BY V C	COMPENSATION			YRS IN TERM	LIMIT YRS	TOTAL NBR OF MEMBERS	SELECTION			COMPENSATION		
				Atty	Clk	Aud				MONTHLY SALARY	PER MTG PAY	PAID BENEFITS				# AT LRG	# BY DIST	MONTHLY SALARY	PER MTG PAY	PAID BENEFITS	
Ann Arbor, MI	127,825		MayorCC	MayorCC	Voters	Council	4		x	\$ 7,500		full pkg	4		8	4	4		(Pres-Vice-Mbr) 1417-1500-1667		
Asadena, TX	136,756		Mayor	MayorCC	MayorCC	Mayor	4	8	x	\$ 6,667	500/mo	full pkg	2	8	8		8		\$ 300		
Bonaville, SD	120,500		Mayor				4	8	x	\$ 6,250		infladj	4	8	8	3	5		\$ 938	15% of mayor	
Bozeman, WA	179,814	Council	Mgr				2		x	\$ 5,333		none	4		8	3	5		\$ 2,417		none
Cary, NC	149,184	Council	Mgr				4		x	\$ 2,667		full pkg	4		8	2	6		\$ 700		
Chandler, AZ	194,173	Council	Mgr	Council	Council	Council	2	10	x	\$ 2,250		med ins	2	10	8		8		\$ 2,083		med ins
Chesapeake, VA	199,564	Council	Mgr				4		x	\$ 2,083		med ins	4		8	3	5		\$ 1,917		med ins
Clarksburg, WV	175,783	Council	Mgr	Mayor	Mayor	Council	4	8	x	\$ 1,500		med ins	4		8		8		\$ 500		med ins
Deerfield, IL	125,803	Council	Mgr	Mgr	Mgr	Mgr	4		x	\$ 1,250		full pkg	4		8	8			\$ 417		full pkg
Greensboro, NC	208,887	Council	Mgr	Mgr	Mgr	Mgr	2	10	x	\$ 1,042	car ins	none	2	10	8	3	5		\$ 792	car ins	none
Hickory, NC	164,316	Board	Mgr	Council	Mgr	Mgr	4	10	x	\$ 917	500/mo	full pkg	4	10	8		8		\$ 708	225/mo	full pkg
Irving, TX	178,253	Council	Mgr				2		x	\$ 600	incl dental	none	3		8	8/5R			\$ 450	incl dental	none
Irving, TX	193,408	Council	Mgr				2		x	\$ 400		none	2		8		8		\$ 200		none
Springfield, MO	153,243	Council	Mgr				2	8	x	\$ 200		none			8	4	4		\$ 200		none
Eugene, OR (1999)	136,490	Council	Mgr	Mgr	Mgr	Mgr	4	no	x	\$ -		none	4	no	8				\$ -		none
Eugene, OR	126,702	Council	Mgr				2		x	\$ -		none	4		8		8		\$ -		none

Notes on shading: dark gray indicates the city population is substantially larger than Eugene, light gray indicates slightly larger, no shading indicates smaller.

02/04/00 08:10 FAX 341 062 0002

CITY OF FINANCE

ATTACHMENT X

BDG002B

FY2001 Employee/Position Profile with Cos

Employee #:	88888	Name:	Councilor's Pay Test
Position #:	99501	Department:	21 City Manager's Office
Job Class:	00000000	Organization:	0750 Mayor/Council Operations
Position Type:	ECC Exempt City Council & Mayor	Position Status:	Vacant
Union Code:	EN Exempt NonSworn	Employee Status:	Pending
Start Date:	07/01/2000	FTE:	100%
Stop Date:	06/30/2001	Position Count:	1.00
Fixed Salary:		Salary Schedule:	09903 Councilor Pay
Last Increment:		Salary Grade:	90003
Next Increment:	12/31/9999	Salary Step:	01 \$500.00

<u>Benefit Type</u>	<u>Benefit Plan</u>	<u>Coverage Code</u>	<u>Contribution</u>
PR2 PERS (Employer Contribution)	EXE Exempt	001 Non Sworn Semi-Mo.	12.7800%

<u>Earnings Type</u>	<u>Earnings Cost</u>	<u>Units</u>
PE3 PERS (Mayor & Council)	6 Percent	

OCA: 5800	011/0750 Mayor/Council Oper	Project:	Start: 07/01/2000
PCA: 1000	Governmental Services		Stop: 06/30/2001
User Code 1: 0	Percent: 100%		

<u>Object Lvl 3</u>	<u>Base Cost</u>	<u>Increment</u>	<u>Total Cost</u>
51100 Regular-Full Time Wages	\$12,000.00		\$12,000.00
56001 P E R S	\$720.00		\$720.00
56001 P E R S	\$1,625.62		\$1,625.62
56002 F I C A	\$744.00		\$744.00
56007 Medicare	\$174.00		\$174.00
Total for OCA: 5800	\$15,263.62	\$0.00	\$15,263.62
Total for Employee Number: 88888			\$15,263.62

02/04/00 09:10 FAX 541 682 5802

CITY EUG FINANCE

003

BDG002B

FY2001 Employee/Position Profile with Cost Detail

02/04/2000 08:56

Page 1 of 1

Employee #:	88888	Name:	Mayor's Pay Test
Position #:	99500	Department:	21 City Manager's Office
Job Class:	00000000	Organization:	0750 Mayor/Council Operations
Position Type:	ECC Exempt City Council & Mayor	Position Status:	Vacant
Union Code:	EN Exempt NonSworn	Employee Status:	Pending
Start Date:	07/01/2000	FTE:	100%
Stop Date:	06/30/2001	Position Count:	1.00
Fixed Salary:		Salary Schedule:	09902 Mayor Pay
Last Increment:		Salary Grade:	90002
Next Increment:	12/31/9999	Salary Step:	01 \$750.00

<u>Benefit Type</u>	<u>Benefit Plan</u>	<u>Coverage Code</u>	<u>Contribution</u>
PR2 PERS (Employer Contribution)	EXE Exempt	001 Non Sworn Semi-Mo.	12.7800%

<u>Earnings Type</u>	<u>Earnings Cost</u>	<u>Units</u>
PE3 PERS (Mayor & Council)	6 Percent	

OCA: 5800	011/0750 Mayor/Council Oper	Project:	Start: 07/01/2000
PCA: 1000	Governmental Services		Stop: 06/30/2001
User Code 1: 0	Percent: 100%		

<u>Object Lvl 3</u>	<u>Base Cost</u>	<u>Increment</u>	<u>Total Cost</u>
51100 Regular-Full Time Wages	\$18,000.00		\$18,000.00
56001 P E R S	\$2,438.42		\$2,438.42
56001 P E R S	\$1,080.00		\$1,080.00
56002 F I C A	\$1,116.00		\$1,116.00
56007 Medicare	\$261.00		\$261.00
Total for OCA: 5800	\$22,895.42	\$0.00	\$22,895.42
Total for Employee Number: 88888			\$22,895.42

CITIZEN CHARTER REVIEW COMMITTEE



FINAL REPORT TO COUNCIL 2002

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

JANUARY 2002

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

I.	Executive Summary	1
II.	Charge to the Committee, Committee Membership and Meeting Schedule	3
III.	Guiding Principles and Form of Government	6
IV.	Recommendations on Instant Runoff Voting and Increased Council Membership ,	8
V.	Recommendations on Remaining Charter Issues and Related Topics	11
A.	Conflict of Interest	11
B.	Contracts and Purchasing	13
C.	In-House Legal Counsel	15
D.	City Performance Auditor	19
E.	Appointment and Dismissal of Department Directors	24
F.	Organization and Reorganization of Departments	25
G.	Role of the Mayor	26
H.	Residency of the Mayor, Council, City Manager and City Employees	29
I.	Campaign Finance	30
J.	Filling Vacancies on the City Council	31
K.	Ordinances	33
L.	Eugene Water & Electric Board	38
M.	Citizen Participation	40
N.	Housekeeping Items	41
a.	Section 42 (Skinner Butte)	42
b.	Section 51 (Taxation Issue)	44
c.	Section 52 (Historic Trees)	45
d.	Section 53 (Downtown Mall)	56
e.	Section 54 (Toxics Reporting)	51
f.	General Housekeeping Items	51
1.	Section 1	51
2.	Section 7	51
3.	Section 8	51
4.	Section 9	52
5.	Section 11	52
6.	Section 13	52
7.	Section 15	53
8.	Section 16	53
9.	Section 17	54
10.	Section 18	54

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

11.	Section 20	55
12.	Section 25	55
13.	Section 26	56
14.	Section 29	57
15.	Section 31	57
16.	Section 33	57
17.	Section 34	57
18.	Section 35	58
19.	Section 37	58
20.	Section 40	58
21.	Section 43	59
22.	Section 48	59
23.	Section 49	60
24.	Section 50	60
g.	Readability of the Charter	61
VI.	Concluding Remarks	62

APPENDICES

- A. Charter in Legislative Format
- B. Summary Reports from Community Organizations Reviewing Charter
- C. Model City Charter
- D. Guiding Principles
- E. Report of Charter Review Subcommittee: Advantages/Disadvantages of Electing Councilors by Wards and At Large
- F. Letter from State Elections Division, March 21, 2001 Regarding Preference Voting and Memorandum in Response from City Attorney
- G. Ethics for Public Officials from Salem, Oregon
- H. Excerpts from Citizen Charter Review Committee Meeting Minutes Discussing Intergovernmental Agreements (IGAs) and Memorandum of Understanding (MOUs)
- I. Roles and Relationships in Council-Manager Cities by James Svara, submitted by Ken Tollenaar
- J. "So....You Think You Might Be Interested in Hiring a Performance Auditor" from the National Association of Local Government Auditors
- K. Guidelines and Model Legislation for Local Government Auditors from the National Association of Local Government Auditors
- L. Report from National Association of Local Government Auditors on Bench Marking and Best Practices Survey for Fiscal Year 2000

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

- M. E-Mail Message Dated August 16, 2001, from Marcia B. Buchanan of the General Accounting Office
- N. E-Mail Message Dated September 6, 2001, from Bill Dwyer, Lane County Commissioner
- O. Memorandum Dated August 10, 2001, from Dee Ann Hardt, Financial Services Director
- P. Summary of Types of Auditing Functions Being Done by the City of Eugene
- Q. Audit Committee Information from Jackson County, Oregon
- R. Resolution Number 4467 Concerning Residency of City Employees
- S. Letter From EWEB Board Dated October 31, 2001
- T. Excerpts from Citizen Charter Review Committee Meeting Minutes Discussing EWEB
- U. Memorandum Dated October 25, 2001 from City Attorney Regarding Housekeeping Items
- V. Memorandum Dated November 15, 2001 from City Attorney Regarding Housekeeping Items
- W. Memorandum Dated December 13, 2001 from City Attorney Regarding Housekeeping Items
- X. Proposed Reordering of the Eugene Charter 2002

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

I. Executive Summary

The Eugene community and the City of Eugene have experienced many changes in the past decade. Two of the more notable of these are the rate of growth of the Willamette Valley and the diversification of the state and local economies. These societal changes have contributed to a more diverse community and a greater awareness of and participation in public policy issues in the community. Just as communities are not static, but rather dynamic ever-changing entities, governments by necessity need to be similarly responsive to community changes.

During the 1999 - 2000 City Council goals setting process, one work activity desired by the City Council was a review of the current City Charter as it related to compensation for the mayor and council. A committee was formed in 2000 to develop a recommendation on the issue. This recommendation was forwarded to the City Council in February 2000, which then placed a measure on the May 2000 ballot. The measure was subsequently approved by the voters of Eugene.

Concurrently, three community-based organizations, the Eugene City Club, the League of Women Voters, and the Eugene Area Chamber of Commerce were undertaking reviews of the Eugene City Charter. Reports from those groups suggested further need for a comprehensive review of the charter. Refer to Appendix B for more information on these reports.

Shortly thereafter, the City Council directed that a new citizen committee be formed to review various aspects of the charter. The nine-member committee was appointed in December 2000 and held its first meeting in January 2001. At the direction of the City Council, the committee reviewed sections concerned with elections, the role of the City Manager, vacancies on the council, the Eugene Water & Electric Board (EWEB), and a number of "housekeeping" items.

The committee met during 2001 and completed a review of the charter with a number of recommendations for revisions, several recommendations for additions to the charter, and a list of suggested actions to be taken by the City Council in the form of ordinances and/or revisions to the current Eugene Code.

In an effort to afford public participation in the process, each meeting offered the opportunity for public comment and a web site contains all agendas, minutes, and reports of the committee. The committee also held two public forums: one in March 2001 to specifically hear testimony about instant runoff voting, and the other in November 2001 to hear comments on the proposed revisions to the charter.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

Major recommendations of the committee include:

- Retain existing system of electing councilors by and from individual wards
- Provide for appointment of an independent performance auditor
- Provide for appointment of in-house legal counsel
- Require the City Manager to consult the council on process for recruiting department heads and report to the council the reasons for terminating department heads
- Authorize the council to review and approve certain contracts
- Revise conflict of interest provision to parallel State law
- Provide fast-track method for elections to fill council or mayor vacancies
- Clarify and streamline provisions for adopting City ordinances
- Enact numerous "housekeeping" changes to clarify and update existing charter provisions, repeal obsolete provisions
- Establish a new type of voter-approved ordinance that the council can amend or repeal only by a unanimous vote
- Require the council to adopt an ordinance or ordinances enacting policies to support citizen participation in City government

The committee also reviewed a number of other issues but suggest no change in the current charter:

- Status and functions of EWEB
- Campaign finance reform
- Residency requirements for City employees
- Role of the mayor
- City Manager's authority to reorganize departments

The following report provides the recommended language and a discussion on the topics and issues addressed by the committee. The sections in question were reviewed individually and a member of the committee took the lead to research the issue and propose revisions if deemed necessary. The committee vote, when not unanimous, is listed. In some instances a minority report is provided to explain the reason for the dissension.

It should be noted that the work of the committee, even with the addition of several topics for study, was completed within the time frame specified by the City Council. This report is being presented to the City Council as early as possible in 2002 in hopes that some of the recommended amendments will appear on the ballot in either/or the May and November 2002 elections.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

II. Charge to the Committee, Committee Membership, and Meeting Schedule

On August 7, 2000, the Eugene City Council created a nine-member committee to review the City of Eugene Charter. The specific charge to the committee was a:

“... review of the Eugene City Charter, specifically:

- a) Chapter III, Sections 5, 6, and 8 (wards and elections by wards)
- b) Chapter III, Section 14 (conflicts of interest)
- c) Chapter IV, Section 16 (the role of the City Manager) including, but not limited to, consideration of the following that could also require changes to Chapter III:
 - 1) possible City auditor position
 - 2) possible council-appointed or elected City Attorney
 - 3) possible role of council in hiring/firing of executive managers
 - 4) possible role of council in major reorganizations of departments
- d) Chapter VI, Section 24 (filling vacancies)
- e) Chapter X, Section 44 (Eugene Water and Electric Board functions, membership)
- f) Chapters and sections in need of “housekeeping,” specifically Section 42 (Skinner Butte war memorial), Section 51 (tax by specific years), Section 54 (Toxics Right-to-Know), and other sections should the need arise.

Should the committee find it necessary or desirable to engage in a larger review of the charter, a request must be made of the council to revise the charge and task of the committee.”

Further the committee was to complete its work by December 31, 2001, and provide periodic updates to the City Council via written quarterly reports.

Recruitment for the committee took place during the fall of 2000, and a total of 29 applications were received. From the 29 applicants, each member of the council (including the mayor) was asked to nominate two persons to be interviewed and considered as finalists for the committee. Seventeen persons were interviewed and the nine members of the committee were appointed by the City Council on December 11, 2000. The members of the committee were:

Jon Belcher
Robert Cassidy
Marlene “Mitzi” Colbath
Matthew Donohue
Freeman Holmer

Bern Johnson
Virginia Thompson
Ken Tollenaar
Kevin Wells

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

In July 2001, member Freeman Holmer moved from the area and submitted his resignation from the committee; the City Council decided not to replace Mr. Holmer and subsequently revised the committee's number from nine to eight.

For the first three months of 2001, the committee met weekly, then bi-weekly for the next six months. In order to complete its work on time, the committee met weekly for the final three months of the year. In all, the committee held approximately 40 meetings plus two public forums. The first public forum was in March 2001, specifically to hear public comments about the recommendation related to instant runoff voting. The second forum was held in late November 2001 to gather public comment on the entire set of tentative recommendations made by the committee.

The committee created and elected a leadership structure, created and adopted a set of guiding principles, and developed a work plan for its tasks. The leadership structure was somewhat unique in that the chair of the committee was on a rotating quarterly basis. Mr. Belcher served as the chair from January to March, followed by Mr. Donohue, followed by Mr. Wells, and concluding with Ms. Colbath. Mr. Tollenaar served as chair for the last committee meeting held in the first week of 2002.

Generally speaking, the committee addressed the charges in an order similar to that of the charter itself, starting first with a discussion of elections, the number of councilors and wards, followed by the role of the City Manager, the role of the mayor, EWEB issues and housekeeping items. As the committee deliberated, it encountered several related issues, such as the role of the mayor, campaign finance, and ordinance procedures that seemed to be ripe for review also. In accordance with the charge and direction from the City Council, approval was sought, and in most instances received, to study these additional topics. This included the residency of City employees, ordinance processes, and the veto authority of the mayor.

While the final report is being made to the City Council in accordance with its charge, the committee made a recommendation in April 2001 regarding the number of wards and City Councilors and the method used to elect the mayor and councilors. Because this item was time-sensitive, that is, the council would address redistricting in 2001 and half of the councilor positions would be up for election in 2002, the committee wanted to present this to the council in hopes that it would be put on a special election ballot in 2001. The council supported placing instant runoff voting on the September 2001 ballot. Specific information about this topic is found in a later section of this report.

As the committee completed its work and developed a final set of recommendations, the members also made a concerted outreach effort to reconnect with the community organizations

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

who had helped in the initial review of the charter. This reconnecting was an important part of the community outreach.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

III. Guiding Principles Form of Government

Guiding Principles

One of the first tasks of the committee was to adopt a set of "guiding principles" for its work. The group agreed that any charter amendments or revisions should seek to improve City government accountability to the voters and taxpayers and their elected representatives, enhance transparency and accessibility so that Eugene citizens can better observe and influence City decision-making, increase City government efficiency and responsiveness, and promote such values as political stability, professionalism, and citizen confidence. The actual set of guiding principles adopted by the committee is included in the appendix to this report.

Most of the committee's recommendations (detailed on the following pages of this report) reflect the guiding principles and aim to achieve goals based on those principles. Several examples are listed below.

- **Committee recommendations aimed at improving accessibility, responsiveness, and transparency in City government** include proposals to retain the existing ward system for election of City Councilors, require a policy to promote citizen participation, streamline ordinance procedures, offer a new "protected ordinance" format for citizen initiatives, provide a fast track for elections to fill vacancies in elective office, and require the council to adopt a code of ethics that will at a minimum incorporate State law provisions for conflicts of interest.
- **Recommendations aimed at improving accountability within City government** include proposals to create the office of independent City performance auditor, mandate that the City Attorney be a full time City employee, require the City Manager to consult with the council regarding recruitment of department heads and to report to the council the reasons for dismissing department heads, and authorize the council to review and approve certain contracts.

Some of the recommendations fulfill several of the adopted guiding principles. For example, the committee recommendation for an independent City performance auditor contributes not only toward improved accountability, but also to increased efficiency, transparency, professionalism, and citizen confidence in City government.

Refer to Appendix D for more information on the committee's Guiding Principles.

Form of Government

The City Council charge to the committee did not include consideration of alternative forms of City government, such as the strong mayor form or the commission form. When the council adopted its charge, a motion that would have included consideration of alternative forms was

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

defeated by a 6:2 council vote.

The committee stayed within its charge and did not consider alternative forms. None of the committee's recommendations change the fundamental features of the council-manager form of city government, which Eugene has enjoyed since 1944. Some of the committee's recommendations strengthened the ability of the council to provide policy direction and administrative oversight in ways that the committee believes will retain the fundamental balance among the respective roles of the Mayor, the City Council, and the City Manager and the council/manager form of government.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

IV. Recommendations on Instant Runoff Voting and Increased Council Membership

One of charges to the Citizen Charter Review Committee from the City Council was to study and make recommendations on the general topic of “wards and elections by wards” (Sections 5, 6 and 8). In the context of previous council discussions it was apparent that a few councilors wanted the committee to address whether councilors should continue to be elected by and from individual wards, or whether they should run and be elected city-wide (at-large).

This was the first major issue taken up when the committee began meeting in January, and committee discussions on this issue continued through February and March. The committee gave this matter priority because the City was scheduled to consider redistricting later in the year, and a decision on wards versus at-large would obviously affect that activity.

The committee expanded the scope of discussion on this matter to include not only the issue of wards versus at-large, but also proposals to increase the number of wards and to adopt new methods of conducting elections either by wards or at-large. Consideration of election methods focused on various forms of preference voting (including proportional representation), cumulative voting, and instant runoff voting.

After considerable discussion and review of written materials and public testimony, the committee identified several scenarios and scheduled a “town meeting” to obtain public input on each. The scenarios were as follows below.

- Eight or ten wards with instant runoff voting;
- Three or four large wards with nine or twelve councilors elected by proportional representation; if three wards, mayor selected by and from the council, and if four wards, mayor elected at large;
- Eight or ten councilors from four or five wards; one councilor elected from each ward and four elected at large; and
- At-large election of eight councilors with cumulative voting with two councilors required to live in each of four wards.

The town meeting was held March 8, 2001, with more than 50 people in attendance and with 20 people providing testimony. Soon after the town meeting, the committee reached agreement on the following recommendations.

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FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

- The existing ward system should be retained.
- The number of wards should be increased from eight to ten.
- City Council elections should be conducted using preference voting with instant runoff.

These recommendations were presented to the City Council on April 18, 2001. The council unanimously rejected the committee's recommendation to increase the number of wards, but it agreed to refer to voters the recommendation for preference voting with instant runoff. During this discussion, there was comment from the City Attorney regarding the legality of preference voting based upon information from the State Election Division. Refer to Appendix F for more information. In approving the motion to place the measure on the ballot, the City Council also directed staff to pursue legislative remedy in Salem during the 2001 State legislative session and subsequent sessions. In sum, while the Oregon Constitution allows for preference voting, the statutes do not specifically and affirmatively enable this form of voting. The committee also received comments from the Lane County Elections Division outlining operational concerns with a instant runoff voting system.

The council asked the committee to come back with further discussion and analysis of the issue of wards versus at-large elections. The committee responded to the council request with a brief summary of advantages and disadvantages of each approach. This report was provided in the second quarterly report of the committee to the council. Refer to Appendix E for this report.

At a special election September 18, 2001, the charter amendment to create and implement the instant runoff recommendation was held. By a margin of about 2:1, the voters turned down the measure.

The committee recommends that despite the result of the September 18 special election, the City Council should not abandon consideration of instant runoff voting. It should continue to seek legislative clarification or a judicial decision in support of State law as it relates to preference voting and instant runoff, and should consider resubmitting an instant runoff measure to the voters sometime in the future. Mr. Tollenaar has written a paper summarizing the arguments for and against instant runoff and making some specific recommendations to consider in framing future proposals.

As the committee completed its work in the last part of 2001, an initiative measure providing for at-large elections for City Councilors was being circulated. In view of that development, the committee unanimously reaffirmed its opposition to at-large elections and its affirmed its support for the existing system of electing councilors by and from wards. The committee believes that the following considerations support its position:

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

- Wards foster contact and communication between City Councilors and their constituents. With the 2001 redistricting plan, the population of each ward will be about 17,500. With wards of that size, it is possible for City Council candidates to campaign door-to-door and meet face-to-face with many, if not most, of their constituents. Many Eugene citizens identify strongly with their neighborhoods, and by extension the ward system facilitates citizen identification and interaction with their elected representatives.
- Conversely, at-large elections weaken the ties between rank-and-file voters and City Councilors. At least as important, at-large election campaigns cannot be conducted door-to-door in a city the size of Eugene. Resort to electronic and print media is essential to reach large numbers of voters, and that in turn requires large amounts of campaign funding.
- Proponents of at-large elections assert that councils elected by and from wards represent small constituencies and do not adequately represent the general public interest of the community as a whole. It is rare that the council-decision making process pits neighborhood interests against general community interests. Ward-based councilors may be especially attentive to communications from their ward constituents, but that may not necessarily affect positions and actions on matters that impact the community as a whole, which constitute by far the great bulk of council work.
- In the opinion of the committee, as documented in its report, the sole advantage of at-large systems is the avoidance of redistricting from time to time. Even if ward residency is required with city-wide elections, it is not clear whether the equal protection clause of the United States Constitution requires substantially equal population in each ward, since "one person, one vote" is achieved when voters cast their ballots for at-large candidates.

The committee, while not formally asked to discuss redistricting, did in fact address the topic at one meeting. The committee recommended that the City Council address the redistricting process either through charter language or some other mechanism.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

V. Recommendations on Remaining Charter Issues and Related Topics

A. Conflict of Interest

Recommend Amendment to the Charter

Vote on Recommendation: Unanimous

Revise Section 14 As Shown Below

~~Section 14. Council - Conflicts of Interest. No councilor may be pecuniarily interested in any contract the expenses of which are to be paid by the city or vote upon any subject in which pecuniarily interested.~~

Section 14. Council - Conflicts of Interest The council shall, by ordinance, enact a code of ethics applicable to the mayor, councilors, the city manager, and any others designated by council. The code shall provide that officials subject to the code must disclose the reason for any potential or actual conflict of interest and may not discuss, debate, or vote on any matter in which pecuniarily interested.

Section 14 refers to conflicts of interest. This specific section was listed for review by the League of Women Voters (with no comment). The City Club recommended repeal of the section stating that “this language is more restrictive than State law; such a provision is not contained in the Model Charter. A later section of the charter, Section 16(e), addresses any concern over influencing purchases of the City of Eugene.” The Eugene Area Chamber of Commerce Charter Review Task Force indicated it had the section reviewed “because people who own or operate businesses within the City of Eugene or sometimes do business with the City often cite the potential for conflict of interest as a condition that precludes or disqualifies them from seeking a position on the City Council. The task force believes Eugene’s charter should be consistent with State law and not more restrictive. The task force recommends this section be made consistent with State law whereby a councilor declares a conflict (if one exists) and steps down from the proceedings.”

The subject of conflict of interest was discussed by the committee at four meetings. Public testimony from one citizen included an example of a conflict-of-interest clause from the charter of Westminster, Colorado, which sets up a provision wherein councilors are not allowed to vote on issues that affect anyone who has given them over a certain amount of money. The committee was provided with copies of the relevant Oregon Revised Statutes, the manual provided to government officials by the Government Standards and Practices Commission, and provisions from other Oregon cities and counties relating to conflict of interest.

Discussion began around the following questions.

- A. Should the existing charter prohibition against pecuniary interest in a contract be retained?

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

- B. Should Section 14 be expanded to include the recommendation of Citizens for Public Accountability (CPA) and others that “elected officials should be prohibited from debating or voting on any issue that directly impacts a significant contributor?”
- C. Should the topic of conflict of interest be omitted from the charter?
- D. If retained, should treatment of conflict of interest be in Section 14?
- E. Should the topic of conflict of interest be more broadly considered under a new chapter called “Ethics for Public Officials”?
- F. Should conflict of interest be confined to financial interests?

The committee concluded that the existing charter Section 14 is both too narrowly focused on contracts and too broad in the consequences it would produce in case of a prohibited conflict. The existing language seems to require one of two types of actions in the event of a prohibited conflict: (1) the councilor would have to resign or forfeit the office, or (2) the City would have to cancel an existing contract or forego entering into a proposed contract, even though the contract would be beneficial to the City.

The committee reached consensus that the policy regarding conflict of interest should be included in the charter and should be modeled on State law. There was also consensus that the public needed more specific information about declared conflicts than it now receives. Members of the committee suggested that the council adopt a code of ethics similar to that adopted by the Salem, Oregon council in an ordinance. All of this is found in Appendix G, *Ethics for Public Officials*, of this report.

During the discussion, members expressed concerns about issues they felt the council may wish to address in the ordinance that adoption of the charter amendment would require. The committee did not try to reach consensus on these concerns. Some felt the definition of potential and actual conflicts of interest should be expanded beyond those involving pecuniary interests; some favored having a mechanism in the ordinance whereby the council would make a decision regarding the existence of potential or actual conflicts when declared, similar to that employed by the Planning Commission.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

B. Contracts and Purchasing

Recommend Amendment to the Charter

Vote on Recommendation: 6:1 (Wells)

Revise Section 16 (2) As Shown Below

(2) The city manager shall: . . . (b) make all purchases, *except that the City Council must authorize by resolution any purchase that exceeds an amount to be set by ordinance.*

The committee was specifically charged by the City Council with examining Section 16 of the City Charter. This section pertains to the role of the City Manager. The specific issue here relates to Section 16 (2) (b), regarding the City Manager's authority regarding contracts and purchasing.

At the outset of the discussion on this issue, the committee examined the following ideas regarding the authority of the City Manager regarding contracting and purchasing:

- A. Is the current contracting and purchasing structure working properly?
- B. If the current contracting and purchasing system is not working properly, should we give the City Council and mayor a more active role in major contract decisions and purchasing?
- C. If the current contract and purchasing system is not working properly, should charter language be added regulating contracting and purchasing?
- D. Should language be placed in the charter giving council contract ratification authority based on dollar amount of contract versus giving them authority based on category of contract?

In discussing these issues, the committee examined the charter, City ordinances, and State statute regarding municipal contracts and purchasing. In addition, committee members considered federal law governing contracting and purchasing by municipal governments.

In making its recommendations, the committee, in addition to considering the above sources of law, also considered the working relationship between the City Council and the City Manager. The committee sought to strike a balance between providing the City Manager with the necessary authority and allowing the City Council adequate input in the contracting process to allow them to effectively control and implement City policy. The committee was also mindful that the current municipal government structure has a strong role for the City Manager. The committee sought to preserve the necessary authority to perform this role while allowing the City Council the authority to control overall public policy regarding City operations.

The issue of contracts and purchasing was divided into two main issues, first, the ability of the City Manager to award contracts and secondly, the use of memoranda of understanding (MOUs)

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

and inter-governmental agreements (IGAs) that allow the City Manager to make binding commitments on the City without council approval.

On the issue of awarding City contracts, the committee recommended that Section 16(2)(b) of the charter be amended to allow the City Council to approve all City contracts over a certain dollar amount to be set by ordinance. The committee, after reviewing all of the available information and engaging in considerable discussion, decided that this change would allow the City Manager the ability to unilaterally approve most contracts for the City. In addition, the provision would allow the City Council the ability to determine the size of City contracts that it believes implicate serious public policy issues for the City and provide them the ability to have input on the awarding of these contracts to ensure that public policy is protected.

The recommendation was passed by a vote of 6:1. The dissenting vote involved concerns about setting the contract amount by ordinance. This committee member did not believe that establishing City Council authorization based solely on dollar amount was appropriate as a greater contract dollar amount did not necessarily mean greater public policy impact.

On the issue of MOUs and IGAs, the committee made no recommendation to changes in the charter at this time. After extensive research and discussion on the issue, including input from legal counsel and purchasing staff, the committee determined, by a 4:3 vote, that it would not be possible, given time constraints, to draft charter language that would be specific enough to require the City Manager to get approval from the council for MOUs and IGAs that created binding commitments on the City without unnecessarily restricting the ability of the City Manager to perform the necessary administrative functions.

The discussion the issue of MOUs and IGAs was extensive and involved an analysis of both the legal and practical issues surrounding the issue. The committee decided that, while no recommendations would be made in the context of the report, the information and discussion materials would be forwarded to the council for further consideration. Refer to Appendix H, *Excerpts from Citizen Charter Review Committee Meeting Minutes Discussing Intergovernmental Agreements and Memoranda of Understanding* for the committee discussion on this topic.

More information on roles and relationships in council-manager cities can be found in Appendix I of this report in a paper by James Svava.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

C. In-House Legal Counsel

Recommend Amendment to the Charter

Vote on Recommendation for Section 16 (7)(a): 8:1 (Thompson)

Vote on Recommendation for Section 16 (7)(b): Unanimous

Revise Section 16 As Shown Below (Create New Section 7 and 8)

(7) (a) *The city manager shall appoint the city attorney, subject to confirmation by the city council. The city attorney shall be a department director, shall devote full time to the duties of the office, and may not engage in the private practice of law.*

(b) *The city attorney shall serve as chief legal adviser to the council, the city manager and all city departments, offices and agencies, shall be responsible for the city's representation in all legal proceedings and shall perform any other duties prescribed by this charter. The city attorney may recommend to the city manager and the city council that the city contract for certain legal services. The city attorney shall supervise the performance of all contracts for legal services and shall advise the city manager and the city council as to the effectiveness and cost of services to the city under such contracts. Subject to approval during the city budget process, the city Attorney may hire staff necessary to perform the duties of his/her office.*

The committee recommended that Section 16 of the City Charter be amended by adding a new subsection requiring appointment of an in-house City Attorney.

The existing charter vests exclusive authority in the office of City Manager to “make all purchases,” and that authority has been interpreted to authorize the manager to decide whether to provide City services with City employees or to contract for legal services with private sector providers.

Since 1971, the City has elected to contract for all civil legal services with the firm now known as Harrang Long Gary Rudnick (hereafter “Harrang Long”). Harrang Long is a large firm serving many public agency clients as well as private companies of various kinds.

The firm provides services in each of the following categories.

- The “basket of services,” which includes attendance at meetings of the City Council, the executive managers, and some City boards or commissions; provision of informal advice to the City Manager, councilors, and staff when a legal inquiry can be answered with research not exceeding 30 minutes; paralegal services involved in drafting ordinances, rules, and assisting with reports and communications with the City; staff training on legal matters; and liaison with other government’s legal officers.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

- Labor/employee relations, including labor negotiations, employment laws, employee grievances, and benefits issues.
- Claims against the City for damages (tort claims) other than those handled entirely by the City's Risk Management staff.
- Legal advice and representation in areas such as property transactions, land use regulation, civil rights, public safety, and public works.
- Defense of suits and actions arising under local, State, or federal laws.
- Advice and development of legal instruments and strategies relating to City policy and program issues.
- All City litigation and appeals.

The City also contracts with Harrang Long for prosecution of offenders in Municipal Court, but it plans to convert that service to an in-house City prosecutor in the near future. This was not considered by the committee in its review of the in-house counsel issue.

The contract arrangement with Harrang Long has been reviewed several times in the past, including a study of costs by department in 1989, staff studies of contract administration in 1991 and 1994, a Budget Committee comparison study of legal services costs in other cities in 1995, and an outside consultant review of City legal services in 1998. The council has discussed the contract versus in-house issue on at least two occasions in recent years.

The committee was asked to consider a "possible City-appointed or elected City Attorney." The committee accordingly reviewed a great deal of written material, heard public testimony, received written communications from the public, and deliberated the issues at considerable length.

In approaching this matter, the committee determined that the chief questions are whether legal services could be provided better and/or cheaper by in-house counsel than under the present contract arrangement and whether the contract arrangement involves conflicts of interest that might be reduced or eliminated with in-house counsel.

The committee reached the following consensus on these issues.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

- **Quality:** The existing contract services appear to be of high quality, primarily because of the contract firm's variety of legal specializations and lengthy experience, as well as the synergism produced by the firm's involvement with numerous other public agency clients. It would take considerable time for an in-house legal department to achieve a comparable level of expertise. However, in-house counsel might be more responsive to City policy goals than the contract firm, and more aggressive in advocating for City interests.
- **Cost:** Although many in the community, including some who testified to the committee, believe that legal services could be provided at less cost by in-house counsel, the evidence available to the committee does not necessarily support that conclusion. The 1995 Budget Committee study showed that the City of Eugene costs are in fact lower per capita and per FTE (full time equivalent) than those of comparable cities, both contract and in-house. The hourly rates Harrang Long charges the City are lower than those charged by law firms serving EWEB and School District 4J. The committee concluded that cost should not be a decisive consideration in deciding whether to convert to in-house counsel.
- **Conflict of Interest:** The committee reviewed considerable information regarding the way in which Harrang Long handles potential and actual conflicts of interest that arise from the fact that it represents multiple private sector clients as well as numerous governmental units and agencies. The committee reviewed reports from two independent sources that concluded that the laws are being followed and that the firm has complied fully with all statutory and bar association regulations regarding conflict of interest. The committee members noted that they were not implying that the firm had violated any law or regulation regarding conflict of interest. Many people, including some who testified before the committee, felt that because the firm serves private sector clients whose interests may at certain times be adverse to the City's interests, the firm may be less aggressive in advocating City positions for fear of alienating its other clients. The committee refers to this as "situational" conflict.

The committee then reviewed what committee members considered to be problems with the present contract arrangement.

- Neither the City Council nor the City Manager have the professional and technical capacity to provide effective oversight with respect to legal services provided under the contract. The City liaison can monitor contract performance and can verify billings for services rendered, but he or she is not an attorney, and therefore is not qualified to evaluate the quality of legal work done by the contract firm. The decisions of the firm as

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

to legal strategies, priorities, and methods in providing City legal services go largely unreviewed by the City.

- The diversity of the firm's clientele causes some public concern about at least the appearance of conflict. This "situational" conflict may compromise the strength of its commitment to represent and advocate for City interests.
- The City's legal advisor inevitably has an impact upon how the City Council deals with public policy issues. There is a fine and sometimes fragile line between providing legal advice and influencing the council's policy decisions. Without a hands-on relationship between the council and the City Attorney, the council's role as policy maker is to some extent compromised.

After extensive review, the members of the committee recommended that the charter be amended to require the City Manager to appoint an in-house City Attorney. The appointment would be subject to confirmation by the City Council, but the City Manager alone would have the power to terminate the City Attorney.

The committee further recommended that initially, the City Attorney should have two functions. First, the City Attorney and his or her staff should perform all duties the contract firm now performs under the "basket of services." Second, the City Attorney should be responsible for managing all contracts for legal services on behalf of the City. Other legal services could continue to be provided by contract, and that would include the bulk of all legal services.

The committee believed that conversion to this mixed in-house and contract arrangement can be financed without increased cost to the City. The expenses of the new City Attorney's Office could be funded by transferring the "basket of services" portion of the contract to the regular City budget.

The charter amendment proposed would not prevent the City from taking on increased responsibility for legal services in-house. However, the transition should be gradual and adapted to the changing needs and capabilities of both the City and the contract firm.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

D. City Performance Auditor

Recommend Amendment to the Charter

Vote on Recommendation: Unanimous

Add New Section to the Charter As Shown Below

New Section City Performance Auditor. The city performance auditor shall be appointed by the city council. The performance auditor shall conduct or cause to be conducted performance audits and may conduct studies intended to measure or improve the performance of city functions following generally accepted government auditing standards. The performance auditor may be removed from office with or without cause by the city council. The performance auditor shall possess adequate professional proficiency as demonstrated by a relevant certification such as a Certified Public Accountant, Certified Internal Auditor, or Certified Management Accountant, which shall be retained throughout tenure in the position. All audit reports are public records. The city council shall provide for the creation of an audit committee to oversee the performance auditor. The audit committee shall include the city manager and other members as defined by ordinance. Among its duties, the committee shall forward candidate recommendations for the auditor position to the city council.

In the initial discussions by the City Council, the consideration of a “possible City auditor position” was one of the specific tasks assigned to the committee. In undertaking this task, the committee reviewed the performance assessment being done by City staff, the types of audit work being done by City staff or contracted out, auditor positions in other jurisdictions, and how a performance auditor might be beneficial to the City of Eugene.

Financial Services Division staff provided information to the committee on the types of audits done under the categories of economy and efficiency audits, program audits, and financial-related audits, both internally completed and contracted out. The City uses “service profiles” and “performance measures” as tools in the organization’s budget work in an ongoing effort to effectively and efficiently deliver services. There are 45 service areas in the City organization. According to Dee Ann Hardt, Financial Services Director, “City staff do not perform formal performance audits.” “The service profiles the City has completed over the past several years and the performance measures contained in those profiles are not audited”. Of the five elements listed in the Yellow Book for a performance audit according to GAGAS, the profiles/measures represent only the first of five elements, “Criteria,” in a formal performance audit.

Refer to the information in Appendix O regarding the performance audit work being done by the City of Eugene and Appendix P, which summarizes all of the audit type work currently being undertaken in the City.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

Two lay members of the Budget Committee were invited to a committee meeting to share their thoughts on the usefulness of the service profiles. In addition, at the request of a member of the committee, elected Portland City Auditor Gary Blackmer attended a committee meeting and offered examples of audit work done in Portland. Mr. Blackmer discussed and clarified the nature of the audit function in the City of Portland. He also noted that performance auditing standards are clearly defined in the Yellow Book, which is developed and improved by the US Government Accounting Office (GAO). The committee also received correspondence from Dean Stephens, the Lane County appointed auditor on these same topics.

Further research on municipal auditors was provided by committee members. The research indicates that the Government Finance Officers Association (GFOA), the American Society for Public Administration (ASPA), Association of Government Accountants (AGA), International City Managers Association (ICMA), the National Association of Local Government Auditors (NALGA), and numerous other state municipal associations as well support the concept of a municipal auditor.

The National Association of Local Government Auditors believes that audits of local government programs, functions, activities, and organizations are essential. They believe as an integral part of the governance process, the audit function plays a key role in providing accountability for management's performance. The primary mission of the auditor is to require an accounting of the activities and accomplishments of the organization. As an integral part of the governance process, the audit function plays a key responsibility role in providing accountability for management's performance.

Refer to Appendix J, *So. . . You Think You Might be Interested in Hiring a Performance Auditor*, for more information on performance auditors and Appendix K for guidelines for model legislation related to performance auditors.

The trend for auditors has emerged because government officials, both elected and appointed, have realized that an independent oversight function is particularly important because of the unique relationship that government auditors have with their primary stakeholders, the taxpayers. The taxpayers and, for the most part, elected representatives want assurance that their scarce tax dollars are being protected by audit functions that operate with reasonable independence from the supervisory chain. Anything less severely limits the credibility of the auditor in terms of the public trust.

The committee believed that was a need for an audit function and also discussed a contracted auditor versus and in-house City performance auditor. There are pros and cons to outsourcing versus in-house. The committee determined that the auditor should be a part of the organizational structure versus contracted out. In-house auditors can be more costly in terms of

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

overhead costs such as fringe benefits, but contractors charge a lot and may not always get to the root of problems if funds are limited. It is difficult to select a good contractor and once selected, it is difficult to ensure that the same people will work on all of the projects.

A comprehensive picture and depth of knowledge of the organization is important to the success of the audit position. There can be a mix of in-house and outsourcing based on efficiency, of course. However, opponents of outsourcing maintain that because management is paying for services rendered, independence from political pressure on the out source auditor is severely compromised. If the auditor is involved in the day-to-day operations of the government, they can plan the best places to audit. Being a part of the government organization also says to the public that the City government is on alert for savings and improvements. The auditor, managers and staff will be working in a cooperative effort, sharing a common goal, to solve problems that improve service and save tax dollars that can further service the community. Refer to Appendix L for a report on bench marking and best practices.

In further looking at the issue of in-house versus contracted out, the committee sought additional information from the GAO. The concern raised by the GAO was the audience of the audit reports. In sum, if the audits are to be distributed to the legislative body, the press, and the public and those directed to management, steps need to be taken to ensure that the government audit organization is established in such a way to be considered free from organizational impairments to independence to report externally. The GAO representative's e-mail on this topic is in Appendix M. Refer to Appendix N for e-mail messages regarding auditors.

This led the committee to determine that the audit position should be appointed by the City Council, not the City Manager, in order to retain "external auditor" characteristics.

In discussions on a City performance auditor, an auditor hired by the City Council and how this would be implemented in the City of Eugene, there concern regarding the form of government and if this would represent duplication of management effort. The performance auditor position, as recommended, does not change the government structure. The position is more focused on the operation of a particular government service. The auditor advises the organization, but does not set policy or manage. The auditor provides information to assist the council in budgeting and effective oversight. Audits usually resolve operational issues with management before the audit report reaches the council via the audit committee. Audits are "bad new/good news": the bad news is that there was a problem, the good news is that it is being fixed. If a City Manager could get fired for a problem he or she might wish to hide from the City Council, the auditor can help a City Manager identify and resolve problems before they result in a firing, saving the City organization from the expense of hiring a new manager in the process.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

The performance audit position would not be a duplication of effort or another layer of bureaucracy, but a gauge of government operations geared toward better quality government. Auditors can identify savings and improvements as a result of detailed analysis that could not be provided solely by staff in an organization. The performance auditor would present findings and recommendations to the City Council and to the City Manager.

Having decided to recommend an auditor, the committee also considered the cost of such a position. The Portland City Auditor, Mr. Blackmer, felt that for the size of the City of Eugene, one auditor would be sufficient. He further felt that while often performance auditors pay for themselves with identified savings each year, the committee should not focus solely on the financial aspects, because unmeasurable accountability and improvements in the quality of service is also purchased with performance audits. The committee concurred with the opinion that one auditor would suffice for the City of Eugene at present. The Key Elements to a successful and effective independent performance auditor position is provided in Appendix K.

According to the NALGA's education committee report, "So . . . You Think You Might Be Interested in Hiring a Performance Auditor," found in Appendix J, it is not uncommon for an audit function to realize an annual return on investment between 200 percent and 400 percent.

Some members of the committee expressed their belief that the City Manager needed to have an active role with regard to the City performance auditor to ensure that the manager retained control over the management of the organization. In response to this concern, the committee recommended that an audit committee should be included as an additional check and balance.

As proposed, the audit committee would act as the hiring advisory committee. The audit committee would also review risk criteria used to select performance audits and endorse the performance auditor annual audit plan. The audit committee would also review the progress of audit work and draft audit reports, mediate differences between the performance auditor and those being audited, and provide input on general audit matters. An example of audit committee functions can be found in Appendix Q, Audit Committee in Jackson County, Oregon.

In order to keep the process collaborative with management, it was decided to have the City Manager participate in the audit committee to the extent that the independence of the auditor not be impaired. The committee referred the specific makeup of the audit committee to the council, but generally agreed upon a seven-member committee composed of three councilors, two lay members of the Budget Committee, the mayor, and City Manager.

While the motion for the recommended charter language did pass unanimously, two members of the committee wished to note their concerns with the language for the record. First, one member expressed concern that the proposal does not include input from the City Manager in the

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

appointment process. Secondly, two members wished to note for the record their concern that the proposed audit committee was not codified in the proposed language.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

E. Appointment and Dismissal of Department Directors

Recommend Amendment to the Charter

Vote on Recommendation: 6:3 (Cassidy, Thompson, Wells)

Revise Section 16 (2) (c) As Shown Below

(2) the city manager shall . . . (c) appoint and remove all employees except as otherwise specified in this charter. *When a department director vacancy occurs, the city manager shall request comment from the city council on the recruiting process for filling the vacancy. After taking action on the dismissal of a department director, the city manager shall explain the reasons for the dismissal to the council.*

Section 16 of the charter, specifically, Section 16 (1) (e) and Section 16 (2) (c), address the authority of the City Manager to hire and fire employees. The City Council directed the committee to specifically look at the “possible role of the council in the hiring and firing of executive managers.”

In reviewing this section, a number of concerns were addressed by the committee regarding the relationship of the City Council to departments directors and if the City Manager should have the exclusive power to hire and fire department directors. The debate centered around the desire of the council to be more involved versus the potential usurpation of the authority of the City Manager to manage, direct, and control the day-to-day operations of the City.

When the committee considered the merits of the proposed language, much of the discussion related to the use of the words “shall” or “will” and “before” or “after” as those related to the power of the City Manager and indirectly to affect of department managers to affect City policy. The committee finally decided that all policy, as vague as that term may be, is the prerogative of the City Council.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

F. Organization and Reorganization of Departments

Recommend No Revision to Charter

Vote on Recommendation: Unanimous

The current City Charter gives the City Manager sole authority to organize, reorganize or disband City departments. While some members of the committee argued that prior City managers have come into conflict with the City Council when that authority has been exercised, others felt that this needed to be a power exclusive the City Manager.

Arguments that department organization affects the mission and policy of the City support the notion that the council should have more involvement in these decisions. There also is the possibility that greater council involvement in prior department changes might have reduced tensions between the City Councilors and the City Manager.

One opposing argument contended that department organization is more related to management and administration and therefore should be the responsibility of the City Manager. Another is that the City Council exercises sufficient control through the budget process.

Upon deliberation, the committee voted unanimously to retain the current practice and charter language.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

G. Role of the Mayor

Recommend No Revision to Charter

While the role of the mayor was not specifically included in the committee charge, the discussion of the City Council and City Manager necessarily includes the mayor. As such, the committee asked and received permission to broadly discuss the role of the mayor. Many times the role of the mayor was the explicit topic of discussion; however, the role of the mayor arose during numerous other discussions. The conclusion of the committee was that no substantive changes be made, though there are several instances in the charter where language such as “*and the mayor,*” was added to provisions concerning the City Council or councilors for the sake of internal consistency.

It is important to note that the office of the mayor was strongly affirmed by the committee. As Eugene grows in population and diverse perspectives, it will become more important to have an identifiable leader who is more than a figurehead. An expressed objective of discussions concerning the role of the mayor was to find ways to strengthen the office.

The distinctions between the councilors and the mayor were questioned and affirmed; for example, giving the mayor a vote in a council decision other than in the case of a tie. The committee reaffirmed its belief in the current checks and balances between the mayor and council in that an appropriate role for the mayor was that of a unifying leader providing a larger framework for council decision-making. The committee members felt it was important that the mayor not be involved in “day-to-day” council politics.

The committee invited Mayor Torrey to meet with the committee on many of these issues.

Below is not an exhaustive list of topics relative to the role of the mayor discussed:

- Role of the mayor
- Should there be a mayor
- Electing the mayor at-large or through an alternative plan
- What should be the term of the mayor and should there be term limits
- Barring current councilors from running for the office of mayor
- Should the mayor have the right to vote as a councilor
- Should the mayor be allowed to propose ordinances
- Setting the agenda for council meetings
- Increasing veto power of mayor to included resolutions and line items in the budget
- Should the mayor be included as a ninth member of the council
- Relationship of the mayor and the City Manager
- Appointment of a City Manager *pro tem*

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

- Relationship of the mayor and department heads
- Inclusion on the Budget Committee and the proposed audit committee
- Role and authority to make appointments to City boards, committees, and commissions

The committee spent some time discussing the role of the mayor in the appointment process for City committees, boards, and commissions. At the present time the mayor, with a few exceptions, has appointment authority over intergovernmental committees. With the exception of the Police Commission, the mayor has no appointment authority over committees that advise the City Council. Committee members discussed this over several meetings, and initially voted to give appointment authority to the mayor for City committees, boards and commissions. However, in reconsideration of this decision, the committee reversed itself and decided to recommend no change in the appointment process.

In the review of the section on the City Manager, it was noted that the charter gives the authority of appoint a City Manager *pro tem* to the mayor. Some members of the committee felt this should not be a power given to the mayor, but should reside with the council given its power to hire the permanent City Manager. In an initial vote, the committee decided to recommend the authority to appoint a City Manager *pro tem* to the City Council. In a subsequent meeting and after a discussion with Mayor James Torrey, the committee decided against revising this section of the charter.

The mayor's veto authority was also considered by the committee. The charter now allows a mayoral veto only for ordinances. The committee considered enlarging this authority to include council resolutions and line items in the annual budget. After considerable discussion, the committee decided not to recommend enhancing the mayor's veto authority and agreed to retain the current language regarding the mayor's veto authority.

In sum, after a good deal of debate on these various issues, the committee decided that no recommendations would be made to amend the charter that would directly affect the role of the mayor.

Two members of the committee, Ken Tollenaar and Kevin Wells, differed with the committee majority view that there should be no substantive change in the role of the mayor under the charter. Specifically, these members voted in favor of giving the mayor a veto on line items in the annual budget (a proposal rejected by the committee majority). Mr. Tollenaar also voted to authorize the mayor to appoint citizen members of boards, commissions, and committees with the consent of the council, although that vote was later reconsidered and reversed. Both members participated in a unanimous committee vote to retain the existing provision for the mayor to appoint a *pro tem* City Manager, instead of transferring that authority to the council.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

These members believe that the committee should have done more to consider ways to strengthen the role of the mayor in Eugene City government. As Eugene grows in population and diverse perspectives, it will become more important to have an identifiable leader who is more than a figurehead. A stronger mayor could more effectively lead the development of the council and community consensus around policy issues without adversely affecting the City Manager's role as the administrative head of City government.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

H. Residency of the Mayor, Council, City Manager, and City Employees

Recommend No Revision to Charter

Vote on Recommendation: Unanimous

In the course of reviewing aspects of Section 16, committee members raised questions regarding the residence requirements of City employees. This issue was not among the original charges from the City Council, nor had it been referred to the committee by any of the civic groups that had reviewed the charter. In a subsequent report to the City Council, the committee sought and received approval from the council to further review this section of the charter and to ensure that there was agreement with other policy related to the residency of City employees. The current charter, Section 16(3) states:

“The offices of the manager and department heads may be filled by candidates from outside the City, but during their tenure in those offices, all persons hereafter appointed to them shall reside in the City. All employees appointed by the manager shall reside in the City during their tenure of position, except as the council authorizes the manager to prescribe to the contrary and the manager does so.”

The committee was provided documents of prior discussions regarding this issue, specifically Eugene City Council Resolution No. 4467, which was adopted in 1995. In that resolution “the City Council confirms the manager’s authority to permit employees, other than the City Manager and department heads, to reside outside the City of Eugene.”

In addition to Resolution No. 4467, the committee reviewed data on the residency of various employee groups. Following brief discussion, the committee concluded that the current language of the charter should not be revised. A copy of this resolution is found in Appendix R.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

I. Campaign Finance

Recommend No Revision to Charter

Vote on Recommendation: 7:1 (Holmer)

During the public comment opportunity at several meetings, several persons expressed concern with the current state of campaign financing and requested that the committee review changes to the charter to tackle this issue. The committee discussed this topic at length and how it might be addressed within the charter. As this issue was not one of the charges to the committee, the committee sought and received approval from the City Council to study it.

The committee felt that the charter provision recommendation for instant runoff voting forwarded to the City Council in April went a long way toward alleviating the magnitude of the issues regarding campaign financing. However, not having that option currently available, the committee voted to recommend to the City Council that two ordinance provisions be considered to address the issue. One provision would address the timing and distribution of the campaign finance reports and the second would make the Voter's Pamphlet available at no charge to both measures and candidates.

Because there were legal opinions related to free speech rights, the committee decided not to pursue changes to the City Charter in this regard. The committee did note, however, that the ward system most probably lessens the impact of campaign cost concerns.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

J. Filling Vacancies on the City Council

Recommend Amendment to the Charter

Vote on Recommendation on Section 23: Unanimous

Vote on Recommendation on Section 24: 7:1 (Colbath)

Rewrite All of Section 23, Revise and Add to Section 24 As Shown Below

~~Section 23. — Offices - Vacancies. An office becomes vacant upon its incumbent's death, removal from the city, resignation, or ceasing to be a qualified elector of the city. An elective office becomes vacant whenever its incumbent is absent from the city for a period of 30 days, except that the council may grant the incumbent a leave of absence of not more than 90 days. An office of councilor may be declared vacant whenever its incumbent fails to attend two consecutive regular meetings of the council, unless absent upon leave of the council first obtained, or whenever the incumbent removes his or her residence from the ward from which he or she is elected.~~

Section 23: Vacancies: Occupancy. The office of mayor or office of city councilor becomes vacant:

- 1. Upon the incumbent's:*
 - a. death;*
 - b. adjudicated incompetence;*
 - c. recall from office;*
 - d. resignation from office.*
- 2. Upon declaration by the council of the vacancy in case of the incumbent's:*
 - a. failure, following election or appointment to the office, to qualify for the office within ten days after the time for his or her term of office to begin;*
 - a. Absence from the city for 30 days without the council's consent or from all meetings of the council within a 30 day period, without the council's consent;*
 - a. if a councilor, ceasing to reside in the ward from which elected; if the mayor, ceasing to reside in the city;*
 - a. ceasing to be qualified elector under state law; or*
 - a. after election, conviction of a felony or other offense pertaining to the office.*

Section 24. Vacancies - Filling.

- (1) The Eugene Water & Electric Board shall fill a vacancy on the board by appointment within 90 days after the vacancy occurs.*
- (2) The council shall fill a vacancy in any other elective city office by appointment within 90 days after the vacancy occurs. A person so*

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

appointed shall hold office until the successor to the office is duly elected and qualifies therefor. A person so appointed shall hold office until the beginning of the first year after the next regular biennial November election and until the successor to the office is duly elected and qualifies therefor. The term of office of any person elected to fill such a vacancy shall expire when the term of the person whose death, removal, or resignation causes the vacancy would have expired had that person continued in the office.

- (1) *If the position of a city councilor or mayor becomes vacant at least 30 calendar days prior to the filing deadline for the May election of any year, an election to fill that vacancy shall be conducted in that same year. If the position of city councilor or mayor becomes vacant less than 30 days prior to the filing deadline for the May election of any year, the election to fill that vacancy shall be conducted in the next year. If a candidate for election to a vacated position achieves a majority of all votes cast for that position in the May election, that candidate shall assume office the following July 1, notwithstanding section 21 of this charter. The term of office of any person elected to fill a vacancy shall expire when the term of the vacated position expires.*

Section 24, that section of the charter concerned with filling vacancies on the council, was one of the specific charges to the committee. The consensus of the committee was that the current language was less than clear, and with the requirement for a primary and general election, created a situation in which an individual could be appointed to fill a vacancy for approximately two-and-three-quarter years without being elected by the voters of the ward or the City in the case of the office of mayor. With the advice of legal counsel and guidance from the Model City Charter, the committee crafted new language for Section 23 to provide more specific language on when a vacancy would exist. Further, the committee recommended amendments to Section 24, which would reduce the amount of time between appointment to a vacancy and the election of a replacement for a vacant seat.

One member of the committee voted against the proposed language in Section 24. While supporting the concept of decreasing the amount of time a person can be appointed to the City Council and mayoral position, the member felt this provision could be costly, as much as \$100,000 each instance, and could run into legal ramifications at the State level, according to the City Attorney.

K. Ordinances

Recommend Amendment to the Charter

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

Vote on Recommendation for Sections 28 and 32: Unanimous

Vote on Recommendation for Protected Ordinance: 7:1 (Tollenaar)

Rewrite All of Section 28, Rewrite All of Section 32, Create New Section

~~Section 28. — Adoption. (1) Except as subsection (3) of this section provides for reading by title or bill number only, and except as subsection (2) of this section provides for immediate adoption of emergency measures, an ordinance, before being finally adopted, shall be fully and distinctly read in open council meeting on two days.~~

~~(2) Except as subsection (3) of this section provides for reading by title or bill number only, an ordinance necessary to meet an emergency may, upon being read in full and then by title, be adopted at a single meeting of the council by unanimous vote of all councilors present.~~

~~(3) Any reading of an ordinance for purposes of adoption may be by title or bill number only:~~

~~(a) If no councilor present at the meeting requests that the ordinance be read in full or~~

~~(b) If for one week prior to the reading a copy of the ordinance is provided each councilor and copies are available for public inspection at the office of the mayor or city manager during regular office hours and notice of their availability is posted at the city hall or published once in a newspaper of general circulation in the city.~~

~~(4) An ordinance adopted after being read by title or bill number only has no legal effect if it differs substantially from its terms as they stand when so read, unless each section incorporating such a difference, as finally amended prior to being adopted by the council, is fully and distinctly read in open council meeting.~~

Section 28: Adoption of Ordinances

(1) At any meeting, the city council may direct the city manager to prepare an ordinance, or the city manager may suggest an ordinance, for consideration at a subsequent meeting. At least ten working days prior to the council meeting at which the proposed ordinance is to be considered, notice of the proposed ordinance shall be published in a newspaper of general circulation in the city and the text of the ordinance shall be posted on the city's web site. The notice shall include the title of the proposed ordinance and the date, time, and place of the council meeting and shall state that copies of the ordinance are posted on the web site and available at the City Manager's Office.

(2) There shall be a public hearing on an ordinance prior to its adoption.

(3) Except as provided in this subsection, an ordinance shall not be adopted unless it has been considered by the council during at least two meetings. With the unanimous consent of the council, the council may consider and enact an ordinance at a single meeting if the council does not amend the ordinance in a manner that modifies its substantive effect. Nothing in this section requires the council to consider an ordinance at more than two meetings

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

prior to its adoption.

(4) *In the case of an emergency the ordinance shall state in a separate section the description of the emergency and a finding as to why the emergency cannot be adequately addressed by the established process in Section 28 (1). With the unanimous consent of the councilors present, the council may adopt an ordinance to address the emergency with such abbreviated notice of the ordinance and council meeting as the council finds to be practicable under the circumstances.*

~~Section 32. Times of Effect. An ordinance takes effect 30 days after its adoption by the council and approval by the mayor or passage over the mayor's veto, unless it is necessary to have immediate effect for the preservation of the peace, health, and safety of the city, states in a separate section the reasons why it is so necessary, and is approved by the affirmative vote of two-thirds of the members of the council. In that event it takes effect immediately upon its adoption by the council and approval by the mayor or passage over his veto or at whatever subsequent time the ordinance specifies.~~

Section 32: Effective Date of Ordinances.

(1) Except as provided in subsection (2) of this section, an ordinance takes effect 30 days after its adoption by the council and approval by the mayor or passage over the mayor's veto, or at a later date specified in the ordinance.

(2) With the affirmative vote of two-thirds of the members of the council, the council may provide for an ordinance to take effect immediately upon adoption by the council and approval by the mayor or passage over the mayor's veto, or at some other date less than 30 days after adoption, if the council determines that the earlier effective date is necessary to serve an important public purpose. An ordinance with an effective date of less than 30 days after adoption must include a separate section stating specifically why the earlier effective date is necessary.

New Section Creating and Defining Protected Ordinance Ordinances Adopted by Initiative

In addition to the rights of electors to initiate ordinances pursuant to Article IV, section 1(5) of the Oregon Constitution, city electors may initiate a "protected" ordinance. A protected ordinance may be amended or repealed only by another initiative, council referral, or by unanimous vote of councilors present and voting at a council meeting. The chief petitioners for a protected ordinance shall include with the prospective petition a statement declaring whether the ordinance is proposed as a regular ordinance or a protected ordinance. A petition for a

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

protected ordinance and any qualified ballot measure for a protected ordinance shall state that it is proposed as a protected ordinance and shall explain the limitations on its repeal or amendment.

The sections of the charter addressing ordinances were not among the original charges to the committee. However, in reviewing the document, members of the committee felt that there were apparent contradictions and conflicting language in the charter with regard to ordinances.

Sections 28 and 32 of the existing charter set forth procedures and requirements for adopting City ordinances. Section 28 requires that ordinances be "fully and distinctly read" on two days unless (1) there is unanimous consent to "read" by title or bill number only or unless copies are distributed to councilors and available to the public a week prior to first reading, or (2) there is an need for immediate enactment, which is so stated in the ordinance. Section 32 provides that ordinances take effect 30 days after enactment except that with a vote of two-thirds (or six) members of the council, and ordinance may take effect immediately.

The purpose of the "readings" requirement is obscure. Apparently at one time it was considered necessary to read proposed ordinances aloud during council meetings so that councilors and the public could know what was being proposed. Today, better methods exist to inform councilors and the public of the content of proposed ordinances.

In actual practice, readings in full rarely occur. In the great majority of times, councilors vote (it must be unanimously) for the reading by title or council bill number only. There is no charter requirement for public notice. Section 28 provides that notice of ordinance availability "posted at the city hall or published in a newspaper" can substitute for reading in full if a councilor objects to reading by title or bill number only, but as noted above that rarely happens.

The voting requirement for emergency ordinance appeared to be unclear. Section 28(2) says that emergency ordinance may be adopted at a single meeting with unanimous consent, while Section 32 says that adoption of an ordinance with an immediate effective date requires the affirmative vote of two-thirds of the members of the council.

The charter does not require a public hearing prior to adoption of an ordinance. The City code does require public hearings with only one limited exception, but the council could change that requirement at any time.

Thus, the committee recommended that the existing language of Sections 28 and 32 be repealed, and that new ordinance procedures be enacted. These follow:

- Ordinances may be initiated either by the council or the City Manager.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

- Notice of proposed ordinances must be published in a newspaper of general circulation, and both the notice and a copy of the proposed ordinance must be posted on the City's web site at least ten days before the council meeting at which it will be considered.
- A public hearing is required prior to the adoption of any ordinance.
- In an emergency, with unanimous consent, an ordinance may be adopted with less than the required ten days notice and posting. Such an ordinance must state findings explaining why the required notice cannot be provided.
- The existing provision that ordinances take effect 30 days after enactment is retained, but can be waived if necessary to serve an important public purpose. In such cases, the ordinance must state specifically why an earlier effective date is necessary.

Throughout its deliberations, the committee frequently considered whether a certain policy or requirement should be in the charter or whether it should take the form of a City ordinance. Generally, the committee agreed that the charter should establish the basic organization, powers, functions, and procedures of the City, while specific policies and programs should be established by ordinances that can be adapted to changing needs and circumstances. Several such specific policies and programs have been added to the charter by citizen initiatives whose sponsors prefer charter amendments to ordinances because they believe that ordinances are too easy to change. These concerns led to a discussion of possible alternatives to the current initiative and referendum procedures for both ordinances and charter amendments.

The committee considered several ways to increase the difficulty of passing charter amendments via initiative. These included:

- Increasing the number of signatures required to place charter initiative on ballot;
- Increasing the percentage of yes votes required to pass charter initiatives;
- Limiting charter amendment elections to general elections; and
- Requiring a longer time between certifying petitions and holding elections to provide the opportunity for more voter deliberation.

None of these options seemed likely as each would require a vote to be approved. However, other alternatives were considered which included:

- Requiring a mandatory wait period before council could alter/repeal initiative ordinances;
- Requiring a referral to the voters of council amendment to voter-initiated ordinances; and
- Requiring more than a majority of councilors to repeal/amend voter-initiated ordinances.

Ultimately, the committee voted to recommend the last option and labeled it a "protected ordinance."

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

L. Eugene Water & Electric Board

Recommend No Amendment to the Charter

Vote Recommendation: Unanimous

Among the charges to the committee was the review Section 44, the section concerned with EWEB. Subsequent discussions with the City Council did not yield a specific concern or problem with the current charter language.

The EWEB commissioners were also asked to provide comments on the work of the committee. In a letter to the committee dated October 31, 2001, the commissioners outlined three areas of clarification. The areas of concern noted by the EWEB commissioners were:

- EWEB's authority to place measures before the voters;
- EWEB's authority in short-term borrowing; and
- In-lieu-of-tax payments.

Given the size and complexity of the topic, committee members did substantial information-gathering before discussing the issue. Members met with EWEB staff and City staff in separate meetings to get an understanding of the issues involved. One meeting was entirely devoted to a discussion of EWEB issues. It was agreed by both parties that the relationship between the City and EWEB is complex and aspects of this relationship can be clarified. There was broad committee support that EWEB and the City should explore these issues further. However, given the time constraints facing the committee and the complexity of the issues, the committee decided not to make any recommendations regarding EWEB and the charter. A copy of the letter from the EWEB commissioners to the Citizen Charter Review Committee is found in Appendix S of this report.

The committee did recommend that several areas be reviewed in more detail at a later date. These issues are:

- The financial relationship between the City and EWEB;
- The requirement that EWEB bill and collect City service charges;
- The language outlining EWEB's short-term debt authorization;
- payment in-lieu-of taxes
- Clarification regarding EWEB's authority to place measures on the ballot; and
- Improving the interaction between EWEB and the City.

The committee recommended that at some point in the future a new committee be created to review these issues. The committee should include EWEB and City representatives and would have a specific charge with regard the recommendations. Refer to Appendix T for the details of

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

this committee discussion.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

M. Citizen Participation

Recommended Amendment to Charter

Vote On Recommendation: Unanimous

Create New Section As Shown Below

The council shall by ordinance enact procedures to afford citizens opportunities for informed, timely participation in decisions which may have a significant impact on public policy, city revenues, city expenditures, social services, human rights, economic activity, or the natural environment.

Early in the January, members of the committee reviewed the charge to the committee and identified possible additional areas that may merit consideration, time permitting. One such item was the consideration of language providing for citizen participation in the governance of Eugene.

Although not given formal approval by the council for this additional charge, the committee decided to forward its recommendation.

If this recommendation is eventually adopted by the voters of Eugene, the City Attorney will need to issue an opinion as to what would specifically be included under this proposed amendment.

This addition is consistent with the committee's guiding principles and with the other recommendations from the committee, that is, that the charter be a guiding document that addresses all facets of local governance. This new section in particular is reflective of the community's commitment to citizen participation.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

N. Housekeeping Items

a. Section 42 (Skinner Butte)

Recommend Amendment to Charter

Vote on Recommendation: Unanimous

Repeal Section 42 (2) As Shown Below

Section 42. Skinner's Butte Park.

(1) The property commonly know as the "Butte Property," with boundaries as described in a charter amendment adopted by the voters of the city April 5, 1915, is hereby dedicated to the public forever as a public park.

~~(2) The concrete cross on the south slope of the butte shall remain at that location and in that form as property of the city and is hereby dedicated as a memorial to the veterans of all wars in which the United States has participated.~~

The committee examined the possibility of removing the entire section from the charter. This section established what historically was known as the "Butte Property" as a permanent public park. The section also established that a concrete cross be erected at the top of the Skinner Butte Park as a memorial to veterans of all wars. With the relocation of that cross from the Skinner Butte park to a private location in June 1997, the need for the entire section was considered.

This section was addressed as a housekeeping item and was one of the original charges to the committee. In discussions with legal counsel, it was noted that subsection 1 of the section gave the land area in question permanent City park status. Removal of the entire subsection could remove the permanent status and assign the Skinner Butte Park the same legal status as other City parks. Because historical records indicate that voters in 1915 adopted a charter amendment giving the park permanent status, there was reluctance to recommend the removal of the entire section.

As a result of this discussion and information, the committee recommended that subsection 2 of Section 42, which established the cross as a memorial to veterans, be removed as it is obsolete. The committee also recommended that clause 1 be retained as it is not an obsolete provision and expresses the historical intent to retain Skinner Butte Park in permanent City park.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

N. Housekeeping Items

b. Section 51 (Tax by Specific Years)

Recommend Amendment to Charter

Vote on Recommendation: Unanimous

Repeal Entire Section 51 As Shown Below

~~Section 51. — Amendment I:~~

~~(1) The city council may not levy a property tax for general city operations for a fiscal year unless the voters of the city approve the tax specifically for that year, except that, to the extent the tax is levied to finance an appropriation for that year recommended in the city budget by two-thirds of the budget committee, the council may levy the tax without that voter approval.~~

~~(2) The city council may not levy a property tax for general city operations of more than~~

~~(a) \$14,000,000 for fiscal year 1980-81;~~

~~(b) \$16,500,000 for fiscal year 1981-82;~~

~~(c) \$19,000,000 for fiscal year 1982-83, nor~~

~~(d) the city's tax base under Article XI, section 11, of the Oregon Constitution for a fiscal year after June 30, 1983.~~

~~(3) The preceding limitations do not apply to a property tax~~

~~(a) to retire bond principal or interest;~~

~~(b) to finance an improvement or service in a special district created by the city council;~~

~~(c) levied serially for capital acquisition, construction, or reconstruction specifically authorized by the voters, or~~

~~(d) authorized by noncharter measure approved by the voters after they approve this amendment.~~

~~(4) This amendment has effect only if the voters approve Ballot Measure No. 52 on May 20, 1980.~~

~~(Special City election, May 20, 1980):~~

This amendment to the charter was created after the council referred this matter to the voters in 1980. The amendment limits the amount of taxes to be levied in specific years, all in the 1980s. Both the League of Women Voters and the City Club observed that this section appears to be obsolete and recommended it be deleted from the charter.

In response to a request on this matter, the City Attorney informed the committee that Subsection 2 is moot due to the passage of time and constitutional revisions. However, nothing in Subsection 1 limits the time of its application. Subsection 1 does, except as provided in Subsection 3, require a two-thirds majority of the Budget Committee or a vote of the people to

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

levy a property tax for general city operations.

Given this response and the fact that the Budget Committee approvals on such matters are most frequently unanimous, the committee decided to recommend that the entire amendment be deleted, unless the City Attorney could determine it was necessary to retain it in the charter. While this recommendation may border more on policy than “housekeeping,” the committee felt it was an opportunity to delete parts of the charter that were not necessary.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

N. Housekeeping Items

c. Section 52 (Historic Trees)

Recommend No Revision to Charter

Vote on Recommendation: 5:3 (Thompson, Tollenaar, Wells)

Section 52 of the charter was adopted in 1984 by citizen initiative. It prohibits the removal of an historic tree without prior approval by voters. The amendment defines streets and historic trees and only applies to the area within the 1915 city limits and excludes intersections.

Discussions with the City Transportation Engineer, the City Urban Forester, and a member of the Eugene Tree Foundation yielded no suggestions for revisions to the amendments. City staff indicated that the section is a consideration in certain potential street projects. It was also one of the reasons the Ferry Street Bridge project was submitted to the voters. It has caused certain projects to be reconsidered.

The committee reviewed this information and decided to retain the section as currently written.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

N. Housekeeping Items

d. Section 53 (Downtown Mall)

Recommend Amendment to Charter

Vote on Recommendation: Unanimous

Repeal Entire Section 53 As Shown Below

~~Section 53. — Amendment III:~~

~~Measure: The City of Eugene does ordain as follows:~~

~~Be it enacted by the electors of the City of Eugene, that the Charter of the City of Eugene is hereby amended to add the following provisions thereto:~~

~~Section 1: It is hereby determined that the Willamette and Broadway Street pedestrian mall is an asset to the City of Eugene's downtown; that it is in the public interest and convenience that the pedestrian mall be enhanced and maintained as a vehicular traffic-free mall; and that the existing network of streets and alleys, setback driveways and directional signs can provide the necessary limited traffic access to the mall.~~

~~Section 2: The pedestrian mall established on the following city streets, or portions thereof, shall remain a pedestrian mall closed to vehicular traffic, except for public emergency and utility vehicles, unless the electors of the City of Eugene vote to open the streets to vehicular traffic in a primary election, general election or special election held on a date between Labor Day of one year and Memorial Day of the following year:—~~

~~Willamette Street from the South margin of 8th to the North margin of Tenth Avenue; Broadway Avenue from the East margin of Charnelton Street to the West margin of Oak Street;~~

~~Section 3: No additional limited vehicular traffic access onto Willamette Street between 8th and 10th, and onto Broadway between Charnelton and Oak will be allowed unless approved by the electors as provided in Section 2.~~

~~Section 4: Any ordinance adopted by the governing body of the City of Eugene after August 1, 1990 and prior to the effective date of this amendment and which authorizes the opening to vehicular traffic of the streets described in Section 2 is hereby repealed. The street or streets may not be used by vehicular traffic until approved by the electors as provided in Section 2. (Special City election, March 26, 1991).~~

With the approval by the voters of Eugene on the opening of Broadway, on September 18, 2001, the voters of Eugene ended the downtown mall. Previous votes and actions had reopened the mall sections on both Willamette and Olive Streets. Upon the advice of legal counsel, the committee recommended that this section was obsolete and needed to be repealed.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

N. Housekeeping

e. Section 54 (Toxics Reporting)

Recommend Amendment to Charter

Vote on Recommendation: Unanimous

Revisions to Specific Sections As Shown Below

ARTICLE III - DEFINITIONS

Section 3 As used in this ~~Act~~ *Section*, the following definitions shall apply:

A. "Extremely hazardous substance" means all substances listed in Section 302 of the Emergency Planning and Community Right-To-Know Act (42 USC 11002) as of the effective date of this ~~Act~~ *Section* ~~and any substance added to the list subsequent to the effective date of this Act.~~ *If a substance is added to or removed from the federal list of reportable substances under section 302 of 42 USC 11002, the Toxics Board may recommend to the City Council that the substance be added to or removed from the definition of "extremely hazardous substance" in this Section. The council may removed a substance from the definition only if the Toxics Board has recommended its removal. . .*

. . .E. "Hazardous substance" means:

1. any substance listed or described, as of the effective date of this ~~Act~~ *Section*, on any of the following lists of chemicals regulated or identified as of concern:
 - (a) Section 112(b) of the Clean Air Act (CAA) as amended in 1990 (Hazardous Air Pollutants); 42 USC 7412(b);
 - (b) Section 602(b) of the CAA (Class II ozone depleting substances); 42 USC 7671a.(b);
 - (c) Section 307(a) of the Clean Water Act (CWA) (Priority Pollutant List); 33 USC 1317(a);
 - (d) US Environmental Protection Agency Active Ingredients, including Special Review, Canceled/Denied or Suspended, and Restricted Use Pesticides, pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA; 7 USC 136 et seq.);
 - (e) US Environmental Protection Agency List 1 Inert Ingredients of Pesticides ("Inerts of Toxicological Concern"), pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA; 7 USC 136 et seq.);
 - (f) Section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); 42 USC 9602;
 - (g) Section 3001 of the Resource Conservation and Recovery

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

Act (RCRA; 42 USC 6921) and chemicals listed at 40 CFR 261.33 (e) and Appendix VIII.

2. any substance which, if it were in a container, would possess the characteristics of a hazardous waste, as defined in 40 CFR 261.20 through §261.24, authorized by RCRA;
3. radioactive waste and material as defined in ORS 469.300 and radioactive substance as defined in ORS 453.005;
4. any substance, regardless of quantity, required to be reported pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA); 42 USC 11002; or
- ~~5. any substances added, subsequent to the effective date of this Act, to the lists described in Article III(E)(1) and III(E)(4) of this Act.~~
5. *If a substance is added to or removed from the lists described in Article III(E)(1) or III(E)(4) of this Section, the Toxics Board may recommend to the city council that the substance be added to or removed from the definition of "hazardous substance" in this Section. The council may remove a substance from the definition only if the Toxics Board has recommended its removal. . .*

.. I. "Output" means the sum of the following categories of each hazardous substance:

1. ~~quantity consumed~~ *chemically altered* in the facility's processes;
2. quantity shipped from the facility in product;
3. quantity transferred away from the facility as waste;
4. waste stored at the facility at the end of the accounting period;
5. quantity emitted to the air;
6. quantity discharged into publicly treated sewage;
7. quantity released into surface waters ;
8. quantity eliminated through treatment at the facility;
9. quantity eliminated through energy recovery at the facility;
10. quantity disposed on-site; and
11. inventory at the facility at the end of the accounting period.

J. "Person" means an individual, corporation, partnership, trust, association, the City of Eugene, or any officer, agent, or employee thereof.

K. "Smallest accounting unit" means 2.2 pounds of a hazardous substance; 0.022 pounds of an extremely hazardous substance.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

- L. "Trade secret information" means information that is exempted from disclosure as a trade secret pursuant to any federal or State law including but not limited to 42 USC 11042(b) of the federal Emergency Planning and Community Right to Know Act.

ARTICLE VI - ADMINISTRATION OF HAZARDOUS SUBSTANCE REPORTING

Section 6.1 Appointment of the Toxics Board

- A. The City Council shall appoint a Toxics Board of seven people to enforce and implement this ~~Act~~ *Section*.
1. Three members shall be appointed who are employed by or are agents of "persons" required to report under this ~~Act~~ *Section*.
 2. Three members shall be appointed who are not employed by or are not agents of "persons" required to report under this ~~Act~~ *Section*, and who have a demonstrable record of advocating for the public's right-to-know.
 3. One member shall be nominated by a two-thirds majority of the six appointed members.
- B. ~~The Toxics Board shall be appointed within two months of passage of this Act, and any~~ *Any vacancies in the membership of the Toxics Board shall be filled, so as to maintain the balance set forth in Section 6.1(A), within two months of the creation of a vacancy.*
- C. *1. The term of office shall be three years, except that two members, one from Section 6.1(A)(1) and one from Section 6.1(A)(2), of the first Toxics Board shall be appointed to serve a first term of one year; three members, one each from Section 6.1(A)(1), 6.1(A)(2) and 6.1(A)(3) shall be appointed to serve a first term of two years; and two members, one from Section 6.1(A)(1) and 6.1(A)(2), shall be appointed to serve a first term of three years. No member shall serve more than two consecutive terms.*
- 2. Beginning in 2003, the terms of members' of the Toxics Board shall conform to those of the standing committees to the City Council as defined by and set in the City Code.*

Section 8.2 Penalties

- A. Any hazardous substance user or person who violates this ~~Act~~ *Section* shall be subject to a penalty not less than \$250 and not greater than ~~\$25,000 per day, the maximum penalty allowed by state law.~~

Section 54 of the Eugene Charter, passed by citizen initiative in November 1996, defines

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

hazardous substances and requires annual reporting of their use by businesses operating in Eugene. It establishes a Toxics Board to oversee this process and requires that reporting businesses fund the program. The program administrator and the Toxics Board were both consulted as the committee reviewed this section of the charter.

On November 8, the Toxics Board unanimously recommended changes to this section. The individual suggestions and possible implementation language are numbered for clarity.

The Toxics Board's first suggestion was to correct a scrivener's error in Article III(A), which incorrectly references Section 30 of the Emergency Planning and Community Right-to-Know Act (42 USC 11002). The reference should be changed to Section 302.

The Toxics Board's second suggestion was to redefine one of the outputs in Article III, "Definitions" (I) outputs(1) currently reads: "quantity consumed in the facility's processes." It was suggested to change "quantity consumed" to "quantity chemically altered." The intent is to reduce confusion by reporting businesses.

The Toxics Board also recommended that the term start and end dates, but not the term length confirm with other boards, committees, and commissions. They supported shortening the terms of those currently serving if necessary rather than extending them.

Additionally, the Toxics Board responded to the fact that the State sets a maximum daily fine for violations at \$1,000 by suggesting that the \$25,000 per day maximum fine in section 8(2)(a) be replaced with "the maximum penalty allowed by State law."

In another suggestion, the Toxics Board proposed deleting references to pesticides in Sections 3(e)(1) (d&e) because subsequent State laws have precluded their reporting. The committee was concerned that if pesticides were removed from reporting, that intent would be lost if future legislation reinstated the option to report them. It was felt that there may be future value in retaining the current language. The committee unanimously opposed the change proposed by the Toxics Board.

The final suggestion by the Toxics Board dealt with the court decision that prohibits automatic addition or removal of substances from reporting because the federal listing had been revised. The Toxics Board suggested that when changes were made to the federal list, the Toxics Board could vote to propose making the same changes to the City of Eugene list. Upon receipt of the Toxics Board's recommendation, the City Council could vote to approve or deny their suggestion. The committee unanimously supported that change.

The committee also discussed the inconsistent numbering of sections and subsections of the

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

amendment. The committee unanimously agreed to suggest that staff propose an amendment to make the numbering consistent.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

N. Housekeeping

f. General Housekeeping Items

As the committee deliberated on the many issues assigned by the City Council, the City Attorney was asked to prepare a list of housekeeping revisions to the charter. Some of these proposed revisions are corrections of spelling errors, removal of antiquated language, or suggestions that clarify the charter language or improved the readability of the document. Each of these sections is shown below. The appendix contains several memoranda from the City Attorney detailing each of these housekeeping revisions. Although some are obvious, a short description is provided for each item. These housekeeping revisions were all passed with unanimous votes of the committee members. Refer to the three memoranda from the City Attorney on these housekeeping revisions found in Appendices U, V, and W.

1. Section 1

Section 1. Title. This revision may be referred to as the Eugene Charter of ~~1976~~ 2002.

The committee recommended that this section be updated to reflect a the year in which the revised charter might be adopted by the voters of Eugene.

2. Section 7

Section 7. Mayor - Election. A mayor shall be elected in ~~1980~~ 2004 and every fourth year thereafter for *a term of* four years, and *shall serve* until his or her successor is elected and qualified.

The committee recommended that this section be updated as it first updated the information in the charter and second, clarified the term of the mayor.

3. Section 8

Section 8 Council - Qualifications. ~~A councilor shall reside in the ward for which elected or appointed.~~ *During a councilor's term, the councilor shall reside in the ward from which the councilor was elected or to which he or she was appointed. In addition, to be elected or appointed as a councilor, a person must meet the qualifications described in Section 19.*

The committee recommended that this section be revised as it clarifies that this section and Section 19 of the charter are independent requirements, both of which apply to councilors.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

4. Section 9

Section 9. Council - Meetings. The council shall prescribe the time and place of its regular meetings, at least one of which shall be held each month. ~~At any such meeting, the council may adjourn to the next succeeding regular meeting or to some specified time prior thereto.~~ The mayor or three councilors may call special meetings of the council in a manner prescribed by ordinance.

The current charter language requires that the council meet at least once a month, which now seems unnecessary. The adjournment provisions create parliamentary confusion. Under current legal interpretation of the charter, the council holds one meeting per month, and all meetings after the first are a continuation of the first meeting of the month. Under Robert's Rules of Order, a motion to reconsider is timely only if made during the same meeting at which the motion was adopted; thus, the timeliness of such a motion may depend upon when during the month the original motion was adopted.

The committee recommended that this section be revised as proposed by the City Attorney.

5. Section 11

Section 11. Council - Journal. The council shall keep a journal ~~minutes of its proceedings and on call at the request of any two of its members cause shall record in the minutes the yeas and nays upon any question before the council. to be taken and entered in the journal.~~

The committee recommended this revision to update antiquated language in the current charter.

6. Section 13

Section 13. Council - President. ~~At the first regular meeting of the council each year or as soon thereafter as practicable, the council shall choose by ballot one of its members to preside over the council and perform the duties of mayor in the absence of the mayor from the city or in case of the mayor's inability to act as such. In functioning as mayor while the mayor is absent from the city on leave granted by the council or after the mayor is absent from the city for 30 days or physically unable to function as mayor for 30 days, the president of the council has the legal powers, and is subject to the legal limitations, incident to the office of the mayor.~~

(1) *Each year, at the first regular meeting of the council, or as soon as practicable, the council shall choose by ballot one of its members to serve as council president.*

(2) *The council president shall preside at council meetings when the mayor is absent.*

(3) *The council president shall function as mayor, with the*

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

powers and subject to the limitations of the office of mayor when the mayor:

- (a) is absent from the city on leave granted by the council;*
- (b) has been absent from the city for 30 days or more;*
- or*
- (c) has been physically unable to function as mayor for 30 days or more.*

The committee recommended that this section be revised first to clean up what is confusing language and to clarify the role of the council president, especially in the absence of the mayor.

7. Section 15

Section 15. Council - Immunity. No member of the council *or the mayor* may be held liable, or questioned in any other place, for words uttered in debate in the council.

The committee recommended that this section be revised to affirmatively include the mayor.

8. Section 16

Section 16. City Manager.

(1) (a) The city council shall appoint a city manager and fix his or her compensation and conditions of employment.

(b) If the office of manager becomes vacant, the mayor shall appoint a manager pro tem. The manager pro tem shall have all functions of the manager, but may appoint or dismiss a department head only with the approval of the council. The term of office of a manager pro tem ends when a city manager takes office.

(c) The manager shall be the administrative head of the city and be chosen ~~without political consideration and~~ solely on the basis of executive and administrative qualifications.

(d) The manager and such other *appointed* officers as the council designates may sit with the council but have no vote therein. The manager may take part in the discussion of all matters coming before the council.

(e) No councilor nor the mayor may in any manner, directly or indirectly, by suggestion or otherwise, attempt to influence the manager in the making of any appointment or any removal of city personnel or in the purchase of supplies, nor may any councilor or the mayor exact any promise relative to any appointment by a city manager or discuss, directly or indirectly, with the manager or any candidate for the office of manager any appointment by the manager. Violation of this section forfeits the office of the violating *elected* officer, who may be removed by the council or any court of competent jurisdiction. The mayor and council may, however, in open council session, discuss with or suggest to the manager

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

anything pertaining to city affairs and in executive session discuss matters pertaining to collective bargaining.

- (2) The city manager shall:
 - (a) ~~prepare~~ *propose* the annual budget

These changes were recommended for several reasons. First the deletion of the phrase “without political consideration and” to delete unnecessary language. The additions of the words “appointed” and “elected” were suggested to clarify persons noted in the charter. Finally, the change from “prepare” to “propose” is to bring the charter in line with actual practice.

9. Section 17

Section 17. Judges, Powers, Procedures.

(1) The city council may appoint one or more municipal judges, for terms and at salaries it specifies. A municipal judge shall hold court in the city at such a place as the council directs. The court shall be known as the Municipal Court.

(2) The court may impose sanctions on any person who violates a city ordinance within the court's jurisdiction, issue process for the arrest of any person accused of any such violation, commit such a person to imprisonment or admit the person to bail pending trial, issue subpoenas to compel witnesses to appear and testify on the trial of any cause before the court, enforce obedience to the subpoenas, and issue process necessary to carry into effect the judgment of the court.

(3) All proceedings in the municipal court shall be governed by the general laws of the state governing justices of the peace and justice's courts, except as city ordinance prescribes to the contrary. ~~A municipal judge has the jurisdiction and authority of a justice of the peace in and for Lane County, in both civil and criminal matters, and when exercising that jurisdiction and authority is subject to the general laws of the state prescribing the duties of a justice of the peace and the mode of performing them. In civil and criminal matters, a municipal judge has the jurisdiction and authority prescribed by city ordinance, subject to the general laws of the state.~~

The committee recommended this revision as it provides the City Council more flexibility to define the court's role.

9. Section 18

Section 18. Compensation.

(1) Beginning on July 1, 2001, the mayor shall receive a stipend of \$1,500 per month and the city councilors shall receive a stipend of \$1,000 per month.

(2) At the beginning of each fiscal year thereafter, the stipends authorized above shall be adjusted by a percentage increase or decrease equal to that during the previous calendar year of the Consumer Price Index (CPI) for the Portland, Oregon area, or its

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

successor. If that index ceases to exist, another consumer price index representing substantially the Eugene area shall be used. In any case, if a consumer price index covering the Eugene area is developed, that index shall be used in place of the Portland CPI.

(3) The stipends above are in addition to, and not in lieu of, reimbursement for actual official expenses incurred.

(4) The mayor and councilors shall receive no fringe benefits except those required by state law, but the mayor and councilors may purchase health insurance from the city health insurance plan.

(5) The compensation of other *appointed* officers shall be prescribed by council.

The committee recommended this revision, again to clarify officers who are appointed or elected.

10. Section 20

Section 20. Election. Immediately after the votes at any municipal election have been canvassed, the ~~city officer in charge of administering elections~~ *City Recorder* shall issue *a certificate of election* to each person declared by the canvassers to have been elected. ~~at the election a certificate of election~~. The certificate shall be prima facie evidence of the facts therein stated, but the city council shall be the judge of the election and qualifications of the mayor and councilors, and in case of a contest between two or more persons claiming to be mayor or councilor, shall determine the contest.

The committee recommended this revision as it revised the awkward phrasing in the current charter.

11. Section 25

Section 25. Collective Bargaining.

(1) City employees shall have the right to self-organization; to form, join, and assist labor organizations; and to bargain collectively through representatives of their own choosing with respect to wages, hours, and other terms and conditions of employment.

(2) The city manager shall bargain collectively on behalf of the city council with the representatives of city employees in an appropriate bargaining unit upon request of their certified bargaining agent.

(3) The council shall prescribe by ordinance collective bargaining procedures to protect the city, the employees, and the public in general. In so doing, the council shall provide for:

- (a) impartial ordinance administration and enforcement *of the ordinance*;
- (b) resolution of interest-impasse disputes;
- (c) as to employees who are employed in police or fire service,

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

a binding award by a neutral third party resolving an interest-impasse dispute;

(d) equal sharing of neutral third-party costs by parties to an interest-impasse dispute;

(e) employee rights;

(f) employer rights; and

(g) procedural finality that does not obstruct funding of collective bargaining agreements.

The committee recommended this revision as it clarifies that the refers only to the ordinance described in this section.

12. Section 26

Section 26. Liability for Unauthorized Expenditures.

(1) A city officer *or employee* who participates in, advises, consents to, or allows any tax, assessment, or other money of the city to be diverted to any purpose other than the one for that it is assessed, collected, raised, or levied is guilty of malfeasance in office and removable from *the office or position* therefor as provided by law.

(2) Anyone holding, in good faith and for a valuable consideration, any void evidence of debt against the city shall have the right of a personal action against any and all members of the council or the members of any department of the city who voted for, approved of, or directed its issuance.

(3) If any tax, assessment, or other money is diverted from the purpose for which it is assessed, collected, raised, or levied; or if any money is unlawfully used; or if any void evidence of debt is paid, any qualified elector or taxpayer of the city shall have the right of a civil action, in the name of the city, against any officer *or employee* voting for, approving of, or in any way directing the diversion, unlawful use, or void payment, for the recovery of the amount, with interest, for the benefit of the city.

This recommended amendment would change the standard for a city official to be subject to removal from office and to be held personally liable for mis-expenditure. The change is from strict liability only for knowing and grossly negligent errors. The committee recommended that this section be revised at the suggestion of the City Attorney, who felt that this revision would bring the charter in closer alignment with current State law.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

13. Section 29

Section 29. Attestation and Approval. Upon the adoption of an ordinance, ~~a true duplicate original thereof~~ *it* shall be submitted to the mayor. If the mayor approves the ordinance, the mayor shall endorse the approval thereon with the date of the approval and sign the ordinance officially.

The committee recommended that this section be updated as the phrase “a true duplicate original now seems unnecessary.

14. Section 31

Section 31. Overriding of Veto. At the first meeting of the council after the mayor returns an ordinance not so approved, the city manager shall present the ordinance to the council with the objections of the mayor. ~~;~~ The ordinance shall then be put upon adoption again, and if two-thirds of all members of the council vote in favor of the ordinance, it takes effect in accordance with Section 32 of this charter.

The committee recommended that this section be revised to make it more readable by splitting the section into two sentences.

15. Section 33

Section 33. Wards. The council shall ~~divided~~ *divide* the city into wards and redefine the boundaries thereof as necessary to accord persons in the city the equal protection of the laws. No person may vote at a city election in a ward other than that in which he or she resides.

The committee recommends making this revision to correct grammatical error.

16. Section 34

Section 34. Voters' Qualifications. No person may vote *in* at a city election ~~who is not a qualified voter of the state or who has not resided in the city for 30 days next preceding the election. No person may vote for an officer to be elected under this charter by ward without having resided in the ward for 30 days next preceding the election. unless the person is a qualified voter of the state, and has resided in the city for the length of time that state law requires a person to reside in the state to vote in a state election. No person may vote for an officer to be elected under this charter by ward unless the person has resided in the ward for the same length time required in the preceding sentence for a person to vote in a city election.~~

The committee recommended making this revision as it updates the charter to reflect the voter requirements to be the same as that of the State of Oregon. Oregon law requires a 21-day

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

residency requirement. With Oregon's vote by mail, the 30-day requirement is virtually unenforceable.

17. Section 35

Section 35. Notice. The officer in charge of city elections City Recorder shall ~~give ten days' public notice of each city election.~~ *distribute information regarding officers to be elected and measures to be submitted ten days prior to the distribution of ballots.* ~~The notice shall state the officers to be elected and the measures to be submitted at the election.~~ The notice shall also state the places for the election *and ballot drop sites.*

The committee recommended this revision as it clarifies who is to provide the notice, what type of information is to be provided, and updates the language to reflect Oregon's vote by mail system.

18. Section 37

Section 37. Procedure. The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable general laws of the state, except that if a remonstrance is filed against improvement or repair of a street or alley and is signed by *the owners of a majority of the parcels that would be assessed for the repair or improvement,* ~~a majority of the owners of the property abutting on the street or alley,~~ no contract for the improvement or repairs may be let until the city council reconsiders the necessity of the improvement or repair. If, after the reconsideration, two-thirds of all councilors vote for the improvement or repair, ~~and the mayor again approves the improvement or repair,~~ contracts for the improvement or repair may be let as if no remonstrance had been filed.

The committee recommended this revision as it would be closer to existing practice for remonstrances under ordinance. It would also allow the council to provide by ordinance for assessing property owners for beneficial improvements even if their property does not abut the improvement, without denying those owners the right to remonstrance.

19. Section 40

Section 40. Liens. The docket of city liens is a public writing, and the original or a certified copy of any matter authorized to be entered in the docket shall have the force and effect of a judgment. *When the council has authorized an improvement, and an assessment for it is entered in the city's lien docket, the assessment becomes a lien against the property so assessed.* ~~From the time of the council's authorization of the improvement on account of which an assessment is entered in the docket, the sum so entered is a lien against the property.~~ The lien has priority over all other liens and encumbrances upon the property and may be enforced in the manner authorized by the city council.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

The committee recommends revising the language to clarify intent and readability.

20. Section 43

Section 43. Franchises.

(1) The city council may grant a franchise or amendment thereto ~~or any other prerogative of sovereignty~~ only by ordinance. Before adopting any such ordinance the council shall publish notice of its intention to do so ~~not less than once a week for three consecutive weeks in one or more newspapers of general circulation printed in the city. The notice shall state the substance of the proposed ordinance, including the name of the grantee. The ordinance shall be read, in a manner authorized by Section 28 of this charter. at two consecutive regular meetings of the council before it is passed.~~ Any applicant for such a franchise ~~or other prerogative of sovereignty~~ shall pay in advance the expenses of publishing the notice. *Any franchise granted by the council shall assure adequate service to city residents and shall require the franchisee to pay the city adequate compensation in the form of a percentage of the gross income from the franchise, or in an alternative form acceptable to the council, in amounts sufficient to cover present value and future development of the franchise. No franchise may be granted, except upon such terms as secure to the city adequate service and adequate compensation by exacting such a percentage of the gross income from the franchise or prerogative as is adequate to cover present value and future development.*

(2) In the acquisition by the city of any public utility the price to be paid by the city shall exclude the value of any franchise ~~or other prerogative of sovereignty~~ granted by the city and connected with the utility. All ordinances granting franchises ~~or other prerogatives of sovereignty~~ shall do so subject to the provisions of this section.

(3) The council may not grant an exclusive citywide franchise to haul solid waste.

The committee recommended the changes in Section 43 for several reasons. First, the term “prerogative of sovereignty” is obsolete and should be removed. The revision in the language related to compensation for franchises is recommended to provide more flexibility to the council to obtain compensation for a franchise in some form other than a percentage of gross revenues. The language regarding the notice being published was removed as the new proposed language in Section 28 would revise public notice processes as they relate to ordinances.

21. Section 48

Section 48. Presumption of Validity of City Action. In every proceeding in any court concerning the exercise or enforcement by the city or any of its officers ~~or employees~~ or agencies of any power by this act given to the city or any of its officers ~~or employees~~ or agencies, all acts by the city or any of its officers, ~~employees~~ or agencies shall be presumed to be valid, and no error or omission in any such act invalidates it, unless the person attacking it alleges and proves that he or she has been misled by the error or omission to his or

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

her damage; and the court shall disregard every error or omission which does not affect a substantial right of the person. Any action by this charter committed to the discretion of the council, when taken, shall be final and shall not be reviewed or called into question elsewhere.

The committee recommended the language be revised as it helps to clarify the intent of the sections.

22. Section 49

~~Section 49. — Repeal.~~

~~(1) — The charter of the city granted by the Oregon Legislative Assembly as Chapter 252, Oregon Laws 1905, and all additions and amendments thereto, except amendments conferring bond-issuing power that has not been exhausted, are hereby repealed, but the following sections of this revised charter represent continuations of the following sections of the 1905 charter and amendments and additions thereto, as indicated by the following table: . . .~~

~~(2) — No repeal of a feature of the 1905 charter or any amendment or addition thereto that has repealed an earlier such feature revives the earlier.~~

~~(3) — No repeal of a feature of the 1905 charter or an amendment or addition thereto affects the validity of an outstanding bond issued by the city or impairs the obligations of the city under the bond or the rights of the holders of the bond.~~

The committee agreed that this section would need to be updated depending upon how the charter revisions or amendments are presented to the voters. The specific language would be dependent upon when and if items are placed on the ballot.

23. Section 50

~~Section 50. Effective Date of Revision. This revised charter has legal takes effect on and after _____. April 1, 1977, except that Section 25 has effect on and after September 22, 1976.~~

The committee agreed that this section would be revised depending upon if and when these various recommendations go to the voters of Eugene.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

N. **Housekeeping**

g. Readability of Charter

Vote on Recommendation: 5:1 (Colbath)

Recommend Revisions in the Order and Placement of Sections in the Charter

As the committee reviewed the charter over the course of the year, there were many discussions about the readability and the general organization of the charter. As a meeting late in December, the committee felt that it had an opportunity to suggest an overall revision of the order and numbering system in the current charter. The committee recommended that the Model City Charter be used as a model for the reorganization of the current charter. The committee also suggested that a new numbering system, such as that used in the Oregon Revised Statutes, be considered. The suggested outline and organization of the charter is provided in Appendix X of this report, *Proposed Reordering of the Eugene Charter 2002*.

Further, the committee noted many inconsistencies in capitalization and grammar in the current charter and strongly recommended that all of these be corrected and consistent in a new charter.

FINAL REPORT OF THE CITIZEN CHARTER REVIEW COMMITTEE

VI. Concluding Thoughts

While the committee understands that the City Council has the final decision regarding if, when, and how these recommendations are referred to the voters, the committee discussed a possible scenario for referring recommendations to the ballot.

Single-question ballot measures could be used for the performance auditor position and the in-house legal counsel position. A separate ballot question could be used for all the housekeeping measures, including the reorganization of the of charter document. The other items, such as filling vacancies, ordinance provisions, and conflict of interest could be placed on a ballot as a set of questions to the voters. The committee recommended that the council consider a separate and standalone question for the performance auditor, the in-house legal counsel and the housekeeping measures. The City Council will need to decide how refer the other measure to the voters.

FINAL PROPOSED DRAFT

EUGENE CHARTER

1976

Eugene City Council

Raymond Bradley

Gus Keller

Wickes Beal

Tom Williams

D. W. Hamel

Eric Haws

Neil Murray

Edna Shirey

Mayor Lester E. Anderson

Charles T. Henry, City Manager

A. Keith Martin, Assistant City Manager

Revised under the authority of the Common Council by Johnson, Harrang and Mercer, City Attorneys, with a special note of thanks to Mr. Stanton Long, Partner, and Mr. Orval Etter, of Counsel to the City Attorneys, and adopted by the voters of the City of Eugene at a special election held on September 21, 1976.

FINAL PROPOSED DRAFT

Table of Contents **

CHAPTER I - INTRODUCTORY PROVISIONS

- Section 1. Title.
- Section 2. Corporate Name and Capacity.
- Section 3. Boundaries.

CHAPTER II - POWERS

- Section 4. Vesting, Grant, and Construction of Powers.

CHAPTER III - CITY COUNCIL AND MAYOR

- Section 5. Council - Membership.
- Section 6. Council - Election.
- Section 7. Mayor - Election.
- Section 8. Council - Qualifications.
- Section 9. Council - Meetings.
- Section 10. Council - Quorum.
- Section 11. Council - Journal.
- Section 12. Mayor - Functions.
- Section 13. Council - President.
- Section 14. Council - Conflicts of Interest.
- Section 15. Council - Immunity.

CHAPTER IV - CITY MANAGER

- Section 16. City Manager.

CHAPTER V - MUNICIPAL COURT

- Section 17. Judges, Powers, Procedure.

CHAPTER VI - MUNICIPAL OFFICERS AND EMPLOYEES IN GENERAL

- Section 18. Compensation.
- Section 19. Qualifications.
- Section 20. Election.
- Section 21. Terms.
- Section 22. Oath or Affirmation.
- Section 23. Offices - Vacancies.
- Section 24. Vacancies - Filling.
- Section 25. Collective Bargaining.
- Section 26. Liability for Unauthorized Expenditures.

CHAPTER VII - ORDINANCES

- Section 27. Ordaining Clause.
- Section 28. Adoption.
- Section 29. Attestation and Approval.
- Section 30. Veto.
- Section 31. Overriding of Veto.
- Section 32. Times of Effect.

FINAL PROPOSED DRAFT

CHAPTER VIII - ELECTIONS

- Section 33. Wards.
- Section 34. Voters' Qualifications.
- Section 35. Notice.
- Section 36. Nomination.

CHAPTER IX - PUBLIC IMPROVEMENTS

- Section 37. Procedure.
- Section 38. Assessments.
- Section 39. Amendments.
- Section 40. Liens.
- Section 41. Freeways.
- Section 42. Skinner's Butte Park.

CHAPTER X - PUBLIC UTILITIES

- Section 43. Franchises.
- Section 44. Eugene Water & Electric Board - Functions - Membership.
- Section 45. Eugene Water & Electric Board - Short Term Loans.

CHAPTER XI - INDEBTEDNESS

- Section 46. Limits.
- Section 47. Terms, Proceeds, and Retirement of Bonds.

CHAPTER XII - MISCELLANEOUS PROVISIONS

- Section 48. Presumption of Validity of City Action.
- Section 49. Repeal.
- Section 50. Effective Date of Revision.

CHAPTER XIII - AMENDMENTS

- ~~Section 51. Amendment I.~~
- Section 52. Amendment II.
- ~~Section 53. Amendment III.~~
- Section 54. Amendment IV.

*** The Citizen Charter Review Committee has recommended that the sections of the Charter be renumbered and organized in a manner suggested by the Model City Charter. For the sake of readability, this legislative draft is shown using the 1976 Charter outline. The recommended reorganization is shown in the final report of the committee. In several instances the committee recommended that new sections be added. These are inserted in a place that seemed logical and consistent; while not having numbers, these new sections are included in this version.*

FINAL PROPOSED DRAFT

Chapter I **Introductory Provisions**

Section 1. Title. This revision may be referred to as the Eugene Charter of ~~1976~~ 2002.

Section 2. Corporate Name and Capacity. The inhabitants of the City of Eugene are hereby constituted a municipal corporation by the name of the City of Eugene and by that name have perpetual succession and may sue and be sued in all courts of justice.

Section 3. Boundaries. The city includes all territory encompassed by its boundaries as they exist when this revision of the charter is adopted or as they are subsequently modified in accordance with state law. The repository of city records shall include at least two copies of this charter each containing an accurate, up-to-date description of the boundaries. The copies and description shall be available for public inspection during regular office hours.

Chapter II **Powers**

Section 4. Vesting, Grant, and Construction of Powers.

(1) Except as this charter provides to the contrary, all power of the city is vested in the city council, the representative legislative body of the city.

(2) The city has all powers that the constitution or laws of the United States or of this state expressly or impliedly grant or allow cities, as fully as if this charter specifically stated each of those powers.

(3) In this charter no mention of a particular power may be construed to be exclusive or to restrict the scope of the powers that the city would have if the particular power were not mentioned. The charter shall be liberally construed, to the end that the city have all powers necessary or convenient for the conduct of its affairs, including all powers that cities may assume under state laws or the provisions of the state constitution regarding municipal home rule.

Chapter III

New Section. Citizen Participation. The council shall by ordinance enact procedures to afford citizens opportunities for informed, timely participation in decisions which may have a significant impact on public policy, city revenues, city expenditures, social services, human rights, economic activity or the natural environment.

City Council and Mayor

Section 5. Council - Membership. Eight councilors constitute the council of the city.

FINAL PROPOSED DRAFT

Section 6. Council - Election. The councilors shall be elected by wards for four years, one-half each two years. Each councilor shall hold office until his or her successor is elected and qualified.

Section 7. Mayor - Election. A mayor shall be elected in ~~1980~~ 2004 and every fourth year thereafter for *a term of* four years, and *shall serve* until his or her successor is elected and qualified.

Section 8. Council - Qualifications. ~~A councilor shall reside in the ward for which elected or appointed. During a councilor's term, the councilor shall reside in the ward from which the councilor was elected or to which he or she was appointed. In addition, to be elected or appointed as a councilor, a person must meet the qualifications described in Section 19.~~

Section 9. Council - Meetings. The council shall prescribe the time and place of its regular meetings, at least one of which shall be held each month. ~~At any such meeting, the council may adjourn to the next succeeding regular meeting or to some specified time prior thereto.~~ The mayor or three councilors may call special meetings of the council in a manner prescribed by ordinance.

Section 10. Council - Quorum. A majority of the members of the council constitute a quorum for the transaction of council business, except that a lesser number may meet and compel the attendance of absent members. A quorum may also compel the attendance of absent members.

Section 11. Council - Journal. The council shall keep ~~a journal~~ *minutes* of its proceedings and ~~on call at the request of~~ any two of its members ~~cause~~ shall record in the minutes the yeas and nays upon any question before the council. ~~to be taken and entered in the journal.~~

Section 12. Mayor - Functions. The mayor may call special meetings of the council and shall preside at council meetings, but may not vote on matters before the council, except in case of a tie, when he or she shall cast the deciding vote. The mayor shall, at least once each year, state to the council the condition of the city and recommend such measures for the peace, health, improvement, and prosperity of the city as he or she deems expedient.

Section 13. Council - President. ~~At the first regular meeting of the council each year or as soon thereafter as practicable, the council shall choose by ballot one of its members to preside over the council and perform the duties of mayor in the absence of the mayor from the city or in case of the mayor's inability to act as such. In functioning as mayor while the mayor is absent from the city on leave granted by the council or after the mayor is absent from the city for 30 days or physically unable to function as mayor for 30 days, the president of the council has the legal powers, and is subject to the legal limitations, incident to the office of the mayor.~~

(1) *Each year, at the first regular meeting of the council, or as soon as*

FINAL PROPOSED DRAFT

practicable, the council shall choose by ballot one of its members to serve as council president.

- (2) *The council president shall preside at council meetings when the mayor is absent.*
- (3) *The council president shall function as mayor, with the powers and subject to the limitations of the office of mayor when the mayor:*
 - (a) *is absent from the city on leave granted by the council;*
 - (b) *has been absent from the city for 30 days or more; or*
 - (c) *has been physically unable to function as mayor for 30 days or*

more.

~~Section 14. Council - Conflicts of Interest. No councilor may be pecuniarily interested in any contract the expenses of which are to be paid by the city or vote upon any subject in which pecuniarily interested.~~

Section 14. Council - Conflicts of Interest The council shall, by ordinance, enact a code of ethics applicable to the mayor, councilors, the city manager, and any others designated by council. The code shall provide that officials subject to the code must disclose the reason for any potential or actual conflict of interest and may not discuss, debate, or vote on any matter in which pecuniarily interested.

Section 15. Council - Immunity. No member of the council *or the mayor* may be held liable, or questioned in any other place, for words uttered in debate in the council.

Chapter IV **City Manager**

Section 16. City Manager.

- (1) (a) The city council shall appoint a city manager and fix his or her compensation and conditions of employment.
- (b) If the office of manager becomes vacant, the mayor shall appoint a manager pro tem. The manager pro tem shall have all functions of the manager, but may appoint or dismiss a department head only with the approval of the council. The term of office of a manager pro tem ends when a city manager takes office.
- (c) The manager shall be the administrative head of the city and be chosen ~~without political consideration and~~ solely on the basis of executive and administrative qualifications.
- (d) The manager and such other *appointed* officers as the council designates may sit with the council but have no vote therein. The manager may take part in the discussion of all matters coming before the council.
- (e) No councilor nor the mayor may in any manner, directly or indirectly, by suggestion or otherwise, attempt to influence the manager in the making of any appointment or any removal of city personnel or in the purchase of supplies, nor may any

FINAL PROPOSED DRAFT

councilor or the mayor exact any promise relative to any appointment by a city manager or discuss, directly or indirectly, with the manager or any candidate for the office of manager any appointment by the manager. Violation of this section forfeits the office of the violating *elected* officer, who may be removed by the council or any court of competent jurisdiction. The mayor and council may, however, in open council session, discuss with or suggest to the manager anything pertaining to city affairs and in executive session discuss matters pertaining to collective bargaining.

(2) The city manager shall:

- (a) ~~prepare~~ *propose* the annual budget;
- (b) make all purchases, *except that the City Council must authorize by resolution any purchase that exceeds an amount to be set by ordinance.*
- (c) appoint and remove all employees except as otherwise specified in this charter. *When a department director vacancy occurs, the city manager shall request comment from the City Council on the recruiting process for filling the vacancy. After taking action on the dismissal of a department director, the city manager shall explain the reasons for the dismissal to the council.*
- (d) enforce all ordinances;
- (e) act as business agent for the council for the sale of real estate and other matters relating to franchises, leases, and other business and property transactions;
- (f) prepare and furnish all reports requested by the council;
- (g) perform such other duties as the council directs; and
- (h) organize and, as he or she deems necessary, disband and reorganize the various city departments.

(3) The offices of the manager and department heads may be filled by candidates from outside the city, but during their tenure in those offices, all persons hereafter appointed to them shall reside in the city. All employees appointed by the manager shall reside in the city during their tenure of position, except as the council authorizes the manager to prescribe to the contrary and the manager does so.

(4) The duties of all administrative employees shall be assigned to them by the manager, and they shall be responsible and accountable to the manager.

(5) The powers herein granted to the manager are exclusive.

(6) The manager may be removed with or without cause at any time by the council after six months tenure.

(7) (a) *The City Manager shall appoint the City Attorney, subject to confirmation by the City Council. The City Attorney shall be a department director, shall devote full time to the duties of the office, and may not engage in the private practice of law.*

(b) *The City Attorney shall serve as chief legal adviser to the council, the City Manager and all city departments, offices and agencies, shall be responsible for the City's representation in all legal proceedings and shall perform any other duties prescribed by this charter. The City Attorney may recommend to the City Manager and the City Council that the City contract for certain legal services. The City Attorney shall supervise the performance*

FINAL PROPOSED DRAFT

of all contracts for legal services and shall advise the City Manager and the City Council as to the effectiveness and cost of services to the City under such contracts. Subject to approval during the City budget process, the City Attorney may hire staff necessary to perform the duties of his/her office.

(7) (8) The Eugene Water & Electric Board and its employees are excluded from the operation of this section.

New Section City Performance Auditor. The city performance auditor shall be appointed by the City Council. The performance auditor shall conduct or cause to be conducted performance audits and may conduct studies intended to measure or improve the performance of city functions following generally accepted government auditing standards. The performance auditor may be removed from office with or without cause by the city council. The performance auditor shall possess adequate professional proficiency as demonstrated by a relevant certification such as a Certified Public Accountant, Certified Internal Auditor, or Certified Management Accountant, which shall be retained throughout tenure in the position. All audit reports are public records. The city council shall provide for the creation of an audit committee to oversee the performance auditor. The audit committee shall include the city manager and other members as defined by ordinance. Among its duties, the committee shall forward candidate recommendations for the auditor position to the city council.

Chapter V Municipal Court

Section 17. Judges, Powers, Procedures.

(1) The city council may appoint one or more municipal judges, for terms and at salaries it specifies. A municipal judge shall hold court in the city at such a place as the council directs. The court shall be known as the Municipal Court.

(2) The court may impose sanctions on any person who violates a city ordinance within the court's jurisdiction, issue process for the arrest of any person accused of any such violation, commit such a person to imprisonment or admit the person to bail pending trial, issue subpoenas to compel witnesses to appear and testify on the trial of any cause before the court, enforce obedience to the subpoenas, and issue process necessary to carry into effect the judgment of the court.

(3) All proceedings in the municipal court shall be governed by the general laws of the state governing justices of the peace and justice's courts, except as city ordinance prescribes to the contrary. ~~A municipal judge has the jurisdiction and authority of a justice of the peace in and for Lane County, in both civil and criminal matters, and when exercising that jurisdiction and authority is subject to the general laws of the state prescribing the duties of a justice of the peace and the mode of performing them.~~ *In civil and criminal matters, a municipal judge has the jurisdiction and authority prescribed by city ordinance, subject to the general laws of the state.*

FINAL PROPOSED DRAFT

Chapter VI

Municipal Officers and Employees in General

Section 18. Compensation.

(1) Beginning on July 1, 2001, the mayor shall receive a stipend of \$1,500 per month and the city councilors shall receive a stipend of \$1,000 per month.

(2) At the beginning of each fiscal year thereafter, the stipends authorized above shall be adjusted by a percentage increase or decrease equal to that during the previous calendar year of the Consumer Price Index (CPI) for the Portland, Oregon area, or its successor. If that Index ceases to exist, another consumer price index representing substantially the Eugene area shall be used. In any case, if a consumer price index covering the Eugene area is developed, that index shall be used in place of the Portland CPI.

(3) The stipends above are in addition to, and not in lieu of, reimbursement for actual official expenses incurred.

(4) The mayor and councilors shall receive no fringe benefits except those required by state law, but the mayor and councilors may purchase health insurance from the city health insurance plan.

(5) The compensation of other *appointed* officers shall be prescribed by council.

(Section 18 amended by Ballot Measure 20-29, May 16, 2000.)

Section 19. Qualifications. No person may hold an elective city office unless a legal elector under the laws and constitution of the state, a resident of the city for one year immediately before being elected or appointed to the office, and unless, if elected, receiving a majority of the votes cast for candidates for the office at the election at which the office is filled. The city council shall provide for such election by majority vote.

Section 20. Election. Immediately after the votes at any municipal election have been canvassed, the ~~city officer in charge of administering elections~~ *City Recorder* shall issue a *certificate of election* to each person declared by the canvassers to have been elected. ~~—at the election a certificate of election.~~ The certificate shall be prima facie evidence of the facts therein stated, but the city council shall be the judge of the election and qualifications of the mayor and councilors, and in case of a contest between two or more persons claiming to be mayor or councilor, shall determine the contest.

Section 21. Terms. The term of office of a person elected shall commence on the first Monday in January following the election.

Section 22. Oath or Affirmation. All elective officers, the municipal judges, and the city manager, before entering upon the duties of their offices, shall subscribe and file with the head of

FINAL PROPOSED DRAFT

the department in charge of city records an oath or affirmation of office. The oath shall read: "I, _____, do solemnly swear that I will support the constitution of the United States and of the State of Oregon, and that I will, to the best of my ability, faithfully perform the duties of during my continuance therein, so help me God." If the person affirms, instead of the last clause of the oath, there shall be stated: "And this I do affirm under the pains and penalties of perjury."

~~Section 23. — Offices - Vacancies. An office becomes vacant upon its incumbent's death, removal from the city, resignation, or ceasing to be a qualified elector of the city. An elective office becomes vacant whenever its incumbent is absent from the city for a period of thirty days, except that the council may grant the incumbent a leave of absence of not more than ninety days. An office of councilor may be declared vacant whenever its incumbent fails to attend two consecutive regular meetings of the council, unless absent upon leave of the council first obtained, or whenever the incumbent removes his or her residence from the ward from which he or she is elected.~~

Section 23: Vacancies: Occupancy. The office of mayor or office of city councilor becomes vacant:

(1) Upon the incumbent's:

- (a) death;*
- (a) adjudicated incompetence;*
- (b) recall from office;*
- (d) resignation from office.*

(2) Upon declaration by the council of the vacancy in case of the

incumbent's:

- (a) failure, following election or appointment to the office, to qualify for the office within ten days after the time for his or her term of office to begin;*
- (b) absence from the city for 30 days without the council's consent or from all meetings of the council within a 30 day period, without the council's consent;*
- (c) if a councilor, ceasing to reside in the ward from which elected; if the mayor, ceasing to reside in the city;*
- (d) ceasing to be qualified elector under state law; or*
- (e) after election, conviction of a felony or other offense pertaining to the office.*

Section 24. Vacancies - Filling.

(1) The Eugene Water & Electric Board shall fill a vacancy on the board by appointment within ninety days after the vacancy occurs.

(2) The council shall fill a vacancy in any other elective city office by appointment within ninety days after the vacancy occurs. A person so appointed shall hold office until the successor to the office is duly elected and qualifies therefor. A person so appointed shall hold office until the beginning of the first year after the next regular biennial November

FINAL PROPOSED DRAFT

~~election and until the successor to the office is duly elected and qualifies therefor. The term of office of any person elected to fill such a vacancy shall expire when the term of the person whose death, removal, or resignation causes the vacancy would have expired had that person continued in the office.~~

(3) *If the position of a city councilor or mayor becomes vacant at least 30 calendar days prior to the filing deadline for the May election of any year, an election to fill that vacancy shall be conducted in that same year. If the position of city councilor or mayor becomes vacant less than thirty days prior to the filing deadline for the May election of any year, the election to fill that vacancy shall be conducted in the next year. If a candidate for election to a vacated position achieves a majority of all votes cast for that position in the May election, that candidate shall assume office the following July 1, notwithstanding section 21 of this charter. The term of office of any person elected to fill a vacancy shall expire when the term of the vacated position expires.*

Section 25. Collective Bargaining.

(1) City employees shall have the right to self-organization; to form, join, and assist labor organizations; and to bargain collectively through representatives of their own choosing with respect to wages, hours, and other terms and conditions of employment.

(2) The city manager shall bargain collectively on behalf of the city council with the representatives of city employees in an appropriate bargaining unit upon request of their certified bargaining agent.

(3) The council shall prescribe by ordinance collective bargaining procedures to protect the city, the employees, and the public in general. In so doing, the council shall provide for:

- (a) impartial ordinance administration and enforcement *of the ordinance*;
- (b) resolution of interest-impasse disputes;
- (c) as to employees who are employed in police or fire service, a binding award by a neutral third party resolving an interest-impasse dispute;
- (d) equal sharing of neutral third-party costs by parties to an interest-impasse dispute;
- (e) employee rights;
- (f) employer rights; and
- (g) procedural finality that does not obstruct funding of collective bargaining agreements.

Section 26. Liability for Unauthorized Expenditures.

(1) A city officer *or employee* who participates in, advises, consents to, or allows any tax, assessment, or other money of the city to be diverted to any purpose other than the one for which it is assessed, collected, raised, or levied is guilty of malfeasance in office and removable from *the office or position* therefor as provided by law.

FINAL PROPOSED DRAFT

(2) Anyone holding, in good faith and for a valuable consideration, any void evidence of debt against the city shall have the right of a personal action against any and all members of the council or the members of any department of the city who voted for, approved of, or directed its issuance.

(3) If any tax, assessment, or other money is diverted from the purpose for which it is assessed, collected, raised, or levied; or if any money is unlawfully used; or if any void evidence of debt is paid, any qualified elector or taxpayer of the city shall have the right of a civil action, in the name of the city, against any officer *or employee* voting for, approving of, or in any way directing the diversion, unlawful use, or void payment, for the recovery of the amount, with interest, for the benefit of the city.

Chapter VII Ordinances

Section 27. Ordaining Clause. The ordaining clause of an ordinance shall read: "The City of Eugene does ordain as follows:"

Section 28. Adoption:

~~(1) Except as subsection (3) of this section provides for reading by title or bill number only, and except as subsection (2) of this section provides for immediate adoption of emergency measures, an ordinance, before being finally adopted, shall be fully and distinctly read in open council meeting on two days.~~

~~(2) Except as subsection (3) of this section provides for reading by title or bill number only, an ordinance necessary to meet an emergency may, upon being read in full and then by title, be adopted at a single meeting of the council by unanimous vote of all councilors present.~~

~~(3) Any reading of an ordinance for purposes of adoption may be by title or bill number only:~~

~~(a) If no councilor present at the meeting requests that the ordinance be read in full or~~

~~(b) If for one week prior to the reading a copy of the ordinance is provided each councilor and copies are available for public inspection at the office of the mayor or city manager during regular office hours and notice of their availability is posted at the city hall or published once in a newspaper of general circulation in the city.~~

~~(4) An ordinance adopted after being read by title or bill number only has no legal effect if it differs substantially from its terms as they stand when so read, unless each section incorporating such a difference, as finally amended prior to being adopted by the council, is fully and distinctly read in open council meeting.~~

Section 28: Adoption of Ordinances

(1) *At any meeting, the city council may direct the city manager to prepare an ordinance, or the city manager may suggest an ordinance, for consideration at a subsequent meeting. At least ten working days prior to the council meeting at which the proposed ordinance*

FINAL PROPOSED DRAFT

is to be considered, notice of the proposed ordinance shall be published in a newspaper of general circulation in the city and the notice and text of the ordinance shall be posted on the city's web site. The notice shall include the title of the proposed ordinance and the date, time, and place of the council meeting and shall state that copies of the ordinance are posted on the web site and available at the City Manager's Office.

(2) There shall be a public hearing on an ordinance prior to its adoption.

(3) Except as provided in this subsection, an ordinance shall not be adopted unless it has been considered by the council during at least two meetings. With the unanimous consent of the council, the council may consider and enact an ordinance at a single meeting if the council does not amend the ordinance in a manner that modifies its substantive effect. Nothing in this section requires the council to consider an ordinance at more than two meetings prior to its adoption.

(4) In the case of an emergency the ordinance shall state in a separate section the description of the emergency and a finding as to why the emergency cannot be adequately addressed by the established process in Section 28 (1). With the unanimous consent of the councilors present, the council may adopt an ordinance to address the emergency with such abbreviated notice of the ordinance and council meeting as the council finds to be practicable under the circumstances.

Section 29. Attestation and Approval. Upon the adoption of an ordinance, ~~a true duplicate original thereof~~ it shall be submitted to the mayor. If the mayor approves the ordinance, the mayor shall endorse the approval thereon with the date of the approval and sign the ordinance officially.

Section 30. Veto. If not approving an ordinance so submitted, the mayor shall, within ten days after receiving it, return it to the manager, with the reasons for not approving it. If not so returned in ten days, the ordinance shall have legal effect as if so approved.

Section 31. Overriding of Veto. At the first meeting of the council after the mayor returns an ordinance not so approved, the city manager shall present the ordinance to the council with the objections of the mayor. ~~;~~ ~~†~~ The ordinance shall then be put upon adoption again, and if two-thirds of all members of the council vote in favor of the ordinance, it takes effect in accordance with Section 32 of this charter.

~~Section 32. Times of Effect. An ordinance takes effect thirty days after its adoption by the council and approval by the mayor or passage over the mayor's veto, unless it is necessary to have immediate effect for the preservation of the peace, health, and safety of the city, states in a separate section the reasons why it is so necessary, and is approved by the affirmative vote of two-thirds of the members of the council. In that event it takes effect immediately upon its adoption by the council and approval by the mayor or passage over his veto or at whatever subsequent time the ordinance specifies.~~

FINAL PROPOSED DRAFT

Section 32: Effective Date of Ordinances.

(1) Except as provided in subsection (2) of this section, an ordinance takes effect 30 days after its adoption by the council and approval by the mayor or passage over the mayor's veto, or at a later date specified in the ordinance.

(2) With the affirmative vote of two-thirds of the members of the council, the council may provide for an ordinance to take effect immediately upon adoption by the council and approval by the mayor or passage over the mayor's veto, or at some other date less than 30 days after adoption, if the council determines that the earlier effective date is necessary to serve an important public purpose. An ordinance with an effective date of less than 30 days after adoption must include a separate section stating specifically why the earlier effective date is necessary.

New Section Ordinances Adopted by Initiative. In addition to the rights of electors to initiate ordinances pursuant to Article IV, section 1(5) of the Oregon Constitution, city electors may initiate a "protected" ordinance. A protected ordinance may be amended or repealed only by another initiative, council referral, or by unanimous vote of councilors present and voting at a council meeting. The chief petitioners for a protected ordinance shall include with the prospective petition, a statement declaring whether the ordinance is proposed as a regular ordinance or a protected ordinance. A petition for a protected ordinance and any qualified ballot measure for a protected ordinance shall state that it is proposed as a protected ordinance and shall explain the limitations on its repeal or amendment.

Chapter VIII

Elections

Section 33. Wards. The council shall ~~divided~~ divide the city into wards and redefine the boundaries thereof as necessary to accord persons in the city the equal protection of the laws. No person may vote at a city election in a ward other than that in which he or she resides.

Section 34. Voters' Qualifications. No person may vote ~~in at a city election who is not a qualified voter of the state or who has not resided in the city for thirty days next preceding the election.~~ No person may vote for an officer to be elected under this charter by ward without having resided in the ward for thirty days next preceding the election. ~~unless the person is a qualified voter of the state, and has resided in the city for the length of time that state law requires a person to reside in the state to vote in a state election. No person may vote for an officer to be elected under this charter by ward unless the person has resided in the ward for the same length time required in the preceding sentence for a person to vote in a city election.~~

Section 35. Notice. The ~~officer in charge of city elections~~ City Recorder shall ~~give ten days' public notice of each city election.~~ distribute information regarding officers to be elected and measures to be submitted ten days prior to the distribution of ballots. ~~The notice shall state the~~

FINAL PROPOSED DRAFT

~~officers to be elected and the measures to be submitted at the election.~~ The notice shall also state the places for the election *and ballot drop sites*.

Section 36. Nomination. Nomination of a candidate for an elective city office shall be by petition, in a manner prescribed by ordinance.

Chapter IX

Public Improvements

Section 37. Procedure. The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by the applicable general laws of the state, except that if a remonstrance is filed against improvement or repair of a street or alley and is signed by *the owners of a majority of the parcels that would be assessed for the repair or improvement*, ~~a majority of the owners of the property abutting on the street or alley~~, no contract for the improvement or repairs may be let until the city council reconsiders the necessity of the improvement or repair. If, after the reconsideration, two-thirds of all councilors vote for the improvement or repair, ~~and the mayor again approves the improvement or repair~~, contracts for the improvement or repair may be let as if no remonstrance had been filed.

Section 38. Assessments. The procedure for levying, collecting, and enforcing the payment of special assessments for public improvements or other services to be charged against real property shall be governed by general ordinance.

Section 39. Amendments. The general ordinances mentioned in Sections 37 and 38 of this charter may be amended only by the affirmative vote of two-thirds of the members of the city council. Such an amendment may not take effect for six months after the council adopts it and may not apply to an improvement authorized by the council before the effective date of the amendment.

Section 40. Liens. The docket of city liens is a public writing, and the original or a certified copy of any matter authorized to be entered in the docket shall have the force and effect of a judgment. *When the council has authorized an improvement, and an assessment for it is entered in the city's lien docket, the assessment becomes a lien against the property so assessed.* ~~From the time of the council's authorization of the improvement on account of which an assessment is entered in the docket, the sum so entered is a lien against the property.~~ The lien has priority over all other liens and encumbrances upon the property and may be enforced in the manner authorized by the city council.

Section 41. Freeways.

(1) No freeway or throughway, as defined by ORS 374.010 or 377.710(12), may be constructed by the city, nor may the city enter into any agreement approving or facilitating

FINAL PROPOSED DRAFT

construction of such a freeway or throughway, unless the route of the freeway or throughway is first approved by a majority of the voting electors of the city in a city election conducted in accordance with law and unless the agreement is entered into within a time specified by the measure submitted to the voters for their approval.

(2) The city may, however, without such prior approval, prepare preliminary plans and specifications and statements of impact, including plans, specifications, and statements of impact necessary for obtaining financial assistance for the freeway or throughway, all of which shall be available to the public at the city hall prior to the election on the route of the freeway or throughway.

(3) Prior to the election, a map and a description of the proposed route and of intersections of other thoroughfares therewith and a notice of the election, shall be published once a week for four consecutive weeks in the newspaper with the largest general circulation published in the city.

Section 42. Skinner's Butte Park.

(1) The property commonly known as the "Butte Property," with boundaries as described in a charter amendment adopted by the voters of the city April 5, 1915, is hereby dedicated to the public forever as a public park.

~~(2) The concrete cross on the south slope of the butte shall remain at that location and in that form as property of the city and is hereby dedicated as a memorial to the veterans of all wars in which the United States has participated.~~

Chapter X **Public Utilities**

Section 43. Franchises.

(1) The city council may grant a franchise or amendment thereto ~~or any other prerogative of sovereignty~~ only by ordinance. Before adopting any such ordinance the council shall publish notice of its intention to do so ~~not less than once a week for three consecutive weeks in one or more newspapers of general circulation printed in the city.~~ The notice shall state the substance of the proposed ordinance, including the name of the grantee. ~~The ordinance shall be read, in a manner authorized by Section 28 of this charter. at two consecutive regular meetings of the council before it is passed.~~ Any applicant for such a franchise ~~or other prerogative of sovereignty~~ shall pay in advance the expenses of publishing the notice. *Any franchise granted by the council shall assure adequate service to city residents and shall require the franchisee to pay the city adequate compensation in the form of a percentage of the gross income from the franchise, or in an alternative form acceptable to the council, in amounts sufficient to cover present value and future development of the franchise. No franchise may be granted, except upon such terms as secure to the city adequate service and adequate compensation by exacting such a percentage of the gross income from the franchise or prerogative as is adequate to cover present value and future development.*

(2) In the acquisition by the city of any public utility the price to be paid by the city shall exclude the value of any franchise ~~or other prerogative of sovereignty~~ granted by the city

FINAL PROPOSED DRAFT

and connected with the utility. All ordinances granting franchises or other prerogatives of sovereignty shall do so subject to the provisions of this section.

(3) The council may not grant an exclusive citywide franchise to haul solid waste.

Section 44. Eugene Water & Electric Board - Functions - Membership.

(1) The power of the city to generate, collect, and distribute electricity, steam, and other kinds of physical energy is hereby vested in the Eugene Water & Electric Board (the Board). The Board is further authorized to provide advanced telecommunications capability and associated services including, but not limited to, voice, video, data, internet and telecommunications services. Nothing in the previous sentence divests the City Council of any authority, including but not limited to (a) providing the same or similar types of services, or (b) exercising any regulatory, taxing or other power over telecommunications and related services whether provided by the Board or another entity.

(2) The board is composed of five electors of the city, who shall serve without pay and whose terms of office and election shall be prescribed by the city council by ordinance.

(3) The board shall maintain and operate the water utility and the electric utility of the city, subject to control by the council of extension of water service.

(4) The 1976 rates of payments on account of either utility to the city in lieu of taxes shall continue until changed by agreement between the board and the council.

(5) The council may require the board to bill and collect the city service charges for collecting and disposing of liquid and solid wastes.

(6) The income of the utilities and the operation, maintenance, and improvement of them are under the control of the board, subject to limitations imposed by or under this charter and the rights of holders of outstanding bonds issued to finance either utility. The board shall so keep the funds of each utility as at all times to show the true cost of that utility and its yearly operation, the amount of outstanding bonds and current bills of the utility, and the disposition of the revenues of the utility, and shall make annual reports to the council and whatever other reports the council requires.

(Section 44 amended by Ballot Measure 20-30, approved May 16, 2000.)

Section 45. Eugene Water & Electric Board - Short Terms Loans.

(1) The Eugene Water & Electric Board may borrow from any bank or banks under short term loans of less than one year, and at such rates of interest and terms of repayment as in the judgment of the board is expedient for the use of the board in the conduct and maintenance of the water and electric utilities of the city, provided that the total amount of such indebtedness of the board not at any one time exceed five percent of the board's retained earnings at that time.

(2) To secure the payment of any such loan the board may pledge as collateral such assets under the control of the board as are available therefor and as the board deems it expedient so to pledge.

FINAL PROPOSED DRAFT

(3) The indebtedness authorized by this section is in addition to all other indebtedness authorized for the city.

Chapter XI Indebtedness

Section 46. Limits.

- (1) Indebtedness of the city may not exceed the limits on city indebtedness under state law.
- (2) Approval by the voters of city indebtedness need not be in the form of a charter amendment.

Section 47. Terms, Proceeds, and Retirement of Bonds. Bonds issued by the city as evidence of indebtedness shall include such terms, the proceeds from sale of the bonds shall be kept, invested, disbursed, and accounted for in such a manner, and the indebtedness shall be retired in such a manner as the city council prescribes. The prescription may not be changed for a particular bond after it is issued.

Chapter XII Miscellaneous Provisions

Section 48. Presumption of Validity of City Action. In every proceeding in any court concerning the exercise or enforcement by the city or any of its officers *or employees* or agencies of any power by this act given to the city or any of its officers *or employees* or agencies, all acts by the city or any of its officers, *employees* or agencies shall be presumed to be valid, and no error or omission in any such act invalidates it, unless the person attacking it alleges and proves that he or she has been misled by the error or omission to his or her damage; and the court shall disregard every error or omission which does not affect a substantial right of the person. Any action by this charter committed to the discretion of the council, when taken, shall be final and shall not be reviewed or called into question elsewhere.

Section 49. ~~Repeal.~~

~~(1) The charter of the city granted by the Oregon Legislative Assembly as Chapter 252, Oregon Laws 1905, and all additions and amendments thereto, except amendments conferring bond-issuing power that has not been exhausted, are hereby repealed, but the following sections of this revised charter represent continuations of the following sections of the 1905 charter and amendments and additions thereto, as indicated by the following table:~~

Revised Charter	1905 Charter
2	1
3	2
4	3
5	4

FINAL PROPOSED DRAFT

6	7
7	6
9	43
10	36
11	44
12	13
13	33
14	35
15	45
16	158
17	18
18	34
19	11
Revised Charter	1905 Charter
20	27
21	29
22	28
23	31
24	40
25	1970 collective bargaining amendment
26	49
27	41
29	15
30	16
31	17
32	159
33	123
34	26
35	30
36	32
37	51
38	57
40	58
41	1972 freeway amendment
42	153
43	205
44	112
45	212
48	117

____ (2) No repeal of a feature of the 1905 charter or any amendment or addition thereto that has repealed an earlier such feature revives the earlier.

____ (3) No repeal of a feature of the 1905 charter or an amendment or addition

FINAL PROPOSED DRAFT

thereto affects the validity of an outstanding bond issued by the city or impairs the obligations of the city under the bond or the rights of the holders of the bond.

(NOTE: Depending on how the charter amendments/revision are presented to the voters, this section will need to be updated.)

Section 50. Effective Date of Revision. This revised charter has legal ~~takes~~ effect on and after _____ April 1, 1977, except that Section 25 has effect on and after September 22, 1976.

Chapter XIII **Amendments**

Section 51. Amendment I.

~~(1) The city council may not levy a property tax for general city operations for a fiscal year unless the voters of the city approve the tax specifically for that year, except that, to the extent the tax is levied to finance an appropriation for that year recommended in the city budget by two-thirds of the budget committee, the council may levy the tax without that voter approval.~~

~~(2) The city council may not levy a property tax for general city operations of more than~~

~~(a) \$14,000,000 for fiscal year 1980-81,~~

~~(b) \$16,500,000 for fiscal year 1981-82,~~

~~(c) \$19,000,000 for fiscal year 1982-83, nor~~

~~(d) the city's tax base under Article XI, section 11, of the Oregon~~

~~Constitution for a fiscal year after June 30, 1983.~~

~~(3) The preceding limitations do not apply to a property tax~~

~~(a) to retire bond principal or interest,~~

~~(b) to finance an improvement or service in a special district created by the city council;~~

~~(c) levied serially for capital acquisition, construction, or~~

~~reconstruction specifically authorized by the voters, or~~

~~(d) authorized by noncharter measure approved by the voters after they approve this amendment.~~

~~(4) This amendment has effect only if the voters approve Ballot Measure No. 52 on May 20, 1980.~~

~~(Special City election, May 20, 1980).~~

Section 52. Amendment II

(1) Trees (a living, standing, woody plant having a trunk 25 inches in circumference at a point 4 ½ feet above mean ground level at the base of the trunk) of at least fifty years of age within publicly owned rights of way for streets, roads, freeways, throughways, and thoroughfares and within those portions of the city which were in the incorporated boundaries

FINAL PROPOSED DRAFT

of the city as of January 1, 1915, shall be designated historic street trees and recognized as objects of high historic value and significance in the history of the city and deserving of maintenance and protection.

(2) No street, road, freeway, throughway, or thoroughfare may be widened by the city, nor may the city enter into any agreement approving or facilitating the widening of such street, road, freeway, throughway, or thoroughfare if such widening will result in the removal of any historic street tree unless the widening is first approved ~~my~~ by a majority of the voting electors of the city in a city election conducted in accordance with law and unless the agreement is entered into within a time specified by the measure approved by the voters.

(3) The city may, however, without prior approval, assist in the preparation of preliminary plans and specifications, and statements of impact necessary for obtaining financial assistance for the street, road, freeway, throughway, or thoroughfare widening, all of which shall be available to the public at the city hall prior to the election on the street, road, freeway, throughway, or thoroughfare widening which would result in the removal of historic street trees.

(4) Prior to the election, a map and description of the proposed widening and removal of historic street trees shall be published at least once a week for four (4) consecutive weeks, in the newspaper with the largest general circulation published in the city.

(5) Street, road, or thoroughfare widening projects confined to intersections only, and intended to improve those intersections shall be exempt from the requirement for approval by the voting electors of the city for the removal of historic street trees.

(6) In the event an historic street tree is to be removed in order to widen a street, road, freeway, throughway, or thoroughfare, the city, if it is the governmental unit implementing the project, shall allocate a portion of the project budget to a fund dedicated to helping maintain the city's remaining historic street trees. If a governmental unit other than the city is implementing the widening project, the city may not enter into any agreement approving or facilitating said widening project unless the implementing governmental unit agrees to allocate a portion of the project's budget to a fund dedicated to helping maintain the city's remaining historic street trees.

(7) Any officer or employee of the city or of any public utility may act to remove an historic street tree if necessary to remove or alleviate an immediate danger to life or property; to restore utility service; to reopen a public thoroughfare to traffic; or to remove obstructions to the view of vehicular operators at intersections.

(8) An emergency is hereby declared to exist and this charter amendment, being enacted by the city in the exercise of its police power for the purpose of meeting such emergency, and for the immediate preservation of the public peace, health, and safety, shall take effect immediately upon approval by the electors of the city of Eugene and shall supersede any and all actions of the city authorizing, approving, or facilitating the widening of any street, road, freeway, throughway, or thoroughfare which would result in the removal of any historic street tree.

(Ballot Measure No. 52, November 6, 1984, Special City Election.)

FINAL PROPOSED DRAFT

~~Section 53. Amendment III.~~

~~Measure: The City of Eugene does ordain as follows:~~

~~Be it enacted by the electors of the City of Eugene, that the Charter of the City of Eugene is hereby amended to add the following provisions thereto:~~

~~Section 1: It is hereby determined that the Willamette and Broadway Street pedestrian mall is an asset to the City of Eugene's downtown; that it is in the public interest and convenience that the pedestrian mall be enhanced and maintained as a vehicular traffic-free mall; and that the existing network of streets and alleys, setback driveways and directional signs can provide the necessary limited traffic access to the mall.~~

~~Section 2: The pedestrian mall established on the following city streets, or portions thereof, shall remain a pedestrian mall closed to vehicular traffic, except for public emergency and utility vehicles, unless the electors of the City of Eugene vote to open the streets to vehicular traffic in a primary election, general election or special election held on a date between Labor Day of one year and Memorial Day of the following year:~~

~~— Willamette Street from the South margin of 8th to the North margin of Tenth Avenue; Broadway Avenue from the East margin of Charnelton Street to the West margin of Oak Street;~~

~~Section 3: No additional limited vehicular traffic access onto Willamette Street between 8th and 10th, and onto Broadway between Charnelton and Oak will be allowed unless approved by the electors as provided in Section 2.~~

~~Section 4: Any ordinance adopted by the governing body of the City of Eugene after August 1, 1990 and prior to the effective date of this amendment and which authorizes the opening to vehicular traffic of the streets described in Section 2 is hereby repealed. The street or streets may not be used by vehicular traffic until approved by the electors as provided in Section 2. (Special City election, March 26, 1991).~~

Section 54. Amendment IV

The City of Eugene Charter is hereby amended as follows:

ARTICLE I - FINDINGS AND STATEMENT OF LOCAL PROBLEM

Section 1 The people of Eugene do hereby find that:

- A. exposure to toxic chemicals can damage human health and the environment; and
- B. citizens have a fundamental right to know the identity and amounts of toxic chemicals that are released into the workplaces, air, water, soil, and environment of their community.

ARTICLE II - SCOPE

FINAL PROPOSED DRAFT

Section 2.1. Facilities covered by this ~~Act~~ *Section*.

- A. Except as exempted in Section 2.2, this ~~Act~~ *Section* shall apply to facilities within the City of Eugene that are:
 - 1. within the Standard Industrial Code categories #20 - #39, inclusively as listed in *Standard Industrial Classification Manual* (Office of Management and Budget, 1987);
 - 2. solid waste incinerators that accept infectious waste; and
 - 3. hazardous waste disposal incinerators.

Section 2.2. Facilities exempted by this ~~Act~~ *Section*. This ~~Act~~ *Section* shall not apply to:

- A. state and federal facilities; and
- B. public educational institutions.

ARTICLE III - DEFINITIONS

Section 3 As used in this ~~Act~~ *Section*, the following definitions shall apply:

- A. "Extremely hazardous substance" means all substances listed in Section 302 of the Emergency Planning and Community Right-To-Know Act (42 USC 11002) as of the effective date of this ~~Section Act~~ and ~~any substance added to the list subsequent to the effective date of this Act~~. *If a substance is added to or removed from the federal list of reportable substances under section 302 of 42 USC 11002, the Toxics Board may recommend to the City Council that the substance be added to or removed from the definition of "extremely hazardous substance" in this Section. The council may remove a substance from the definition only if the Toxics Board has recommended its removal.*
- B. "CAS number" means the identification number assigned to a substance by the Chemical Abstract Service.
- C. "Chemical Name" means the scientific designation of a substance in accordance with the nomenclature system developed by the Chemical Abstract Service.
- D. "Facility" means all buildings, equipment, structures and other stationary items that are located and operated on a single site or on contiguous or adjacent sites and that are owned or operated by the same person(s) and relate to a common product or service.
- E. "Hazardous substance" means:
 - 1. any substance listed or described, as of the effective date of this ~~Act~~ *Section*, on any of the following lists of chemicals regulated or identified as of concern:
 - (a) Section 112(b) of the Clean Air Act(CAA) as amended in 1990 (Hazardous Air Pollutants); 42 USC 7412(b);
 - (b) Section 602(b) of the CAA (Class II ozone depleting substances); 42 USC 7671a.(b);

FINAL PROPOSED DRAFT

- (c) Section 307(a) of the Clean Water Act (CWA) (Priority Pollutant List); 33 USC 1317(a);
 - (d) U.S. Environmental Protection Agency Active Ingredients, including Special Review, Canceled/Denied or Suspended, and Restricted Use Pesticides, pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA; 7 USC 136 et seq.);
 - (e) U.S. Environmental Protection Agency List 1 Inert Ingredients of Pesticides ("Inerts of Toxicological Concern"), pursuant to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA; 7 USC 136 et seq.);
 - (f) Section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); 42 USC 9602;
 - (g) Section 3001 of the Resource Conservation and Recovery Act (RCRA; 42 USC 6921) and chemicals listed at 40 CFR 261.33 (e) and Appendix VIII.
2. any substance which, if it were in a container, would possess the characteristics of a hazardous waste, as defined in 40 CFR 261.20 through §261.24, authorized by RCRA;
 3. radioactive waste and material as defined in ORS 469.300 and radioactive substance as defined in ORS 453.005;
 4. any substance, regardless of quantity, required to be reported pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA); 42 USC 11002; or
 - ~~5. any substances added, subsequent to the effective date of this Act, to the lists described in Article III(E)(1) and III(E)(4) of this Act.~~
 5. *If a substance is added to or removed from the lists described in Article III(E)(1) or III(E)(4) of this Section, the Toxics Board may recommend to the city council that the substance be added to or removed from the definition of "hazardous substance" in this Section. The council may remove a substance from the definition only if the Toxics Board has recommended its removal.*
- F. "Hazardous substance user" means: the owner and/or operator of a commercial or public facility that is stationary within the boundaries of the City of Eugene and that:
1. has a total input of more than 2,640 pounds of hazardous substances during a calendar year;
 2. employs ten or more full-time equivalent employees;
 3. is not exempted pursuant to Section 2 .2.
- G. "Input" means the sum of the following categories of each hazardous

FINAL PROPOSED DRAFT

- substance:
1. inventory at the facility at the beginning of the accounting period;
 2. waste stored at the facility at the beginning of the accounting period;
 3. quantity produced at the facility; and
 4. quantity brought to the facility.
- H. "Materials balance" means an accounting of the flow of individual hazardous substances into a facility, through its processes, and into its products and wastes such that inputs equal outputs of each hazardous substance to the accuracy of the smallest accounting units (Article III(K)) for each hazardous or extremely hazardous substance.
- I. "Output" means the sum of the following categories of each hazardous substance:
1. quantity ~~consumed~~ *chemically altered* in the facility's processes;
 2. quantity shipped from the facility in product;
 3. quantity transferred away from the facility as waste;
 4. waste stored at the facility at the end of the accounting period;
 5. quantity emitted to the air;
 6. quantity discharged into publicly treated sewage;
 7. quantity released into surface waters ;
 8. quantity eliminated through treatment at the facility;
 9. quantity eliminated through energy recovery at the facility;
 10. quantity disposed on-site; and
 11. inventory at the facility at the end of the accounting period.
- J. "Person" means an individual, corporation, partnership, trust, association, the City of Eugene, or any officer, agent, or employee thereof.
- K. "Smallest accounting unit" means 2.2 pounds of a hazardous substance; 0.022 pounds of an extremely hazardous substance.
- L. "Trade secret information" means information which is exempted from disclosure as a trade secret pursuant to any Federal or State law including but not limited to 42 U.S.C. 11042(b) of the Federal Emergency Planning and Community Right to Know Act.

ARTICLE IV - RESOLUTION

Section 4 Be it resolved and ordained by the people of Eugene that: all hazardous substance users in Eugene shall file an annual, public, materials balance report listing inputs and outputs of all hazardous substances obtained, used, or generated.

ARTICLE V - HAZARDOUS SUBSTANCES PUBLIC REPORTING

Section 5.1 Materials balance reporting

- A. Materials balance reports shall indicate the weight in pounds of hazardous

FINAL PROPOSED DRAFT

- substances in each of the categories enumerated in Article III(G) and III(I).
- B. Each hazardous substance shall be designated by full chemical name and CAS number.
- C. All materials balance reports shall be filed electronically on forms provided by the Toxics Board as defined in Section 6.1 of this ~~Act~~ *Section*. These completed forms shall be compatible with the Eugene Public Library's computer system. These forms, common to all reporting entities, shall be in an easily understood format for both the reporting entity and the public.
- D. An authorized representative of the reporting facility shall file a signed declaration with the Toxics Board certifying that the facility has filed the report and that it is accurate and complete.
- E. The materials balance reports shall be filed by April 1 of each year for the previous calendar year.
- F. The repository for all materials balance reports shall be the Eugene Public Library, where they shall be readily accessible by the public for seven years after reporting. Reports older than seven years shall be archived by the City Records Office.

Section 5.2 Reporting related to trade secret chemicals.

- A. If a claim of trade secrecy is made by any hazardous substance user for one or more hazardous substances, that user must:
 - 1. file with the Office of the Fire Marshal a notarized report documenting that the hazardous substance is comprised of a substance which satisfies all conditions of the definition of trade secret information as found in Article III(L). A separate report must be filed for each trade secret chemical. The notarized report shall be on file with the Fire Marshal prior to commencement of procurement or production of each trade secret chemical.
 - 2. file with the Toxics Board, on a form provided by the Toxics Board, notification of each trade secret report filed with the Office of the Fire Marshal.
 - 3. file with the Toxics Board, on a form provided by the Toxics Board, an aggregate materials balance account for all trade secret hazardous substances, if trade secrecy is claimed for more than one hazardous substance by any hazardous substance user. This report shall be filed by April 1 of each year.
 - 4. file with the Toxics Board, prior to April 1 of each year, an annual, public report prepared by a qualified independent auditor, on a form supplied by the Toxics Board, which reports:
 - (a) whether the hazardous substance user has taken and is taking the greatest possible precautions in its use of each trade secret hazardous substances; and

FINAL PROPOSED DRAFT

- (b) whether or not there are, for each trade secret chemical, technological options available for using alternative processes or chemicals that likely are more protective of workers, the community, and natural resources.
- B. The repository for the annual public reports on use and alternatives to use of trade secret chemicals shall be the Eugene Public Library, where the reports shall be readily accessible for seven years after reporting. These completed forms shall be readable by the Eugene Public Library's computer system. Reports older than seven years shall be archived by the City Records Office.

ARTICLE VI - ADMINISTRATION OF HAZARDOUS SUBSTANCE REPORTING

Section 6.1 Appointment of the Toxics Board

- A. The City Council shall appoint a Toxics Board of seven people to enforce and implement this ~~Act~~ *Section*.
 - 1. Three members shall be appointed who are employed by or are agents of "persons" required to report under this Act.
 - 2. Three members shall be appointed who are not employed by or are not agents of "persons" required to report under this ~~Act~~ *Section*, and who have a demonstrable record of advocating for the public's right-to-know.
 - 3. One member shall be nominated by a two-thirds majority of the six appointed members.
- B. ~~The Toxics Board shall be appointed within two months of passage of this Act, and any~~ *Any vacancies in the membership of the Toxics Board shall be filled, so as to maintain the balance set forth in Section 6.1(A), within two months of the creation of a vacancy.*
- C.
 - 1. The term of office shall be three years, except that two members, one from Section 6.1(A)(1) and one from Section 6.1(A)(2), of the first Toxics Board shall be appointed to serve a first term of one year; three members, one each from Section 6.1(A)(1), 6.1(A)(2) and 6.1(A)(3) shall be appointed to serve a first term of two years; and two members, one from Section 6.1(A)(1) and 6.1(A)(2), shall be appointed to serve a first term of three years. No member shall serve more than two consecutive terms.
 - 2. *Beginning in 2003, the terms of members of the Toxics Board shall conform to those of the standing committees to the City Council as defined by and set in the City Code.*

Section 6.2 Responsibilities of the Toxics Board

- A. The Toxics Board shall, within three months of appointment of the sixth

FINAL PROPOSED DRAFT

member, supply forms for materials balance reports and audits of precautions taken during use and alternatives to use of chemicals for which the trade secrecy reporting exemption has been invoked.

- B. The Toxics Board shall annually:
 - 1. recommend the fee structure necessary to implement this ~~Act~~ *Section*;
 - 2. establish the qualifications necessary for a person to independently audit precautions used with trade secret chemicals, and independently audit the existence of technological alternatives that likely would be more protective of the environment, as required in Section 5.2(A)(4); and
 - 3. file a public report on the effectiveness of implementation of this ~~Act~~ *Section*, and any recommendations for improved implementation of this ~~Act~~ *Section*.
- C. By May 1 of each year, the Toxics Board shall report to the Fire Marshal the names of any hazardous users in non-compliance with the requirement to file materials balance reports.
- D. The Toxics Board shall cause to be published a notice listing the names of non-complying entities in a daily newspaper with general circulation in the city of Eugene by June 1 of each year.
- E. The office of the City Fire Marshal shall investigate all credible evidence that hazardous materials balance reports or trade secret chemical reports are not being filed in compliance with this ~~Act~~ *Section*.
- F. The office of the City Fire Marshal shall audit the accuracy of the reporting processes of each hazardous substance user in an order such that all hazardous substance users are audited in a random order at least once every three years. Companies to be audited shall be given an advance audit notification of no more than one month.
- G. The Toxics Board shall certify the qualifications of independent auditors who will audit the precautions used by hazardous substance users with trade secret chemicals and the technological options available for more protective alternatives. Documentation for certification of the qualifications of each auditor shall be public information.
- H. For the purposes of complying with Section 5.2(A)(4), hazardous substance users may hire only independent auditors certified by the Toxics Board pursuant to Section 6.2(G).

Section 6.3 Responsibilities of the City Manager
 The City Manager shall consult with the Toxics Board in order to jointly determine the appropriate support services that shall be provided to the Toxics Board by City employees for the implementation of this ~~Act~~ *Section*. As set forth in Article VII(A), the cost of these support services shall be paid by fees collected pursuant

FINAL PROPOSED DRAFT

to this ~~Act~~ *Section*.

ARTICLE VII - FEES

- Section 7*
- A. Each hazardous substance user shall pay an annual fee to the City of Eugene, sufficient to jointly cover the implementation of this ~~Act~~ *Section*, including expenses incurred by the Eugene Public Library, Fire Marshal, City of Eugene and the Toxics Board.
 - B. In order that this ~~Act~~ *Section* be self-supporting through hazardous substance user fees, the fee amounts shall be recommended annually by the Toxics Board and approved and amended as necessary by the Eugene City Council.
 - C. All fees due under this ~~Act~~ *Section* shall be paid by May 1 of each calendar year.
 - D. The operational budget for implementing this ~~Act~~ *Section* prior to the first collection of fees as set forth in Article VII shall be paid for out of City of Eugene general funds. The operational budget thereafter shall be funded wholly by hazardous substance user fees.

ARTICLE VIII - ENFORCEMENT

- Section 8.1* Toxics Board enforcement and judicial review
- A. In the event of noncompliance, the Toxics Board shall have the authority to enforce the reporting requirements of this ~~Act~~ *Section* and impose penalties as set forth in Section 8.2.
 - B. Any person may appeal a Toxics Board decision to the Circuit Court of Lane County, pursuant to the procedures providing for a writ of review (ORS 34.010) or a writ of mandamus (ORS 34.105).
- Section 8.2* Penalties
- A. Any hazardous substance user or person who violates this ~~Act~~ *Section* shall be subject to a penalty not less than \$250 *per day* and not greater than ~~\$25,000 per day~~ *the maximum penalty allowed by state law*.
 - B. Each day that a violation continues shall be considered a separate violation subject to civil penalties. A violation occurs when a regulated entity fails to file a complete and correct report on or before the day the filing of a report is required.
 - C. In determining the appropriate amount of the penalty, the following shall be considered:
 1. the likelihood at the time of the noncompliance that harm would arise from the violator's noncompliance;
 2. the degree of the violator's awareness of that likelihood;
 3. the profits reasonably related to the violator's non-compliance;
 4. the duration of the non-compliance and any concealment of it;

FINAL PROPOSED DRAFT

5. the attitude and conduct of the violator upon discovery of the concealment;
 6. the number of previous violations by the specific violator of this ~~Act~~ *Section*;
 7. the financial condition of the violator;
 8. the total deterrent effect upon the specific violator at issue and other potential violators; and
 9. other penalties paid by the specific violator for the specific violations at issue.
- D. Any penalties imposed under this Section or Section 8.3 shall be paid to the City of Eugene for use in implementing this ~~Act~~ *Section*.
- E. If a hazardous substance user repeatedly violates this ~~Act~~ *Section* in a fashion contrary to the public interest, the City Manager shall order that hazardous substance user to cease and desist using hazardous substances in the City of Eugene.
- F. Nothing in this Section is intended to restrict or limit any other enforcement remedies available, at law or in equity, arising out of the same circumstances upon which an alleged violation of the ~~Act~~ *Section* may be based.

Section 8.3. Citizen enforcement.

- A. Any person may petition to the Toxics Board on her/his own behalf against a hazardous substance user or person for failure to comply with any of the terms of this ~~Act~~ *Section*. The Toxics Board shall set forth procedures by which persons may petition the Toxics Board.
- B. The Toxics Board must issue a decision in response to a petition within 45 days of receiving the petition. If the Toxics Board fails to issue a decision within 45 days, the petition shall be deemed denied on the 45th day for the purpose of exhaustion of remedies and may be judicially reviewed pursuant to Section 8.1(B).
- C. The petitioner must notify the Toxics Board and alleged violator ten days prior to seeking judicial review, except that such action may be brought immediately after such notification in the case of an action under this Section respecting an emergency posing a significant risk to the well-being of workers, people present in the community, or any species of fish or wildlife or plants.
- D. No action may be commenced under paragraph A of this Section if the City of Eugene has commenced an action to impose a penalty pursuant to Section 8.2 and is pursuing a prompt resolution of that action.

ARTICLE IX - EXCLUSIONS

Section 9

FINAL PROPOSED DRAFT

- A. Nothing in this ~~Act Section~~ is intended to apply to the government of the United States or to the government of the State of Oregon, or to the agencies or political subdivisions of either government.
- B. Nothing in this ~~Act Section~~ is intended to restrict, impede, or otherwise interfere with the exercise of rights guaranteed by the United States Constitution or the Constitution of the State of Oregon.

ARTICLE X - IMPLEMENTATION

Section 10 Insofar as it is reasonable and practicable to so assume, the provisions of this ~~Act Section~~ are intended to be self-executing. In every other case, however, and any other provision of the Eugene City Charter or the ordinances of the City of Eugene notwithstanding, the City Council shall, upon recommendation of the Toxics Board and without unreasonable delay, enact reasonable ordinances necessary and proper for carrying into execution the provisions of this ~~Act Section~~.

ARTICLE XI - SEVERABILITY

Section 11 If any section, subsection, paragraph, phrase or word (hereafter the parts) of this ~~Act Section~~ shall be held to be unconstitutional, void, or illegal, either on its face or as applied, this shall not affect the applicability, constitutionality, or legality of any other parts hereof; and to that end, the parts of the ~~Act Section~~ are intended to be severable. It is hereby declared to be the intent of this ~~Act Section~~ that the same would have been adopted had such unlawful or unconstitutional provisions, if any, not been included herein.

ARTICLE XII - EFFECTIVE DATE

Section 12 This ~~Act Section~~ shall be in full force and effect 31 days following passage.
(Ballot Measure 20-75, November 5, 1996, General Election)

FINAL PROPOSED DRAFT

INDEX

	<u>Section</u>
A	
ASSESSMENTS, see PUBLIC IMPROVEMENTS	
B	
BONDS	47
BOUNDARIES	3
C	
CHARTER OF EUGENE,	
Boundaries	3
Corporate name and capacity	2
Effective date	50
Repeal of 1905 charter	49
Title	1
CITY COUNCIL, see COUNCIL	
CITY MANAGER,	
Administrative employees	16(3,4)
Appointments	16(3)
City resident	16(3)
Collective bargaining	25(2)
Council appoints	16(1,a)
Council meetings	16(1,d)
Duties of office	16(2)
Influence by council, mayor	16(1,e)
Oath of affirmation	22
Office vacant	16(1,b)
Ordinance procedures	27-32
Removal from office	16(6)
Selection	16(1,c)
COLLECTIVE BARGAINING	16(1,e),25
COUNCIL,	
Appointments	16(3)
City elections	19-21,33
City indebtedness	47
COUNCIL,	
City manager,	
appointed	16(1,a)
attends meetings	16(1,d)
duties and powers	16
influence of duties	16(1,e)
pro tem	16(1,b)
removal from office	16(6)
Collective bargaining	25(2,3)
Compensation	18
Conflicts of interest	14
Election	6

FINAL PROPOSED DRAFT

Eugene Water & Electric Board	44
Franchises	43
Generally	5-15
Immunity	15
Journal of proceedings	11
Mayor, leave of absence	13
Meetings	9,12
Membership	5,23,24
Municipal court appointments	17
Ordinance procedures	27-32
Powers	4(1)
President	13
Public improvements	37-40
Qualifications	8
Quorum	10
Vacancies or leaves of absence	23,24
Validity of city action	48
Wards	6,8
COURT, see MUNICIPAL COURT	
D	
E	
ELECTIONS,	
Candidate petition	36
City officers	19-21
Eugene Water & Electric Board	44
Freeways	41
Oath or affirmation	22
Time and place	35
Voter qualifications	34
Wards	33
EMPLOYEES, see OFFICERS AND EMPLOYEES	
EUGENE CHARTER, see CHARTER OF EUGENE	
EUGENE WATER & ELECTRIC BOARD,	
Functions	44
Membership	16(7),44
Short term loans	45
Vacancy on board	24
EXPENDITURES, UNAUTHORIZED	7
F	
FIRE DEPARTMENT,	
Collective bargaining	25(3)
FRANCHISES	43
FREEWAYS	41
G	
H	
HAZARDOUS SUBSTANCES	54

FINAL PROPOSED DRAFT

I

IMPROVEMENTS, see PUBLIC IMPROVEMENTS

INDEBTEDNESS 46,47

J

JUDGES, see MUNICIPAL COURT

K**L****M**

MALL, PEDESTRIAN 53

MANAGER, see CITY MANAGER

MAYOR,

Absence or inability to act 13

Appoints manager pro tem 16(1,b)

Calls special meetings 9, 12

Compensation 18

Election 7

Duties, generally 12

Influence city manager duties 16(1,e)

Ordinance approval/veto 29-31,37

MUNICIPAL COURT,

Judges,

oath or affirmation 22

powers, procedures 17

N**O**

OFFICERS AND EMPLOYEES,

Administrative 16(3,4)

City manager responsibility 16(2-4)

Collective bargaining 25

Compensation 18

Expenditures, unauthorized 26

Oath or affirmation 22

Qualifications 19

Vacancies or leave of absence 23,24

ORDINANCES,

Eugene Water & Electric Board, election 44(2)

Franchises 43

Generally 27-32

Public improvements 37-39

Violations 17(2)

P

POLICE DEPARTMENT,

Collective bargaining 25 (3)

PUBLIC IMPROVEMENTS,

Assessments 38

FINAL PROPOSED DRAFT

Freeways	41
Liens	40
Procedure	37,39
PUBLIC UTILITIES,	
Eugene Water & Electric Board	44,45
Franchises	43
Q	
R	
S	
SKINNER'S BUTTE PARK	42
T	
TAX	51
TOXICS BOARD	54
TREES, HISTORIC STREET	52
U	
V	
VALIDITY OF CITY ACTION	48
W	
WARDS	6,33
X	
Y	
Z	

June 30, 2000



Appendix B

RECEIVED
BY CITY MANAGER
JUL 06 2000

The Honorable Jim Torrey, Mayor
City of Eugene
777 Pearl Street, Room 105
Eugene, OR 97401

Subject: Charter Review

Dear Mayor Torrey,

As per your request, the City Club of Eugene convened a committee that reviewed the City of Eugene Charter and developed recommendations on which sections of the Charter the City Council should review and/or revise. That report is enclosed.

We completed this exercise some time ago and were holding the report in the expectation that we could fulfill the second part of your request, to develop a combined recommendation together with the League of Women Voters of Lane County and the Eugene Area Chamber of Commerce. Although that combined recommendation may still occur, I decided to forward this report to you as soon as I heard that the Council will soon take up the issue.

As noted in the opening paragraph, this is not an official report of the City Club of Eugene in that it was not formally adopted by the club's membership. The committee members have many years of public policy experience, however, and I believe you will find that their recommendations will be valuable contributions to the Council's charter review.

Sincerely,


Kathy Madison
Immediate Past President

P.O. BOX 12084
EUGENE, OR
97440

Review of Eugene City Charter by City Club Committee

Following a request from Mayor Jim Torrey, and at the direction of the City Club Board of Directors, City Club President Kathy Madison appointed a committee of City Club members including Ken Tollenaar, Gerry Gaydos, Liz Cawood, Ruth Bascom, Dorothy Anderson, Alan Zelenka, Kappy Eaton, Jacquelyn Mikalonis and herself to review the Eugene City Charter and recommend sections that should be changed. Each person reviewed the charter independently and brought their comments to the group for discussion. This report contains the majority opinion of these committee members only. It is not a formal City Club report and was not adopted by the membership of City Club. The "Model Charter" referred to is the University of Oregon Bureau of Governmental Research and Service Model City Charter.

OVERRIDING PRINCIPLE OF COMMENTS

Overriding all of the comments on individual sections, the committee unanimously supports the current council/city manager form of Eugene government and does not support changes to the charter which would change our city government to either a strong mayor or commission form.

COMMENTS ON SPECIFIC SECTIONS

Chapter III

Sec. 6 & 8 - electing councilors by ward

This is currently at issue and should be reviewed. The committee offers these observations regarding this discussion: Some people may want to change the charter simply to defeat certain officeholders. This is not a sufficient reason to change the charter. On the one hand, citywide election of councilors might give councilors a broader view of their representation. On the other hand, elections would become more expensive, as candidates rely more heavily on direct mail and advertising to deliver messages to their much larger districts instead of to door-to-door campaigning. Our city is politically diverse and citywide elections might stifle some minority views. Citywide elections could also weaken the mayor who is currently the only elected city official who represents the entire community.

Sec. 13 - duties of council president

Rewrite this long, confusing first sentence to clarify when the council president presides over the council.

Sec. 14 - definition of conflict of interest

Repeal. This language is more restrictive than state law; such a provision is not contained in the Model Charter. Sec. 16(e) addresses any concern over influencing purchases of the City of Eugene.

Sec. 15 - immunity of councilors

This archaic language should be updated to clarify "questioned in any other place". This sounds as if the media could not question a councilor.

Chapter IV

Sec. 16(1)(d) - City officers

Define. This is the first mention of the term “officers”, which is used throughout the document but is not defined anywhere in the charter.

Sec. 16(2)(b) - exclusive right of City Manager to make purchases

Discuss. The current language authorizing the City Manager to “make all purchases” is so broad that it has been interpreted by the City Attorney to give the City Manager authority to contract out the provision of city services. The decision to contract services is a policy question for the City Council. The Model Charter language gives the City Manager the authority to “supervise all contracts.” This phrase should be added to the section to clarify the intent.

Sec. 16(3) - residency of manager and department heads.

Review. Is this appropriate? Is it current policy?

Sec. 18 - Compensation

Under review by a Council committee.

Sec. 21 - Commencement of term

Discuss. Some argue that six months from the date of the election to commencement of the term of office is too long. To shorten this gap, the term of office could be changed to commence in July or the election date could be moved to the fall. In either case, if no candidate receives a majority, a runoff election should be held shortly after the initial election. Others argue that Councilors are involved in city processes during the current six months between election and taking office and the time is used effectively to orient Councilors-elect to issues and city government. Also, changing this section would mean some Councilors would not serve their full four-year term.

Sec. 23 - Vacancies

“from” is misspelled.

Chapter VII

Sec. 28(1) - Adoption

Revise to delete requirement for reading an ordinance “in full” and address criteria for giving public notice to include a wide variety of means of publicizing it (Internet, fax on demand, etc.).

Chapter VIII

Sec. 33 - “divide” is misspelled.

Sec. 35 - Notice

Revise. Ten days notice is not sufficient for today’s vote-by-mail elections.

Chapter IX

City Club Committee
Comments on City Charter – page 3

Sec. 39 - Amendments to public improvement ordinances

Revise. Is a 2/3 vote necessary? The six-month delay in the effective date is problematic for construction projects. This is unusual to include in a charter. It was included in Eugene's charter to avoid special treatment for some property owners but is unnecessary today.

Sec. 40 - Liens

Review. Is this really necessary? It may be covered under other requirements of state and federal laws.

Sec. 41 - Freeways

See comments on Sections 52-54.

Sec. 42(2) - Cross on Skinner's Butte Park

Delete. The courts and the voters have made this provision no longer relevant.

Chapter X - Public Utilities

Sec. 43(3) - Franchises

Delete. There is probably some history around this provision, but it is unknown to the members of this committee. Short of understanding why it is included in the charter, the Council should have the option to grant an exclusive citywide franchise.

Sec. 44 & 45 - EWEB

Ask EWEB to review and suggest needed changes to this section.

Chapter XIII - Amendments

Sec. 51 - Amendment I - property tax levy

Delete. Obsolete.

Sec. 52 - Amendment II - trees

Inappropriate for charter.

Sec. 53 - Amendment III - Downtown mall

Delete. Outdated and inappropriate for charter.

Sec. 54 - Amendment IV - Toxic Right to Know

Inappropriate for charter. At a minimum, revise to bring into compliance with state law.

Sections 52, 53 and 54 (as well as Section 41) all enact specific public policies or programs, and would more appropriately take the form of ordinances rather than charter provisions. One option would be to delete these sections and reenact them as ordinances. However, the committee doubts that this would be politically feasible. Alternatively, these sections could be retained in the charter, but to avoid future initiatives that enact public policies and programs as charter provisions, new charter provisions might be added to increase the number of signatures needed to place an initiated charter amendment on the ballot, or to require approval of initiated charter amendments by super-majority vote, or both.

Respectfully submitted,


Kathy Madison, President
City Club of Eugene

On Behalf of Charter Review Committee Members:

Dorothy Anderson
Ruth Bascom
Liz Cawood
Kappy Eaton
Gerry Gaydos
Jacqlyn Mikalonis
Ken Tollenaar
Alan Zelenka



LEAGUE of WOMEN VOTERS of LANE COUNTY

81 E. 14th Avenue, Eugene, OR 97401

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www.efn.org/~lwvlc

February 27, 2000

RECEIVED
BY CITY MANAGER
FEB 29 2000

Mayor James D. Torrey
777 Pearl Street - Room 105
Eugene, OR 97401

Dear Mayor Torrey:

You sent the League of Women Voters of Lane County a letter last fall asking for comments on the current City Charter. Since our members have not chosen to study this document, we have no official position on its contents other than the "good government" principles, which are too general for your purposes.

We did assemble a committee of interested members and spent some time looking at the Charter for areas that might benefit from citizen review. Here is our list of those areas:

Chapter III

Sec. 6 – Council elections

Sec. 14 – Conflicts of interest for Council members

Chapter IV

Possible appointment of a city attorney who is an employee of the city.

This issue affects the powers of the City Manager.

Chapter VI

Sec. 18 – Compensation for the Mayor and Council

Chapter X

Sec. 44 – Relation to EWEB, especially in regard to estimates of water use in the future, which affects planning.

Delete

Chapter IX, Sec. 42 – Skinner's Butte is the only park mentioned, and the cross is gone.

Chapter XIII, Sec. 51 Amendments

Amendment 1, on taxes – is obsolete

Amendment 3, on the mall – is also obsolete.

We hope these comments will be of some assistance. We regret the delay.

Sincerely,

Karen Rikkoff
President, LWVLC

Charter Review Task Force

Recommendation Regarding City Council Compensation

Presented to the Board of Directors on February 22, 2000

One of the primary goals in the Eugene Area Chamber of Commerce Government Affairs Business Plan for 2000 was to: *Ensure that the governance structure of the City of Eugene reflects current community needs.*

The strategy to pursue this goal was to create a task team to conduct a thorough review of the city charter, developing recommendations on changes and modifications on issues such as council compensation; ward vs. at-large elections; and, conflict of interest.

A Charter Review Task Force chaired by Barney McCabe has been established. The task force is comprised of: Dick Briggs, David Davini, Mike Farthing, Ava Milosovich, Bob Moulton, Virginia Slate, and Steve Wildish.

The Issue

The City of Eugene Charter, 1976, Chapter VI, Section 18, prohibits compensation for the mayor and councilors. This section states, *"The mayor and councilors may receive no pay for their services, and the compensation of other officers shall be prescribed by the council."*

On February 9, 2000, the Citizen Committee on Mayor and Council Compensation (a seven-member body appointed by the City Council) presented the following recommendation to the City Council:

1. The charter prohibition on compensation for the mayor and council be removed.
2. The mayor be paid a stipend of \$1,500 per month.
3. Councilors be paid a stipend of \$1,000 per month.
4. The stipends be adjusted annually based upon the Portland Consumer Price Index (Portland CPI).
5. Both the amount of compensation and method of adjustment be set in the charter.

The Citizen Committee on Mayor and Council Compensation also recommends placing this as a charter amendment on the May 16, 2000, primary ballot. The timing of this election is why the Chamber's Charter Review Task Force chose to deal with compensation first.

Charter Review Task Force Recommendation

The Eugene Area Chamber of Commerce should **OPPOSE** council compensation at this time under the current City of Eugene structure of government.

Reasons to Oppose Council Compensation

The primary reason to oppose council compensation at this time is the City of Eugene's governing structure hasn't changed. Council compensation isn't warranted until the citizens of Eugene first review the existing city charter; determine if and how the council-manager form of government should change; and, approve any charter amendment(s) that restructures the City government. Only then would we know what the official role and responsibilities of councilors would be from which to base a decision on compensation.

Other reasons cited by the Charter Review Task Force to oppose council compensation at this time include:

- Time demand is often cited as a reason to justify compensation. However, has the actual workload of addressing major policy issues increased to justify a time demand rationale for compensation? There needs to be further analysis.
- Are increases in time demand a result from what councilors prioritize to put on their workplan and then direct the method for processing these issues? In essence, if they have expanded their workload beyond what is required in the present structure of government or employ an ineffective decision-making process then increased time demands are of their own making.
- No one has explained the correlation between how paying councilors will produce better public policy decisions. In other words, do public expectations for improving government hinge on whether councilors are compensated?
- Qualified people have historically stepped forward to run for council undeterred by the lack of compensation as a necessity to execute the responsibilities of the office.

AGENDA ITEM C-1

July 26, 2000

BACKGROUND: Charter Review Task Force Report

One of the primary goals in the Eugene Area Chamber of Commerce Government Affairs Business Plan for 2000 was to: *Ensure the governance structure of the City of Eugene reflects current community needs.*

The strategy to pursue this goal was to create a task force to conduct a thorough review of the Eugene City Charter, developing recommendations on changes and modifications on issues such as council compensation; ward vs. at-large council elections; and, conflict of interest.

A Charter Review Task Force was established and chaired by **Barney McCabe**. The task force was comprised of: **Dick Briggs, David Davani, Mike Farthing, Ava Milosovich, Bob Moulton, Virginia Slate, and Steve Wildish.**

The task force met every two weeks from February through April. Their goal was to do the following:

Identify areas of the Charter that require modification to improve the performance of city government.

- Recommend additions or deletions to the Charter, again to improve the performance of city government.
- Recommend a methodology for affecting any proposed changes.

Each task force member was provided with a copy of the Eugene City Charter. They were also given other background information pertaining to city charters. This included the *Model Charter for Oregon Cities* (Bureau of Governmental Research and Service, University of Oregon, 1988); copies of city charters from Bellingham, WA, Spokane, WA, and Vancouver, WA; and, the City Club of Eugene's report on their review of the Eugene City Charter.

The task force also heard from former Eugene City Councilor Ken Tollenaar and former Eugene Mayor Jeff Miller. Mr. Tollenaar has considerable background in studying city charters, including supervising the project of revising the *Model Charter for Oregon cities*. Mr. Miller shared his thoughts on the power and authority of the office of mayor relative to the current city charter.

Charter Review Task Force Report
July 26, 2000
Page 2

Early in the process task force members were asked to review the entire Eugene City Charter and identify the sections or issues they believed should be given most attention. Upon doing so there was considerable agreement on where the task force should focus its attention. Therefore, this report deals primarily with the following elements of the Eugene City Charter:

- **Council/Manager Form of Government**
- **Chapter III Section 5 Council Membership**
- **Chapter III Section 6 Council Elections**
- **Chapter III Section 8 Council Qualifications**
- **Chapter III Section 12 Mayor Functions**
- **Chapter III Section 13 Council President**
- **Chapter III Section 14 Conflicts of Interest**
- **Chapter IV Section 16 City Manager**
- **Chapter VI Section 18 Compensation***
- **Chapter VII Section 30 Veto**
- **Chapter VII Section 31 Overriding of Veto**
- **Chapter VIII Section 33 Wards**

*The task force dealt with Section 18 first because the City was in the process of placing council and mayor compensation on the May 16 election ballot. Their recommendation to "oppose" council compensation was brought to the Chamber Board of Directors on February 22 and approved.

However, in this early stage of their charter review it was the consensus of the task force to downplay this position prior to the election. Their reason for doing so was because when the charter review is complete recommendations may emerge which would change the governing structure in Eugene in such a manner where compensation may have merit. On May 16 voters approved compensating the mayor \$1,500 per month and city councilors \$1,000 per month beginning with the new fiscal year in July 2001.

A copy of the task force recommendation on council compensation is attached at the end of this report.

Charter Review Task Force Report
 July 26, 2000
 Page 3

Council/Manager Form of Government. It is the consensus of the task force that Eugene's present council/manager system is okay but could be improved with some restructuring of respective mayor, council, and manager authorities.

Task force discussion centered on whether a commission form of city government similar in structure to the Lane County Board of Commissioners or Portland's City Commission would be a more responsive system. However, the task force believes it is too premature to make such a change in Eugene. Restructuring respective authorities, most notably more authority to the mayor, could improve the current system.

Section 5 Council Membership. The task force recommends no change to the number (8) of councilors comprising the city council. Reducing the number of councilors could create an undesirable sense of empowerment to those holding office. Increasing the number would likely create an unmanageable city council. The manner in how the city council is elected is a more overriding issue.

Section 6 Council Election. Eugene city councilors are presently elected from eight wards. While not recommending a specific change in this report the task force clearly believes this section warrants additional study. At issue for the task force is whether Eugene residents would be better served by electing councilors on an at-large citywide basis.

The following are some of the observations and questions task force members raised regarding council elections:

1. Do residents feel adequately represented in the current ward system used to elect councilors?
2. Has gerrymandering tended to break the traditional neighborhood oriented wards from where councilors are elected?
3. What percent of campaign contributions actually come from the same ward as the councilor candidate? In essence, have city council elections already taken on a citywide significance to a magnitude where elections should be citywide?
4. Is there a hybrid formula of an at-large and ward system election that could work?
5. Who would oppose at-large citywide elections and why? Task force members believe opposition would likely come from those who practice localized grassroots campaigning and from those who think at-large elections would make campaigning too expensive.

Charter Review Task Force Report
 July 26, 2000
 Page 4

Section 8 Council Qualifications. The task force believes the current language, “A councilor shall reside in the ward for which elected or appointed,” needs to be more specific. The task force recommends amending this to, “A councilor be a two-year resident of the City and reside in the ward for which elected or appointed. A councilor must be a United States citizen of at least 18 years of age and be a registered voter.”

The task force also recommends this language for **Section 7 Mayor Qualifications** with the residency requirement applying to, “within the city limits”.

Section 12 Mayor Functions. It is the consensus of the task force the mayor retain his or her ability to vote in tie-breaking situations and retain the veto authority on ordinances with council override provisions.

The task force recommends expanding mayor authority to allow him or her to contact the city manager regarding department heads or department situations and problems and the city manager should be able to approach the mayor to inform him or her of department problems or situations.

The following observations and questions from the task force will illustrate why they believe this section on mayor functions and authority warrants additional study.

1. Does the public fully understand the existing role for the mayor in Eugene? In essence, the public probably perceives more authority in the mayor by virtue of the title and from being elected citywide than what actually rests with the office. In reality the mayor's power is very limited.
2. One step to increase the mayor's authority would be to give them a vote on all action rather than in just tie-breaking situations. Several members of the task force believe merely voting to break ties is insufficient participation in the decision-making process. Also, voting potentially offers a more positive role for the mayor as opposed to relying on the threat of a veto.
3. The mayor of Eugene needs to have more influence in setting the council's agenda. One suggestion is to let the mayor set the agenda with council having a two-thirds override provision.
4. Does there need to be more mayor oversight on department heads short of day-to-day management? This question comes from a concern that a system in which department heads are accountable only to the city manager tends to insulate them from any political accountability associated with their policy direction or performance.

Charter Review Task Force Report
 July 26, 2000
 Page 5

- Perhaps the mayor should have a role in the selection and hiring process of department heads, e.g., be part of a hiring selection team. Another possibility would be to have the mayor provide an annual performance rating of department heads.
5. Increasing the authority and power of the mayor needs to be dealt with cautiously because of the inherent risk of electing a bad mayor.

Section 13 Council President. The task force recommends no change. This section was reviewed primarily to confirm the purpose for having a council president and to get a better understanding of what their legal powers are whenever they are acting in the role of mayor.

Section 14 Conflicts of Interest. *"No councilor may be pecuniarily interested in any contract the expenses of which are to be paid by the city or vote upon any subject in which pecuniarily interested."*

This section was reviewed because people who own or operate businesses within the City of Eugene or sometimes do business with the City often cite the potential for conflict of interest as a condition that precludes or disqualifies them from seeking a position on the city council.

The task force believes Eugene's Charter should be consistent with state law and not more restrictive. (The City Club reached a similar conclusion).

The task force recommends this section be made consistent with state law whereby a councilor declare a conflict (if one exists) and step down from the proceedings.

Section 16 City Manager. At issue is the authority granted to the city manager and determining what should be the proper oversight role and working relationship between the mayor, city council, and the city manager. The task force is recommending two changes to this section.

Section 16 (2) (b). This pertains to the city manager's authority to make all purchases. The task force believes this is too broad authority. They suggest the city manager be restricted to "supervise" all purchases. The task force notes similar language is used in the Model Charter where the city manager is given authority to "supervise all contracts." The City Club report also makes this recommendation.

Charter Review Task Force Report
 July 26, 2000
 Page 6

Section 16 (2) (h). The task force believes the city council should have more opportunity to be involved in determining the structure of city departments. They recommend this section be amended to read, "organize and as he or she deems necessary, subject to and with the consent of council, disband and reorganize the various city departments."

The task force has other observations and questions regarding the city manager, especially as it pertains to the limits on communication allowed between the city manager and mayor or city council members, Section 16 (1) (e):

"No councilor nor the mayor may in any manner, directly or indirectly, by suggestion or otherwise, attempt to influence the manager in the making of any appointment or any removal of city personnel or in the purchase of supplies, nor may any councilor or the mayor exact any promise relative to any appointment by a city manager or discuss, directly or indirectly, with the manager or any candidate for the office of manager any appointment by the manager. Violation of this section forfeits the office of the violating officer, who may be removed by the council or any court of competent jurisdiction. The mayor and council may, however, in open council session, discuss with or suggest to the manager anything pertaining to city affairs and in executive session discuss matters pertaining to collective bargaining."

1. Council oversight is presently very limited because they can't talk with the city manager on department or personnel issues. The process of reorganizing departments would seem to be more practical if the manager could discuss reorganizing with the mayor or council. It was suggested that a mayor with more authority could serve as the conduit for city council contact with the city manager.
2. Do open council sessions provide the forum to allow outright communication between the city manger and city council on city affairs that some believe are restricted based on their interpretation of Section 16 (1) (e)?
3. In the present council/manager system the task force recognizes there is a very fine line separating a desire for council oversight of the city manager and reaching a point where they micro-manage or politicize the professional management decisions of the city manger. Does the Charter provide sufficient safeguards to ensure necessary council oversight doesn't cross the line of micro-managing a city manager's professional expertise to make unilateral decisions?
4. In the present council/manager system you want to have a strong executive in the position of city manger. However, when city managers are hired from outside the community, are there risks in having people unfamiliar with the community be empowered to make wholesale changes on matters such as how departments are structured?

Charter Review Task Force Report
 July 26, 2000
 Page 7

Section 30 Veto and Section 31 Overriding of Veto. The task force is recommending no change to either section. These two sections were reviewed in connection with discussions on the function and authority of the mayor in Section 12.

The mayor has the ability to veto ordinances but needs 3 votes to sustain a veto. Therefore, a mayor must secure 3 supporting votes if he or she wants their veto to be more than a symbolic exercise objecting to an ordinance.

Section 33 Wards. Eugene presently has eight wards with each ward electing its own city councilor. It is the consensus of the task force to stay with eight wards and allow the redistricting process to reflect population shifts accounted for in the 2000 census.

Task force review of this section resulted in the following observations and questions about the present ward system:

1. When redistricting occurs the population within the wards must be equalized. It is important that population within wards be equalized regardless of the number of wards.
2. If the next council takes excessive liberties in gerrymandering ward boundaries two things could happen. First, someone could sue the city. Second, excessive gerrymandering could be the catalyst to launch a charter amendment to eliminate wards and change to at-large citywide elections.
3. Would city councilors be more accountable if they originate from within a ward but are elected citywide? Originating from wards in this format would provide for a sense of connectivity to local, ward-specific issues, sort of a safeguard to ensure a sense of local representation on the city council.

Other Topics

Chapter X Public Utilities

Section 43 (Franchises)

Section 44 (EWEB Functions, Membership)

Section 45 (EWEB Short Term Loans)

The task force believes these sections and the relationship between the City and Eugene Water & Electric Board should be reviewed sometime. However, they did not think it was critical to discuss them at this time.

Charter Review Task Force Report
 July 26, 2000
 Page 8

Charter Amendments. The task force believes some amendments don't belong in the charter but it is not critical to discuss them at this time. For example, **Section 52 Amendment II (Trees)** and **Section 54 Amendment IV (Toxic Right-to-Know)** serve no useful purpose in the city charter.

Ken Tollenaar provided an important observation about charter amendments. He believes a city charter should work as a basic fundamental framework for city government and shouldn't be abused by unnecessary amendments.

Conclusion and Recommendations

The task force thinks it is very timely to submit this report to you before the City of Eugene embarks on their process to review the City Charter. That will likely occur this fall. Hopefully, the recommendations and observations contained in this report will help guide Chamber participation in the City's charter review process and in turn help guide community review of the Charter toward the areas we think are most important.

The task force approached this assignment with the intent to identify one and maybe two areas of the Charter where changes could have the most significant or beneficial impacts. As identified in the report, two areas warrant further study because changes would be significant and potentially beneficial: **Section 6 Council Elections** and **Section 12 Mayor Functions**. Of the two, Section 6 has greater priority.

In regard to Section 6 and council elections, the task force did not consider or analyze all the pros and cons of eliminating wards and electing councilors on an at-large citywide basis, or electing them using some hybrid combination of wards and at-large council seats. However, they believe the present system is not sufficiently meeting current community needs. It is worth exploring a change in the Charter.

The task force recommends the Chamber appoint a new task force on council elections and direct them to develop a recommendation for changing council elections in the Charter along with a strategy to bring an amendment forward to either the city council or directly to the voters.

Charter Review Task Force Report
July 26, 2000
Page 9

Further study on the function of the mayor, Section 12, would be a useful exercise although perhaps not on the same scale or intensity as council elections. Because of the City's upcoming Charter review the Chamber may want to appoint a separate task force to study Section 12 to ensure we're properly prepared to offer comments and suggestions on this section.

Finally, it is important the Chamber have representation on the City's Charter Review Committee, both in terms of quality and quantity. We recommend that members of this task force, the Chamber Board of Directors, and Local Government Affairs Council actively help identify and recruit people to apply for City Charter Review Committee.

Appendix C

Model Charter for Oregon Cities

**Bureau of Governmental Research and Service
University of Oregon
1988**

The University of Oregon affirms the right of all individuals to equal opportunity in education and employment at this institution without regard to race, color, sex, national origin, age, religion, marital status, handicap, veteran status, sexual orientation or any other extraneous consideration not directly and substantively related to effective performance. This policy implements all applicable federal, state and local laws, regulations, and executive orders. Direct related inquiries to Norma McFadden Comrada, Director, Office of Affirmative Action, 472 Oregon Hall, University of Oregon, Eugene, Oregon 97403; telephone (503) 686-3123.

TABLE OF CONTENTS

Title	Page
Foreword	iii
Preamble	1
Chapter I Names and Boundaries	1
Chapter II Powers	1
Chapter III Form of Government	2
Chapter IV Council	3
Chapter V Powers and Duties of Officers	4
Chapter VI Personnel	7
Chapter VII Elections	8
Chapter VIII Ordinances	8
Chapter IX Public Improvements	9
Chapter X Miscellaneous Provisions	10
Appendix A General Grants of Power	33
Appendix B Comments on Provisions Omitted From the Model Charter	47

FOREWORD

This fourth revision of the Model Charter for Oregon Cities seems an appropriate way for the Bureau to celebrate the bicentennial of the U.S. Constitution. The U.S. Constitution--our federal "charter"--defines the structure of a government and the scope of its powers, just as a municipal charter does. Moreover, just as the U.S. Constitution's relative brevity and generality suit it well "to be adapted to the various crises of human affairs," so this Model Charter is limited to essential basic provisions that leave to the people of a city and their elected representatives maximum leeway in making policy choices about city government.

Revisions

This 1988 revision of the Model Charter makes several changes from the 1967 edition. First, we changed the format from two separate versions (for the mayor-council and council-manager forms of government) to a single document that presents the mayor-council language in the main text and the alternative council-manager language in the endnotes. Other substantive changes include:

- Addition of new sections on the merit system, employee political rights, and optional transfer of municipal court jurisdiction to the appropriate state court.
- Deletion of several sections relating to matters now preempted or otherwise covered adequately by state law, including sections on tort liability, open meetings, condemnation, debt limitations, elections, public contracting, and ethics (see Appendix B).
- Deletion of provisions relating to nomination procedure, special council meetings, and the authentication of council documents and performance bonds, which are handled better by ordinance.

In addition to changes in format and substance, this edition makes numerous clarifications, simplifications and changes in style and organization. Of these, perhaps the most notable is the use of gender-neutral language.

History of Model City Charter

Until adoption of the city home rule amendments to the Oregon Constitution in 1906, a city's "charter" was a special act of the state legislature. Such special acts, as well as city charters adopted during the quarter century after 1906, contained lengthy enumerations of specific powers and functions a city was authorized to exercise or perform. The practice of listing specific city powers and functions made it difficult for cities to respond to changing circumstances and needs, because questions frequently arose as to whether a city had legal authority to adopt this or that policy or to initiate new programs. While a detailed specification of city powers and functions might at one time have afforded citizens some protection against arbitrary or unwanted actions by city officials, the initiative and referendum powers reserved to a city's voters by the home rule amendments effectively terminated that need.

The initiative and referendum powers . . . are further reserved to the qualified voters of each municipality and district as to all local, special and municipal legislation of every character in or for their municipality or district. The manner of exercising those powers shall be provided by general laws, but cities may provide the manner of exercising those powers as to their municipal legislation. In a city, not more than 15 percent of the qualified voters may be required to propose legislation by the initiative, and not more than 10 percent of the qualified voters may be required to order a referendum on legislation. [Article IV, section 1(5)]

With the home rule amendments, city charters no longer required a long list of enumerated powers. Accordingly, when the Bureau was established in 1933 and began to help cities that were experiencing difficulties with their old-style charters, it suggested that city charters contain a brief "general grant of powers" instead of specifically enumerated powers. The general grant, in effect, would include all of the powers available to a city under the state constitution, subject to any limitations imposed by the charter itself. The general grant of powers, first included in an Oregon city charter in 1934, has been the central feature for almost all city charters adopted in Oregon since the 1930s. It has been the central feature of this Model Charter since its first edition was published in 1947 and has been upheld against legal challenges in both the Oregon and the U.S. supreme courts.

Work on the current edition was begun in 1981. As a first step in the project, the Bureau prepared background papers on several topics. Work on some of these papers (known as the Model Charter Revision Background Papers) was financed in part by a grant under the Federal Intergovernmental Personnel Act and included analyses, for example, on incompatible offices, debt limitations, ordinance procedures, filling council vacancies, and council meetings.

The Bureau is grateful for the advice and assistance received from city councilors, managers, and attorneys in developing the 1988 edition of the Model Charter for Oregon Cities. Special mention should be made of the following, who served at various times as members of the advisory committee appointed for this project by the League of Oregon Cities:

Kirk Berger, former director, Local Government
Personnel Institute
Lou Hannum, former councilor and mayor, city
of Medford
Art Johnson, former city manager, city of Bend
A. Keith Martin, attorney with Harrang, Long,
Watkinson and Arnold, Eugene, and attorney
for several small Oregon cities
Eldon Mills, city manager, city of Hillsboro
Dan Ousley, manager-attorney, city of Toledo
Ron Paddock, former councilor and mayor,
city of Oakridge

Many members of the Bureau staff have participated in developing and revising the Model Charter over the years. Herman Kehrli, Bureau Director Emeritus, shaped the basic concepts during his work with Oregon cities in the 1930s. Orval Etter, Bureau Legal Associate Emeritus, contributed to the first edition of the Charter in 1947 and to each subsequent revision. He also has published law review articles relating to municipal home rule, consulted with city charter committees, and helped draft amicus briefs in court actions challenging actions taken pursuant to city charter authority. James M. Mattis, former Bureau Legal Consultant and now Assistant Attorney General for Oregon, was responsible for the initial legal and policy analysis and early drafts of this 1988 revision of the Model Charter. Others involved with the current revision are Garey Butler, former Bureau Legal Associate; and Larry Oates, former Bureau Legal Assistant. Ken Tollenaar, Bureau Senior Research Associate and former Bureau Director, supervised the project and provided excellent editorial guidance. This publication was word processed by Doreen Jones and Bobbette Elliott. We are very grateful to all who assisted in this 1988 edition.

-v-

Finally, it must be emphasized that the Model Charter is provided as a guide for charter drafting by local officials and citizens and is not intended as a document to be submitted to a vote of the community without discussion. Each city that undertakes revision of its present charter, or preparation of a new charter, must ultimately consider the procedures and limitations it feels will best serve its citizens. Using the Model Charter as a standard or guide provides an important framework for assisting local officials to pursue excellence in local self-governance.

Jeff S. Luke
Director

Sandra L. Arp
Senior Legal Associate

-vi-

**MUNICIPAL HOME RULE AMENDMENTS
TO THE CONSTITUTION OF OREGON**

The Legislative Assembly shall not enact, amend or repeal any charter or act of incorporation for any municipality, city or town. The legal voters of every city and town are hereby granted power to enact and amend their municipal charter, subject to the Constitution and criminal laws of the State of Oregon. [Article XI, section 2]

The initiative and referendum powers reserved to the people by subsections (2) and (3) of this section are further reserved to the qualified voters of each municipality and district as to all local, special and municipal legislation of every character in or for their municipality or district. The manner of exercising those powers shall be provided by general laws, but cities may provide the manner of exercising those powers as to their municipal legislation. In a city, not more than 15 percent of the qualified voters may be required to propose legislation by the initiative, and not more than 10 percent of the qualified voters may be required to order a referendum on legislation. [Article IV, section 1(5)]

PREAMBLE¹

We, the people of _____, Oregon, in order to avail ourselves of self-determination² in municipal affairs to the fullest extent now or hereafter possible under the constitutions and laws of the United States and the state of Oregon, through this charter confer upon the city³ the following powers, subject it to the following restrictions, prescribe for it the following procedures and governmental structure, and repeal⁴ all⁵ previous charter provisions of the city.⁶

Chapter I

NAMES AND BOUNDARIES

Section 1. Title of Charter. This charter may be referred to as the 19__ _____ Charter.⁷

Section 2. Name of City. The city of _____, Oregon, continues⁸ under this charter to be a municipal corporation with the name city of _____.⁹

Section 3. Boundaries.¹⁰ The city includes all territory within its boundaries as they now exist or hereafter are modified pursuant to state law.¹¹ The custodian of the city's records shall keep an accurate, current description of the boundaries and make a copy of it available for public inspection in the city during regular city office hours.

Chapter II

POWERS

Section 4. Powers of the City. The city has all powers that the constitutions, statutes, and common law of the United States and of this state now or hereafter expressly or impliedly grant¹² or allow¹³ the city, as fully as though this charter specifically enumerated each of those powers.¹⁴

Section 5. Construction of Powers. In this charter, no specification of a power is exclusive or restricts authority that the city would have if the power were not specified.¹⁵ The charter shall be liberally construed,¹⁶

so that the city may exercise fully all its powers possible under this charter and under United States and Oregon law. All powers are continuing unless a specific grant of power clearly indicates the contrary.¹⁷

Section 6. Distribution of Powers. Except as this charter prescribes otherwise and as the Oregon Constitution reserves municipal legislative power to the voters of the city, all powers of the city are vested in the council.

Chapter III

FORM OF GOVERNMENT

Section 7. Council. The council consists of a mayor¹⁸ and six¹⁹ councilors nominated and elected from the city at large²⁰ or, in case of one or more vacancies in the council, the council members whose offices are not vacant.

Section 8. Councilors. The term of office of a councilor in office when this charter is adopted is the term of office for which the councilor has been elected before adoption of the charter (or is elected at the time of the adoption).²¹ At each general election after the adoption, three councilors shall be elected,²² each for a four-year term.²³

Section 9. Mayor. The term of office of the mayor in office when this charter is adopted continues until the beginning of the first odd-numbered year after that time. At each subsequent general election, a mayor shall be elected for a two-year term.²⁴

Section 10. Terms of Office. The term of office of an elective officer who is elected at a general election begins at the first council meeting of the year immediately after the election and continues until the successor to the office assumes the office.

Section 11. Appointive Offices.²⁵ A majority of the council²⁶ may:

(1) Create, abolish, and combine²⁷ appointive city offices and,

(2) Except as the majority prescribes otherwise,²⁸ fill such offices by appointment and vacate²⁹ them by removal.

Chapter IV

COUNCIL

Section 12. Rules. The council shall, by ordinance, prescribe rules to govern its meetings and proceedings.³⁰

Section 13. Meetings. The council shall meet in the city regularly at least once a month at a time and place designated by council's rules, and may meet at other times in accordance with the rules.

Section 14. Quorum. A majority of the council constitutes a quorum for its business,³¹ but a smaller number of the council may meet and compel attendance of absent councilors as prescribed by council rules.³²

Section 15. Record of Proceedings. A record of council proceedings shall be kept and authenticated in a manner prescribed by the council.³³

Section 16. Mayor's Functions at Council Meetings.

(1) When present at council meetings the mayor shall:

- (a) Preside over deliberations of the council,
- (b) Preserve order,
- (c) Enforce council rules, and
- (d) Determine the order of business under the rules.

(2) Notwithstanding subsection (1) of this section, the mayor may temporarily cease to chair a council meeting and delegate the functions described in subsection (1) to another council member.

(3) The mayor is a voting member of the council.³⁴

Section 17. Council President.

(1) At its first meeting after this charter takes effect and at its first meeting of each odd-numbered year, the council shall appoint a president from its councilors.

(2) Except in voting on questions before the council,³⁵ the president shall function as mayor when the mayor is:

- (a) Absent from a council meeting, or
- (b) Unable to function as mayor.

Section 18. Vote Required. Except as sections ³⁶ of this charter prescribe otherwise, the express³⁷ concurrence of a majority of the council

members present and constituting a quorum is necessary to decide affirmatively a question before the council.³⁸

Section 19. Vacancies: Occurrence. The office of a member of the council becomes vacant:

- (1) Upon the incumbent's:
 - (a) Death,
 - (b) Adjudicated incompetence,³⁹ or
 - (c) Recall from the office;⁴⁰ or
- (2) Upon declaration by the council of the vacancy in case of the incumbent's:
 - (a) Failure, following election or appointment to the office, to qualify for the office within ten days after the time for his or her term of office to begin,
 - (b) Absence from the city for 30 days without the council's consent or from all meetings of the council within a ____-day⁴¹ period,
 - (c) Ceasing to reside in the city,
 - (d) Ceasing to be a qualified elector under state law,⁴²
 - (e) Conviction of a public offense punishable by loss of liberty,⁴³ or
 - (f) Resignation from the office.

Section 20. Vacancies: Filling. A vacancy in the council shall be filled by appointment by a majority of the council.⁴⁴ The appointee's term of office runs from the time of his or her qualifying for the office after the appointment and until expiration of the term of the predecessor who has left the office vacant.⁴⁵ During a council member's disability to serve on the council or during a member's absence from the city, a majority of the other council members may by appointment fill the vacancy pro tem.⁴⁶

Chapter V

POWERS AND DUTIES OF OFFICERS

Section 21. Mayor. The mayor shall appoint:

- (1) Members of committees established by council rules, and
- (2) Other persons required by the council to be so appointed.⁴⁷

Section 21a. City Manager.*

(1) The city manager is the administrative head of the city government.

(2) A majority of the council shall appoint and may remove the manager. The appointment shall be without regard to political considerations and solely on the basis of administrative qualifications.

(3) The manager need not reside in the city or the state when appointed.⁴⁸

(4) Upon accepting the appointment, the manager shall furnish the city a bond in an amount and with a surety approved by the council. The city shall pay the bond premium.

(5) The manager shall be appointed for a definite or an indefinite term and may be removed by the council at its pleasure. Within six consecutive months after a vacancy occurs in the office, the council shall fill the vacancy by appointment.

(6) The manager shall:

(a) Attend all council meetings unless excused by the council or mayor;

(b) Keep the council advised of the affairs and needs of the city;

(c) See that the provisions of all ordinances are administered to the satisfaction of the council;

(d) See that all terms of franchises, leases, contracts, permits, and privileges granted by the city are fulfilled;

(e) Appoint, discipline and remove appointive personnel, except appointees of the mayor or council;

(f) Supervise and control the manager's appointees in their service to the city;

(g) Organize and reorganize the departmental structure of city government;

(h) Prepare and transmit to the council an annual city budget;

(i) Supervise city contracts;

(j) Supervise operation of all city-owned public utilities and property; and

(k) Perform other duties as the council prescribes consistently with this charter.

(7) The manager may not control:

(a) The council;

(b) The municipal judge in the judge's judicial functions;⁴⁹ or,

* If the charter establishes the office of city manager, this section may be given the number "22," and subsequent sections of the charter renumbered accordingly. Such renumbering will require renumbering internal cross-references, such as those contained in section 18.

(c) Except as the council authorizes, appointive personnel of the city whom the manager does not appoint.

(8) The manager and other personnel whom the council designates may sit with the council but may not vote on questions before it. The manager may take part in all council discussions.

(9) When the manager is absent from the city or disabled from acting as manager, or when the office of manager becomes vacant, the council shall appoint a manager pro tem, who has the powers and duties of manager, except that the manager pro tem may appoint or remove personnel only with approval of the council. No person may be manager pro tem more than six consecutive months.

(10) Except in council meeting, no council member may directly or indirectly, by suggestion or otherwise, attempt to influence the manager or a candidate for the office of manager in the appointment, discipline, or removal of personnel or in decisions regarding city property or contracts.⁵⁰ A violator of this prohibition may be removed from office by a court of competent jurisdiction. In council meeting, members of the council may discuss with, or suggest to, the manager anything pertinent to city affairs.⁵¹

Section 22. Municipal Court and Judge.

(1) If the council creates the office of municipal judge and fills it by appointment, the appointee shall hold, within the city at a place and times that the council specifies, a court known as the Municipal Court for the city of _____, _____ County, Oregon.

(2) Except as this charter or city ordinance prescribes to the contrary, proceedings of the court shall conform to general laws of this state governing justices of the peace and justice courts.

(3) All area within the city and, to the extent provided by state law, area outside the city⁵² is within the territorial jurisdiction of the court.

(4) The municipal court has original jurisdiction over every offense that an ordinance of the city makes punishable.⁵³ The court may enforce forfeitures and other penalties that such ordinances prescribe.

(5) The municipal judge may:

(a) Render judgments and, for enforcing them, impose sanctions on persons and property within the court's territorial jurisdiction;

(b) Order the arrest of anyone accused of an offense against the city;

(c) Commit to jail or admit to bail anyone accused of such an offense;

(d) Issue and compel obedience to subpoenas;

(e) Compel witnesses to appear and testify and jurors to serve in the trial of matters before the court;

- (f) Penalize contempt of court;
 - (g) Issue process necessary to effectuate judgments and orders of the court;
 - (h) Issue search warrants; and
 - (i) Perform other judicial and quasi-judicial functions prescribed by ordinance.
- (6) The council may authorize the municipal judge to appoint municipal judges pro tem for terms of office set by the judge or the council.
- (7) Notwithstanding this section, the council may transfer some or all of the functions of the municipal court to an appropriate state court.⁵⁴

Chapter VI

PERSONNEL

Section 23. Qualifications.

- (1) An elective city officer⁵⁵ shall be a qualified elector under the state constitution⁵⁶ and shall have resided in the city during the _____⁵⁷ months immediately before being elected or appointed to the office. In this subsection "city" means area inside the city limits at the time of the election or appointment.⁵⁸
- (2) No person may be a candidate at a single election for more than one elective city office.⁵⁹
- (3) An elective officer may be employed in a city position that is substantially volunteer in nature.⁶⁰ Whether the position is so may be decided by the municipal court⁶¹ or in some other manner, whichever the council prescribes.
- (4) Except as subsection (3) of this section provides to the contrary, the council is the final judge of the election and qualifications of its members.⁶²
- (5) The qualifications of appointive officers of the city are whatever the council prescribes or authorizes.⁶³

Section 24. Compensation. The council shall prescribe the compensation of city officers.⁶⁴ The council may prescribe a plan for reimbursing city personnel for expenses that they incur in serving the city.

Section 25. Merit System. Subject to all collective bargaining agreements between the city and one or more groups of its employees, the council⁶⁵ shall prescribe rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees, all of which shall be based on merit and fitness.⁶⁶

Section 26. Political Rights. By ordinance the council may affirm the rights of city personnel to participate in political activities and may limit those activities to the extent necessary for orderly and effective operation of the city government.⁶⁷

Section 27. Oath. Before assuming city office, an officer shall take an oath or shall affirm that he or she will faithfully perform the duties of the office and support the constitution and laws of the United States and of the state of Oregon.

Chapter VII

ELECTIONS

Section 28. State Law. Except as this charter or a city ordinance prescribes to the contrary, a city election shall conform to state law applicable to the election.⁶⁸

Section 29. Nominations. A person may be nominated in a manner prescribed by general ordinance⁶⁹ to run for an elective office of the city.

Chapter VIII

ORDINANCES⁷⁰

Section 30. Ordaining Clause. The ordaining clause of an ordinance shall be "The city of _____ ordains as follows:". ⁷¹

Section 31. Adoption by Council.⁷²

(1) Except as subsection (2) of this section allows adoption at a single meeting and subsection (3) of this section allows reading by title only, an ordinance shall be fully and distinctly read in open council meeting on two different days before being adopted by the council.

(2) Except as subsection (3) of this section allows reading by title only, the council may adopt an ordinance at a single meeting by the express unanimous votes of all council members present,⁷³ provided the ordinance is read first in full and then by title.

(3) A reading of an ordinance may be by title only if:

- (a) No council member present at the reading requests that the ordinance be read in full or
- (b) At least one week before the reading:
 - (i) A copy of the ordinance is provided for each council member,
 - (ii) Three copies of the ordinance are available for public inspection in the office of the custodian of city records,⁷⁴ and
 - (iii) Notice of their availability is given by written notice posted at the city hall and two other public places in the city.
- (4) An ordinance read by title only has no legal effect if it differs substantially from its terms as it was filed prior to the reading unless each section so differing is read fully and distinctly in open council meeting before the council adopts the ordinance.
- (5) Upon the adoption of an ordinance, the ayes and nays of the council members shall be entered in the record of council proceedings.
- (6) After adoption of an ordinance, the custodian of city records⁷⁵ shall endorse it with its date of adoption and the endorser's name and title of office.

Section 32. Effective Date. A nonemergency ordinance takes effect on the thirtieth day after its adoption or on a later day the ordinance prescribes.⁷⁶ An ordinance adopted to meet an emergency may take effect as soon as adopted.⁷⁷

Chapter IX

PUBLIC IMPROVEMENTS

Section 33. Procedure.

- (1) The procedure for making, altering, vacating, or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by applicable state law.⁷⁸ Proposed action on a public improvement that is not declared by two-thirds of the council present⁷⁹ to be needed at once because of an emergency shall be suspended for six months upon remonstrances by owners of land to be specially assessed for the improvement. The number of owners necessary to suspend the action shall be prescribed by general ordinance. A second such remonstrance suspends the action only with the consent of the council.
- (2) In this section "owner" means the record holder of legal title or, as to land being purchased under a land-sale contract that is recorded or verified in writing by the record holder of legal title, the purchaser.⁸⁰

Section 34. Special Assessments. The procedure for fixing, levying, and collecting special assessments against real property for public improvements or other public services shall be governed by general ordinance.⁸¹

Chapter X

MISCELLANEOUS PROVISIONS⁸²

Section 35. Debt.⁸³ The city's indebtedness may not exceed debt limits imposed by state law.⁸⁴ A city officer or employee who creates or officially approves indebtedness in excess of this limitation is jointly and severally liable for the excess. A charter amendment is not required to authorize city indebtedness.

Section 36. Continuation of Ordinances. Insofar as consistent with this charter, and until amended or repealed, all ordinances in force when the charter takes effect retain the effect they have at that time.

Section 37. Repeal.⁸⁵ All charter provisions adopted before this charter takes effect are hereby repealed.⁸⁶

Section 38. Severability. The terms of this charter are severable. If a part of the charter is held invalid, that invalidity does not affect another part of the charter, except as the logical relation between the two parts requires.

Section 39. Time of Effect. This charter takes effect _____, 19____.⁸⁷

Appendix D

***Citizen Charter Review Committee
Guiding Principles***

February 8, 2001 - FINAL DRAFT

These short statements attempt to capture the guiding principles which the Citizen Charter Review Committee will use as it considers and reviews proposed revisions to the Eugene City Charter.

Improve accountability

- who is accountable for decisions?
- effectiveness of council oversight
-

Transparency in government

- the public should be able to see what is going on
- simplicity and understandability
-

Accessibility of government

- government should be more representative
- elections methods

Increased efficiency of government

Increased political stability

- the political changes in government may come at the expense of representative government and stability in government

Increase citizen confidence in government

- citizens should believe the government is effective
- government is fair and just and is perceived as such

Responsiveness in government especially with regard to the socio-economic changes that have occurred since the last review of the Charter

Attend to specific problems in the current charter

- the conflict of interest section, EWEB section

Professionalism in the management of city government

Provide a framework in the Charter that allows for continuous, effective functioning of government

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Appendix E

ITEM SUMMARY – Citizen's Charter Review Committee Report on Advantages/Disadvantages of Electing Councilors by Wards and At Large

BACKGROUND

Council Action History

At the April 18, 2001 City Council work session, the council voted to request that the Citizen's Charter Review Committee (CCRC) submit a report on their perceptions of the advantages and disadvantages of electing city councilors via ward and at large elections. This is the report prepared by a subcommittee of CCRC and approved by vote of the CCRC. Also included is an excerpt of a document reviewed by the committee that contains information specific to elections via wards versus at large.

REPORT OF CHARTER REVIEW SUB-COMMITTEE

ADVANTAGES/DISADVANTAGES OF ELECTING COUNCILORS BY WARDS AND AT LARGE

MEMBERS: Jon Belcher, Freeman Holmer, Ken Tollenaar, Virginia Thompson

NOTE: The members observed that there were mirror disadvantages for each of the advantages and visa versa. Nevertheless, they are listed.

ELECTION BY WARD

ADVANTAGES

- ↳ Simplifies the task for voters – allows voters to focus on one race;
- ↳ Keeps decision within a defined neighborhood;
- ↳ It is easier and less costly to run a campaign – enables more people to consider running. Not as formidable as facing a city-wide race;
- ↳ Enables minority candidates to win. A minority group may be concentrated within one ward and therefore have a better chance of electing their candidate within that ward.
- ↳ Allows for greater diversity of membership and geographic diversity because it usually provides less advantage to business people and professionals from affluent neighborhoods.
- ↳ Provides for an increase (4-6%) from the lowest income and educational groups. It also increases representation from neighborhoods and nonbusiness groups.

DISADVANTAGES

- ↳ It limits voter choice to one council member;
- ↳ A citizen's sole councilor may not represent his/her views;
- ↳ Can foster parochial views;
- ↳ Focuses attention on the ward and if the needs and interests of the constituents of that ward are not addressed, there is a fear of loss of support for re-election;
- ↳ A minority group may be diffused throughout the city and have a better chance of electing their candidate at large.

ELECTION OF COUNCILORS BY CITY-WIDE VOTE (NOTE: the subcommittee noted that there are two ways in which a city-wide vote might take place – at large by position number or at large by plurality. The pros and cons of these alternatives were not discussed.)

ADVANTAGES

- ↳ There would be increased influence of individual voters by being able to vote for more than one councilor;

- ↳ Might encourage broad city-wide perspectives on the council – not just a neighborhood view;
- ↳ Could enhance the chance for minority representation (see arguments above).
- ↳ Redistricting would not be needed.

DISADVANTAGES

- ↳ There would be an increased cost of campaigning;
- ↳ Minimizes ward representation;
- ↳ Voters are less likely to know who “their” councilor is or have direct access to him/her;
- ↳ When using the Springfield method (i.e., reside in the ward but elected at large) it is possible for a councilor to be elected by every ward except him/her own;
- ↳ There may be no one who represents a voter’s position; there would be less accountability.

Questions that might be asked: which method results in the election of the best qualified candidates? Which method encourages the largest pool of candidates?

Excerpts from Roles and Relationships in Council Manager Cities : Perspectives from Recent Research¹ concerning city councilors elected at large versus by wards.

At large elections especially if non-partisan, usually provide an advantage to businessmen and professionals from affluent neighborhoods who have been active in civic affairs through voluntary city-wide service organizations², although the differences should not be exaggerated...Sixty-two percent of council members elected from districts are owners, professionals or managers versus 70 percent of those elected at-large.

The use of districts has increased geographic representativeness and diversity of membership: all parts of the city have seats on the council and minority groups, if large enough and concentrated in certain neighborhoods, are more likely to be represented³. Groups widely distributed throughout the city, however, are not necessarily represented more fairly, nor are women as likely to be elected in district elections⁴.

Business interests have less direct representation, and neighborhood groups and nonbusiness interest groups have gained in influence as a result of the district election system⁵. Other changes are a greater concern with neighborhood and other geographic issues, more open decision making, longer and more divisive council meetings, increased council member workloads and constituent contacts, improved representativeness on appointed boards and commissions, and more involvement by council members in administrative affairs....

The method of election has a modest effect on the orientation of council members to constituents⁶. Virtually all at-large council members define their constituency as the city as a whole, whereas those elected from districts view the district as their constituency. Still, over 70 percent of district members also see the city as their focus. At-large members are concerned about neighborhoods as well but almost none focus primarily on the neighborhood as their constituency. District members are also somewhat more constituency-oriented and spend a larger proportion of their time devoted to council duties doing services... The higher the income of the district, the less likely it is that the council member will stress constituent service.

¹ by James H. Svara in *Partnerships in Local Governance* approx 1989.

² Eugene C. Lee *The Politics of Nonpartisanship* (Berkeley; U of Calif. Press 1960); Willis D. Hawley, *Nonpartisan Elections and the Case for Party Politics* (New York: Wiley 1973); and Chester Rogers and Harold Arman “Nonpartisanship and Election to City Office,” *Social Science Quarterly* 51 (March 1971): 941-945.

³ Albert K. Karnig and Susan Welch, *Black Representation and Urban Policy* (Chicago: University of Chicago Press)

⁴ Joseph Zimmerman, *The Federated City* (New York: St. Martin's Press, 1972); Susan A. MacManus, Mixed Electoral Systems: the Newest Reform Structure," *National Civic Review* 74 (November 1985) 484-92; and R.Darcy, Susan Welch and Janet Clark, *Women, Elections and Representation* (New York,: Longman 1987), 40-41,

⁵ These changes and those in the remainder of this paragraph were observed in council-manager cities. See LBJ School of Public Affairs, *Local Government Elections Systems*, Policy Research Reoport n. 63 (Austin: Univeristy of Texas, 1984) 46-55, 145-146.

⁶ Hawley, *Nonpartisan Elections* op.cit.

FOR MORE INFORMATION

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Virginia Thompson

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Jon Belcher

Telephone: Home 343-6695 Work 937-2129

E-Mail: jbelcher@efn.org

OFFICE OF THE SECRETARY OF STATE

BILL BRADBURY
SECRETARY OF STATE



Appendix F

March 21, 2001

ELECTIONS DIVISION
JOHN LINDBACK
DIRECTOR
141 STATE CAPITOL
SALEM, OREGON 97310-0722
ELECTIONS - (503) 986-1518

Glenn Klein
Harrang Long Gary Rudnick P.C.
400 South Park Building
101 East Broadway
Eugene, OR 97401

Dear Mr. Klein:

Thank you for forwarding the materials concerning the Eugene Charter Review Committee's consideration of preference voting as a means of electing city officers. We understand that the review committee is presently considering a recommendation to the city council to refer a charter amendment to the voters in September to adopt preference voting. We appreciate the opportunity to comment on the proposal. We take no position on the policy choice between the current voting system and preference voting. However, for the reasons stated below we believe that state election laws must be amended before a charter amendment to adopt preference voting could be implemented.

We begin by acknowledging that the Oregon Constitution expressly recognizes the option of preference voting in Article II, section 16:

Provision may be made by law for the voter's direct or indirect expression of his first, second or additional choices among the candidates for any office.

In 1913, shortly after the 1908 adoption by initiative of Art II, section 16, the Oregon Supreme Court decided that a city could adopt preference voting by charter because a city charter is a "law".¹ These two sources appear to support the city's position that preference voting may be adopted by city electors for electing city officers. However, election law has changed substantially since 1913. In 1913 the city auditor directly conducted city elections.²

Beginning in 1979, the Oregon legislature made a series of changes to state election law. ORS 246.200 was adopted in 1979 and strengthened in 1983 to make it clear that only county election officials may conduct elections, notwithstanding any city or county charter to the contrary:

¹ *State ex rel v. Portland*, 65 Or. 273, 133 P. 62 (1913).

² 65 Or. at 275.

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Except as specifically provided otherwise in the statute laws of this state, the county clerk shall be the only elections official to conduct any election in this state. For the purpose of this section, the conduct of an election includes, but is not limited to, establishing precincts and polling places, preparing ballots and sample ballots, and receiving and processing votes.³

Other statutes echo this legislative policy to adopt a uniform state election law, supervised by the Secretary of State and carried out by county elections officials. For example, ORS 221.180 states "This section and ORS chapters 249 and 254 govern the manner of nominating *and electing* candidates for municipal offices *in all cities*."⁴ (Emphasis added). ORS 221.200 states "ORS chapters 246 to 260 govern the conduct of all city elections." At this time, nothing in ORS chapters 246 to 260 allows county election officials to tally votes for candidates in any manner other than as provided by ORS 254.065:

When one person is to be nominated for or elected to an office, the person receiving the highest number of votes shall be nominated or elected. When more than one person is to be nominated for or elected to a single office, the persons receiving the higher number of votes shall be nominated or elected.

Finally, ORS 254.016 provides:

Any biennial primary election, general election or special election held in this state shall be conducted under the provisions of this chapter, *unless specifically provided otherwise in the statute laws of this state*. (Emphasis added).

A city charter is not part of the "statute laws of this state." Therefore a charter provision is not sufficient to require a county elections official to conduct an election in a manner not allowed by state law.

You have drawn our attention to ORS 254.035, and particularly the final sentence of that statute. This statute states:

It is the intention of the legislature to carry out the provisions of section 14-a, Article II, Oregon Constitution. All elections for city officers shall be held at the same time and place as elections for state and county officers. The election boards for state and county elections shall be the election boards for city elections. *Unless a city charter or ordinance provides otherwise, the ballots and ballot labels used for state and county elections, if the county clerk considers it practicable, shall be arranged to include city offices and measures*. (Emphasis added).

³ This is the current statutory language. In 1979, when ORS 246.200 was first adopted, the introductory phrase was "Notwithstanding any other provision of law". Or Laws 1979, ch 317, sec 1. This was amended in 1983 to replace that phrase with "Except as specifically provided otherwise in the statute laws of this state". Or Laws 1983, ch 350, sec 63a.

⁴ ORS 221.180(3) recognizes the possibility of differing city charter or ordinance provisions specifically only in the "manner of filing for nomination."

The language about the city charter or ordinance was added in 1979 when the distinction, for election purposes, between cities larger and smaller than 2000 in population was abolished. The purpose was apparently to allow those cities accustomed to separate ballots to continue that practice.⁵ However, allowing a separate city ballot by state law is not equivalent to allowing a separate voting system that directly conflicts with state law. ORS 254.035 does not negate the clear direction in ORS 246.200 that the county clerk is the only official to conduct elections, including “preparing ballots” and “receiving and processing votes.” All ORS 254.035 suggests is that, if the city charter or ordinance so provides, the city may have a separate ballot for its officers and measures. It does not authorize a completely different voting system implemented through a separate ballot.⁶

Finally, the 1988 Oregon Supreme Court opinion in *City of Eugene v. Roberts*⁷ involved an analogous situation. The city in that case attempted to have a question placed on the primary ballot that was not a “measure” because it did not allow for a yes/no response. The court refused the city’s request to order county and state officials to place their question on the ballot because a city’s home rule authority does not “empower city governments to conscript the services of county and state officials in the conduct of city business.”⁸ We believe the preference voting question presented here would have the same outcome.

Our conclusion is based on the clearly stated legislative intent to preempt local legislation on the manner of the conduct of elections.⁹ In order to overcome the state policy of uniform elections, Eugene will need to obtain statutory authority to allow the county election official to prepare ballots that provide for preference voting and allow tallying of votes according to a system of preference voting.

⁵ Or Laws 1979, ch 190, sec 227.

⁶ This reading of ORS 254.035 is further supported by ORS 246.520. It provides:

All of the provisions of the election laws and of any county or city charter or ordinance not inconsistent with ORS 246.520 to 246.610 apply to elections where voting machines or vote tally systems are used. Any provision of law or of any county or city charter or ordinance which conflicts with the use of voting machines or vote tally systems as provided in ORS 246.520 to 246.610 does not apply to elections in which voting machines or vote tally systems are used.

⁷ 305 Or 641, 756 P2d 630 (1988).

⁸ 305 Or at 650.

⁹ See, for example, ORS 221.180, 221.200, 246.200, and 254.016. When the legislature intends to allow for local variation by ordinance or charter, it clearly says so. ORS 250.255 (state laws governing the city initiative process apply unless city charter or ordinance provides otherwise).

Thank you again for the opportunity to comment on this proposal. Please feel free to contact my office if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "John Lindback".

John Lindback
Director, Elections Division
Office of the Secretary of State

CITY OF EUGENE
INTER-DEPARTMENTAL MEMORANDUM
CITY ATTORNEY – CIVIL DEPARTMENT

To: Mary Walston – CMO

Date: March 30, 2001

Subject: Preference Voting

CONFIDENTIAL ATTORNEY/CLIENT COMMUNICATION – NOT
 SUBJECT TO RELEASE UNDER THE PUBLIC RECORDS ACT

This memorandum follows up my meeting with the Charter Review Committee last week.

I am enclosing a letter I received earlier this week from the state's new Elections Director. The letter addresses the questions we submitted to the state about the state's position with respect to the possibility of the City's use of preference voting for election of City Councilors. As you will see, the letter concludes that the City cannot use preference voting unless and until the legislature amends the state's election laws.

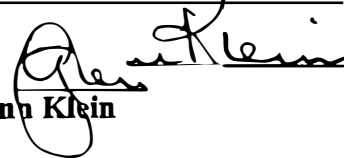
The letter raises several questions. For example, the letter does not explain how the legislature, by statute, can prohibit that which Article II, section 16 of the Constitution seems to allow. Also, the letter's reliance on *City of Eugene v. Roberts* ignores the Court of Appeals' suggestion that an attempt by the City to conduct its own election might present a significantly different question from the question presented in *Roberts* (conscripting state and county elections personnel). I hope to pursue these types of questions with the state next week. Since I am not sure how quickly I will be able to get these additional questions answered by the state, I did want to at least forward the letter to you as additional information for the committee.

The letter from the state confirms the oral conversations that I had with Lynn Rosik, who has now returned to the Attorney General's Office. Based on the letter and other information that I had earlier received, I continue to believe that the City will not be able to use preference voting unless: (a) the Legislature amends the statutes to expressly authorize preference voting; or (b) the City files and prevails in a lawsuit against the state. The Legislature clearly has the authority to authorize preference voting. It has not done so, at least, not clearly.¹ Filing a lawsuit will be far more expensive than a legislative fix.

With Spring Break over, I expect that I should be able to get additional information, including information from the Attorney General's Office on the single-subject question, next week. Once I do, I will forward that information to you. If you have additional questions before then, please do not hesitate to contact me.

HARRANG LONG GARY RUDNICK P.C. –
CITY ATTORNEYS

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 Enclosure
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 Glenn Klein

¹One of the questions that I intend to ask the state is whether the state believes that ORS 254.065 would allow the state to permit the use of preference voting.



City Attorney
Civil Department

City of Eugene
400 South Park Building
101 East Broadway
Eugene, Oregon 97401
(541) 682-5080

March 27, 2001

John Lindback, Director
Elections Division
Office of the Secretary of State
141 State Capitol
Salem, OR 97310-0711

Dear John:

Thank you for your letter dated March 21 regarding the City of Eugene's consideration of preference voting. We appreciate the time and attention that you and Lynn Rosik have devoted to looking at this issue. I will forward the information on to my client, and after the Charter Review Committee meets with the City Council in mid-April, I will be back in touch with you and Lynn to let you know how the City would like to proceed.

Sincerely,

HARRANG LONG GARY RUDNICK P.C.
– City Attorneys

A handwritten signature in cursive script, appearing to read "Glenn Klein".

Glenn Klein

GK:lke

cc: Lynn Rosik
Client

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CHAPTER 12

Appendix G

ETHICS

FOR PUBLIC OFFICIALS

- 12.010. Purpose
- 12.015. Definitions
- 12.020. Responsibilities of Public Officials and Employees Generally
- 12.030. Repealed.
- 12.040. Fair and Impartial Fulfillment of Duties
- 12.050. Conflicts of Interest
- 12.051. Disclosure of Confidential Information
- 12.052. Representing Private Interests Before City Agencies or Courts
- 12.060. Restrictions on Political Activities
- 12.070. Applicability
- 12.080. Effect of Violation

BOARD OF ETHICS

- 12.090. Created
- 12.100. Composition; Appointment of Members; Ex-officio Members
- 12.110. Terms of Members; Filling Vacancies
- 12.120. Chairman
- 12.130. Powers and Duties
- 12.140. Meetings

12.010. PURPOSE. The proper operation of democratic government requires that public officials be independent, impartial, and responsible to the people; the government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics is hereby established for all public officials, whether elected or appointed, paid or unpaid. The purpose of this code is to establish ethical standards of conduct for all such officials by setting forth those acts or actions that are incompatible with the best interests of the city and by directing disclosure by such officials of private financial or other interests in matters affecting the city. The provisions and purpose of this code and such rules and regulations as may be established are hereby declared to be in the best interest of the city. (Ord No. 5633; Ord No. 36-96)

12.015. DEFINITIONS. As used in this Chapter, unless the context requires otherwise:

(1) "Actual conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private benefit or detriment of the person or the person's relative or any business with which the person is associated unless the benefit or detriment arises out of circumstances described in ORS 244.020(8)(a) to (c).

(2) "Business" has the meaning defined in ORS 244.020(2).

(3) "Business with which the person is associated" has the meaning defined in ORS 244.020(3).

(4) "Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the benefit or detriment arises out of the following:

A. An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.

B. Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated is a member or is engaged.

C. Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.

(5) "Public official" means any person who, when an alleged violation of this chapter occurs, is serving the city as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services.

(6) "Relative" has the meaning defined in ORS 244.020(16). (Ord No. 36-96)

12.020. RESPONSIBILITIES OF PUBLIC OFFICIALS GENERALLY.

Public officials are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the constitution of this state and to carry out impartially the laws of the nation, state, and municipality and thus to foster respect for

all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal consideration, recognizing that the public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach. (Ord No. 5633; Ord No. 36-96)

12.030. Repealed. (Ord No. 5633; Ord No. 36-96)

12.040. FAIR AND IMPARTIAL FULFILLMENT OF DUTIES. (a) Interest in appointments. Contacting members of the council, directly or indirectly, in order to obtain preferential consideration in connection with any employment by the city service shall disqualify the candidate for employment except with reference to the city manager's position.

(b) Use of public property. No public official shall request, use or permit the use of city-owned vehicles, equipment, materials, or property for personal convenience or profit except when such services are available to the public generally or are provided as municipal policy for the use of such official in the conduct of official duties.

(c) Preferential treatment to individuals generally. No public official shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen. (Ord No. 5633; Ord No. 36-96)

12.050. CONFLICTS OF INTEREST.

When met with an actual or potential conflict of interest, a public official shall act as provided in ORS 244.120, except that a public official shall not be eligible to vote when met with any actual conflict of interest. (Ord No. 5633; Ord No. 156-81; Ord No. 29-95; Ord No. 36-96)

12.051. DISCLOSURE OF CONFIDENTIAL INFORMATION. No public official shall, without proper legal authorization:

(a) Disclose confidential information concerning the property, government or affairs of the city; or

(b) Use information described in subsection (a) of this section to advance the financial or other private interest of himself or herself or others. (Ord No. 36-96)

12.052. REPRESENTING PRIVATE INTERESTS BEFORE CITY AGENCIES OR COURTS. No member of the council or employee whose salary is paid in whole or in part by the city shall appear in behalf of private interests before any agency of the city. He or she shall not represent private interests in any action or proceeding against the interests of the city in any litigation to which the city is a party. A member of the council may appear before city agencies on behalf of constituents in the course of his or her duties as a representative of the electorate or in the performance of public or civic obligations. However, no member of the council or employee whose salary is paid in whole or in part by the city shall accept a retainer or compensation that is contingent upon a specific action by a city agency. (Ord No. 36-96)

12.060. RESTRICTIONS ON POLITICAL ACTIVITIES. (a) No appointed public official shall simultaneously hold an elective public office or position without first obtaining the approval of the council after recommendation by the city manager. Any denial of

such a request shall be based upon a showing that the city has a compelling governmental interest warranting such action.

(b) No public official shall promise an appointment to any municipal position, favorable treatment or the influence of the public official's office or other favor or reward in return for partisan political activity on the official's behalf, or on behalf of any candidate or cause. (Ord No. 5633; Ord No. 3-74; Ord No. 159-74; Ord No. 40-81; Ord No. 36-96)

12.070. APPLICABILITY. A public official who has doubt as to the applicability of a provision of this Code to a particular situation should apply to the Board of Ethics for an advisory opinion and be guided by that opinion when given. The public official shall have the opportunity to present an interpretation of the facts at issue and of any applicable provision of the Code before such advisory decision is made. This Code shall be operative in all instances covered by its provisions except when superseded by an applicable statutory or charter provision or when the application of a statutory or charter provision is discretionary but determined by the Board of Ethics to be more appropriate or desirable. (Ord No. 5633; Ord No. 36-96)

12.080. EFFECT OF VIOLATION. Violation of any provisions of this Code should raise conscientious questions for the public official concerned as to whether voluntary resignation or other action is indicated to promote the best interest of the city. Violation may constitute a cause for removal from office or other disciplinary action. (Ord No. 5633; Ord No. 36-96)

BOARD OF ETHICS

12.090. CREATED. The city Board of Ethics is hereby created. (Ord No. 5634; Ord No. 36-96)

12.100. COMPOSITION; APPOINTMENT OF MEMBERS; EX-OFFICIO MEMBERS. The Board of Ethics shall consist of five members appointed by the mayor from the public at large and confirmed by the council. Members shall be residents of the city. The city attorney and the personnel director shall serve as ex-officio nonvoting members. The city attorney shall act as legal counsel and the personnel director as secretary for said board. (Ord No. 5634; Ord No. 95-72; Ord No. 10-93; Ord No. 36-96)

12.110. TERMS OF MEMBERS; FILLING VACANCIES. The mayor shall appoint the members of the initial board for staggered terms: two members for three years; two members for two years; and one member for one year. Subsequent appointments shall be made for a term of three years. No member shall serve more than two consecutive terms. The mayor, with confirmation from council, shall fill any vacancy on the board caused by resignation, death, or removal and shall appoint a successor for the unexpired term of the member. (Ord No. 271-66; Ord No. 95-72)

12.120. CHAIR. The board shall annually select a chair from among its own members. (Ord No. 5634; Ord No. 95-72; Ord No. 36-96)

12.130. POWERS AND DUTIES. It shall be the function of the Board of Ethics to implement the Code of Ethics, adopted by the council for public officials. The duties of the board shall be:

- (1) To receive and initiate complaints of violations of the Code of Ethics;
- (2) To hear and investigate complaints and transmit the findings and recommendations, if any, to the appropriate authorities or officers;
- (3) To render advisory opinions or interpretations with respect to application of the Code, either on request or on its own initiative; and
- (4) To propose revisions of the Code to assure its continuing pertinence and effectiveness. (Ord No. 5634; Ord 36-96)

12.140. MEETINGS. The Board of Ethics will meet at the call of the chair. (Ord No. 5634; Ord 36-96)

***Excerpts from Citizen Charter Review Committee Meeting Minutes
Discussing Intergovernmental Agreements (IGAs) and Memorandum of
Understanding (MOUs)***

October 11, 2001

Ms. Colbath asked if Mr. Donohue would like to start the discussion. Mr. Donohue referred to an e-mail that had been sent earlier in the week with his draft language addressing MOUs and IGAs in the City Charter. The proposal was as follows:

Section 16 (3) The City Manager, or any Agent of the City Manager, shall make binding commitments of City resources or services exclusively through contracts or Inter-Governmental Agreements.

Mr. Donohue said he thought that the language embodied what the committee had been discussing as far as classifying what document can and cannot bind the City to commitments. Mr. Donohue pointed out that rather than trying to define a MOU or IGA, he stipulated that binding commitments of City resources could only occur through two specific documents; a contract or an IGA. He noted that would allow MOUs to be utilized to document stages of negotiation between the City and some other entity.

Ms. Walston reported that she had feedback from the City Attorney regarding the proposed language and had he pointed out two possible areas of concerns to consider:

- Binding commitments can also fall under administrative rules such as parking rates. The language could preclude this.
- Could also get in the way of employee policies that may be set as commitments of the City.

Mr. Jim Johnson pointed out that the main reason the committee was originally concerned with MOUs was because of the MOU that was written in agreement with Hyundai. He said that those concerns were not being addressed with the proposed language.

Mr. Bern Johnson further discussed the Hyundai MOA. He said that he thought that language might be crafted that would be more general in nature and be along the lines of "directing the City Manager to not enter into any agreement that would have a substantial likelihood of affecting the quality of life and economy of Eugene without consulting with the City Council." He said this kind of approach might more likely address the concerns of the committee. He added that it would be difficult to create language that would be acceptable for this philosophy.

Mr. Wells expressed concern that the committee was defining terms that would be telling judges what is binding and what is not.

Mr. Tollenaar said he thought that Mr. Donohue's language could be fine-tuned to meet the needs of the committee. He suggested adding words to the language to address the City Attorney's concerns regarding administrative rules and personnel policies. He said he would amend the language to read "shall make binding commitments of City resources *to private or public entities* or services exclusively through contracts or Inter-Governmental Agreements." Mr. Tollenaar pointed out another approach to

the language by starting out with something like “*An MOU is a means of memorializing the status of negotiation of the City*” and then add “*an MOU may not bind the City to any future action.*” He said it was also possible to define action as an expenditure of City resources, a reduction of City revenues or a commitment of City services.

Mr. Donohue pointed out that no contract will specifically seen by the City Council unless the dollar amount is high enough to trigger review. He added that the proposed language does not provide City Council oversight.

Mr. Tollennar clarified that the committee was discussing two different issues:

- What an MOU is and what it can and cannot do.
- At what point, if any, does the City Council get involved.

Mr. Tollenaar said that he thought the committee should be dealing with the “What is an MOU.” He pointed out that the second topic had already been decided with the adoption of Mr. Bern Johnson’s language regarding contracts. Mr. Donohue said he agreed that there were two different issues and that it might be possible that a previous decision would need to be revisited.

Members further discussed the role the City Council should play and also what its role in public policy should be. Mr. Tollenaar said he thought that the City Council should be allowed to determine the extent that it wants the City Manager involved in policy and not try to define in the City Charter or by ordinance. He further stated that he thought Mr. Donohue’s proposed language should still be considered as a good basis.

Mr. Belcher pointed out that this was an issue that might best be resolved with a subcommittee that could then bring back specific recommendations for the committee to discuss. Ms. Colbath asked if there were any volunteers for such a subcommittee and Mr. Wells, Mr. Donohue, Mr. Tollenaar, and Mr. Belcher replied in the affirmative.

Mr. Belcher said it would be helpful to have some guidance. Mr. Jim Johnson said it would be easier for the City Attorney to respond to the instrumentality of policy called “contracts” and work on continuing the discussion around MOUs. He added that he thought it would be better for the sub-committee to address the City Council’s roles regarding oversight and public policy.

Mr. Donohue asked if the City Attorney would specifically address the proposed language in his e-mail and get that opinion to the subcommittee. Mr. Jim Johnson said that he would do that.

October 18, 2001

Further Discussion of Memorandum of Understanding (MOUs)

Mr. Jim Johnson introduced City Attorney Jerry Lidz, and said that he would be available for questions for not only the MOUs but for the rest of the agenda as well.

Mr. Lidz indicated that he had received an e-mail from Ms. Walston with proposed language by Mr. Bern

Johnson. The language is as follows: *The City Manager shall consult with the City Council before entering into any agreement that may substantially affect city revenues, public improvements or public policies.*” Mr. Lidz’s comments were as follows:

- He was not sure how Mr. Bern Johnson’s draft language pertained to MOUs.
- The label that is put on an agreement does not indicate the characteristics of the contents. An MOU could have the same effect as a contract or Intergovernmental Agreement (IGA) depending on whether the MOU has the same elements of a contract and reflected an intent to bind the concerned parties.
- He understood that the committee’s intent was to restrict the City Manager’s ability to enter into an MOU, but asked for clarification as to why.

In response to Mr. Lidz, Mr. Tollenaar said that the wording of the draft language was to convey the committee’s intention that MOUs are not used to bind the City to any course of future action. He added that the committee’s perception is that the purpose of an MOU is to memorialize a status of negotiations between the City and one or more outside parties at any point in time. Mr. Tollenaar clarified that he was talking about draft language that Mr. Donohue had proposed in a previous meeting. That language is as follows: *The City Manager, or any Agent of the City Manager, shall make binding commitments of City resources or services exclusively through contracts or Intergovernmental Agreements.*

Mr. Lidz asked what would prevent the City Manager from crossing out “MOU” and writing “contract” across an agreement to avoid the intent of the draft language. Mr. Donohue responded that the committee had previously recommended language that would require the City Council to review any contract over a specified dollar amount. He added the committee’s intent was to have any binding commitment be called a contract or intergovernmental agreement to trigger City Council approval. Mr. Lidz said that Mr. Donohue’s language may accomplish the goal, but that it was probably unnecessary since a contract could be labeled an MOU.

Mr. Wells said he thought the committee’s intent was to change behavior. He added that language providing motivation for desired behavior rather than legalese would probably be a better approach.

Ms. Colbath suggested that she agreed that Mr. Donohue’s language might not change anything and so the committee had chosen to take a different approach that was proposed in Mr. Bern Johnson’s language.

Mr. Lidz indicated that Mr. Bern Johnson’s proposal could work but he would have questions regarding the scope and the intent.

Mr. Jim Johnson said he thought what the committee wanted was language that deals with the larger issues and trying to get the City Manager to talk to the City Council about those issues.

Mr. Lidz pointed out he would have concerns with the word “consult” in Mr. Bern Johnson’s proposal. He asked, for instance, what would the consequences be if the City Manager did not consult with the City Council. He also pointed out that he was unsure as to where in the City Charter such a provision would be located.

The committee further discussed both Mr. Donohue’s and Mr. Bern Johnson’s proposal and received feedback from Mr. Lidz on language and placement in the City Charter.

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Mr. Wells expressed concern that no ongoing problem had been articulated and that the only issue the committee was trying to guard against was the isolated Hyundai MOU of four years ago. He said he thought that there was currently language that provided the City Council with oversight if it chose to use it.

After committee discussion, Ms. Colbath asked Mr. Lidz if he would be willing to craft draft language to convey the committee's intent. Mr. Donohue expressed his concern that the committee had run out of time on the topic of MOUs and that it would be difficult to come to consensus on the approach and also craft language that would be acceptable.

Mr. Donohue moved, seconded by Mr. Tollenaar, that the committee terminate inquiry on the MOU issue.

Mr. Belcher said he thought the topic was an important one and that the committee would be remiss if the committee dropped it. Ms. Thompson said if the committee did decide to accept the motion, she would recommend that a clear discussion should be presented to the City Council so it could consider the committee's concern. Mr. Donohue agreed with Mr. Belcher that it was an important topic but that it would be better to have the City Council be made aware of the committee's concern and then take the necessary time and research to come up with an appropriate solution.

Ms. Colbath said she would be disappointed if the committee did not at least give the City Attorney an opportunity to craft language for members to work with. She said she thought the City Council's charge to the committee was to come up with a recommendation. She added that if the City Attorney did not feel he could come up adequate language, a memo stating that could be addressed to the committee and forwarded to the City Council to let it know that the committee had utilized its resources.

Mr. Donohue said he thought that the MOU issue was a large enough issue that it should be considered by the City Council, and also that the committee was not charged with dealing with MOUs and IGAs, only contracts and purchasing.

Mr. Tollenaar called for the question.

The motion to terminate discussion on the debate passed unanimously.

Mr. Wells offered a friendly amendment to the original motion to add that the committee's MOU/IGA discussion be forwarded to the City Council. Mr. Donohue and Mr. Tollenaar both accepted this amendment.

The following motion was voted on:

Mr. Donohue moved, seconded by Mr. Tollenaar, that the committee terminate inquiry on the MOU issue and recommended that the Citizen Charter Review Committee's MOU/IGA discussion be forwarded to the City Council.

The final vote was 4:3 (Ms. Colbath, Mr. Belcher, Mr. Cassidy dissenting).

TOLLENAAR AND ASSOCIATES

Appendix I

PUBLIC AFFAIRS MEDIATION, RESEARCH, AND CONSULTATION

1522 Russet Drive, Eugene OR 97401
Phone: (541) 345-4878

May 4, 2001

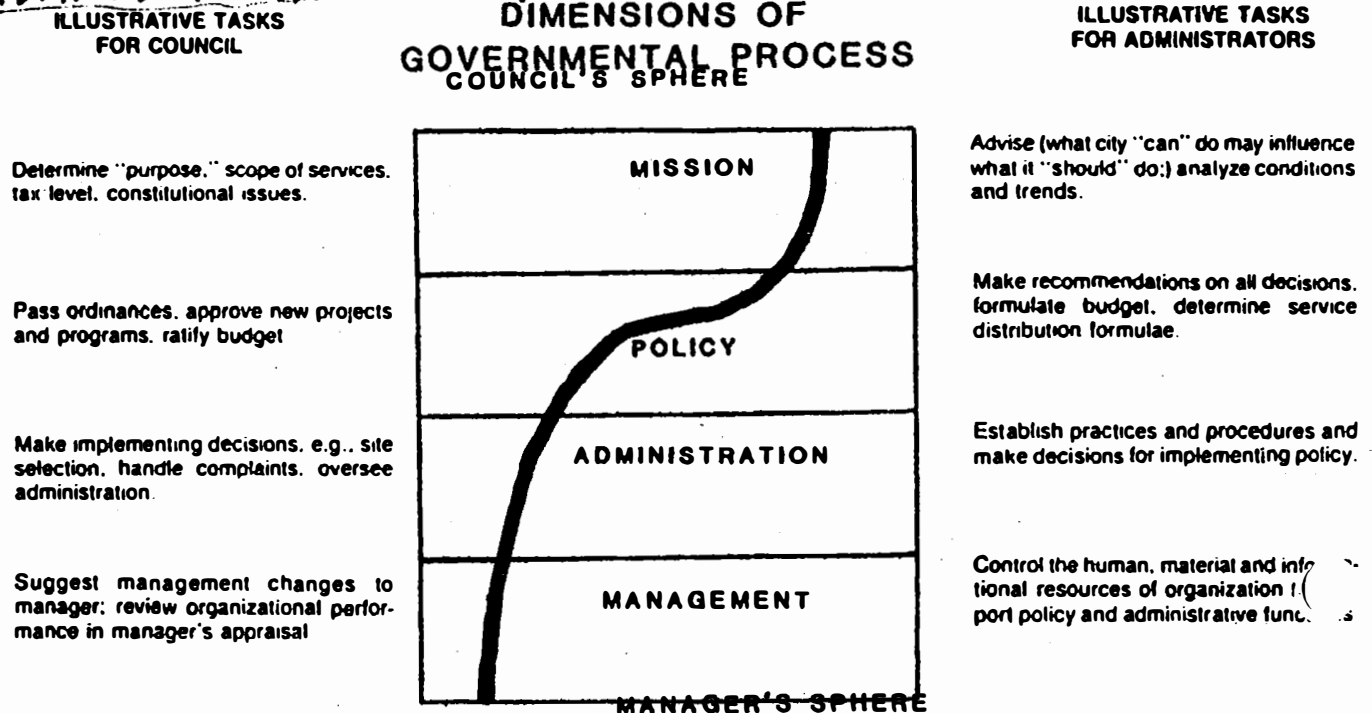
Dear Committee:

You may find the attached materials helpful as we proceed with consideration of the role of the city manager. Both the graph and the article are by James Svara, who in my opinion has done the best available research on the council-manager plan. Note that the article also has some interesting stuff on wards v. at-large elections for council.

Ken

FIGURE 2
Mission-Management Separation with Shared Responsibility for Policy
and the Administration

SOURCE: JAMES H. SVARA, "DICHOTOMY AND DUALITY: RECONCEPTUALIZING THE RELATIONSHIP BETWEEN POLICY AND ADMINISTRATION IN COUNCIL-MANAGER CITIES" *PUBLIC ADMINISTRATION REVIEW*, JANUARY/FEBRUARY 1985



The curved line suggests the division between the Council's and the Manager's spheres of activity, with the Council to the left and the manager to the right of the line.

The division presented is intended to roughly approximate a "proper" degree of separation and sharing. Shifts to either the left or right would indicate improper incursions.

for reasons to be discussed below, represents, hypothetically "ideal" division of authority. The size of the spheres is not based on absolute values at this stage in the development of the model, but rather is intended to be suggestive of tendencies in council-manager relations. One can make relative distinctions and compare different jurisdictions or note shifts of responsibility in a single city over time.

The variations among the five study cities are marked, although the differences fall within a narrow

range that does not fundamentally shift authority for any function. Four patterns can be abstracted from the research. The "Strong Manager" pattern is suggested by Figure 3a, in which the boundary line is shifted to the left, and the manager's space for action is larger in all functions. The council becomes a "board of directors" which relies on the manager's advice concerning mission and grants him or her extensive discretion in all areas. The opposite is the "Council Dominant" pattern in Figure 3b, in which the line is shifted to the right. The

Roles and Relationships in Council-Manager Cities: Perspectives from Recent Research

James H. Svava

To a great extent, the relationship between elected officials and staff determines the performance of council-manager governments. When officials work together cooperatively and fill their jobs well, council-manager governments are capable of providing a high quality of local government. A constructive relationship requires that local government officials understand their distinct roles and responsibilities. Findings from recent scholarly research yield insights into the nature of the jobs of council members and managers and they have implications for developing more constructive interaction among officials and more effective governance and management.

The discussion examines the context and the nature of relationships among officials in council-manager government, the bases for dividing responsibilities between the council and staff, three distinct roles for council members and managers, and the interaction between election systems and council roles. This article draws on the relevant research literature in political science and public administration journals and books and on studies conducted by the author, in particular surveys of city managers in North Carolina and Ohio.¹

Context and Nature of Relationships

There are divergent patterns of interaction among officials in cities that use different forms of government. Typically, in council-manager cities, officials work together cooperatively. Their cooperation is rooted in shared goals and an absence of competition between the council and the manager for attention and public acclaim. Cooperation also reflects a tendency to divide and share tasks in ways that use the distinct talents of elected officials and appointed professionals. Although cooperation is not automatic, it is possible to achieve. The situation is different in mayor-council governments in which officials have offsetting powers and opposing interests. There the typical relationship between mayors and councils is based on conflict.²

Conflict is not necessarily bad nor is cooperation always good. Recognition of differences is important for understanding the context in which roles and relationships are developed. Different types of behavior are also possible. To a greater extent than in any other form of city government, officials in council-manager cities can consciously seek to mold their individual roles to achieve a desired relationship. Council members and managers can fill their respective roles without obstructing one another.

As Table 1 indicates, this potential for cooperation is being realized in most of the cities in North Carolina and Ohio. Managers in these cities responded to a

survey conducted in 1987 and 1988 that measured the interactions between governing boards and managers. Virtually all managers reported that they have a good working relationship with the governing board.³ Also, around 80 percent of the managers indicated that they feel that the council effectively draws on the expertise of professional staff and refrains from making excessive demands for reports, studies, or information. Most managers also reported that the council members have good relationships with each other and that the mayor works well with the rest of the board. The overall relationship among all officials in most of these city governments is positive. Over two-thirds of the managers in both states rated their relationships as good or very good. In roughly a quarter of the cities, the relationship was rated as satisfactory but could be improved. A negative pattern of relationships is rare, occurring in only 2 percent of North Carolina cities and 7 percent of those in Ohio.

Results from a survey of council members in six moderately large cities indicate that elected officials share the opinion of city managers. All respondents considered the council and manager to have a good working relationship. Over three-fourths of the council members credited the manager with providing the council with sufficient alternatives for making policy decisions. Only one third of these council

Table 1.
Relationships Among Officials in Council-Manager Cities
In North Carolina and Ohio

	% Agreeing*	
	NC	Ohio
The council and manager have a good working relationship.	92.4	94.3
The council effectively draws on the expertise of professional staff.	83.2	79.2
The council makes excessive demands for reports and information.	16.8	28.3
The council members have a good working relationship with each other.	78.6	77.3
The mayor and council have a good working relationship.	80.1	77.8
How would you assess the overall working relationship among officials in your city?		
	NC	Ohio
Very positive	38.9	32.1
Good	29.8	35.7
OK, but could be improved	29.0	25.0
Poor	2.3	7.1
Very poor	0.0	0.0
	100.0	100.0

*N=131 managers in North Carolina and 56 managers in Ohio.

members reported that their intervention was needed to secure adequate response from staff for citizens.⁴

These findings indicate that officials in the council-manager form commonly achieve harmony as they work together in city government. Although cooperation is not universal—indeed, approximately three managers in ten reported that the relationship is no better than satisfactory and could be improved—the potential for creating these conditions is high given the characteristics of the council-manager form of government.

Dividing Responsibilities in the Governmental Process

Much of the political science research into city government interpret the relationship of the council and the manager in a negative way. The traditional idea that council members determine policy and that the manager handles administration is viewed as being a misrepresentation of who actually wields the power in the council-manager form of government. According to the research, council-manager governments demonstrate weakened democratic accountability and responsiveness.⁵ The research shows that despite apparent tranquility in local government relationships, elected officials are manipulated by administrators who monopolize information and organizational resources.⁶ Furthermore, the manager and staff use their control of administrative details to determine policy itself, but they conceal their policy role to avoid conflict with the council.⁷ The claim is made that managers are essentially political officials—and because of that interested in expanding their own interests—rather than professionals who serve the public interest.⁸ From this perspective, the council's role is minimal and responsibilities are divided in such a way that the managers dominate the city council.⁹

These political science arguments about the division of responsibility are challenged, however, by recent research into the theory and practice of the council-manager form of government and the roles of officials within it. Like the political science research, this research discounts the standard assumption that there is a simple dichotomy between policy and administration, but it demonstrates that democratic control is compatible with extensive contributions from the manager and staff.¹⁰ Thus, assessment of roles and relationships starts with neither an idealized view of neatly divided spheres of activity nor the gloomy conclusion that bureaucrats control city government. Data that measure the attitudes and behavior of officials are starting to clarify the complex issue of how officials divide and share responsibilities.

Studies show that in any city, regardless of form of government, city officials are responsible for the following four dimensions: 1) Mission—the goals and purpose of city government; 2) policy—the policies, plans, programs, and services needed to accomplish goals; 3) administration—the methods and processes involved in implementing policy and delivering services; and, 4) management—the structure, systems, and procedures for controlling and coordinating the human and material resources of the organization.

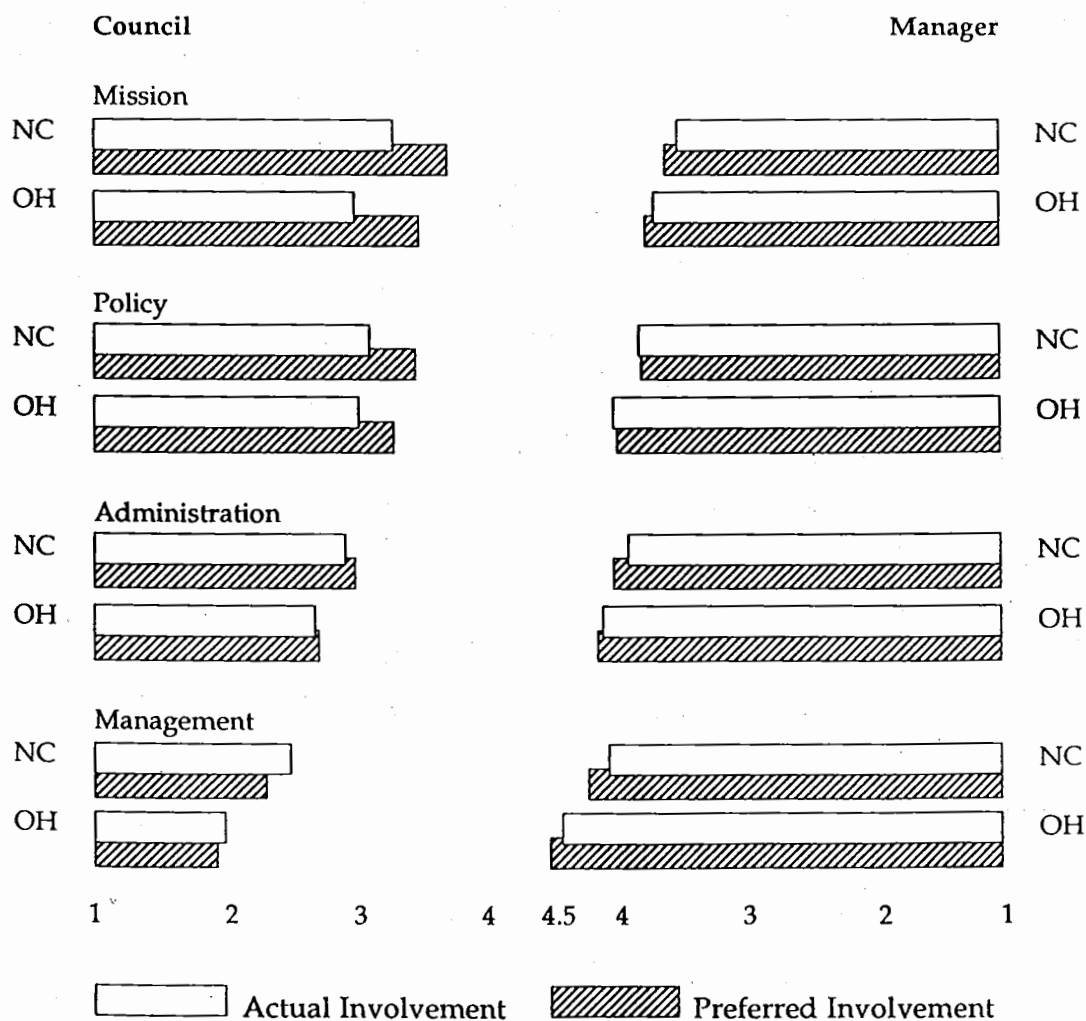
The question, then, is how to divide responsibility for decisions in the governmental process among different kinds of officials. In council-manager governments, the division both reconfirms and departs from the traditional model of separate spheres. There is a separation of ultimate responsibility for mission and management at the same time that there is a sharing of responsibility for policy and

Partnerships in Local Governance

administration. Mission is determined by elected officials and management issues are determined by the manager and staff. In between lie policy and administration—shaped by the elected officials and managers and staff.

The surveys of managers in North Carolina and Ohio reveal the extent of involvement of council members and managers in handling these decisions, and they show how specific cities vary from the typical division of responsibilities. These surveys measure the governing board's and manager's initiative in and contributions to decision making. Figure 1 presents the general pattern of involvement. When specific decisions are grouped according to the four dimensions and when the involvement ratings (measured on a five-point scale) are averaged for each dimension, the greatest involvement by the council is in the mission dimension. Less involvement is found in policy, slightly less in administration, and the

Figure 1.
Rating City Managers on the Actual and Preferred Involvement of
City Council and Manager*



least in management. These levels of overall involvement are similar in North Carolina and Ohio cities, except that in the latter there is little difference in the ratings for mission and policy decisions. In separate ratings of the desired level of involvement, the managers indicate that they would prefer the governing board to be much more active in mission and more involved in policy. Managers would prefer that the governing boards take a substantially larger part in determining the purpose and scope of government, analyzing future needs, and shaping strategies for the future. Council members should, in the manager's opinion, contribute more to developing annual programs goals and objectives.

According to the managers, the council should continue the same overall modest level of activity in administration—although this reflects a desire for increased involvement in certain activities and less in others. For example, council members should, in the managers' opinion, participate more in evaluating programs but they should spend less time investigating citizen complaints. Finally, managers would prefer that council members be slightly less involved in management, particularly in hiring decisions. Still, the involvement of the council in management decisions is already low.

To some extent, councils behave differently depending on the size of the city. In all types of decisions the involvement of the council is greatest in the very small cities—those under 2500 in population.¹¹ Given the small scale and close personal and official relationships in those communities, council members can be involved even in those administrative and management decisions that are commonly handled by the manager in larger communities. Even in the smallest cities, however, the council's involvement is less in these areas than in mission and policy. There is a slight tendency for the council in large cities (over 40,000 in this analysis) to be more active in mission and policy than the council in middle-size cities, although this difference is more evident in North Carolina than in Ohio. In the largest cities, there may be more activists who have policy concerns on the council. In the cities in the middle population range, governing board members are more likely to adopt a reviewing and advising approach; they tend to initiate somewhat less than their counterparts in the very small or large cities.

The managers' level of involvement is usually higher than that of council members. In mission and policy, managers display moderately high to high levels of involvement in both North Carolina and Ohio, as indicated in Figure 1. They are somewhat more inclined to act in an advisory rather than initiating capacity in mission and policy decisions, but they offer leadership in both areas. Their initiative is even more evident in administration and management. The overall picture is of managers serving as full participants in all areas of local government.¹²

The managers' preferred level of involvement for themselves indicates that they are satisfied with their current level of involvement. When council members are surveyed, their actual and preferred ratings of the manager's involvement are also similar. Managers, therefore, are comprehensively active officials, and both they and council members like it that way.¹³

Thus, managers do not ignore their own extensive contributions to policy formulation. Managers would like to see the council play a larger role than it does, particularly in determining the goals, priorities, and programs of city government. There is no evidence in the data that managers wish to displace the council's contribution; indeed, they would like to enhance it. For their part, council members acknowledge the manager's leadership, but they, too, would like to make a bigger contribution to mission and policy.

Roles of Council Members and Managers

This article has focused so far on the activities of officials as participants in governmental decision making. In this capacity, council members act in their role as governors of the community and managers act in their role as advisers and executives to the council and the governmental organization. Each party takes a different route to office and has a different perspective of the nature of his or her activity as a public official.

There are two other roles that also reflect the distinct orientation of council members and managers.¹⁴ Council members are linked to citizens and groups in the community through their role as elected representatives. They serve constituents, groups, and the community as a whole. Managers are also committed to serve the public interest and the people in their city, but they do not have a constituency from which they are chosen and to which they are directly accountable. Instead, managers serve as professionals, linked to a community of practitioners, a body of knowledge, and a set of standards for proper conduct.¹⁵ Given these different backgrounds, council members and managers do not always see things in the same way. Thus, disagreements that have traditionally been characterized as politics versus good government may actually be rooted in the divergent perspectives of the representational versus professional roles.¹⁶

The third complementary role is derived from the formal authority relationship between the council and the manager. The council acts as employer and appraiser of the manager. The manager, in turn, is the employee dependent on the council for selection, continuation in office, and compensation. Occasionally, the council, which often depends on the manager for guidance and information, must act as a supervisor to issue instructions and evaluate performance.

The remainder of this section examines in more detail how these roles are filled and it emphasizes in particular the roles of council members. The job of a council member is challenging in that it requires the council member to fill diverse representational, governance, and supervisory roles. It is difficult to fill these roles equally well and to prevent performance in one role from interfering with performance in another. For example, council members face a dilemma when their constituents favor one position and the long-term needs of the community point to a contrary position. In such a case, the perspective of the council member as a representative is at odds with his or her perspective as a governor, and council members must decide which role will take precedence in each instance.

Table 2 presents a number of indicators of how council roles are being filled. With regard to the representational role, there are pressures on elected officials to spend much of their time responding to citizen requests for services, although most city managers do not agree that the members of the council devote too much time to providing citizen services. Managers in most cities in North Carolina contend that council members encourage citizens to refer complaints directly to staff, but this is true in less than half of the Ohio cities where managers claim that council members are more likely to carry the complaints forward themselves. It is fairly uncommon for council members to try to get special services and benefits for their constituents, according to the managers, but it does happen in slightly over a third of the cities.

When the managers were asked to evaluate the council's performance of its governance roles, the responses were mixed. As Table 2 indicates, 70 percent of the city managers in North Carolina feel that the council provides sufficient direction

Partnerships in Local Governance

and overall leadership to government; this opinion is held by a majority of the managers in Ohio. There are, however, a number of indicators of shortcomings as well. Despite good provision of overall direction by the councils, two out of three managers feel that their councils focus excessively on short-term problems and neglect long-term concerns. They are viewed more as reviewing and vetoing agencies than as being leaders in policymaking. Approximately two out of five

Table 2.

Council Role Performance in Council-Manager Cities in North Carolina and Ohio

	% Agreeing*	
	NC	Ohio
Representational Role		
Council members devote too much time to providing citizen services.	30.5	21.8
Council members encourage citizens to refer complaints directly to staff rather than going through council members.	63.3	41.8
Council members try to get special services and benefits for their constituents.	35.9	34.5
Governance Role		
The council provides sufficient direction and overall leadership to government.	70.2	54.7
The council focuses too much on short-term problems and gives too little attention to long-term concerns.	66.4	69.8
The council is more of a reviewing and vetoing agency than a leader in policymaking.	63.4	64.2
The council has difficulty making clear decisions.	45.8	41.5
The council does not have enough time to deal effectively with important policy issues.	37.4	41.5
The council deals with too many administrative matters and not enough policy issues.	37.4	40.0
The council understands its role in administration.	68.3	67.9
The council is too involved in administrative activities.	25.9	37.7
Supervisory Role		
The council's appraisal of the manager's performance is satisfactory in depth and frequency.	58.5	41.5
*N=131 managers in North Carolina and 56 managers in Ohio.		

managers feel that their councils have difficulty making clear decisions and do not have sufficient time to deal effectively with important policy issues. Council members themselves consider their performance in the representational role to be better than in the governance role. Almost all give themselves high marks for responding to citizen needs, but only half feel that they are highly effective at establishing long-range goals for their cities.¹⁷

The managers in two cities out of three feel that the council understands its role in administration. However, approximately two out of five managers feel that their councils deal with too many administrative matters and not enough policy issues. Some are too involved in administrative activities, particularly in Ohio.

A key activity in the council member's supervisory role is evaluating the performance of the manager. This may be done formally or informally, at a fixed time each year, at intervals, or at random. A majority of the North Carolina managers feel that the council's appraisal of the manager is satisfactory in depth and frequency, whereas only two-fifths of the Ohio managers share this opinion. Although the opportunity for the council to evaluate the executive officer is a unique feature of the council-manager form of government, adequate feedback is not being provided in many cities. Managers would like to have more feedback about how they are doing their job.

Election Systems and Council Roles

Whether council members are elected by at-large or district systems affects how closely the council members mirror the population characteristics of the city and also how they view their job. At-large elections, especially if nonpartisan, usually provide an advantage to businessmen and professionals from affluent neighborhoods who have been active in civic affairs through voluntary city-wide service organizations,¹⁸ although the differences should not be exaggerated. As indicated by estimates derived from a national survey of council members, district/partisan elections can increase by four to six percentage points the proportion of members on the council from the lowest income and educational groups.¹⁹ Sixty-two percent of council members elected from districts are owners, professionals, or managers versus 70 percent of those elected at-large. Controlling for the characteristics of the city, there are no occupational differences between council members elected in partisan and nonpartisan elections.

The use of districts has increased the geographical representativeness and diversity of membership: all parts of the city have seats on the council, and minority groups, if large enough and concentrated in certain neighborhoods, are more likely to be represented.²⁰ Groups widely dispersed throughout the city, however, are not necessarily represented more fairly, nor are women as likely to be elected in district elections.²¹ Business interests have less direct representation, and neighborhood groups and nonbusiness interest groups have gained in influence as a result of the district election system.²² Other changes are a greater concern with neighborhood and other geographic issues, more open decision making, longer and more divisive council meetings, increased council member workloads and constituent contacts, improved representativeness on appointed boards and commissions, and more involvement by council members in administrative affairs.

Research from the 1960s documented a Republican and conservative bias in nonpartisan cities. It showed that upper class candidates—more often Republican—were more likely to be elected, although there was also a mild Democratic bias

Partnerships in Local Governance

in cities with a Republican majority.²³ A recent study, however, concludes that partisan bias does not result from nonpartisan elections except in isolated situations, particularly when at-large elections are used.²⁴ The increased mobilization of neighborhood and minority groups has strengthened the Democratic vote as has the use of district elections.²⁵ Furthermore, nonpartisan council members are only slightly more conservative than partisan ones, and they are more liberal on some issues.

The method of election has a modest effect on the orientation of council members to constituents.²⁶ Virtually all at-large council members define their constituency as the city as a whole, whereas those elected from districts view the district as their constituency. Still, over 70 percent of district members also see the city as their focus. At-large members are concerned about neighborhoods as well, but almost none focus primarily on the neighborhood as their constituency. District members are also somewhat more constituency-oriented and spend a larger proportion of their time devoted to council duties doing services. In cities with mixed systems, the roles are blurred. The income of the district is also important to constituency orientation.²⁷ The higher the income of the district, the less likely it is that the council member will stress constituency service.

Summary

The council-manager form of government combines the leadership of elected officials and of administrators. Generally, council members and managers cooperate in their interactions with each other and in the way they divide responsibilities: the council is responsible for determining the mission of city government—with extensive support from the manager; the manager is responsible for organizational management; and both sets of officials contribute to policymaking and implementation. In some cities, elected officials and administrators would like to see councils give greater attention to determining the goals and priorities of the government and to be less involved in constituency service. Councils often need to strengthen their appraisal of the manager's performance. To some extent, these shortcomings in performance reflect the difficulty that council members have in balancing their diverse governance, representational, and supervisory roles.

Finally, election institutions, particularly district versus at-large elections, affect how council members view their representational role, define their constituency, emphasize their representational versus governance role, and conduct their business. Council members should be sensitive to the groups and ideas that are under- or overrepresented on the council. City managers with a professional commitment to serving the broad public interest should and do seek to include all perspectives.²⁸

All local government officials need to understand their roles and the process of decision making. In order to maintain or improve the level of performance in city government, council members and managers need to engage in a dialogue about the strengths and weaknesses of their relationship and what they can do to help each other more.

I would like to express my appreciation to the North Carolina City and County Management Association, the Ohio City Management Association, and graduate assistants Lynette Ball, Joseph Koury, Dona McNeill, John Ogburn, Christopher Rath, and Timothy Storey. Funding for the surveys was provided by the Research Council, University of North Carolina at Greensboro.

Partnerships in Local Governance

1. North Carolina is a Sun Belt state in which the manager form is used almost exclusively. Ohio is a Cold Belt state in which only a minority of cities use this form of government. The surveys were administered to all city managers in North Carolina in 1987 and in Ohio in 1988. Cities with vacancies in the manager's position or with acting managers were excluded. There were 131 responses from 216 managers surveyed in North Carolina (61% response rate); and 56 responses from 76 managers surveyed in Ohio (73% response rate).
2. Chester A. Newland, "Council-Manager Government: Positive Alternative to Separation of Powers," *Public Management* 67 (July 1985): 7-9; and James H. Svara, "Conflict, Cooperation, and Separation of Powers in City Government," *Journal of Urban Affairs* 10, no. 4 (1988): 357-72.
3. Similar findings emerged from a survey of managers in Michigan. See William Browne, "Municipal Managers and Policy: A Partial Test of the Svara Dichotomy-Duality Model," *Public Administration Review* 45 (September/October 1988): 620-22.
4. Over 40 percent of the council members in five strong-mayor cities felt that the council and mayor did not have a good working relationship, and most respondents considered the alternatives provided by the strong mayor to be insufficient. Two thirds of the council members in mayor-council cities felt that their intervention was necessary to get response to citizen complaints. See James H. Svara, "The Complementary Roles of Officials in Council-Manager Government," *Municipal Year Book 1988* (Washington: ICMA, 1988), 23-33.
5. See, for example, Robert L. Lineberry and Edmund P. Fowler, "Reformism and Public Policies in American Cities," *American Political Science Review* 61 (September 1967): 701-16; and Dennis R. Judd, *The Politics of American Cities*, 2d ed. (Boston: Little, Brown, 1984), 114.
6. Robert L. Lineberry and Ira Sharkansky, *Urban Politics and Public Policy*, 3d ed. (New York: Harper and Row, 1978), 162-64.
7. Ronald D. Loveridge, *City Managers in Legislative Politics* (Indianapolis: Bobbs-Merrill, 1971).
8. Glen Sparrow, "The Emerging Chief Executive: The San Diego Experience," *Urban Resources* 2 (Fall 1984): 3-8.
9. Jeffrey L. Pressman, "Preconditions of Mayoral Leadership," *American Political Science Review*, 66 (June 1972): 511-24.
10. James H. Svara, "Dichotomy and Duality: Reconceptualizing the Relationship Between Policy and Administration in Council-Manager Cities," *Public Administration Review*, 45 (January/February 1985): 221-32; and Svara, "Contributions of the City Council to Effective Governance," *Popular Government* 51 (Spring 1986): 1-8.
11. Virtually all of the very small communities are from North Carolina only. There were only two responses from managers in cities under 2500 in Ohio.
12. Browne, "Municipal Managers"; Charledean Newell and David N. Ammons, "Role Emphasis of City Managers and Other Municipal Executives," *Public Administration Review*, 47 (May/June 1987): 246-52; and James H. Svara, "Policy and Administration: Managers as Comprehensive Professional Leaders," in H. George Frederickson, ed., *Ideal and Practice in City Management* (Washington: ICMA, forthcoming 1989).
13. This position departs from the conclusion stressed by Loveridge, *City Managers*, that Councils tend to view the manager as an administrative assistant whereas managers see themselves as policy leaders.
14. For further discussion of these council roles, see James H. Svara, *Official Leadership in the City* (New York: Oxford University Press, forthcoming 1989), chap. 5.
15. On the increasing professionalism of managers, see Richard J. Stillman II, *The Rise of the City Manager* (Albuquerque: University of New Mexico Press, 1974); and "Local Management in Transition: A Report on the Current State of the Profession," *Municipal Year Book 1982* (Washington: ICMA, 1982).
16. A high contrast portrait of the differences between elected officials and professionals is offered by Anthony Catanese, *Planners and Politicians: Impossible Dreams* (Beverly Hills: Sage, 1974).
17. National League of Cities, *A National Survey of City Council Members: Issues in Council Leadership* (Washington: NLC, 1980), 29.
18. Eugene C. Lee, *The Politics of Nonpartisanship* (Berkeley: University of California Press, 1960); Willis D. Hawley, *Nonpartisan Elections and the Case for Party Politics* (New York: Wiley, 1973); and Chester Rogers and Harold Arman, "Nonpartisanship and Election to City Office," *Social Science Quarterly* 51 (March 1971): 941-45.
19. Susan Welch and Timothy Bledsoe, *Urban Reform and Its Consequences: A Study in Representation* (Chicago: University of Chicago Press, 1988), 42-46.
20. Albert K. Karnig and Susan Welch, *Black Representation and Urban Policy* (Chicago: University of Chicago Press).
21. Joseph Zimmerman, *The Federated City* (New York: St. Martin's Press, 1972); Susan A. MacManus, "Mixed Electoral Systems: The Newest Reform Structure," *National Civic Review* 74 (November 1985): 484-92; and R. Darcy, Susan Welch, and Janet Clark, *Women, Elections, and Representation* (New York: Longman, 1987), 40-41.
22. These changes and those in the remainder of this paragraph were observed in council-manager cities. See LBJ School of Public Affairs, *Local Government Elections Systems*, Policy Research Report no. 62 (Austin: University of Texas, 1984), 46-55, 145-46.
23. Hawley, *Nonpartisan Elections*.
24. Welch and Bledsoe, *Urban Reform*, 52.
25. Rufus P. Browning, Dale Rogers Marshall, and David H. Tabb, *Protest Is Not Enough* (Berkeley: University of California Press, 1984), 32-34.
26. Welch and Bledsoe, *Urban Reform*, 63-67, 73-77.
27. Peggy Heilig and Robert J. Mundt, *Your Voice at City Hall*, (Albany: SUNY Press, 1984), 85-86. Whereas 95 percent of the council members elected from low-income districts stressed constituency service, 43 percent of those from middle-income districts and 13 percent from high-income districts did so. Among those elected at-large (on combination district/at-large councils), 17 percent emphasized constituency service.
28. James M. Banovetz, "Environment and Role of the Administrator," in Banovetz, ed., *Managing the Modern City* (Washington: ICMA, 1971), and James H. Svara, "The Responsible Manager: Building on the Code and the Declaration," *Public Management*, 69 (September 1987): 14-18.

____ National Association of Local Government Au
Education Committee

Appendix J

So.... You Think You Might Be Interested in Hiring a Performance Auditor
A Few Things to Consider

____National Association of Local Government Auditors____

Education Committee

Performance Auditing for Local Government

Table of Contents

PART ONE

I. Introduction and Background

- A. Performance Auditing Defined
- B. The Origins of Performance Auditing
- C. What Performance Auditing Measures

II. Performance Auditing Methods

- A. Performance Auditing Standards
- B. The Need for Adherence to Standards in Order to Establish and Maintain Credibility
- C. Survey, Fieldwork and Testing, and Reporting
- D. Interviews with Management and Staff
- E. Observation of Work Processes, Analysis of Data, Review of Literature and Contact with Experts and Other Jurisdictions
- F. Audit Reports to Management, Legislative Body and Citizens

III. Benefits of Performance Auditing

- A. Improvement in Service Delivery
- B. Cost Savings and Additional Revenue
- C. Improved Accountability

PART TWO

I. Authority and Organizational Structure Alternatives

- A. Obtaining Legal Authority
- B. Elected vs. Appointed Auditor
- C. Placement of the Performance Audit Unit within the Organization

II. Administrative Issues

- A. Contracting for Services vs. In-house
- B. Common Arguments Against Performance Auditing
- C. Methods of Measuring the Performance of the Performance Audit Function

III. Skills Required for Performance Auditing

Qualifications of Performance Audit Staff and Supervisors

APPENDICES

- A. Sample Legislative Authority (Proposed Charter) for Performance Auditing Function
- B. Sample Organizational Alternatives
- C. Lawrence Sawyer's Ten Commandments of Internal Auditing
- D. Resources Available to Assist in Development and Implementation
- E. Sample Job Descriptions
- F. Actual Examples of Improvements in Service Delivery, Cost Savings, Additional Revenue Generated and Improved Accountability
- G: Example of Actual Indicators used to measure the Performance of the Internal Audit Function (Office of the City Auditor, Seattle, Washington)

National Association of Local Government Auditors_____
Education Committee

PART ONE

I. Introduction and Background

A. Performance Auditing Defined

Performance Auditing can be defined in many ways. The 1994 revision of the *Government Auditing Standards* issued by the Comptroller General of the United States defines a performance audit as “an objective and systematic examination of evidence for the purpose of providing an independent assessment of the performance of a government organization, program, activity or function in order to provide information to improve public accountability and facilitate decision-making by parties with responsibility to oversee or initiate corrective action.”

This definition is strikingly similar to the definition of performance auditing proposed in a February 1993 report issued by an Association of Government Accountants Task Force on Performance Auditing which states, “performance auditing is the systematic and objective assessment of the performance of an organization, program, function or activity by an independent auditor, who reports findings, conclusions and recommendations to a party or group with legal responsibility to oversee and/or initiate corrective action.”

A further definition of performance auditing is provided from Performance Auditing in Local Government published by the Government Finance Officers Association in 1984. “Performance Auditing is a systematic process of objectively obtaining and evaluating evidence regarding the performance of an organization, program, function or activity. Evaluation is made in terms of its economy and efficiency of operations, effectiveness in achieving desired results and compliance with relevant policies, laws and regulations, for the purpose of ascertaining the degree of correspondence between performance and established criteria and communicating the results to interested users. The performance audit function provides an independent, third party view of management’s performance and the degree to which the performance of the audited entity meets pre-stated expectations.”

B. The Origins of Performance Auditing

Performance Auditing in Local Government notes that “during the past 15 years, public agencies began to realize the importance of measuring and controlling the performance of governmental programs. Management by objectives, program budgeting, operations research techniques, cost accounting systems, financial analysis methods and use of microcomputers are now being employed as tools for enhancing productivity and improving the quality of services. The comprehensiveness of application and the sophistication of the methods employed vary among jurisdictions, but one thing appears certain, governmental administrators generally are committed to the systematic application of these techniques to solving governmental problems.”

This time frame corresponds to the publication in 1972 of the Standards for Audit of Government Organizations, Programs, Activities and Functions by the U.S. General Accounting Office (GAO), commonly referred to as the “Yellow Book”. These standards, which were subsequently revised in 1981, 1988 and 1994, expanded the scope of the audit function to include not only the audit of financial information, but the review of a program’s compliance with laws and regulations, evaluation of economy and efficiency in the use of resources, and the evaluation of the extent the results or benefits of the program are being achieved.

In the 1981 revision of the “Yellow Book”, the Comptroller General of the United States wrote, “during the 1960s, both the number and dollar amounts of government programs increased substantially. These programs were aimed at improving the quality of American life. In the 1970’s, the number of new programs established was considerably less, but total dollar amount continued to grow. The increase in

National Association of Local Government Auditors

Education Committee

government programs brought with it an increased demand for full accountability by those entrusted with the responsibility of administering the programs. Auditing is an integral element of this accountability, and governments are responsible for insuring that appropriate audits are made. In the past few years, we have seen an unprecedented interest in government auditing. Public officials, legislators, and private citizens want and need to know not only whether government funds are handled properly and in compliance with laws and regulations, but also whether government organizations are achieving the purposes for which programs were authorized and funded and are doing so economically and efficiently. Forty years ago, auditors concentrated most of their efforts on auditing the vouchers that supported expenditures. Today, auditors are also concerned with the economy, efficiency and effectiveness of government operations." This is even more true in today's environment.

C. What Performance Auditing measures (Goals and Objectives, Reliability, Efficiency, Control, Effectiveness, Compliance)

The purpose of performance auditing is to measure program performance to determine whether the program can be improved, and if so, how?

The 1994 revision of the "Yellow Book" states that "economy and efficiency audits may, for example, consider whether the entity is:

- a) following sound procurement practices;
- b) acquiring the appropriate type, quality and amount of resources at an appropriate cost;
- c) properly protecting and maintaining its resources;
- d) avoiding duplication of effort by employees and work that serves little or no purpose;
- e) avoiding idleness and overstaffing;
- f) using efficient operating procedures;
- g) using the optimum amount of resources (staff, equipment and facilities) in producing or delivering the appropriate quantity and quality of goods or services in a timely manner;
- h) complying with requirements of laws and regulations that could significantly affect the acquisition, protection and use of the entity's resources;
- i) using an adequate management control system for measuring, reporting and monitoring a specific program's economy and efficiency; and
- j) reporting measures of economy and efficiency that are valid and feasible."

The "Yellow Book" goes on to state that "program audits may, for example,:

- 1) assess whether the objectives of a new, or ongoing program are proper, suitable, or relevant;
- 2) determine the extent to which a program achieves a desired level of program results;
- 3) assess the effectiveness of the program and/or individual program components;
- 4) identify factors inhibiting satisfactory performance;
- 5) determine whether management had considered alternatives for carrying out the program that might yield desired results more effectively or at a lower cost;
- 6) determine whether the program complements, duplicates, overlaps or conflicts with other related programs;
- 7) identify ways of making programs work better;
- 8) assess compliance with laws and regulations applicable to the program;
- 9) assess the adequacy of the management control system for measuring, reporting and monitoring a program's effectiveness; and
- 10) determine whether management has reported measures of program effectiveness that are valid and reliable."

National Association of Local Government Auditors
Education Committee

The report of the AGA Task Force on Performance Auditing states, "the issues that performance audits consider may vary. With different levels of emphasis, the scope of a performance audit may include questions that address any of the following concerns:

- Compliance with applicable laws, rules and other authoritative and relevant standards;
- the efficient allocation and use of resources;
- the performance of management;
- the cost-effectiveness of alternative methods of service delivery and goal attainment;
- the reliability of information provided by management;
- the administrative and organizational design of programs;
- the results of programs and activities and their impact on recipients;
- and the achievement of program and/or organizational goals and objectives."

A January 1989 MIS report titled "Performance Auditing for Local Government" states that a performance audit can "show whether a department plans its activities, whether it is adequately staffed, and whether it provides direction and establishes good procedures for efficient operations. A performance audit analyzes whether organizational goals and objectives are appropriate, makes recommendations on how to improve operations and management capability, and provides management with an objective assessment of the extent to which a department or function being audited is obtaining good value for money spent. A performance audit can focus on the entire local government organization or on a single department or program. It tries to measure economy, efficiency, and program results by looking at the system for managing and reporting, at the use of staff, goods and equipment and at results achieved."

Finally, the GFOA book titled "Performance Auditing in Local Government" lists the basic elements of compliance, economy and efficiency and program results audits as follows:

Compliance Audit

"A review of management procedures and of operations to determine whether:

- all activities are properly authorized;
- all activities required by law or policy are being carried out;
- the management system provides the capacity for adequate control over compliance with applicable laws and policies;
- operations actually conform to applicable laws and policies."

Economy and Efficiency and Program Results Audit

"A review of the management system and an evaluation of the results of operations to determine whether:

- goals and objectives are appropriate to the entity's mission and activities;
- the goals and objectives structure is internally logical;
- the management system provides the capacity for adequate control over program results;
- the entity is effectively achieving its stated goals and objectives;
- operations result in a new benefit to the community."

Figure 1 depicts a Performance Accountability Model which defines performance auditing. It demonstrates how performance accountability encompasses all of the major performance goals and related performance measures including input economy, process efficiency, output effectiveness and outcome effectiveness. It also demonstrates how performance goals crosscut and overlap each other.

National Association of Local Government Auditors

Education Committee

II. Performance Auditing Methods

A. Performance Auditing Standards ("Yellow Book" vs. IIA Standards)

"Yellow Book" Field Work Standards

In addition to general audit standards of staff qualifications, independence, due professional care and quality control, the "Yellow Book" establishes field work and reporting standards for performance audits. The field work standards require that:

- Work be adequately planned to achieve the audit objectives. This includes consideration of the needs of the potential report users, obtaining and understanding of the area to be audited, consideration of legal and regulatory requirements, consideration of management controls, identifying evaluation criteria, review of prior audit findings and recommendations, identifying potential sources of data, considering the work of other auditors and experts, provision of sufficient audit resources and preparation of a written plan.
- Staff are to be properly supervised.
- When laws, regulations and other compliance requirements are significant to audit objectives, auditors should design the audit to provide reasonable assurance regarding compliance with them. Auditors should be alert in all performance audits for situations or transactions that could be indicative of illegal acts or abuse.
- Auditors obtain an understanding of management controls that are relevant to the audit. When these controls are significant to the audit objectives, auditors should obtain sufficient evidence to support their judgments about those controls.
- Sufficient, competent and relevant evidence be obtained to provide a reasonable basis for findings and conclusions. This evidence must be retained in the form of working papers.

"Yellow Book" Reporting Standards

"Yellow Book" reporting standards for performance audits require that:

1. Written audit reports be prepared to communicate the results of each audit.
2. Audit reports be issued to make the information available for timely use by management, legislators, and other interested parties.
3. Auditors report the audit objectives, scope and methodology; significant findings and conclusions; recommendations to improve problem areas; the use of generally accepted government auditing standards in performance of their work; all significant instances of noncompliance and abuse; the scope of the work on management controls and any significant weaknesses identified; the views of responsible officials concerning the auditors' findings, conclusions, recommendations, and corrections planned; noteworthy accomplishments; significant issues needing further work; and the nature of any omitted information and the requirement that makes the omission necessary.
4. The audit report be complete, accurate, objective, convincing and as clear and concise as the subject permits.
5. Audit reports be submitted to appropriate officials.

Institute of Internal Auditors (IIA) Standards

The Institute of Internal Auditors (IIA) has established standards for the professional practice of internal auditing. While not designated specifically as performance auditing standards, these IIA standards apply to

National Association of Local Government Auditors
Education Committee

all work performed by internal auditors, including local government performance audits. The IIA standards are similar to those set forth in the "Yellow Book", and are summarized as follows:

- Internal auditors should be independent of the activities they audit. This encompasses organizational status and objectivity.
- Internal audits should be performed with proficiency and due professional care. This requires that staff, as a whole, should be technically proficient and possess the skills necessary to perform the work; staff should be properly supervised; auditors should comply with professional conduct and possess the knowledge, skills and discipline essential to performing internal audits; auditors should have appropriate communication skills; auditors should maintain their technical competency through continuing education, and should exercise due professional care in performing internal audits.
- The scope of internal audits should encompass the examination and evaluation of the adequacy and effectiveness of the organization's system of internal control and the quality of performance in carrying out assigned responsibilities. Specific standards to address this general standard include reviewing the reliability and integrity of information and the means used to identify, measure, classify and report such information; review the systems established to ensure compliance with significant policies, plans, procedures, laws and regulations; review the means of safeguarding assets; appraise the economy and efficiency with which resources are employed; and review operations or programs to ascertain whether results are consistent with established goals and objectives.
- Audit work should include planning the audit, examining and evaluating the information, communicating the results of the audit and performing follow-up.

B. The Need for Adherence to Standards in Order to Establish and Maintain Credibility

The January 1989 MIS report titled Performance Auditing for Local Government states, "to ensure professional objectivity and independent work, internal auditors are obligated to adhere to professional standards such as the GAO standards, or the standards published by the Institute of Internal Auditors, Inc. (IIA). Each set of general standards uses slightly different wording, but they all say essentially the same thing and are intended to provide auditors with guidelines and criteria against which the internal audit function can be evaluated." The report goes on to say that "performance auditors need to adhere to standards to establish their credibility and to maintain a high quality of work."

An extension of the use of professional standards to establish and maintain credibility is offered in the February 1993 report issued by the Association of Government Accountants Task Force on Performance Auditing which states, "after performance auditors have set a scope and schedule that is responsible to decision makers, they must do the auditor's most basic job: fact finding that is objective and thorough, and the formulation of conclusions and recommendations that are well reasoned and supported by evidence presented in the report. In short, they must do high-quality work. The audit community is constantly engaged in the process of ensuring that audit work is of high quality, largely through the development of audit standards that emphasize carefully prepared, systematic fieldwork and professional expertise."

C. Survey, Fieldwork and Testing, and Reporting

These topics have been addressed somewhat in the narrative in Section IIA on performance standards. A detailed explanation on these aspects of internal auditing is not within the scope of this work. However, it should be pointed out that there is no "cook book" approach or checklist that would be pertinent to the infinite types of performance audits that could be performed for local governments. A very brief description of these phases is as follows:

National Association of Local Government Auditors
Education Committee

Survey

Also known as the "preliminary survey", this phase occurs at the beginning of the audit. At this stage the auditor becomes familiar with the area under review and develops the objectives, scope and methodology, which is the key to directing a successful audit. Interviews with experts and employees, review of current literature on the subject, review of previous audits or audits of a similar nature conducted by other jurisdictions are typical steps taken during this phase of the audit. At the completion of this phase the auditor is prepared to develop an audit plan which contains the objectives, scope and methodology and audit program which outline the objectives of the audit and procedures required to accomplish the objectives stated in the audit program.

Performance Auditing in Local Government states, "the primary purpose of a survey is to efficiently gather information about an organization or a state of nature within an organization. There are three important factors to be considered when undertaking survey research; (1) time, (2) cost and (3) representativeness. A survey saves time, which translates into money when human costs associated with auditing are involved."

Fieldwork and Testing

During this phase of the audit, the auditor is concerned primarily with executing the testing procedures defined during the survey phase of the audit and identified in the audit program. Conclusions are then formulated based on the results of tests performed. These conclusions respond to the objectives of the audit which may be presented in the form of a question.

Reporting

The Reporting phase of the audit involves the preparation and distribution of the audit report which discloses the findings, conclusions and recommendations developed during the previous two phases of the audit. Drafts of the audit report are generally reviewed with management prior to distribution. As part of the reporting phase management prepares a written response to the audit report. Typically, management's response is combined with the audit report prior to presentation to the legislative body.

D. Interviews with Management and Staff

Performance Auditing in Local Government states, "of the methods available to gather data, the personal interview is one of the most useful. The knowledge of an experienced employee within an organization is of significant value for evaluation purposes. Employees of an agency know the actual procedures and functions of the organization. Their perceptions, in part, shape activity patterns. Personal interviews with key employees, if properly handled, may provide useful data for the performance audit and eliminate time required to dig through reams of data, searching for clues."

E., Review of Literature, Contact with Experts and Other Jurisdictions, Observation of Work Processes and Analysis of Data

A review of literature pertinent to a specific performance audit may often be beneficial. A literature review enables the auditor to gain a better understanding of the area to be audited while providing insight into potential problems that may need to be considered. In addition, the literature may provide potential solutions or "best practices" to problems or offer suggestions on ways to improve performance/compliance or ways to collect and analyze data. The literature review may also provide benchmarks against which the program or activity to be audited can be compared. A review of literature may reveal compliance issues not previously considered by the auditor such as laws or regulations. In this age of automation, thorough literature reviews may be performed in minutes through library or university data bases or through the Internet. Follow up on the information obtained, if necessary, may be as easy as a telephone call or e-mail message. A literature review is an essential, and not necessarily time consuming, part of a performance audit.

National Association of Local Government Auditors

Education Committee

In a similar manner, contact with experts and other jurisdictions can provide valuable insights for a performance audit. The information provided by experts and other jurisdictions can prevent the auditor from “reinventing the wheel.” In all likelihood, a similar performance audit has been performed in another locality, and the auditors are usually happy to provide information such as audit programs or a copy of the audit report. This type of information saves the auditor valuable time, and like a literature review, provides potential areas of concern, possible suggestions to improve performance or compliance, data against which benchmarking can be done, etc. Through organizations such as NALGA, auditors can easily contact their counterparts in other jurisdictions via telephone or e-mail. The use of the Internet allows auditors to request information from their counterparts and other experts throughout the world. Again, contact with experts and other jurisdictions does not take extensive time, yet usually provides useful information.

Performance Auditing in Local Government states, “observation is, without question, the first process of science, because all scientific information originates in some perception or experience. As a scientific process of gathering information, observation techniques are especially useful to performance auditing. Its use, however, must be well developed and organized, because it may vary from quite casual and uncontrolled to very precise.” The authors go on to provide the following criteria for the appropriate use of observation:

- Observation is systematic, rather than haphazard or opportunistic;
- Observation must be objective and as free from bias as possible;
- The observer must be in a good position to observe and must have adequate sensory abilities;
- Whenever possible, observation should be quantifiable;
- Observation, like any other device used by the auditor, must comply with the standards of reliability, usability and validity.

The “Yellow Book” states that analytical evidence “includes computations, comparisons, separation of information into components and rational arguments.” There are numerous data analysis techniques that are used in performance auditing including flowcharting (to present the flow of an activity, process, etc. from beginning to end), sampling, spreadsheet analysis, performance measurement which includes comparing measures of actual performance to performance expectations as well as comparing measures between time periods or against similar programs or activities. Once again, there is no required or “cook book” data analysis methodology. Instead, the auditor must use judgment to analyze the data obtained in the most efficient and effective manner to achieve audit objectives.

F. Audit Reports to Management, Legislative Body and Citizens

Some explanation regarding the professional audit standards governing performance audit reports can be found in the earlier section on Performance Auditing Standards, so further elaboration is not necessary. The definitions of performance auditing provided earlier all include reference to the fact that performance audit reports be issued to those with the legislative responsibility/authority to initiate corrective action. The intended audience or customer of the product of the performance audit, the audit report, must be kept in mind when communicating the results of the audit. The Association of Government Accountants Task Force on Performance Auditing report offers suggestions on effectively communicated reports including writing in clear and commonly used language without jargon or technical vocabulary using a consistent style and format over time so users are familiar with where to locate specific information and clearly marking important issues in the report.

Obviously this list could be expanded, but the important thing to remember is that the message must be conveyed in a manner that is easily understood by the intended audience.

National Association of Local Government Auditors
Education Committee

III. Benefits of Performance Auditing

A. Improvement in Service Delivery

Note: The examples below are just a few of many. There are innumerable examples to show the truly broad range of benefits of local government performance auditing. NALGA audit abstracts are an excellent reference for examples.

The benefits of local government performance auditing are the impacts on the operations of the local government, such as cost savings and efficient and effective operations and the impacts on the local government's customers, such as improved customer service and accountability. The following are actual examples of the types of findings and recommendations that typically result from a performance audit.

The California State Controller's Office implemented a major reorganization as a result of a performance audit. According to the Controller's Office, the reorganization will save \$27 million over the next five years and cut staff by 12 percent. The Controller's Office was able to return \$3 million to the State General Fund as a result of the performance audit.

Performance auditing in Chesterfield County, Va. has resulted in improved services for citizens and customers in the following ways:

- Revised process for developers to "fast track" their project through the Community Development Division (Zoning, Permits, Licensing, etc.) which reduced the time required to begin the project from several weeks in some cases to as little as 19 days.
- Consolidated responsibility of monitoring for compliance with developers conditions and proffers within the Planning Department to ensure homeowners investment in their properties were maintained in future development.
- Recommended several changes in the building inspection process which provided builders and developers with more complete information in a more timely manner to correct deficiencies noted during inspections.

The Tallahassee, Florida City Auditor's Office evaluated the various department programs in the Tallahassee Fire Department for improvements in efficiency and effectiveness and found the following:

- The results of a cost analysis of city fire services provided to the county revealed that the cost exceeded payments by \$1.3 million for FY95.
- A four year spending analysis for facility maintenance revealed that the Tallahassee Fire Department had been unsuccessful in effectively utilizing their capital funds for building maintenance.
- The Fire Prevention Bureau needs to improve the fire inspection program as they were not meeting the requirements for the program established by ordinance.

The Tallahassee City Auditor's Office provided recommendations to improve services and provide significant cost savings to City government and citizens.

B. Cost Savings and Additional Revenue

Other major benefits derived from local government performance auditing include cost savings from audit recommendations implemented and the additional revenue generated by many findings. In this era of "doing more with less" and citizen demands for increased services with no tax increases, cost savings and additional revenue generated from performance auditing are value-added benefits that are necessary to maintain the viability of the audit function.

National Association of Local Government Auditors

Education Committee

Some examples of cost savings and additional revenue generated from performance auditing in Chesterfield County, Va. include:

- An audit of water meter reading by the local utility department noted that when a meter could not be read on the normal route, a special trip was made the next day in order to obtain accurate meter readings. The department implemented the audit recommendation to eliminate the special trip and estimate consumption. Elimination of these "lag routes" save the department \$33,000 per year.
- An audit of the Human Resources Management Department (HRM) identified several programs for which HRM billed departments quarterly such as the employee assistance program and flexible spending accounts. These charges are included in each department's budget. Implementation of an audit recommendation to budget these programs in HRM rather than the departments and eliminate the quarterly billings resulted in an annual savings of \$3,600.
- A performance audit of the License Inspector's Office identified and quantified the need for an additional inspector. Based on the analysis provided, an additional inspector was hired generating additional revenue for the County potentially exceeding \$440,000 annually from unlicensed commercial entities and vehicles.

In Gainesville, Florida the city received payment in the amount of \$143,000 from the local cable company relating to underpayment of franchise fees discovered during a review of practices and procedures over the administration of the revenue collection function in the Finance Department.

Also, based on an audit of telecommunications tax and franchise fees remitted, the City Auditor's Office for Tallahassee, Florida received payment in the amount of \$161,000 from the local provider, relating to underpayment of telecommunications tax and franchise fees.

C. Improved Accountability

Improved accountability resulting from local government performance auditing is twofold: first, there is internal accountability for management and the governing body, and second, there is external accountability to the citizens and other users of government services. Performance audits of local government operations assist program managers and department directors to achieve their objectives and goals in the most efficient and effective manner. This results in improved accountability for those programs and services.

In addition to the examples of improved service delivery and cost savings which are related to accountability and good stewardship, some additional examples of how performance audits in Chesterfield County, Va. have improved accountability include:

- Audits of the processes by which several financial functions are performed, such as cash receipts, have identified management control weaknesses that have been corrected to improve accountability over these functions.
- Several departmental audits have included a review of the performance indicators and data reported in the County's Quarterly Performance Report. Departments are required to establish primary objectives with a quantifiable performance indicator for each. Departments submit quantifiable results for each performance indicator each quarter for compilation and distribution to the Board of Supervisors, department heads and citizens via placement in the County libraries. Audits of this data have identified a lack of quantifiable primary objectives, lack of performance indicators for many of the primary objectives, use of performance indicators that are not consistent with primary objectives, and questionable reported performance indicator figures. Implementation of recommendations to address these issues has obviously improved accountability in these instances.

In a cash management audit, the City Auditor's Office in Kansas City, Missouri found that:

- Good business practices and established city procedures were not uniformly followed;

National Association of Local Government Auditors
Education Committee

- Several locations were not adequately safeguarding cash and storage equipment needed to be repaired or replaced;
- The majority of cash handling personnel were unfamiliar with city rules on cash handling and that almost half of the petty cash custodians had never been trained.
- Timely deposits were not being made by all locations. Uncounted business from a previous period, totaling more than \$117,000 was found at one location, and an additional \$50,000 in unendorsed checks, some dated as much as six month prior to the cash count were found at the same location.

There are many examples of findings and recommendations from audit reports that offer significant improvements to services, cost savings and improved accountability. The National Association of Local Government Auditors Quarterly Newsletter (LGAN) provides numerous examples from many governmental organizations.

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PART TWO

I. Authority and Organizational Structure Alternatives

A. Obtaining Proper Legal Authority

Once an initial commitment to the concept of performance auditing has been secured, formal approval should be obtained in the form of a basic legal sanction for the establishment of the performance auditing function. Failure to obtain legal charter leaves the system vulnerable to sudden changes in the values and beliefs of top management and elected officials, as well as charges of impaired independence. Therefore proper legal authority should be obtained either through charter amendment, state statute or, if these are not possible, through modification of the jurisdiction's code or adoption of a specific ordinance.

In drafting the legal document four basic items should be included:

1. the placement of the unit within the organization, including a description of its degree of independence;
2. a general statement of the authority and scope of the unit; and
3. a clear statement of the process of reporting audit results.
4. a statement that audits be conducted in accordance with *Government Auditing Standards*, Standards for the Professional Practice of Internal Auditing promulgated by the Institute of Internal Auditors or other standards as appropriate.

The general qualifications of the audit director and the process to be used in the selection of the director also may be included. The different vehicles for establishing the performance audit system may be used individually or in any combination. Ideally, a charter provision or state statute should be used to establish general authorization for the program. An ordinance or a resolution should enumerate the duties and power of the audit organization.

Appendix A provides a sample of a proposed charter section or legislative act establishing an independent Performance Audit Unit for a city or county.

B. Elected vs. Appointed Auditor

The perspectives on whether to have an elected or appointed auditor vary, with strong opinions supporting both positions. Opponents of the elected auditor, believe that while having all the independence associated with a separate elected position, the elected auditor also carries the potential liability of political bias in conducting audit work. They maintain that because performance auditing is more subjective than financial auditing, the potential for political opponents to allege political motivation for audit conclusions may add a highly dysfunctional variable to the function. Opponents also express concern regarding the term limits placed on many elected positions. They believe that term limits applied to an elected auditor position may not contribute to a stable audit environment, where office policies and procedures are permitted to be applied consistently over a long period of time. Additionally, they believe the electoral process can attract candidates who may be technically unqualified. Notwithstanding the fact that many elected auditors manage competent and professional auditing operations, they believe that an appointed professional auditor will be in the best position to achieve performance auditing objectives. On the other hand, there are strong opinions on behalf of the elected auditor. Proponents of the elected auditor believe that independence and objectivity are significantly enhanced as the elected auditor is accountable only to the citizens served. They also believe that the potential for independence impairments still exists with an appointed auditor as the appointee is accountable to the legislative body or the person responsible for the hiring and firing of the auditor. Proponents also believe that the benefits of term limits placed on the elected auditor outweigh the disadvantages as they provide a "fresh perspective" on a periodic basis. In either case, potential pitfalls of either form will be minimized if the legal sanction (statute, charter or ordinance) providing for the audit

National Association of Local Government Auditors

Education Committee

function include minimum professional qualifications that attract candidates with the appropriate education and experience.

C. Placement of the Performance Audit Unit within the Organization

The overriding criterion to consider when deciding organizational placement of the performance audit group is the principle of independence, which is the basis for objectivity in audit work. Without objectivity, both in appearance and fact, the auditor's findings will always be questionable. "Independence" in auditing means taking an unbiased viewpoint in performing audit tests, evaluating results and issuing a report. Independence is regarded as one of the auditor's most critical characteristics and a cornerstone to building and maintaining public confidence. Not only is it essential that auditors maintain an independent attitude in fulfilling their responsibility, but it is also important that the users of reports prepared by auditors have confidence in that independence. These two perspectives are usually referred to as *independence in fact* and *independence in appearance*. If auditors are independent in fact, but users believe them to be advocates for their client, most of the value of the audit function is lost. Independent auditors must be free from any obligation to or interest in the client or its management and avoid situations that may lead outsiders to doubt their independence.

All standards-setting institutions highly value audit independence. It has a significant place in standards promulgated by the Institute of Internal Auditors (IIA). The IIA makes it clear that auditors must report to a position as high in the organization as practicable. In addition, auditors should have direct communication with the legislative body.

The concept of independence requires that auditors be independent of the activities they audit. They cannot audit the individual to whom they report nor should they audit the agency exercising direct or indirect control over their activities. Many feel that an appointed auditor reporting to the legislative body has the fewest impairments upon independence of any of the possible non-elective auditor organizational alignment alternatives. Reporting to the chief executive, independence is impaired by any limits on information the executive officer will permit the audit group to release to the legislative body. However, an auditor reporting to the comptroller or finance director effectively is "hamstrung". The placement of the performance audit unit within a department or agency with a peer relationship to the organizations it will be auditing should be avoided.

Appendix B provides three alternatives for the organization of the Performance Auditing function.

It is important to remember when considering organizational alternatives that the performance audit group must be supported by the power and authority of the legislative body, or at least the senior government management in order to effectively fulfill its potential as a tool for establishing accountability.

II. Administrative Issues

A. Contracting for Services vs. In-House

Contracting for internal audit services also known as "outsourcing" is an issue of great interest to the profession currently. Since "outsourcing" is a relatively new phenomenon, there is very little information available to identify true advantages and disadvantages. "Outsourcing" involves entering an agreement with a company outside of the organization to be reviewed for internal audit services. The internal audit function can be "outsourced" either all or in part.

Advocates of "outsourcing" maintain that the financial and political advantages outweigh the benefits of employing an "in-house" audit function. They maintain that the overhead costs in terms of salary, fringe benefits and operating overhead are more costly than if provided by an independent contractor. Another benefit noted by proponents is that an external organization can steer clear of the political aspects inherent

National Association of Local Government Auditors

Education Committee

in operating within the organization. Proponents also indicate that the advantage of making staff assignments to fit the unique requirements of the project is another advantage.

Opponents of "outsourcing" maintain that the cost of maintaining an "in-house" audit staff is outweighed by the financial benefits produced from implementation of audit recommendations and from the expertise gained from years of service with a given organization. Opponents also disagree with the notion that an "outsourced" internal audit function is more independent from organizational politics. On the contrary, they maintain that because management is paying for services rendered, independence from political pressure is severely compromised.

Many local government audit offices use a combination of in-house auditors and contract auditors to perform audits. For instance, in 1997, the Office of the City Auditor for the City of Seattle, Washington anticipates performing about 80 percent of its work in-house and contracting out the remaining 20 percent. The Office bases its decision on which audits to contract out versus which to remain in-house on the scope of an audit and the level of expertise needed. Audits which require a strong knowledge of the City's culture remain in-house.

Time will tell whether this relatively new phenomenon will stand the test of time. The University of Tennessee, College of Business Administration is currently in the process of studying companies that have outsourced either part or all of their internal audit function. Results are expected in the near future.

B. Common Arguments against Performance Auditing

Many opponents of the performance audit concept resist based on a variety of reasons. The following certainly is not an exhaustive list of the most common arguments against the implementation of a performance audit function but serves as a list of the more common notions.

1. **Expensive:** The cost of personal services (salaries and fringe benefits) and overhead expenses are often cited as a disadvantage when establishing a performance audit function. As employees remain in their audit capacity, the cost spirals as merit and inflationary pressures are compounded. In general, if the cost of the performance audit function is outweighed by the financial benefits produced, the audit manager needs to review where audit resources are being applied. It is not uncommon for an audit function to realize an annual return on investment between 200%-400%.
2. **Adversarial:** In some circumstances, management views the implementation of the performance audit function as pitting management against the auditors, or "someone watching over my shoulder". In order to avoid this perception, the audit manager must work hard to establish meaningful positive relationships with management at all levels. Levels of trust have to be earned and maintained in order to maintain these positive relationships. See Lawrence Sawyer's 10 commandments of Internal Auditing (Appendix C). The entire audit staff should make every effort to ensure that their role is perceived as supportive and helpful.
3. **Lack of experience in area audited:** One of the common complaints expressed by management in accepting an internal audit function is that audit staff have limited or no experience in the areas being audited. Audit management should take steps to ensure that auditors assigned to a particular area for review, are properly trained and have the requisite knowledge to perform an evaluation of the area. This doesn't require the auditor to be an expert in the area under review, but to provide an independent perspective using generally accepted management practices and common sense as a guide.
4. **"Airing dirty laundry":** In many instances, particularly in the government sector, audit reports are public record. This can result in a substantial increase in media interest and exposure. In order to avoid the adversarial relationships that come with "airing dirty laundry", audit management should be

National Association of Local Government Auditors
Education Committee

careful to prepare audit reports in a manner that discloses findings, conclusions and recommendations in a neutral, non-inflammatory manner.

5. **Introduces an element of distrust and secrecy to the environment:** Many opponents of the performance audit function believe that establishment of such a function introduces an element of distrust and secrecy to the organizational environment. Audit management should take steps to ensure that an atmosphere of openness and trust is established from the inception of the program. Audit management should comply with *Government Auditing Standards* in order to minimize the notion that audit work lacks integrity and is not properly disclosed.
6. **Adds a layer of bureaucracy:** The development and implementation of the performance audit function is also criticized based on the perception that additional policies, procedures and paperwork (i.e. more "red tape") will be created and provide additional hurdles for management to overcome in implementing work plans. This perception has no basis in logic or in fact. In an organization where the performance audit function is working effectively, the organizational "red tape" is minimized as auditors are constantly working to ferret out policies, procedures and management practices that contribute to unnecessary and inefficient practices.

C. Methods of Measuring the Performance of the Performance Audit Function (Direct and Indirect)

Just as we assess the performance of governmental departments, the performance audit function should be held accountable for its performance. The following are indicators by which the performance of the audit function can be measured.

1. **Financial Benefits of Audit Recommendations** - An important measure of the value of audits is the financial benefit derived through the implementation of audit recommendations, including improved efficiency and productivity and cost avoidance.
2. **Percent of Audit Recommendations Addressed** - Another measure of the value of the auditor's work is the percent of audit recommendations which are addressed by City departments.
3. **External Peer Review** - Pursuant to *Government Auditing Standards*, auditors undergo a peer review by external audit professionals every three years. The reports indicate the degree of compliance with *Government Auditing Standards* in performing audit work.
4. **Variance from Target Issue Date** - *Government Auditing Standards* state that audits should be issued promptly and available for timely use by management and elected officials. While the auditors normally have no mandated reporting deadlines, it is important that reports be issued timely and when possible, in conjunction with decision-making timeframes. The difference between planned and actual issue dates is one measure for assessing timeliness.
5. **Audit Duration** - While audit duration varies depending on the size and complexity of the project, another measure of timeliness is the number of weeks or months required to complete an audit.
6. **Audit Hours** - As with audit duration, the number of audit hours needed to complete an audit can vary with project size and complexity. Nevertheless, the number of audit hours is an indicator of timeliness and audit efficiency.
7. **Audit Cost** - Another measure of the efficiency of audit work is the cost of an audit. In computing cost, all direct and indirect costs are included in the cost of the audit.
8. **Percent of Auditor Direct Time** - A measure of the productivity of the auditor is the percent of auditor direct time, or the actual time auditors worked on audit projects. Indirect time (e.g. training, reading in-basket materials, staff meetings, etc.) is time auditors spend on activities unrelated to a specific audit project.
9. **Special Work Requests Completed** - Auditors may also become involved in special projects, investigations, or preliminary survey work on allegations of fraud, waste or misuse of public funds. These activities may not result in an audit but represent another important function of the performance auditor. The number of such requests completed is also a factor in measuring the performance audit function.

National Association of Local Government Auditors_____
Education Committee

10. Reports Issued - the number of audit reports issued each year varies depending on the size and complexity of individual projects. Since audit reports represent the auditor's primary product, we should strive to meet a targeted number of reports annually.

Appendix G contains an actual example of performance indicators used by the Office of the City Auditor, Seattle, Washington in measuring their performance.

III. Skills Required for Performance Auditing

The variation in scope seen in performance audits is partly the result of the professions' dual origins. Auditors with a traditional accounting background developed an approach that emphasizes "economy and efficiency" concerns, while those trained in social science developed an approach that emphasizes questions about program goals and results. In fact, some audit organizations that are strongly oriented toward social science refer to their work as "program evaluation."

The following list summarizes some of the necessary personal qualifications that should be developed in audit staff:

- Technical competence
- Personal integrity
- Objective
- Growth potential
- Administrative skills
- Sound education
- Communication skills
- Motivation
- Innovation
- Initiation
- Continuing self-development
- Decision-making
- Quick Learner
- Curious

Personal qualifications and characteristics of the Audit Manager should include qualities that allow for the following:

- Planning work
- Supervising employees
- Interpreting organizational policy
- Training employees
- Controlling costs
- Communicating with others
- Administering organizational programs
- Assigning work
- Monitoring production
- Dealing with personnel problems

Appendix E provides sample job descriptions for Council Auditor and Performance Auditor positions. They serve as guidelines which provide job summaries, scope and level of responsibilities, typical duties and qualifications for these positions.

National Association of Local Government Auditors
Education Committee

APPENDIX A

Sample Legislative Authority
(Proposed Charter)

**PROPOSED CHARTER SECTION OR LEGISLATIVE ACT
ESTABLISHING AN INDEPENDENT PERFORMANCE AUDIT UNIT
(CITY/COUNTY EXAMPLE)**

Section I: Establishment of legislative audit unit:

There hereby is created by this act (amendment) an audit unit that shall report to the city (county)council /executive board and be responsible for the following duties:

1. Performance audits of all offices, departments, agencies, special districts and other governmental organizations within the jurisdiction of the council;
2. Evaluation of the adequacy of management and financial accounting systems and controls;
3. Appraisal and verification of the accuracy of management and financial records, statements and reports;
4. Report to the council/board and the manager any irregularities or failures to comply with legal or administrative policies.

In the performance of these duties the audit unit shall have access to all such information and records regarding the powers, duties, activities, organization, property, financial transactions and methods of operation from all officers and employees of the governmental unit.

The auditor shall be chosen by majority vote of the council/board and serve for a (specified) term and until re-appointed or until a successor is selected. The auditor must be a person knowledgeable in public administration, public financial and fiscal theory, governmental accounting and auditing. Preference will be given to candidates with a Certified Public Accountant (CPA), Certified Internal Auditor (CIA), Certified Government Financial Manager (CGFM), or Certified Management Accountant (CMA) designations and/or Masters or PhD in Business or Public Administration.

Note: If financial audit function is to be included, the language of the charter provision would change.

Model Legislation (9/99)

Appendix K

NATIONAL ASSOCIATION OF LOCAL GOVERNMENT AUDITORS



**GUIDELINES AND MODEL LEGISLATION
FOR
LOCAL GOVERNMENT AUDITORS**

**National Association of Local Government Auditors
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*If you would like to download the Adobe Acrobat version of this report
(for better formatted printing) [click here.](#)*

**NATIONAL ASSOCIATION OF LOCAL GOVERNMENT AUDITORS
GUIDELINES AND MODEL LEGISLATION FOR
LOCAL GOVERNMENT AUDITORS**

<http://www.nalga.org/organiz/modlegis.html>

12/26/00

Table of Contents

From the President.....i

N.A.L.G.A. Board Members (1999-2000).....ii

Introduction.....1

Guidelines for Establishing Audit Functions.....2

LEGISLATIVE/APPOINTED AUDITOR

Model Charter Language Establishing a Legislative/Appointed Function.....4

Model Code/Ordinance Language to Implement Charter Provisions
Establishing a Legislative/Appointed Local Government Auditor.....5

ELECTED AUDITOR

Model Charter Language Establishing an Elected Auditor in Local Government.....12

Model Code/Ordinance Language to Implement Charter Provisions
Establishing a Legislative/Appointed Local Government Auditor.....15

NATIONAL ASSOCIATION OF LOCAL GOVERNMENT AUDITORS

September 1, 1999

Dear Local Government Decisionmaker,

The National Association of Local Government Auditors (N.A.L.G.A.) believes that audits of local government programs, functions, activities and organizations are essential. As an integral part of the governance process, the audit function plays a key role in providing accountability for management's performance. The greater the separation between a policy or oversight body and its management, the more critical the need for an independent function within the organization to ensure the accountability of its management. The primary mission of the auditor is to require an accounting of the activities and accomplishments of the organization.

In the public sector, the contribution of the audit function to management accountability is significant, because the ultimate form of performance accountability, bankruptcy, is not a major threat to public sector organizations. There is little likelihood that government will "go out of business", even when it experiences severe financial difficulties. Private sector organizations have some inherent motivation to evaluate and control their risks if only to ensure survival, public sector entities seldom share this motivation.

The importance to the public, our ultimate customer, of the functionally independent auditor function can be demonstrated by the emergence of numerous federal, state and local laws and ordinances establishing internal auditors. This trend has emerged because government officials, both elected and appointed, have realized that an independent oversight function is particularly important because of the unique relationship that government auditors have with their primary stakeholders, the taxpayers. The taxpayers and, for the most part, elected representatives want assurance that their scarce tax dollars are being protected by audit functions which operate with reasonable independence from the supervisory chain. Anything less severely limits the credibility of the auditor in terms of the public trust.

In 1992 the National Association of Local Government Auditors issued its first edition of "Guidelines and Model Authorizing Legislation for Local Government Audit Functions". This document was based on the first comprehensive set of guidelines and model legislation for local government auditing promulgated by the National Intergovernmental Audit Forum in 1987. The purpose of this document is to foster accountability and improved government services and programs in cities, counties, special districts and taxing jurisdictions.

It is our sincere hope that this document will provide local government officials with a clear understanding of the role of the local government audit function and assist in providing a blueprint for the development of model legislation authorizing local government audit functions. Feel free to contact N.A.L.G.A. at (606) 276-0686 or kpnasact@mis.net.

Sincerely,

Helen Niesner, President

<http://www.nalga.org/organiz/modlegis.html>

12/26/00

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NATIONAL ASSOCIATION OF LOCAL GOVERNMENT AUDITORS

GUIDELINES AND MODEL LEGISLATION
FOR LOCAL GOVERNMENT AUDITORS
INTRODUCTION

Audits are essential in providing reasonable assurance that local governments are 1) operating in accordance with laws, rules, regulations and policies; 2) responding to citizen needs; and 3) functioning economically, efficiently and effectively.

Local governmental managers are responsible for designing and implementing effective internal controls to ensure that assets are safeguarded, records are reliable, reports on operations are sufficient and fairly presented, fraud, waste and abuse are deterred, and programs, functions, and activities are conducted economically, efficiently and effectively.

12/26/00

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Audits of local government are an essential element of public control and accountability. By independently reviewing and reporting on programs, functions, activities and organizations, and by conducting or causing to be conducted independent audits of financial statements, auditors provide the public, elected officials and management with a fair, objective and reliable assessment of local government performance. Local government auditors can also make other contributions such as recommending improvements in policies, organizational structure, accounting procedures and management control systems and operations. Auditing is especially important in local government because:

1. Unlike the private sector, profit cannot be used readily as a key indicator of performance in government. Other measures of governmental efficiency, economy and effectiveness are needed.
2. Governments must function in compliance with laws, policies and established procedures while exercising good judgment in their stewardship of finite resources and following sound management principles.

The audit function should be organized and structured to make the greatest possible contribution to economical, efficient and effective government conducted in accordance with legislative and management directives.

We, therefore, endorse the following guidelines for establishing the audit function in local government entities.

GUIDELINES FOR ESTABLISHING AUDIT FUNCTIONS

Local government charters, ordinances or policy statements establishing an independent audit function (either legislative/appointed or elected) should:

1. Provide for an "independent" auditor either through election or appointment by the legislative body or chief executive officer. Appointment or removal of an appointed auditor by a chief executive officer should be subject to legislative approval.
2. Authorize the auditor to conduct financial and performance audits in accordance with government auditing standards as promulgated by the United States General Accounting Office. Government auditing standards provide for various types of audits which generally fall into one of the following categories:
 - a. Financial audits include financial statement and financial related audits.
 1. Financial statement audits provide reasonable assurance about whether the financial statements of an audited entity present fairly the financial position, results of operations, and cash flows in conformity with generally accepted accounting principles.
 2. Financial related audits include determining whether (1) financial information is presented in accordance with established or stated criteria, (2) the entity has adhered to specific financial compliance requirements, or (3) the entity's internal control structure over financial reporting and/or safeguarding assets is suitably

designed and implemented to achieve the control objectives.

b. Performance audits include economy and efficiency and program audits.

1. Economy and efficiency audits include determining (a) whether the entity is acquiring, protecting, and using its resources (such as personnel, property, and space) economically and efficiently, (b) the causes of inefficiencies or uneconomical practices, and (c) whether the entity has complied with laws and regulations concerning matters of economy and efficiency.
2. Program audits include determining (a) the extent to which the desired results or benefits established by the legislature or other authorizing body are being achieved, (b) the effectiveness of organizations, programs, activities, or functions, and (c) whether the entity has complied with laws and regulations applicable to the program.

c. Other Activities of an Audit Organization

Auditors may perform services other than audits. For example, some auditors may:

1. assist a legislative body by developing questions for use at hearings;
2. develop methods and approaches to be applied in evaluating a new or a proposed program;
3. forecast potential outcomes under various assumptions without evaluating current operations;
4. review proposed contract terms and conditions; and
5. perform investigative work.

The following key elements are crucial in providing for an effective independent audit function:

1. Require a written report containing relevant background information, findings and recommendations regarding audited activities and communicate the results of the report to the Audit committee, Legislative Board and management.
2. Assure that the auditor has full, free and unrestricted access to local government employees, officials, records, vendor contracts and reports.
3. Ensure that all contracts contain a right to audit provision.
4. Establish an audit committee at the local level to be responsible for review of the auditor's work concerning financial and performance audits. The committee should also work to assure maximum coordination between the work of the auditor and the audit needs of the chief executive officer, the legislative body and external auditors.

5. Assign the auditor responsibility to coordinate and monitor all audits and audit related services received by the local government entity including those performed by public accountants, consultants or audit organizations of the entity and its subdivisions.
6. Negate the influence of partisan politics on the selection and operations of the appointed auditor or on the operations of the elected auditor.
7. Require that responsible government managers promptly respond in writing, within a time specified, to audit recommendations explaining what actions are planned or have been taken to deal with problems identified in audit reports.
8. Require follow-up on significant findings and recommendations from previous audits to determine whether timely and appropriate corrective actions have been taken by management.
9. Provide for periodic quality assurance reviews of the audit function.

The concepts identified in these guidelines are divided between establishing a legislative /appointed and elected auditor. They include recommendations for each related to Charter provisions and legislation.

**MODEL CHARTER LANGUAGE ESTABLISHING A LEGISLATIVE/APPOINTED
AUDITOR
IN LOCAL GOVERNMENT ENTITIES**

SECTION _____. (NAME OF ENTITY) Auditor

The (NAME OF ENTITY) auditor shall be appointed by a majority of the legislative body/board (or by the chief executive of (NAME OF ENTITY) and ratified by a majority of the legislative body). The auditor shall conduct, or cause to be conducted financial, performance and other audit services following government auditing standards. The auditor can be removed from office for cause on a vote of at least two thirds of the legislative body. All audit reports are public documents and will be made available for public examination.

**MODEL CODE/ORDINANCE LANGUAGE TO IMPLEMENT
CHARTER PROVISIONS ESTABLISHING A LEGISLATIVE/APPOINTED
LOCAL GOVERNMENT AUDITOR**

***AN ORDINANCE/RESOLUTION/POLICY STATEMENT ESTABLISHING AN OFFICE OF
(NAME OF ENTITY) AUDITOR AND SETTING FORTH THE CONDITIONS AND
SPECIFICS UNDER WHICH SAID OFFICE SHALL FUNCTION***

WHEREAS government auditing independently reviews, evaluates and reports on the financial condition, the accuracy of financial record keeping, compliance with applicable laws, policies, guidelines and procedures, and efficiency and effectiveness of operations; and

WHEREAS management and employees in the public sector are responsible for taxpayer use of public resources and should be held accountable for their use; and

WHEREAS it is vital that government exercise its power and perform its duties in compliance with law, policy, and established procedures and apply good judgment and sound management practices and

WHEREAS the independence and public accountability of the auditor can be assured by provision c

an independent, legislatively appointed (or ratified) auditor.

NOW THEREFORE BE IT ORDAINED/RESOLVED THAT:

Page 10 of 25

1. *The Office of (NAME OF ENTITY) Auditor is hereby established.*

BE IT FURTHER ORDAINED/RESOLVED THAT:

2. *The auditor shall be named through appointment by a majority vote of the legislative body/board (or appointed by the chief executive officer and ratified by a majority vote of the legislative body/board).*
3. *The auditor shall be knowledgeable in performance and financial auditing, public administration, and government financial and fiscal practices.*
4. *The auditor shall not be actively involved in partisan political activities or the political affairs of (NAME OF ENTITY).*
5. *The auditor shall possess adequate professional proficiency for the job, demonstrated by relevant certification such as CIA (Certified Internal Auditor), CPA (Certified Public Accountant) or an advanced degree in a relevant field with at least five years experience in the field of government auditing, evaluation or analysis (CIA or CPA preferred). The auditor shall have a bachelors degree in accounting, business administration, or public administration or related field. If financial statement audits are performed, the auditor must be a CPA.*
6. *The auditor shall serve a minimum term of ____ years, unless removed for cause by a vote of at least two-thirds of the legislative body/board. The auditor may be re-appointed at the end of the term of office.*
7. *An audit committee shall be established to consult with the auditor regarding establishment of audit schedule, audit progress, audit follow-up, special needs; and shall work to assure maximum coordination between the work of the auditor and the needs of the chief executive officer the legislative body/board and external auditors. Audit committee members shall be appointed by the legislative body and all appointees shall be independent of the local government's management and administrative service. The legislative body shall appoint at least one of its members to serve on the committee.*
8. *The auditor and the auditor's office shall adhere to government auditing standards in conducting its work and shall be considered independent as defined by those standards.*

**CHAPTER (NUMBER)
LEGISLATIVE/APPOINTED AUDITOR**

12/26/00

Sections:

1. *Assistants and Employees*
2. *Scope of Audits*

Model Legislation (9/99)

3. *Audit Schedule*
4. *Special Audits*
5. *Funding*
6. *Records*
7. *Access to Employees, Records and Property*
8. *Agency Response*
9. *Audit Reports to Legislative Body/Board*
10. *Report of Irregularities*
11. *Annual Report*
12. *Audit Follow-up*
13. *Contract Auditors, Consultants and Experts*
14. *Quality Assurance Reviews*

Page 11 of 25

SECTION 1. Assistants and Employees

1. The Office shall be provided a separate budget (subject to available resources) sufficient to carry out the responsibilities and functions established in this ordinance.
2. The auditor shall establish an organizational structure appropriate to carrying out the responsibilities and functions of this ordinance.
3. The auditor shall have the power to appoint, employ, and remove such assistants, employees and personnel as deemed necessary for the efficient and effective administration of the affairs of the office.

SECTION 2. Scope of Audits

1. The auditor shall conduct work in accordance with government auditing standards.
2. The auditor shall have authority to conduct financial, performance or other audits of all departments, offices, boards, activities and agencies of the entity in order to independently and objectively determine whether:
 - a. activities and programs being implemented have been authorized by government Charter or Code, state law or applicable federal law or regulations;
 - b. activities and programs are being conducted as prescribed by management/governing body to accomplish the objectives intended by government Charter or Code, state law or applicable federal law or regulations;
 - c. activities or programs efficiently and effectively serve the purpose intended by government Charter, Code, state law or applicable federal law or regulations;
 - d. activities and programs are being conducted and funds expended in compliance with applicable laws;
 - e. revenues are being properly collected, deposited and accounted for;

- f. resources, including funds, property and personnel, are adequately safeguarded, controlled and used in an effective and efficient manner;
- g. financial and other reports are being provided that disclose fairly and fully all information that is required by law, that is necessary to ascertain the nature and scope of programs and activities and that is necessary to establish a proper basis for evaluating the programs and activities;
- h. there are adequate operating and administrative procedures and practices, systems or accounting internal control systems and internal management controls which have been established by management; or
- i. there are indications of fraud, abuse or illegal acts which need further investigation.

SECTION 3. Audit Schedule

At the beginning of each calendar (fiscal) year, the auditor shall submit a one to five year audit schedule to the legislative body/board (audit committee) for review and comment. The schedule shall include the proposed plan for auditing departments, offices, boards, activities, subcontractors and agencies for the period. This schedule may be amended during the period after review with the legislative body/board or audit committee. Additionally, the auditor may spontaneously initiate and conduct any other audit deemed necessary.

In the selection of audit areas and audit objectives, the determination of audit scope and the timing of audit work, the auditor should consult with federal and state auditors and external auditors so that the desirable audit coverage is provided and audit effort is properly coordinated.

SECTION 4. Special Audits

In the event the auditor receives a request to perform a special audit not included in the annual audit schedule, the auditor may obtain the approval of the legislative body to amend the annual audit schedule to reflect the approved modification.

SECTION 5. Funding

Funds sufficient to carry out the responsibilities specified herein shall be provided. The auditor's performance shall be evaluated annually by the appointing authority (and by the audit committee) and the auditor's salary shall be adjusted accordingly.

SECTION 6. Records

The auditor shall retain for three years (or longer if so directed by statute or ordinance), a complete file of each audit report and each report of other examinations, investigations, surveys and reviews made under legislative authority. The file should include audit workpapers and other supportive material directly pertaining to the audit report.

SECTION 7. Access to Employees, Records and Property

1. All officers and employees of (NAME OF ENTITY) shall furnish the auditor with unrestricted access to employees, information and records (including automated data) within their custody regarding powers, duties, activities, organization, property, financial transactions, contracts and methods of business required to conduct an audit or otherwise perform audit duties. In addition, they shall provide access for the auditor to inspect all property, equipment and facilities within their custody. If such officers or employees fail to produce the aforementioned access and/or information, the auditor may initiate a search to be made and exhibits to be taken from any book, paper or record of any such official or employee, or outside contractor or subcontractor, except as governed by statute. Further, all contracts with outside contractors and subcontractors shall provide for auditor access to all financial and performance related records, property, and equipment purchased in whole or in part with governmental funds and facilities.
2. The auditor shall not publicly disclose any information received during an audit that is considered proprietary in nature (confidential) by any local, state or federal law or regulation.

SECTION 8. Agency Response

A final draft of the audit report will be forwarded to the audited agency and the chief executive officer for review and comment regarding factual content before it is released. The agency must respond in writing and specifying agreement with audit findings and recommendations or reasons for disagreement with findings and/or recommendations, plans for implementing solutions to issues identified and a time table to complete such activities. The response must be forwarded to the auditor within (SPECIFY TIME FRAME). The auditor will include the agency's response in the report. If no response is received, the auditor will note that fact in the transmittal letter and will release the audit report. In the case of contracted audits, audits may be released without inclusion of a response. Any subsequent responses shall be distributed to those who received the audit report.

SECTION 9. Audit Reports to Legislative Body/Board

1. Each audit will result in a written report containing relevant background information and findings and recommendations, and shall communicate results to the Audit Committee, Legislative Board and/or management. The report shall also be available for public examination.
2. The auditor shall submit each audit report to the legislative body/board and shall retain a copy as a permanent record. A copy shall also be filed with the clerk of record and/or the area public library.

SECTION 10. Report of Irregularities

If during an audit, the auditor becomes aware of abuse or illegal acts or indications of such acts that could affect the governmental entity, the auditor shall report the irregularities to the audit committee, the chief executive officer or legislative board/body. In the case of an auditor appointed by the chief executive officer, if the chief executive officer is believed to be a party to abuse or illegal acts, the auditor shall report the acts directly to the legislative board/body. If it appears that the irregularity is criminal in nature, the auditor shall (immediately) notify the appropriate chief prosecuting authority (when appropriate) in addition to those officials previously cited.

12/26/00

SECTION 11. Annual Report

The auditor shall submit an annual report to the legislative body within (number of days)

after the calendar/fiscal year indicating audits completed, major findings, corrective actions taken by administrative managers, and significant findings which have not been fully addressed by management.

SECTION 12. Audit Follow-up

The auditor shall follow-up on audit recommendations as practical to determine if administrative managers are implementing corrective action. The auditor may request periodic status reports from audited entities regarding actions taken to address reported deficiencies and audit recommendations.

SECTION 13. Contract Auditors, Consultants and Experts

1. Within budget limitations, the auditor may obtain the services of Certified Public Accountants, qualified management consultants, or other professional experts necessary to perform the auditor's duties. An audit that is performed by contract must be conducted by persons who have no financial interests in the affairs of the governmental unit or its officers. The auditor will coordinate and monitor auditing performed by public accounting or other organizations employed under contract by the (NAME OF ENTITY).
2. The auditor will play a key role in the selection of the (NAME OF ENTITY) independent auditor. In contracting for the external audit, the auditor will follow (ENTITY)'s normal contracting processes. The auditor's selection of a certified public accounting firm for the annual financial audit must be approved by the (GOVERNING BODY).

SECTION 14. Quality Assurance Reviews

1. The audit activities of the auditor's office shall be subject to quality review in accordance with applicable government auditing standards by a professional, non-partisan objective group utilizing guidelines endorsed by N.A.L.G.A. A copy of the written report of this independent review shall be furnished to each member of the legislative body. This report shall be available to the public.
2. The quality control review shall determine compliance with government auditing standards and the quality of the audit effort and reporting, including:
 - a. general standards such as staff qualifications, due professional care, and quality assurance;
 - b. fieldwork standards such as planning, supervision, and audit evidence; and
 - c. reporting standards such as report content, presentation, and timeliness.
3. The local government shall reimburse the costs of the quality control review team from funds budgeted in the auditor's budget or other in-kind support.

12/26/00

Model Legislation (9/99)

Page 15 of 25

<http://www.nalga.org/organiz/modlegis.html>

12/26/00

Model Legislation (9/99)

Page 16 of 25

**MODEL CHARTER LANGUAGE ESTABLISHING AN ELECTED AUDITOR IN LOCAL
GOVERNMENT ENTITIES**

**AN ORDINANCE/RESOLUTION/POLICY STATEMENT PRESENTING
a proposed Charter Amendment to the people to establish the elected position of (NAME OF
ENTITY) auditor and setting forth the conditions and specifics under which said official shall
function.**

WHEREAS the activity of government auditing independently reviews, evaluates and reports on the financial condition, the accuracy of financial record keeping, compliance with applicable laws, policies, guidelines and procedures, and efficiency and effectiveness of operations; and

<http://www.nalga.org/organiz/modlegis.html>

12/26/00

WHEREAS management and employees in the public sector are responsible for the use of public resources and should be held accountable for their use; and

WHEREAS it is vital and fair to effective government that the government exercise its power and perform its duties in compliance with law, policy, and established procedures and apply good judgment and sound management practices; and

WHEREAS the independence and public accountability of the auditor can be assured by provision for an elected auditor.

NOW THEREFORE BE IT ORDAINED/RESOLVED THAT the following Charter amendment be presented to the people for vote at the (TYPE) election to be held on (DATE).

SECTION 1. Elected Auditor

The office of elected auditor of (NAME OF ENTITY) is hereby established.

SECTION 2. Term of Office

The term of the auditor shall be _____ years.

SECTION 3. Nonpartisanship

The position of the auditor shall be nonpartisan.

SECTION 4. Professional Qualifications and Experience

The auditor shall possess adequate professional proficiency for the job, demonstrated by relevant certifications such as a CIA (Certified Internal Auditor), CPA (Certified Public Accountant) or have an advanced degree in a relevant field with at least five (5) years experience in the field of government auditing, evaluation, or analysis. The auditor shall have a bachelors degree in accounting, business administration, public administration or related field. If financial statement audits are performed, the auditor must be a CPA.

SECTION 5. Compensation

The auditor shall be compensated at a rate comparable to other similarly situated elected officials or as otherwise provided by statute.

SECTION 6. Funding

Sufficient funds shall be provided to carry out the responsibilities specified herein.

SECTION 7. Restrictions on Other Candidacy

Filing for another elective office over which the auditor has audit jurisdiction will be the same as a resignation, effective as of date of filing.

Model Legislation (9/99)

Page 18 of 25

SECTION 8. Audit Scope, Standards and Schedule

The auditor shall have the authority and responsibility to conduct financial and performance audits or special studies of all phases of (NAME OF LOCAL GOVERNMENT) government in accordance with government auditing standards. Such audits may include financial, compliance, performance, and program results auditing. The auditor shall consult with the (GOVERNING BODY/AUDIT COMMITTEE) regarding the selection of audit entities, but the final decision of what to audit shall remain with the auditor. The auditor shall furnish the (GOVERNING BODY) with a planned audit schedule by the beginning of each fiscal year.

Additionally, the auditor may modify the audit schedule or initiate and conduct any other audit deemed necessary to undertake.

SECTION 9. Access to Employees, Records and Property

The auditor shall have unrestricted access to employees, officials, records and reports, and as necessary, require all branches, departments, and officials of government to produce documents, files and other records.

SECTION 10. Audit Reports

1. Each audit will result in a written report containing relevant background information and findings and recommendations, and shall communicate results to the Audit Committee, Legislative Board and/or management. The report shall also be available for public examination.
2. The auditor shall submit each audit report to the legislative body/board and shall retain a copy as a permanent record. A copy shall also be filed with the clerk of record and/or the area public library.

SECTION 11. Responses to Audit Reports

The auditor shall furnish a final draft of each audit report to the audited entity for review and comment before it is released. The responsible official must respond in writing to the auditor's recommendations within _____ working days, or within the time frame specified by the auditor.

SECTION 12. External Audits

The auditor shall appoint external Certified Public Accountants to conduct certified financial statement audits, as specified by state or local law. The auditor shall coordinate and monitor the conduct of, and responses to, external financial statement audits. The auditor shall work toward the elimination of duplicative audit work through cooperation with state and federal and external auditors.

SECTION 13. Audit Committee

An audit committee shall be established in an advisory capacity to provide recommendations for the auditor's salary, work program, review of the audit function and hiring of external auditor. The

committee shall consist of five (5) members, any one of whom is the auditor and two members from the governing body and two (2) members with audit credentials appointed by the auditor.

**MODEL CODE/ORDINANCE LANGUAGE TO IMPLEMENT CHARTER
PROVISIONS ESTABLISHING
AN ELECTED LOCAL GOVERNMENT AUDITOR**

AN ORDINANCE amending the Code of (ENTITY), by adding a new Chapter (NUMBER) entitled "Elected Audit Function," setting forth the specifics under which the audit agency of the (GOVERNMENT) auditor's office shall function.

The (GOVERNING BODY) ordains:

1. Accountability is inherent in the governing process of this nation. Officials and employees who manage public programs are obligated to justify to the public their methods and purposes in appropriating, applying, and using public resources.
2. Public officials, government managers, and private citizens want and need to know not only whether government funds are handled properly and in compliance with laws and regulations, but also whether public programs are achieving the purposes for which they were authorized and funded, and, whether they are doing so efficiently and economically.
3. An independent auditing function can provide objective information on the operations of government programs, assist managers in carrying out their responsibilities, and help ensure full accountability to the public.
4. An effective auditing function requires that audit results be accepted and used by public officials. Acceptance requires that the audit function be understood and recognized as valid, and that it be established on a firm foundation of professional competence.
5. Standards for the conduct and practice of governmental auditing have been developed by the Comptroller General of the United States.
6. The audit function in the (NAME OF ENTITY) approved by the voters through Charter amendment on (DATE), should adhere to these standards in order to ensure that public officials and employees understand the role and function of auditing, to lend consistency and credibility to ongoing audit work, and to provide a basis for monitoring and evaluating the work of audit staff.

NOW, THEREFORE the (GOVERNING BODY) directs:

The (GOVERNING BODY) hereby establishes a new Chapter (NUMBER) in the Code of the (NAME OF ENTITY), adding a new Chapter to be numbered, titled and read as Chapter (NUMBER), (TITLE).

12/26/00

<http://www.nalga.org/organiz/modlegis.html>

Sections:

1. *Independence*
2. *Scope of Audits*
3. *Audit Schedule*
4. *Access to Employees, Records and Property*
5. *Agency Response*
6. *Audit Reports*
7. *Report of Irregularities*
8. *Audit Follow-up*
9. *Contract Auditors, Consultants and Experts*
10. *Quality Assurance Reviews*

SECTION 1. Independence

1. An audit function is hereby created within the elected auditor's office, answerable directly to the auditor in accordance with Charter Section (NUMBER).
2. The audit function will adhere to government auditing standards in conducting its work and will be considered independent as defined by those standards.
3. If the audit function conducts an audit of an activity for which the elected auditor is or was responsible, the audit scope will state that the auditors are not organizationally independent with regard to the entity being audited.

SECTION 2. Scope of Audits

1. The auditor may conduct financial, performance and other audits of all agencies, offices, boards, activities, functions and agencies of the (NAME OF ENTITY) to independently determine whether:
 - a. activities and programs being implemented have been authorized by government Charter or Code, state law or applicable federal law or regulations;
 - b. activities and programs are being conducted as prescribed by management/governing body to accomplish the objectives intended by government Charter or Code, state law or applicable federal law or regulations;
 - c. activities or programs efficiently and effectively serve the purpose intended by government Charter, Code, state law or applicable federal law or regulations;

- d. activities and programs are being conducted and funds expended in compliance with applicable laws;
 - e. revenues are being properly collected, deposited and accounted for;
 - f. resources, including funds, property and personnel, are adequately safeguarded, controlled and used in a faithful, effective and efficient manner;
 - g. financial and other reports are being provided that disclose fairly and fully all information that is required by law, that is necessary to ascertain the nature and scope of programs and activities and that is necessary to establish a proper basis for evaluating the programs and activities;
 - h. there are adequate operating and administrative procedures and practices, systems or accounting internal control systems and internal management controls which have been established by management; or
 - i. there are indications of fraud, abuse or illegal acts which need further investigation.
2. The auditor shall conduct his/her work in accordance with government auditing standards applicable to financial, performance or other activities of an audit organization.

SECTION 3. Audit Schedule

At the beginning of each calendar (fiscal) year, the auditor shall prepare a one to five year audit schedule to the legislative body/board (audit committee) for review and comment. The schedule shall include the proposed plan for auditing departments, offices, boards, activities, subcontractors and agencies for the period. This schedule may be amended during the period as the auditor may initiate and conduct any other audit deemed necessary.

SECTION 4. Access to Employees, Records and Property

All officers and employees of the (NAME OF ENTITY) shall furnish the auditor with unrestricted access to employees, information and records (including automated data) within their custody regarding powers, duties, activities, organization, property, financial transactions and methods of business required to conduct an audit or otherwise perform audit duties. In addition, they shall provide access for the auditor to inspect all property, equipment and facilities within their custody. If such officers or employees fail to produce the aforementioned access and information, the auditor may initiate a search to be made and exhibits to be taken from any book, paper or record of any such official or employee, except as governed by statute, and every office having the custody of such records shall make a search and forward such requested exhibits to the auditor. Further, all contracts with outside contractors and subcontractors shall provide for auditor access to all financial and performance related records, property and equipment purchased in whole or in part with governmental funds and facilities.

The auditor shall not publicly disclose any information received during an audit that is considered proprietary in nature (confidential) by any local, state or federal law or regulation.

<http://www.nalga.org/organiz/modlegis.html>

12/26/00

SECTION 5. Agency Response

A final draft of each audit report will be forwarded to the audited agency for review and comment before it is released. The agency must respond in writing specifying agreement with audit findings and recommendations or reasons for disagreement with findings and/or recommendations, plans for implementing solutions to issues identified and a time table to complete such activities. The response must be forwarded to the auditor within the time frame specified by the auditor. The auditor will include the full text of the agency's response within the final audit report.

SECTION 6. Audit Reports

1. Each audit will result in a written report containing relevant background information, findings and recommendations and shall communicate results to the appropriate officials.
2. The auditor will submit each audit report to the (GOVERNING BODY) and will retain a copy as a permanent record. Supporting workpapers shall be retained for at least ____ (greater than auditor's term of office). A copy shall be filed with the clerk of record and/or the area library.
3. If appropriate, the audit report shall contain the professional opinion of the auditor or the contract auditor concerning the financial statements issued by the agency or board or if the audit is an expanded scope audit, the report will contain the professional conclusions of the audit regarding the management activities audited.
4. The auditor shall include in the audit reports:
 - a. a precise statement of the scope encompassed by the audit;
 - b. a statement that the audit was performed in accordance with government auditing standards;
 - c. a statement that an examination for compliance with applicable laws, policies and regulations was conducted and presentation of the findings associated with that examination;
 - d. a statement of the significant audit findings, including a statement of the underlying cause, evaluative criteria used and the current and prospective significance of the findings;
 - e. a statement that internal control systems were examined and a report of any material weaknesses found in the internal control systems;
 - f. statement of response submitted by the audited agency, board or agency relevant to the audit findings including, if possible, a concise statement of the corrective actions previously taken or contemplated as a result of the audit findings and a time table for their accomplishment; and
 - g. recommendations for additional necessary or desirable action.

SECTION 7. Report of Irregularities

If the auditor detects apparent violations of law or apparent instances of malfeasance or nonfeasance by an officer or employee or information that indicates wrongdoing may be reasonably anticipated, the auditor shall report the irregularities to the (PRESIDING OFFICER) of the (GOVERNING BOARD). If the irregularity is potentially criminal in nature, the auditor shall notify the prosecuting attorney, when appropriate in addition to those previously cited.

SECTION 8. Audit Follow-up

The auditor shall follow-up on audit recommendations as practical to determine if administrative managers are implementing corrective action.

The auditor may request periodic status reports from audited entities regarding actions taken to address reported deficiencies and audit recommendations.

SECTION 9. Contract Auditors, Consultants and Experts

Within budget limitations, the auditor may obtain the services of Certified Public Accountants, qualified management consultants, or other professional experts necessary to perform the auditor's duties. An audit that is performed by contract must be conducted by persons who have no financial interests in the affairs of the governmental unit or its officers. The auditor will coordinate and monitor auditing performed by public accounting or other organizations employed under contract by the (NAME OF ENTITY) to assist with audit related activities.

Contracting for the external audit will follow (ENTITY)'s normal contracting processes. The auditor's selection of a certified public accounting firm for the annual financial audit must be approved by (GOVERNING BODY).

SECTION 10. Quality Assurance Reviews

The audit activities of the auditor's office shall be subject to a quality review in accordance with applicable government auditing standards by a professional, nonpartisan objective group utilizing guidelines endorsed by N.A.L.G.A. A copy of the written report of this independent review shall be furnished to each member of the (GOVERNING BODY).

The quality review will use applicable government auditing standards to evaluate the quality of audit effort and reporting. Specific quality review areas shall include staff qualifications, adequacy of planning and supervision, sufficiency of workpaper preparation and evidence, and the adequacy of systems for reviewing internal controls, fraud and abuse, program compliance, and automated systems. The quality review will also assess the form, distribution, timeliness, content, and presentation of audit reports. The government shall reimburse costs of the quality review from funds budgeted in the auditor's budget.

Appendix L

**Report on NALGA's Benchmarking and Best Practices Survey
For Fiscal Year 2000
December 2000**

Introduction

This report updates NALGA's three previous Benchmarking and Best Practices Survey reports issued for FY96, FY97 and FY98. It includes the results provided by **sixty-seven** local government audit organizations. These responses are grouped to allow comparability among audit departments with similar staffing and spending levels. Based upon the number of responses and the profile of the participating organizations, the reported data is summarized into three groups:

Table 1a

Group	# of Audit Dept	Full Time Audit Staff	Annual Audit Spending
1	19	up to 3 Auditors	\$ 57,294 - \$ 546,126
2	32	over 3 to 12 Auditors	\$ 159,643 - \$ 1,415,151
3	16	13 - 38 Auditors	\$ 926,913 - \$ 2,991,567

The survey addresses three audit topics:

Part I - Resource Inputs and Outputs/Outcomes

Part II - Performance Indicators and Measures

Part III- Practices and Activities

Since 1996, over one hundred different NALGA audit organizations participated in the Benchmarking & Best Practices study by completing a survey questionnaire. A copy of the FY 2000 survey questionnaire is included as Appendix A, to this report. The "best practice" audit shops are shown in Appendix B.

Part I - Resource Inputs and Outputs/Outcomes

Part I identifies the resource inputs that are made available to audit departments and the resulting outputs and outcomes from their work. The source of this data is commonly found in the audit departments' annual budget and spending reports, and in internal time management and activity reports which identify: the type and number of reports issued, the audit time used, the audit recommendations and the projected financial savings which may have resulted from their work.

Annual Audit Spending and Staffing**Table 1b**

Group	Average Annual Spending	Audit Salaries to Total Spending	Audit Staff Size
1	\$ 190,299	65% - std deviation 17%	1.9
2	\$ 593,659	67% - std deviation 13%	7.2
3	\$ 1,889,764	65% - std deviation 13%	21.1

Table 1b shows that on average audit salaries represent about two-thirds of the total audit spending. The remaining cost elements include employee benefits, secretarial services, training, travel, and other costs. Approximately 25 percent of audit organizations use interns or part-time auditors, which increased their available audit time by 12 percent. In addition, 27 percent of audit departments select and manage the use of outside auditors or consultants to conduct internal or external reviews. The annual spending for outside audit support averaged about \$198,500 for the 18 audit shops that used this service.

Direct Time to Available Time and Total Time**Table 2**

Gr	Direct Time to Available Time	Direct Time to Total Time
1	74% - std deviation 10%	65% - std deviation 10%
2	72% - std deviation 11%	63% - std deviation 11%
3	74% - std deviation 12%	64% - std deviation 11%

Table 2 shows the individual group results; the composite rate of direct time for all three groups is 73 percent direct time to available time and 63 percent direct time to total time. The computation used is:

Direct Time + Indirect Time = Available Time
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Available Time + Benefit Time = Total Time
--

- Direct Time includes all time spent on audits, follow-up audits or other engagements.
- Indirect Time includes time used for general management, unassigned time, training and other indirect activities.
- Benefit Time includes vacation, holiday and sick leave, and other paid leave.

Audit Department Staffing & Spending Benchmarks**Table 3a**

Gr	1 Auditor to # of Organizational Staff	Audit \$1 to Organization \$ Spending
1	1: 1632 staff (range 151 - 8178 staff)	\$1 : \$1,633 (range \$117 - \$4,450)
2	1: 574 staff (range 137 - 1555 staff)	\$1 : \$1,009 (range \$371 - \$ 1,900)
3	1: 872 staff (range 131 - 2368 staff)	\$1 : \$1,478 (range \$555 - \$ 4,298)

The macro benchmarks shown in Table 3a, provide a comparison between the staffing and spending ratio of audit departments to the number of full time positions and the total dollars spent by the government organization that hosts the audit shop. This data indicates that there is a significant disparity in the size and spending ratio between all audit shops regardless of which group they represent. These ratios are provided only for informational purposes and are not recommended for

use without further analysis. Before using these macro measures, more specific information should be developed regarding the organizational needs and usage patterns of auditors within the government organization.

Cost/ Audit Hour - Cost/ Billable Hour **Table 3b**

Gr	Cost/ Audit Hour	Cost/ Billable Hour
1	\$ 36.90	\$ 63.15
2	\$ 42.54	\$ 71.23
3	\$ 40.96	\$ 71.81

Table 3b provides a composite cost per hour to run an audit department. A number of audit organizations have historically used hourly rates to compare their department to other government audit shops and outside CPA / Consulting firms. In computing these costs, the above table presents a comparison using two traditional but different measures. The basic computations used:

Cost per Audit Hour
$$\frac{\text{Total Audit Department Cost excluding Organizational G\&A}}{\text{Total Audit Hours (paid hours)}}$$

Cost per Billable Hour
$$\frac{\text{Total Audit Department Cost including Organizational G\&A}}{\text{Total Direct Hours (billable hours)}}$$

Most audit shops use the **cost per audit hour** calculation method. This computation divides either the total audit hours (available or paid) into the total audit department cost excluding G&A. However, in order for an audit shop to compare its actual cost of operation with the private sector, the audit shop needs to use the **cost per billable hour** calculation method. When using this alternative method the audit shop should develop a billing rate that fully absorbs all its operating cost, including the general & administrative cost that is paid by the host organization. G&A usually includes costs that are not routinely included in the audit department budget, such as office space, central services for copying, payroll and human resources support activities. In addition, the audit department must specifically identify indirect labor time such as training and other traditional non-billable time. When making a comparison to CPA billing rates the audit shop should divide the total department cost including G&A into the total direct hours (billable hours) not the total audit hours incurred by the audit shop.

The billable hourly rate shown in Table 3b for Groups 1 through 3 is based on each audit department's direct hours. On average the direct (billable) hours were 63% of the total hours paid. Individual audit shops reported direct time, which ranged from 41% to 87% of total time. The hourly rates shown are based on a standard eight-hour workday. It should be noted that only 30 shops (45%) applied any additional G&A costs paid by the host organization. The reported G&A cost averaged 10% (ranging from 1% to 43%) of the cost needed to run an audit department. Both the Cost/Audit Hour and the Cost/Billable Hour rates exclude all payments made to outside CPA firms, even when funded by that audit shop.

Audit Executive Salary Ranges**Table 4a**

Gr	\$25,000-\$49,999	\$50,000- \$74,999	\$75,000- \$99,999	\$100,000+
1	28%	50%	22%	0%
2	6%	31%	60%	3%
3	0%	0%	62%	38%

Table 4a provides a distribution of audit executive salaries in four ranges: \$25,000 -\$49,999; \$50,000 - \$74,999; \$75,000 - \$99,999; and, \$100,000+. This table indicates that the larger the audit group the higher the percent of audit executives that are included in the upper salary ranges. This indicates a correlation between the size of the audit shop and the salary of the audit executive.

Average Annual Salary**Table 4b**

Gr	Director	Manager	Supervisor	Senior	Staff
1	\$65,962	\$65,724	\$57,220	\$56,050	\$43,601
2	\$70,482	\$59,373	\$56,467	\$49,294	\$43,498
3	\$98,983	\$72,858	\$62,609	\$51,681	\$42,147

Table 4b represents a new set of data provided by the surveyed audit shops. Prior survey work developed in 1998 indicated a composite hourly rate of \$25.52 or (\$53,000) for all positions in the three groups. This table now shows the annual salaries provided for the individual salary categories commonly used by various audit shops. It should be noted that approximately one-third of the audit shops included in groups 1 & 2 have a manager level position or a director title position but not both. Since many small and some medium sized audit shops do not use the director title the average annual salary is comparable (i.e. group 1 above, only has a \$238 compensation difference between director and manager titled positions).

Performance Auditing - Time Used**Table 5**

Gr	Average Days Used on Performance Audits FY96-98	Average Days Used on Performance Audits FY2000
1	45 - 52 days (range 8 - 219 days)	62 days (range 1 - 300 days)
2	93 - 109 days (range 8 - 358 days)	100 days (range 22 - 337 days)
3	130 - 180 days (range 21 - 387 days)	206 days (range 61 - 398 days)

Table 5 provides a comparison between the performance audit days used during the period FY 96-98 and FY2000. It appears that average performance audit projects continue to take a considerable level of effort regardless of the staff size. The survey does not provide a rationale for the differences in the time used between each group; however, the larger the audit shop the more likely it would have the staff resources to take on larger scope audit assignments. It should also be noted that there is a wide range in the average days used by audit shops that conduct "performance audits". The

average audit days spent range from a low of 1-61 days to a high of 300-398 days. This difference indicates that the scope of performance audits varies greatly within the local government audit community.

Outcomes - \$ Savings**Table 6**

Gr	#Shops	Total Projected \$ Savings	Ratio of \$Saving to Audit\$
1	9	\$ 592,487 (range \$ 11,000 - \$ 1,532,381)	\$2.84 (range \$.18- \$ 5.62)
2	14	\$1,211,277 (range \$ 46,781 - \$ 8,359,920)	\$3.36 (range \$.10-\$ 28.14)
3	10	\$5,615,817 (range \$ 300,000 - \$ 20,705,404)	\$2.95 (range \$.11-\$ 10.98)

Table 6 identifies the dollar saving created by the 33 audit shops that measure the financial impact of their audit work. These dollar savings reflect the results of all types of audit work, including performance audits, financial related audits, and other management advice. The composite average savings for the three groups was \$3.09 which was returned to these government organizations for each \$1 spent for audit services.

Outcomes - Audit Recommendations Accepted and Implemented**Table 7**

Gr	% Recommendations Accepted	% Recommendations Implemented
1	92% (range 68% - 100%)	71% (range 25% - 100%)
2	95% (range 77% - 100%)	63% (range 23% - 100%)
3	89% (range 52% - 100%)	64% (range 24% - 80%)

Table 7 represents the resulting number of recommendations accepted and the resulting recommendations that were implemented by management. Only 47 of the 67 audit shops surveyed actually track the outcomes resulting from their work. The composite rate of Recommendations Accepted by management is 93% for the three groups.

The consolidated implementation rate of Recommendations Implemented by management is 65% as reported by 34 audit shops. It is important to note that some of these implementation rates would likely improve if the implementation of recommendations were tracked and reported for periods greater than the current fiscal year.

Part II - Audit Department Performance Indicators and Measures

Part II identifies nine performance indicators that could be used by an audit shop to measure its performance against other audit shops. Shown below, on Table 8, are the results for fiscal year 2000. These results are based upon the data provided by 28 to 61 audit shops depending upon the measure calculated.

Performance Data

Table 8

Performance Indicator	Computation of Measure	Results 2000
Percent of direct time to available time	$\frac{\text{Direct Time}}{\text{Available Time}}$	73% (stdd 11%)
Percent of direct time to total time	$\frac{\text{Direct Time}}{\text{Total Time}}$	63% (stdd 10%)
Percent of recommendations accepted by customers	$\frac{\# \text{ Recommendations accepted}}{\# \text{ Recommendations reported to management}}$	93% (stdd 10%)
Percent of recommendations implemented by audit customers	$\frac{\# \text{ Recommendations implemented}}{\# \text{ Recommendations reported to management}}$	65% (stdd 26%)
Percent of completed engagements to number scheduled during the FY	$\frac{\# \text{ Engagements completed}}{\# \text{ Engagements planned during the fiscal year}}$	91% (stdd 25%)
Percent of engagements that met the completion milestone date	$\frac{\# \text{ Engagements completed by promise date during the fiscal yr.}}{\# \text{ Engagements completed during the fiscal year}}$	76% (stdd 24%)
Audit Effectiveness Questionnaires or Customer Satisfaction Surveys	Ratings (Scale - low=1 to high=5)	4.10
Percent of cumulative time used to complete engagements	$\frac{\text{Cumulative audit time used on all completed engagements}}{\text{Cumulative audit time budgeted on all completed engagements}}$	130% (stdd 65%)
Percent of engagements completed within the planned time budget	$\frac{\# \text{ Engagements completed within time budget during the fiscal yr.}}{\# \text{ Engagements completed during the fiscal year}}$	68% (stdd 23%)

Other Data**Table 9**

The survey also requested information on the following:	Results FY 00
How often does the audit department work with the client to develop solutions to findings or implement recommendations?	regularly = 67% occasionally = 31% never = 2%
Is Managed Competition or Outsourcing planned or ongoing in the government organization you audit?	yes, by 49%
Does your department have an Audit Procedures Manual in place? Is the manual routinely updated?	yes, by 91% 88% of yes
Are performance measures used by the government organization you audit?	yes, by 71%
What percent of the audit staff satisfied the GAS Continuing Education Requirement of 80 (CPE) hours of training during the past two year period?	average compliance reported - 92%; 82% of audit shops reported 100% compliance
What percent of the audit staff has an advance degree (MBA, etc.) or is certified based upon a national or international examination?	Average percent reported - 76%
Is your department applying COSO - Internal Control Framework?	fully = 9% partial = 37% no = 54%

Part III - Practices and Activities

Part III identifies the progress made to date and level of experience that NALGA member Audit Organizations possess when conducting routine audit practices or implementing new and innovative audit techniques. The survey asked the individual audit executive to make a self-evaluation of the department's current status regarding a topic area. The status levels are: (1) Best Practice - highly successful, (2) Experienced, (3) Just starting, and (4) Not applicable.

The following tables identify the percent of audit executives that identified their department as being either (1) best practice or (2) experienced in various audit practices and techniques currently used in the audit profession. For presentation purposes the audit practices are combined into the following groupings: Business Planning, Customer Satisfaction, Measuring Results, Professional Audit Standards, Audit Activities, Management Consulting, and the Use of Automated Audit Tools.

It should be noted that Best Practice audit shops represent a smaller percent than the combined total of level 1 and 2 shown below. A listing of audit shops that were self assessed as "Best Practice" in seventeen topic areas is included in Appendix B.

Business Planning

Table 10

Topic Area	Features & Highlights	Level 1&2
Working with audit committee and/or senior management to identify major issues	Audit committee and/or senior management reviews the audit work plan and strongly supports early involvement of the audit department	FY96 72% FY97 72% FY98 67% FY00 71%
Audit Department planning process	Audit department prepares a formal risk assessment document.	FY96 72% FY97 72% FY98 67% FY00 59%
Planning for the future	Strategic planning and/or long-term (3 to 5 year) audit work planning on-going	FY96 53% FY97 47% FY98 48% FY00 50%

Table 10 shows minimal change in the various elements of business planning, which include working with audit committees or senior management, preparing formal risk assessments and developing long-term audit plans. The most notable change is the 59% current rate of audit departments that prepare a formal risk assessment document. This represents a reduction of 8 - 13% from prior surveys.

Customer Satisfaction Inquiries/ Marketing**Table 11**

Topic Area	Features & Highlights	Level 1&2
Marketing the audit function	Audit department has developed a marketing product, which encourages management to see audit as an advisor/ consultant and supports the audit mission.	FY96 48% FY97 48% FY98 38% FY00 47%
Customer Satisfaction Surveys	Audit department obtains input through the use of formal customer surveys.	FY96 32% FY97 23% FY98 26% FY00 36%
Audit Effectiveness questionnaire	Asks customers to value audit after engagement completed	FY96 28% FY97 35% FY98 27% FY00 34%

Table 11 indicates that customer focus activities continue to have a low priority with a majority of audit shops; however, there is a slight improvement in the number of audit shops that are using customer satisfaction surveys to obtain input from audit customers.

Measuring Results**Table 12**

Topic Area	Features & Highlight	Level 1&2
Audit Report Follow-up	Action dates logged and tracked and non-compliance reported to Audit Committee and /or senior management.	FY96 70% FY97 64% FY98 60% FY00 74%
Audit Report resolution and corrective action taken by management	Audit committee and/or senior management actively support the audit resolution process and take corrective action in a reasonable period of time.	FY96 73% FY97 68% FY98 72% FY00 75%

Table 12 indicates that some improvement is being made in tracking audit recommendations. There also appears to be a slight improvement in the percent of audit shops that work with an audit committee and/or senior manager that actively supports the audit resolution and corrective action process. In addition, another part of the survey identified 67 percent of audit shops work with audit clients on a regular basis to develop solutions to the audit findings or implement recommendations. Hopefully these efforts will continue to build a spirit of cooperation.

Professional Audit Standards**Table 13**

Topic Areas	Features & Highlights	Level 1&2
Government Auditing Standards	Audit department applies government auditing standards issued by the U.S. GAO while conducting audits.	FY96 72% FY97 73% FY98 65% FY00 82%
External Quality Control Reviews	Audit department schedules external peer reviews once every 3 years.	FY96 30% FY97 37% FY98 36% FY00 49%

Table 13 shows a significant increase in percent of audit shops that are using Government Auditing Standards (GAS) in the performance of their audit work. One major exception to implementing audit standards appears to be the limited number of audit shops that have completed or routinely engage outside peer review teams to conduct External Quality Control Reviews. In particular, Group 1 continues to show a low level of compliance with the external quality control review standard. The FY00 results show a low compliance rate of 6% for these small shops; however, group 2 and 3 compliance rates are in the 60% range. This indicates that NALGA's peer review program has begun to get member organizations more focused on importance of external quality control reviews. Overall, larger audit shops have more resources to obtain an external QCRs.

Audit Activities**Table 14**

Topic Area	Features & Highlights	Level 1&2
High percentage of Performance/ Operations Audits	Audits focus on business process (economy and efficiency and effectiveness), not just controls.	FY96 88% FY97 74% FY98 72% FY00 85%
Contract Auditing	Audits are performed at the contractor's place of business before or early in contract term; field audits are used to verify amounts billed and obtain contract repayments.	FY96 42% FY97 44% FY98 40% FY00 32%
Information Systems Auditing.	Perform pre- & post implementation reviews of new automated systems; and/or actively involved in the audit of active automated system applications and the general control environment.	FY96 38% FY97 44% FY98 32% FY00 39%
Performance Measures Benchmarking and/or Best Practices	Audit department reviews and/or analyzes submissions made by operating departments regarding performance measures to verify the reliability of management presentations.	FY96 30% FY97 23% FY98 25% FY00 27%

As shown in Table 14, a significant segment 85% of NALGA organizations are highly successful or experienced in conducting Performance Audits. However, these same audit shops are not actively involved in the audit of contracts, information systems or performance measures. Since government organizations frequently invest public funds in capital projects and operating activities performed by independent contractors and consultants it appears that more than the current 32% of audit shops should be involved in reviewing contract expenditures. In addition, when considering the growth of information system technology in both the public and private sector, the limited percent of audit shops (39%) involved in conducting evaluations of government agencies information system activities can become problematic for the audit profession. It is also interesting to note that 71 percent of the reporting audit shops (see page 7) indicate that performance measures are being used by their respective organizations but only 27 percent of audit shops are reviewing this information.

Management Consulting Activities

Table 15

Topic Area	Features & Highlights	Level 1&2
Organization teams for: Re-engineering Work Process Improv. Quality Improvement	Audit department facilitates or participates in organizational initiatives to streamline operations and/ or focus on customer needs.	FY96 43% FY97 50% FY98 40% FY00 41%
Control Self Assessments	Audit Department educates/ facilitates/ equips operating departments for self-assessment of organizational risks.	FY96 22% FY97 25% FY98 14% FY00 12%

As shown in Table 15, some audit shops are currently involved in some aspect of internal management consulting. Forty-one percent of audit shops are highly skilled or experienced enough to provide support to other management processes including re-engineering, work process improvement and quality improvement. Since this is not a traditional responsibility of audit shops this appears to be an acceptable percent of representation among audit shops. Currently twelve percent of audit shops are performing Control Self-Assessments. This drop indicates that audit shops are getting less involved in CSA activities.

Use of Automated Audit Tools

Table 16

Topic Area	Features & Highlights	Level 1&2
Automated Audit tools: Audit sampling Work paper formats Work paper file system Audit time reporting	Use computer-assisted audit techniques and tools to assist in audit analysis and testing, and/ or audit planning and administration	FY96 63% FY97 62% FY98 65% FY00 74%

As shown in Table 16, an increased percent of audit shops are using automated audit techniques and tools within their respective departments. Obviously, NALGA member audit departments are now using many new automated audit tools.

Conclusion

NALGA has always been an organization made up of members that were willing to share their professional knowledge and sights with their peers. In reviewing the benchmarking progress made to date, it is fair to say that one hundred plus NALGA Audit Organizations that participated in this Benchmarking & Best Practices Survey have provided the rest of the audit community with valuable insight related to the inner workings of local government audit shops.

I hope that more audit executives will participate in this benchmarking process in the future. If an audit executive is interested in improving the efficiency and effectiveness of the department's audit activities, some comparison should be made with peer organizations. Obviously the benchmarking metrics included in this report only provide a partial analysis. It may be necessary to expand into other types of analysis in cases where an audit department has a substantial disparity with the standard results reported by other NALGA members. It may prove useful to seek counsel from "best practice" audit shops or begin a formal process-benchmarking project.

Regardless, all NALGA members should take advantage of data included in this report. A comparison with other peer organizations should lead to better identification of both the strengths of the audit operation and highlight those areas where improvements should be made. I hope that NALGA's membership continues to use this survey report as a tool for continuous improvement within their respective audit organizations.

Peter F. Babachicos, CPA, CGFM
Director, Internal Audit
Massachusetts Water Resources Authority
Boston, Massachusetts

This report represents the opinions and conclusions of the author and not necessarily those of NALGA or the MWRA. Much of the success of this project is due to the support received by the NALGA Board and the over one hundred NALGA members that provided their audit organization's information since 1996. I would also like to thank Lou Lassiter and his staff in the Chesterfield County Internal Audit Department for supporting the completion of this FY 2000 report.

12/14/00

Appendix M

Juno e-mail printed Thu, 16 Aug 2001 07:55:14 , page 1

From: "Marcia B Buchanan" <BuchananM@gao.gov>

To: <Mcolbath@juno.com>

Date: Thu, 16 Aug 2001 08:45:12 -0400

Subject: internal versus external auditing

As we discussed the other afternoon, we now see a distinction between internal auditors and external auditors in reporting the results of their work. That is, reports of external auditors can be widely distributed and used by others, but reports of internal auditors should be directed to management. Further distribution of the internal auditor's reports is permitted but only in accordance with applicable law, rule, regulation, or policy. Also, in these situations, the fact that the auditors are auditing within their employing organization should be clearly reflected in the auditors' reports. Accordingly, if your entity wishes to have the audit reports used by other than management (i.e., the legislative body, the press, the public) then steps need to be taken to ensure that the government audit organization is established in such a way to be considered free from organizational impairments to independence to report externally (i.e., be considered an external auditor).

If you have further questions regarding this issue, please do not hesitate to contact me again.

Marcia Buchanan
buchananm@gao.gov
202/512-9321 (phone)
202/512-9193 (fax)

Juno e-mail printed Mon, 24 Dec 2001 13:38:14 , page 1

Appendix N

From: DWYER Bill J <Bill.Dwyer@CO.Lane.OR.US>
To: "mcolbath@juno.com" <mcolbath@juno.com>
Date: Thu, 6 Sep 2001 16:27:06 -0700
Subject: auditor

to whom it may concern,

I support the hiring of an independent auditor by the City of Eugene. I believe an independent auditor improves government accountability and saves taxpayer dollars. It is important that an auditor is independent and either elected by the voters or chosen by, and responsible to, elected officials. Lane County is in the process of hiring an auditor who will be hired by, and responsible to, the Board of Commissioners.

Bill Dwyer



Appendix O

Central Services
Financial Services

City of Eugene
860 W. Park Street, Suite 300
Eugene, Oregon 97401-2793
(541) 682-5021
(541) 682-5802 FAX

Date: August 10, 2001

To: Citizen Charter Review Committee

From: Dee Ann Hardt, Financial Services Director

Subject: Service Profiles, Performance Measures and Other Projects Completed By City Staff

As stated in materials previously distributed to the Citizen Charter Review Committee, City staff do not perform formal performance audits. City staff do periodically undertake projects that fall under the GAGAS categories of economy and efficiency audits, program audits and financial-related audits. As appropriate to the situation, staff follow professional standards in the conduct of these projects with regard to planning of the work, development of a written project plan, supervision of staff, testing of evidence, preparation of working papers, report preparation and distribution, and internal quality control review. We do not, however, require staff to follow GAGAS in every respect in the conduct of these projects.

The service profiles the City has completed over the past several years and the performance measures contained in those profiles are not audited. These profiles and measures are one of many tools the organization uses in an ongoing effort to effectively and efficiently deliver our services.

Our intent in providing the Citizen Charter Review Committee background on the City's service profiles and measures, as well as other projects we undertake to assess the organization's effectiveness and efficiency, was to provide the Committee with related information during their discussion of the need for a performance auditor.

Appendix P

Although the City does not have a formal performance audit function, we do engage in or retain outside auditors or specialists to perform a variety of projects and engagements which fall under the “Yellow Book” (GAGAS) categories of economy and efficiency audits, program audits, as well as financial-related audits.

As examples, under the category of **economy and efficiency audits** (whether an entity is acquiring, protecting and using its resources economically and efficiently) the City has engaged in:

- Review of public contracting practices (C)
- Review of policies and practices for the investment of public funds (C)
- Review of Transportation operations, maintenance and preservation services (C)
- Emergency Medical System (EMS) system redesign (I & C)
- Review of city-wide use of legal services (I)
- Review of police staffing and overtime practices (I)
- Review of contractor provision of prosecution services (I)

Under the category of **program audits** (whether a program is effective and the desired results being achieved, as well as compliance with related laws and regulations):

- Review of Transportation pavement management system (C)
- Review of Workers’ Compensation Claims program (C)
- Review of Purchasing Card program policies, practices and controls (C)
- Review of policies and practices for assessing River Road sewer construction projects (C)

And under the category of **financial-related audits** (compliance with financial requirements, internal controls and/or safeguarding of assets):

- On-going audits of petty cash funds/change funds and related internal controls (I)
- On-going annual review of inventory counts and controls (I)
- Review of Hult Center event accounting subsidiary and controls (I)
- Review of Municipal Court accounting procedures and controls (C)
- Review of new Transportation inventory system and related controls (I)
- Review of new Fire Logistics inventory system and related controls (I)
- Review of Wetlands Mitigation Bank accounting system and procedures (I)
- Audit of Transient Room Tax program (biennial) (I & C)
- Review of Police confiscation funds accounting procedures and controls (I)
- Review of Police evidence/property inventory and controls (I & C)
- Review of Municipal Court receivables tracking and implementation of GASB 33 (I)

Under **other audit activities** City staff also regularly:

- Provide support in developing or responding to proposed new legislation;
- Develop forecasts for a variety of policy and/or program decisions under consideration;
- Negotiate and/or review proposed contracts, intergovernmental agreements, franchises, etc.
- Perform investigative work related to allegations of fraud, malfeasance or gross negligence.

(I) - Work performed by in-house city staff.

(C) - Work performed by contracted independent auditors or specialists.

Appendix Q

Audit Committee

The Audit Committee enhances the Internal Audit Program's quality control system by serving as the program's oversight body. In so doing, it protects the independence of the program by ensuring that the County Auditor, who reports to the County Administrator, is not unduly or adversely influenced by directives of the County Administrator. It also removes undue political pressure from being exerted on the Internal Audit Program by individual members of the Board of Commissioners.

The Audit Committee reviews risk criteria used to select performance audits and endorses the County Auditor's proposed annual ~~Internal Audit Plan~~. It also reviews the progress of audit work and draft audit reports, mediates differences between the County Auditor and the auditee, recommends contract auditors, and provides input on general audit matters. Although the Audit Committee serves as the oversight body for the Internal Audit Committee it does not have the authority to override audit findings supported by sufficient, competent, relevant evidence that are applicable to an audit objective.

The Audit Committee holds meetings as necessary, generally no less than quarterly and more frequently if conditions warrant. The County Auditor is responsible for scheduling meetings, preparing agendas, and facilitating meetings.

For audits that exceed 100 hours of audit effort, Audit Committee members sign an "Agreement/ Approval To Release Audit Report" form (Appendix E) signifying that they have reviewed the final draft report, including the auditee's response to the audit. At the discretion of the County Auditor, Audit Committee members may be asked to sign an agreement/approval form for audits requiring 100 hours or less of effort.

Although designated terms have been established for Audit Committee members, if a member's term expires during a critical aspect of an audit, that committee member may be asked to continue to participate in Audit Committee meetings pertaining to the audit in progress.

Throughout the audit, the auditors work with the auditee to obtain information and to keep the auditee apprized of audit progress and results. During the course of the audit, the auditee becomes a non-voting member of the Audit Committee for items relating to the auditee's audit project. Members of the Audit Committee, their status, terms, and voting rights are as shown in the following table.

AUDIT COMMITTEE

MEMBER	STATUS	TERM	VOTING RIGHTS
Chair, Board of Commissioners	Permanent	One year, January through December	Full voting rights, except for audits concerning the Commissioners' Office

RESOLUTION NO. 4467

Appendix R

**A RESOLUTION AUTHORIZING CITY EMPLOYEES,
OTHER THAN THE CITY MANAGER AND CITY
DEPARTMENT HEADS, TO RESIDE OUTSIDE CITY
LIMITS.**

The City Council of the City of Eugene finds that:

A. Section 16(3) of the Eugene Charter of 1976 ("Charter") provides, in part, "All employees appointed by the manager shall reside in the city during their tenure of position, except as the council authorizes the manager to prescribe to the contrary." The preceding charter, the City Charter of 1905, which was in effect prior to adoption of the Eugene Charter of 1976, contained a similar provision.

B. Questions recently have been raised whether the City Council has authorized the Manager to permit City employees to reside outside the city limits. Collective bargaining agreements from the 1970s, and employee handbooks from the 1970s and earlier, suggest that the City Council, as early as the 1950s, authorized the Manager to appoint employees, other than department heads, who live outside the city limits. Conversations with a former personnel manager and former assistant city manager from the 1970s confirm that at that time, the Manager had been given authority to authorize all but department heads to live outside the city limits.

C. Notwithstanding the review of the collective bargaining agreements and the employee handbooks, and the recollections of the former administrative employees, documentation of formal action by the City Council has not been located.

D. It therefore would be in the public interest for the Council to take formal action,

Resolution - 1

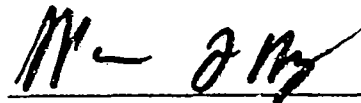
pursuant to Section 16(3) of the Charter, to confirm the Manager's authority to permit employees, other than department heads, to reside outside the city limits.

NOW, THEREFORE,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, a
Municipal Corporation of the State of Oregon, as follows:**

Section 1. Based on the above findings, which are hereby adopted, the City Council confirms the Manager's authority to permit employees, other than the City Manager and department heads, to reside outside the City of Eugene.

The foregoing Resolution adopted the 4th day of December, 1995.



City Recorder

Resolution - 2



Eugene Water & Electric Board

500 East 4th Avenue / Post Office Box 10148
Eugene, Oregon 97440-2148
541-484-2411 Fax 541-484-3762

October 31, 2001

Appendix S

Marlene Colbath, Chair
Eugene Citizen Charter Review Committee
City Manager's Office
777 Pearl Street, Room 105
Eugene, Oregon 97401

Mary Walston
Eugene Council and Gov. Affairs Mgr.
City of Eugene
777 Pearl Street, Rm. 105
Eugene OR 97401-2793

Dear Charter Review Committee Members:

Thank you for the opportunity to bring to your attention areas of the Eugene City Charter that EWEB thinks could benefit from new clarifying language. On October 16, 2001, the EWEB Commissioners discussed areas of clarification, and would very much appreciate the Committee's review of our recommended changes.

The areas in which EWEB is requesting clarification fall into three general topics:

- A. EWEB's authority to place measures before the voters.
- B. EWEB's authority in short-term borrowing.
- C. In lieu of tax payments

Attached is, "EWEB's Proposal for Revising the Eugene City Charter." This includes a discussion of each of the areas to be considered, along with EWEB's recommendation for how the Charter should be amended to clarify that particular issue. Also attached is a short outline of, "The Creation of the Eugene Water Board," and Sections 44 and 45 of the Eugene Charter that refer to EWEB.

EWEB welcomes the opportunity to work with the Committee and the community in clarifying the Eugene City Charter. Please feel free to contact me at 345-2820, or dandy@noether.uoregon.edu, or Deborah Brewer, EWEB's Governmental Affairs Coordinator at 684-5814, or e-mail deb.brewer@eweb.or.us.

Very Best Regards,

Dorothy Anderson, President

c. Charter Review Committee Members

EWEB Commissioners

Eugene City Council

Jim Johnson, Eugene City Manager

Jim Carlson, Eugene Assistant City Manager

Mary Walston, Eugene Council and Governmental Affairs Manager

EWEB Executive Management Team

Deborah Brewer, EWEB Governmental Affairs Coordinator

Marty Douglass, EWEB Public Affairs Manager

EWEB Proposal for Revising the Eugene City Charter

October 31, 2001

A. EWEB's authority to place measures before the voters.

1. **BACKGROUND-** Although there is nothing in the Charter that prevents EWEB from placing measures directly on the local ballot, common practice throughout the years has created a process of presenting ballot measures before the City Council prior to elections. It appears that this began prior to EWEB establishing its own assets separate from the City of Eugene. EWEB believes that the intent of the creators when EWEB was originally established as a "separate elected Board," was to transfer all rights and responsibilities for providing water and electricity from the City Council to the Eugene Water Board. This includes, determining what to take to the voters.
1. **CURRENT PRACTICE-** Section 44 Eugene Water & Electric Board- Functions- Membership, Subsections (1), (3) and (6) provide direction on the authority of EWEB to make financial decisions with limited input from the Eugene City Council. None of this language calls for any City Council oversight or comment on EWEB proposals being placed before the voters. (See attached sections of the Eugene City Charter.)

Common practice has been for EWEB to bring measures to the Eugene City Council to ensure that the language and timing meet the City's election criteria. Occasionally there are Memoranda of Understanding, or other communications between the two bodies to clarify intent and results of proposed measures. However, this has been done by EWEB in the spirit of cooperation. Historically, **the City Council has always placed EWEB measures on the ballot.** Apparently in one instance, there was some resistance from the Council. This is described below: "In 1913 the Council initially refused to put an EWB bond measure on the ballot, but did so after the Board threatened to get its authorization through an initiative petition." (The Bountiful McKenzie, by Norm Stone, 1986)

EWEB believes that the original intent was for the City Council to have very limited authority over measures brought to them by EWEB. In their role of overseeing local elections, the Council does have the authority and responsibility to determine the appropriate form and placement of all matters on the local ballot. EWEB believes that adding language to Section 44 of the Charter would help clarify this issue, and make it clear for both EWEB and the Council, what the role of the Eugene City Council is with regard to EWEB ballot measures.

2. **RECOMMENDED CHANGES** –Add the following item under Section 44:

Section 44 "(7) The Board without necessity of review or action by the city council may:

- require measures related to utilities, including financing thereof, or issuance of indebtedness, to be submitted to the electors of the City, subject only to form and procedure requirements in election law,

- adopt resolutions for the issuance of bonds under the Uniform Revenue Bond Act, (URBA) ORS 288.805 et seq."

3. SUMMARY- The Eugene City Charter currently does not speak to the specific role the City Council is to play when placing EWEB measures on the ballot. EWEB believes that the Charter implies "full authority and responsibility to a separately elected body." This authority has been acknowledged by the Council by always placing EWEB measures on the ballot.

It is unclear why EWEB brings resolutions created under URBA to the Council. These resolutions are typically approved under the City Council's Consent Calendar with no discussion. Questions have even been raised about implied liability on the part of the City by reason of their signing off on these resolutions.

The proposed addition to Section 44 clarifies EWEB's authority to go to the voters. The possible change regarding URBA resolutions is being studied as it relates to the state statute and whether a combined legislative approach may be needed.

B. Limits of EWEB's authority in short-term borrowing

1. BACKGROUND- The 1976 version of the Charter provides for and limits EWEB's authority to obtain short-term loans of one year or less without additional or separate electoral authority. The language is similar to that contained in a 1971 bond resolution that states that as long as some bonds dating to 1960 are outstanding, EWEB's ability to issue debt that is subordinate in lien is limited to 5% of retained earnings. The referenced bonds are no longer outstanding, and therefore there is no external contractual requirement for the limitation. The Charter also restricts the purpose of such short-term borrowing to the provisions of electric and water services and states that it must be in the form of a loan from a bank.

2. CURRENT PRACTICE- Since 1976 many different forms of short-term borrowing have come into common commercial practice, including lines of credit, commercial paper and capital leases. Also, in 2000, other provisions of the Charter provided authority for EWEB to engage in advanced telecommunications services.

3. RECOMMENDED CHANGES- Continue to provide authority granted in the Charter for EWEB to issue short-term debt in the form of bank loans and "other evidence of indebtedness." Extend such authority for short-term liquidity borrowing to telecommunications activities.

Amend Section 45 (1) to read:

"The Eugene Water & Electric Board may borrow *from any bank or banks* under short term loans or other evidence of indebtedness of a duration of less than one year, and at such rates of interest and other terms of payment as in the judgment of the board is expedient for the use of the board in the conduct and maintenance of the water, electric and telecommunications utilities of the city, provided that the total amount of such indebtedness of

the board not at any one time exceed five percent of the board's retained earnings at that time."

(Delete italics, add underlined language.)

4. SUMMARY- The proposed changes to Section 45 (1) will remove outdated language from the Charter and clarify the limits of EWEB's authority to issue short-term debt. It also provides consistency for all of EWEB utilities, water, electricity and telecommunications.

C. In lieu of tax payments

1. BACKGROUND – In 1976, after public debate over in lieu of tax payments, voters supported the following change to the Eugene City Charter:

Section 44(4) "The 1976 rates of payments on account of either utility to the city in-lieu of taxes shall continue until changed by agreement between the board and the council."

ORS 225.270 refers to in lieu of tax payments as payments of surplus earnings from a municipal utility to its city. From time to time proposals have been made to make in lieu of tax payments required as a contractual obligation of EWEB to the City. The characterization of the payments as surplus earnings is an important distinction for EWEB's credit rating and borrowing costs. Earnings that are surplus to EWEB's operation and capital needs enter into the calculation of "debt service coverage ratio," which measures the ability of EWEB to make debt service payments when due. Were such costs to be characterized as operating requirements, there would be serious consequences for EWEB's bond rating and borrowing costs.

2. CURRENT PRACTICE - In 1987, there was a memorandum of understanding between the City Manager and EWEB General Manager specifying that the existing arrangement was 6 percent electric utility revenues and 3 percent on Trojan revenues. (The Steam Utility is technically part of the Electric System and thus subject to the in-lieu payments.)

In 1996 and again in 1997, EWEB and the City agreed to modifications relating to wholesale power sales. The basic agreement is that EWEB will pay 17 percent of the net income from wholesale power sales to the City. The reason for the change was that the margin on wholesale sales was often less than 6 percent of the gross sales amount. Thus the previous formula was a confounding factor when determining whether wholesale sales were cost effective and could lead to EWEB passing up wholesale deals that might benefit the community as a whole.

In 1999, EWEB and the City agreed to reduce the rate for Steam sales to 4 percent¹ to bring it in line with the franchise fee charged to NW Natural Gas. This put the two products on a more equal competitive footing.

EWEB makes in-lieu payment to the City of Springfield of 3 percent of the gross revenues from the two EWEB contract customers located within the City of Springfield.

3. RECOMMENDATION – Revise Section 44 (4) to read:

“Section 44(4) “In lieu of tax payments shall be based upon a determination of surplus earnings in the manner described in ORS 225.270. The 1976 existing rates of payments on account of either utility to the city in lieu of taxes shall continue until changed by agreement between the Board and Council. (Delete italics, add underlined language.)

4.SUMMARY – The current City Charter refers to an agreement made in 197 whereby EWEB agreed to pay 6% in-lieu payments, rather than the state required 3%. The charter could be made more specific and brought more in line with the requirements of state law. Staff recommends that the phrase, “unless changes are agreed to by the City Council and EWEB,” be retained. This will continue to provide both organizations some flexibility around tax payments.

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Excerpts from Citizen Charter Review Committee Meeting Minutes Discussing EWEB

DISCUSSION OF EWEB CHARTER ISSUES

Mr. Donohue introduced the issues relating to Eugene Water & Electric Board (EWEB) charter issues. In a **memorandum from Kevin Wells to committee members, dated November 6, 2001**, relevant points were identified for discussion. Mr. Donohue reviewed the issues included on this list, including:

- a. 44(2) - Voters elect EWEB members but the City Council decides how they are elected. This indicates that, while the City Council can determine terms of electoral process, voters have to determine who will actually serve on EWEB. The charter affirms this principle in Section 24.
- b. 44(1) - Appears to vest EWEB with power over electric, steam, and telecommunications. Was this a conscious decision by voters/previous City Councils? Why was water not included? Does this need to be cleaned up?
- c. 44(3) - EWEB has a "lock on" City electric utilities, but the City Council must approve later expansion. This indicates that there may have been a "sea change" between beginning of water provision and beginning of electricity provisions regarding amount of control voters thought the City Council should have. Is there the need to revise this section for internal consistency? Is this provision needed at all?
- d. 44(4) - Payments -in-lieu of taxes. Proposal, "EWEB shall provide the City _____ percent of its net annual profit as a payment in lieu-of-taxes." This language releases EWEB from a discrete yearly base and allows EWEB and the City Council to negotiate a reasonable percentage. The current language is based on 1976 payments. There were exceptional circumstances in utility industry at that time, and may not be a fair baseline. Certainly, referencing a historic moment as a baseline for future policy is not stylistically "charter" language.
- e. 44(5) - Billing. Proposal, "The council may require the board to bill and collect the City service charges." EWEB has to act as a billing agent for the city in a very limited way. This language should be broadened so that the City has a mechanism to collect fees from residents without having to duplicate administrative efforts. This costs EWEB nothing as it can charge the City for costs.
- f. 44(6) - Coupled with 44(1) - may be dispositive on the bond issue. It needs to be clear that EWEB and the City are financially independent of one another. It appears that the charter currently makes the legal separation. If there is any doubt, language should be drafted to make this point explicit, thus protecting the City from EWEB debt and EWEB's bond rating. Mr. Donohue noted that Ms. Walston provided a handout on bonding and bond rating, noting that EWEB and the City have different bond ratings. Supplemental Information: **Memorandum, from Sue Cutsogeorge, Treasury Officer, to Members of the CCRC, Subject: Bond Ratings for the City and EWEB, dated November 6, 2001.**
- g. 45(1) - Short Term Debt. Should be modernized. There are new credit devices available as

well as new financial institutions. Under the same guidelines, EWEB should be able to use the best resources available.

- h. 44(1) - EWEB wants the authority to place measures on the ballot without review or authorization of the City Council. EWEB has also indicated that it would like taking these measures before the City Council for further public discussion because they benefit from the airing of differing opinions. The charter seems to be ambiguous as to what is required in this area now and the question is how to interpret law. The committee may want to codify current practice, where EWEB decides what is going to the ballot (the policy of EWEB), but the City Council reviews and administers the election for EWEB.

Mr. Wells noted that EWEB expressed specific interest in items 4, 7 and 8.

Dorothy Anderson, President of the Eugene Water & Electric Board, thanked the CCRC for considering EWEB's proposals and introduced Win Calkins, Deb Brewer, and Jim Origliosso. Ms. Anderson said that EWEB's request was to clarify language and to avoid areas of controversy or areas which would cause problems. She said that while the requests might be considered close to "housekeeping," they go beyond housekeeping.

Ms. Anderson responded to the comment by Mr. Wells about the extension of "water." The history of this issue included discussions during a time that EWEB wanted to establish an urban service area before the land use act. The City proposed and voters approved a charter amendment which prohibited EWEB from extending water extensions outside the City limit because the City was trying to direct where growth would take place to provide sufficiently the services which were needed. Ms. Anderson said that this was not perceived as a current problem during a recent discussion at a board meeting, but added that it might be controversial. Ms. Anderson noted that Mr. Calkins pointed out that in the quarterly report, it reports, "that the City Attorney shall serve as the chief legal advisor to the council, the manager, all City departments, offices and agencies." She said the question was raised, is EWEB considered a City department, noting that EWEB had its own legal counsel. She said that the expertise needed by EWEB's counsel was very different the legal counsel required for other City issues.

Ms. Walston noted that Becky Koble of the Central Services Department was also available to address issues from the City's perspective.

Mr. Bern Johnson asked for clarification of the goal in reviewing this EWEB section. He expressed concern that a separate procedure had been established for the review of EWEB issues and asked how the individual issues would be handled, as well as how the entire EWEB discussion might proceed. Ms. Colbath said that it was her intention to review the committee's position at the end of the meeting: 1) , whether the committee wanted to continue the discussion at the end of the meeting, or 2) to make a recommendation to the City Council that there should be a broader joint EWEB/City effort to convene on these issues. She noted that the motion previously failed 4:4. This issue was addressed at the October 25 meeting, on page 2 of the minutes.

Mr. Wells said that the City Council said that the committee should look at everything and that in further discussion with both EWEB and the City, looking at "everything" did not seem to be appropriate. He said that to have one policy board review a second policy board to bring it more in line with itself might not be appropriate. He noted that there was ambiguity in the charter and said that EWEB was very helpful in identifying those areas.

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Ms. Colbath asked if Mr. Bern Johnson's question was relating specifically to process. Mr. Bern Johnson said that he did not see that it was possible to address all of the EWEB issues could be handled in 100 minutes. Mr. Belcher said that he did not feel that this section could be completed tonight. He noted the issue of replacement of board members was an issue which was not included on the list to be discussed and suggested that there may be other issues which should be further addressed.

Mr. Tollenaar said that it was not going to be simple enough to accept clarification issues, which might raise substantive issues in other areas. He said that rather than "siphon off" some of the issues, he would prefer to see all the EWEB issues be kept together and addressed by a future committee. Mr. Cassidy concurred. Mr. Belcher said that while he concurred, he wondered what could be accomplished tonight. Ms. Thompson suggested that identifying those issues which require additional discussion. Ms. Colbath said that she felt that a broader based committee was important in the review of EWEB charter issues.

Mr. Cassidy said he would like to hear from EWEB representatives to help the committee clarify the process for tonight. He said that if EWEB representatives could pick out a couple of items and justify these changes, these issues could be considered.

Mr. Belcher suggested that EWEB should also have a say on who would serve on a separate committee.

Ms. Anderson said that the short-term borrowing issue was very important and considered minor. It would add more flexibility in the type of borrowing that EWEB can do. She said that EWEB did not want to act illegally, and requested that this issue be addressed. She added that placing issues on the ballot was another issue that EWEB would like to have addressed.

Mr. Tollenaar said that he was ready to support the recommendation to move the modernization of short term debt forward. He asked Mr. Calkins if EWEB encouraged short-term debt for telecommunications, would that be charged the City's three percent? Mr. Calkins said he did not think it was an issue, but should be further reviewed. Ms. Koble said that there was a large margin before the City reaches the three-percent limit.

Mr. Wells asked for clarification to Section 45 (1). Mr. Tollenaar said that it was not a meaningful issue. Mr. Cassidy asked why this could not be handled in an ordinance, rather than through a charter change. He asked if there could be a legal opinion on this. Mr. Calkins said that the charter already gives this arena over to EWEB. There is a question if EWEB could use the provisions of an ordinance. Mr. Calkins said that to be absolutely clear it should be done by charter change.

Mr. Cassidy asked if it could be addressed by ordinance first, with a charter change to follow. Mr. Calkins said that the charter grants short-term long authority in specific terms, but for the City Council to adopt an ordinance in addition or against the charter would raise legal questions. Mr. Calkins recommended that this be addressed in the charter.

Mr. Belcher said that a mechanism to change the charter to allow the City Council to make an ordinance which would make this the mechanism. He said that the larger issue was what was the relationship of EWEB to the City Council.

Mr. Donohue said that on short-term loans, he felt that the CCRC could recommend a charter change on this issue. He said that it does not do anything substantive on changing the relationship between EWEB and the City. He said that the borrowing ability will continue to be based on the amount of debt they are

carrying and the amount of credit that would be extended to EWEB. He said that he did not feel this issue had any underlying issue which would have to be flushed out. He recommended that this singular issue be addressed to allow EWEB the flexibility be moved forward. Mr. Donohue said that he felt that an assumption was being made that there would be an EWEB review committee. He recommended that the short-term loan issue be addressed now.

Ms. Colbath asked for clarification. She said that telecommunications was not referenced in the short-term borrowing issue. She asked if EWEB was asking for the authority to use more modern methods for short-term borrowing. Mr. Origliosso said that EWEB termed this as a housekeeping item and said that there were several new forms of indebtedness. He said that an additional change requested deals with expanding the definition of utilities to include those areas that EWEB was now engaged in, including telecommunications, in addition to electric and water. EWEB recommended that Section 45(1) be amended to read:

The Eugene Water & Electric Board may borrow from any bank or banks under short term loans or other evidence of indebtedness of a duration . . .

Mr. Origliosso said that the intent was to allow EWEB limited short-term borrowing authority and that EWEB was requesting that this authority be extended to telecommunication, in addition to water and electric.

Ms. Colbath asked what “other evidence of indebtedness of a duration” meant. Mr. Origliosso said that current language limited borrowing to loans from a bank. Current borrowing instruments include insurance companies, investment brokerage accounts, commercial paper or line of credits. Mr. Origliosso said that the duration would remain less than one year and that the indebtedness would be less than five percent.

Mr. Belcher noted a misspelled “therefore in Section 42” in this section. Mr. Belcher also recommended that the charter change be less specific/more general to cover all utilities covered or provided by EWEB.

Ms. Koble said that internally, Finance staff was in support of this change. She noted that the City Council has been supportive of authorizing this kind of short-term borrowing.

Ms. Colbath asked if the City felt it could go around the current charter provision. Mr. Belcher asked that the City Manager be asked to provide a definitive position on this issue.

Mr. Tollenaar said that he was not in support of broadening this area to any area that EWEB takes on. He said that there were many in the community who were concerned about EWEB expanding into other areas, including telecommunications. He recommended that the committee stick to the “literal scope of EWEB functions” and suggested that this issue be removed from the list.

Mr. Belcher noted that there was a mechanism by which voters approve what EWEB can engage in. He said that he did not see this as a problem area.

Mr. Bern Johnson expressed concern in breaking out pieces of EWEB language and making recommendations to the City Council. He added that while it appeared that the City and EWEB were in agreement on this issue, they could make a recommendation to amend the charter outside this process. Mr. Bern Johnson said that he was not opposed to change, but that if called to vote on this point now, he

felt that he did not have enough information to make an informed decision.

Ms. Colbath asked if members wanted to review this and other items tonight, but that these items be moved into "housekeeping" and be brought forward separately. Members indicated they did not believe this would simplify the process.

Mr. Cassidy concurred with Mr. Bern Johnson's comments and added that it seemed inappropriate to take one part of this issue without reviewing other issues. He asked how much the City would be responsible for telecommunications if the project was unsuccessful.

Mr. Belcher said that he would support this language as a "tentative recommendation" but said that he would recommend that all of these issues be reviewed by a subsequent committee.

Mr. Wells said that while the City and EWEB seem to agree that there is no financial tie if EWEB goes under with a bond or some other indebtedness. This was confirmed by the **Memorandum sent by Sue Cutsogeorge, dated November 6, 2001**. However, Mr. Wells said that he was disinclined to recommend another committee. He said that it seemed inappropriate for the policy board of one entity to oversee the staff work of another separate policy board. He said that EWEB and the City were distinct entities. He said that he did not feel that the City Council should bring EWEB under its control and said he would vote against recommending a subsequent committee. In making this assessment, Mr. Wells said that he would support making recommendations for changes now, given that there may not be a separate committee.

Mr. Donohue said that he disagreed that some EWEB issues could not be addressed separately, apart from other EWEB issues. He said that while there may be political and policy issues, these have little to do with the charter language. He said that the issue of short-term debt capacity was a limited duration issue.

Ms. Thompson moved, seconded by Mr. Tollenaar, that the EWEB proposal to amend Section 45 (1) be adopted.

Mr. Belcher expressed concern that EWEB's proposal would change the relationship between EWEB and the City Council. He thought the issue was being rushed through. He said that he felt that there should be an opportunity for the City Manager to give the City's position on this issue.

Ms. Colbath said that she would vote against this motion because she agreed that it changed the relationship between the City and EWEB. She recommended that EWEB take this issue to the City Council.

Mr. Donohue asked that the issue be voted up or down and that if it were voted down, then asked that the remaining discussion be tabled. He said that discussing recommendations for a future committee which may not exist was useless. He suggested that the time could be better spent on other items.

Mr. Belcher said that he would vote against the motion. It did not address the real issue. Mr. Cassidy said he too would vote against this motion, explaining that he thought this should not be included in the process being considered in the discussion of broad charter changes.

Ms. Colbath called the question.

The motion failed on a 4:4 tie, with Ms. Colbath, Mr. Cassidy, Mr. Belcher, and Mr. Bern Johnson voting in opposition, and Ms. Thompson, Mr. Wells, Mr. Donohue, and Mr. Tollenaar voting in support.

Mr. Belcher moved, seconded by Mr. Cassidy, to forward to the City Council that all the EWEB issues be forwarded to a subsequent review committee, including the recommendations of this committee. Second, if the City Council decides not to constitute a special committee, that the City Council will consider the deliberations of this committee as their recommendations.

Ms. Colbath asked that the minutes be included with the recommendations to the City Council. Mr. Belcher and Mr. Cassidy said that he felt that this was a friendly amendment.

Mr. Bern Johnson asked why the EWEB issue was sent to this committee. He recommended that the committee send this back to the City Council and tell them that CCRC was not able to get to this issue.

Mr. Wells said that he did not feel that EWEB needs to be reviewed and hence would vote against the motion. He said that if there were changes which could be recommended to clear up ambiguities, then he would support those, but if not, he would recommend this section of the charter be left along. He added that if EWEB was causing the City some "heartache" that it was "doing its job." He explained that EWEB was set up to take utilities out of the public arena.

Ms. Colbath said that her reason for forwarding the recommendation to City Council was different from that of Mr. Bern Johnson. She said that the composition of the committee to address EWEB issues should be different, including EWEB representation. She said that a broader-based committee would be beneficial and that for the CCRC to educate itself on the topic to have a viable discussion would take some time.

Mr. Cassidy disagreed with Mr. Wells and read a prepared written statement which supported his position. He said that EWEB was not a corporation which operated independently. The details of the individual responsibilities for each body are best codified in ordinances arrived at by mutual agreement and slow change. Mr. Cassidy said that the present private discussions and memorandums of understanding between the City Manager and the chief executive officer of the utility were not the way to proceed in the future. He spoke of policy and politics and said that the solution was not within the City Charter.

Mr. Belcher said that he felt there was a fundamental problem. He said that there was an elected EWEB Board and an elected City Council and that it was an awkward situation which should be codified in the City Charter. He suggested that EWEB should have its own charter. He said that this fundamental issue needed to be resolved.

Ms. Colbath spoke to the motion. She said that she had hoped that the CCRC would look at the umbrella issue. She said that the proposal brought forward was something that was perceived could be done, whether or not the philosophical issue or policy issues were resolved. To Mr. Origliosso's statement that this fundamentally changes the requirement that EWEB has to go to City Council, Mr. Origliosso responded that it was not his intent to say that this would be a key change in the relationship between EWEB and the City. Ms. Colbath said that she felt that City Council wants to clarify the relationship.

She said that she felt that without clarification, that this issue should be further reviewed. She said that the direction from the City Council was unclear.

Mr. Belcher said that he felt that there had been a good job in bringing issues before the committee. He acknowledged the work done by Mr. Wells and Mr. Donohue.

Mr. Belcher was asked to restate the motion:

Restatement of motion:

That the committee forward to City Council the recommendation and that the City Council give this task to a newly constituted committee, but that the results of tonight's deliberations be given to City Council, in the context of "this is a quick review of the issues before us (CCRC) and was tentative. The City Council could either use this information to pass it on to the subsequent committee or use it for future ballot measure debate by City Council."

Mr. Donohue moved to divide the question into two parts, seconded by Ms. Colbath. The motion to divide the question passed, 7:1, with Mr. Cassidy voting in opposition.

To the 1st motion: Recommend to City Council to establish a separate committee to review EWEB issues.

Ms. Thompson said that she would vote against this motion because she did not feel that this was the role of this committee. Mr. Bern Johnson concurred and said that he did not feel that the issue had been studied sufficiently to suggest to City Council that there should be a separate committee to study the relationship.

Mr. Belcher acknowledged Mr. Bern Johnson's concern and asked if the motion were to say that the committee did not have enough time to consider the issue and that the CCRC was not going to address the issues, would that address Mr. Bern Johnson's concerns?

Mr. Belcher asked to withdraw the 1st motion and substitute the following motion: That the statement be forwarded to City Council that the Citizens Charter Review Committee did not have sufficient time to adequately review EWEB issues. Ms. Thompson concurred with the withdrawal of the 1st motion and seconded the substitute motion.

Ms. Colbath said that she was worried that the committee would say that it did not have time to address this issue. She said that she has felt the "heat" about time spent on other issues. To Mr. Belcher's question as to whether she had a better suggestion, Ms. Colbath acknowledged she did not.

Mr. Tollenaar said that he was going to support the motion. He said that he felt that the committee was on schedule.

Mr. Donohue said that if there is not time, then the committee should say so. He noted that the committee has taken enough time to say that there has been research enough to know that there was inadequate time to fully address this issue. Mr. Belcher again acknowledged the work done by Mr. Wells and Mr. Donohue and said that he felt that significant work has been done.

The motion passed unanimously, 8:0.

Mr. Belcher withdrew the second half of the divided motion. Mr. Cassidy withdrew his second.

Mr. Bern Johnson said that the memorandum which set out issues regarding EWEB should be forwarded to City Council to outline the issues which have been identified as needing to be resolved. Although the CCRC does not have the time to come up with solutions to these questions, the memorandum would give City Council the benefit of the efforts which have been made on this issue. The EWEB letter should also be forwarded.

Mr. Tollenaar said that the proposed language in #4, proposal: “ ____ percent of its net annual profit” was not the EWEB proposal. The EWEB proposal did not deal with “net annual profit.” Mr. Wells said that the language was just proposed as a starting point for discussion. Mr. Tollenaar suggested that the language be used in the EWEB memo be proposed. Mr. Belcher suggested that the correct fiscal term be considered. There was concurrence on this issue by the members.

Mr. Belcher apologized to the EWEB delegation. He said that he felt that more time should be focused on the EWEB issues.

Mr. Tollenaar said that Mr. Calkins catch to “exclude EWEB” was important to consider. Ms. Colbath said that she had included this on the list of issues to take to the City Council.

Ms. Colbath thanked EWEB and City staff for their efforts on this issue and their attendance at tonight’s meeting.

CITY OF EUGENE
INTER-DEPARTMENTAL MEMORANDUM
CITY ATTORNEY - CIVIL DEPARTMENT

**To: Charter Review Committee
Mary Walston - CS/CMO**

Date: October 25, 2001

Subject: Council President; Councilors' Immunity; "Officers"

At the end of the committee's October 18 meeting, committee members asked me to follow up on three items: (1) to review and comment on Virginia Thompson's proposed redraft of charter section 13; (2) to explain the meaning of the provision in charter section 15 that no council member shall be "questioned in any other place" for statements made at council meetings; and (3) to comment on the apparent inconsistency in the use of the term "officer" in various sections of the charter.

Council President

I have assumed that the goal of revising section 13 is to clarify the current role of the council president, not to increase or decrease the council president's responsibilities. Currently, the council president presides over council meetings when (and only when) the mayor is absent. In that role, the council president assumes no other functions of the mayor and does not lose any of her powers as a councilor. In other words, if the mayor is absent for a short period of time, the council president neither loses his or her right to vote nor acquires the power to veto ordinances.

When the mayor is absent for an extended period of time, the council president steps into the mayor's position, with the powers and limitations of the mayor's office. At that point, the council president effectively becomes the mayor until the mayor returns to the city or regains the ability to function as mayor.

I propose the following revision to section 13:

Section 13. Council - President

(1) Each year, at the first regular meeting of the council, or as soon as practicable, the council shall choose by ballot one of its members to serve as council president.

(2) The council president shall preside at council meetings when the mayor is absent.

(3) The council president shall function as mayor, with the powers and subject to the limitations of the office of mayor, when the mayor:

(a) is absent from the city on leave granted by the council

(b) has been absent from the city for 30 days or more; or

(c) has been physically unable to function as mayor for 30 days or more.

Re: Council President; Councilors' Immunity; Officers
 October 25, 2001
 Page 2

The primary difference between this and Virginia Thompson's draft is that I added a new subsection to clarify when it is that the council president presides over council. My proposed language also clarifies that the council president does not assume the mayor's function until the mayor has already been absent or physically unable to perform for 30 days. In cases where the mayor knows that he or she will be absent or incapable of performing the mayor's functions for 30 days, it would make sense for the council to grant the mayor a leave of absence, so that the council president may assume the mayor's functions prior to the expiration of 30 days.

Councilors' Immunity

Section 15 of the charter currently reads:

"Council - Immunity

No member of the council may be held liable, or questioned in any other place, for words uttered in debate in the council."

The committee asked about the meaning of the phrase "or questioned in any other place."

The quoted language is substantially the same as in the Oregon Constitution, Article IV, Section 9, pertaining to legislators, and the United States Constitution, Article I, Section 6, pertaining to United States senators and representatives. In both cases, the language reflects a long-standing doctrine that legislators should not be subject to lawsuits over statements they make in a legislative session. The Oregon Supreme Court has recognized immunity for councilors' statements at council meetings even without a charter provision that specifically provides for it.

The quoted language does not prevent members of the press or citizens from asking councilors about statements they have made during council debates.

The committee may wish to consider proposing an amendment to section 15 to include the mayor.

Officers

As committee members pointed out, and as Jon Belcher's search of the city charter illustrates, the terms "officer" and "officers" are used in various ways in the charter. In particular, in some instances it is clear that "officers" refers to elected officials; in some, it clearly refers only to the city manager and other employees; in others, it appears to mean both.

In most instances, one can ascertain the intent of the charter from the context, but in others there is potential for confusion. It would make sense to substitute "elected officers" or "elected officials" for "officers" where the intent is to refer to the mayor and councilors. For employees, the

Re: Council President; Councilors' Immunity; Officers
October 25, 2001
Page 3

charter could say "appointed officers." "Officers" without an accompanying adjective would include both elected and appointed officers. Also, the terms could be defined in a new section; I do not see a convenient location for that, however.

Finally, the committee may wish to consider when, if ever, the term "officer" is intended to include persons who are neither employees nor elected officials – e.g., members of boards, commissions, and departmental advisory committees.

Please let me know if additional discussion of these issues would be helpful to the committee.

HARRANG LONG GARY RUDNICK P.C.
– City Attorneys

A handwritten signature in black ink, appearing to read 'Jerome Lidz', with a stylized flourish at the end.

Jerome Lidz

JL:lke

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CITY OF EUGENE
INTER-DEPARTMENTAL MEMORANDUM
CITY ATTORNEY – CIVIL DEPARTMENT

To: Mary Walston
 CMO

Date: November 15, 2001

Subject: Citizen Charter Review Committee

CONFIDENTIAL ATTORNEY/CLIENT COMMUNICATION – NOT SUBJECT TO RELEASE UNDER THE PUBLIC RECORDS ACT

Eugene Charter of 1976 – Section-by-Section Review of Housekeeping Suggestions

You asked for a list of charter provisions that are obsolete or in need of “housekeeping” amendments. Our list of suggestions follows. In many cases, the line between what is “housekeeping” and what involves policy is indistinct; in others, the charter provision is clearly outdated or unclear, but choosing new language necessarily will involve a policy choice. I have included a brief explanation of the issues where I thought they were not apparent. The proposed revisions are not in red-line format, but I have used bold type to indicate the principal new language where the changes are minor.

Section 1: If this is to be a charter “revision,” it would make sense to amend the name to be the “Eugene Charter of 2002.”

Section 7: “A mayor shall be elected in 2004 and every fourth year thereafter for a term of four years, and **shall serve** until his or her successor is elected and qualified.”

Section 8: To clarify that this section and section 19 are independent requirements, both of which apply to councilors, consider revising this section to read: “During a councilor’s term, the councilor shall reside in the ward from which the councilor was elected or to which he or she was appointed. In addition, to be elected or appointed as a councilor, a person must meet the qualifications described in section 19.”

Section 9: In the first sentence, consider deleting everything after “meetings.” Consider deleting the second sentence entirely. **Rationale:** A charter requirement that the council meet at least once a month now seems unnecessary. The adjournment provisions create parliamentary confusion. Under current legal interpretation of the charter, the council holds one meeting per month, and all meetings after the first are a continuation of the first meeting of the month. Under Robert’s Rules of Order, a motion to reconsider is timely only if made during the same meeting at which motion was adopted; thus, the timeliness of such a motion may depend on when during the month the original motion was adopted.

Mary Walston

November 15, 2001

Page 2

Section 11: “The council shall keep **minutes** of its proceedings and **at the request of** any two of its members shall **record in the minutes** the yeas and nays upon any question before the council.”

Rationale: Amend antiquated language.

Section 13: I have previously recommended clarifying amendments to this section.

Section 17: Consider revising the last sentence of subsection (3) to read: “In civil and criminal matters, a municipal judge has the jurisdiction and authority prescribed by city ordinance, subject to the general laws of the state.” **Rationale:** Gives council more flexibility to define court’s role.

Section 20: “...shall issue a **certificate of election** to each person declared by the canvassers to have been elected.” **Rationale:** revise awkward phrasing.

Section 23: Note spelling error in line 3. (Change “form” to “from.”)

The Committee’s packet for the November 15 meeting includes a proposed revision of section 23 that may create vacancies in more situations than the Committee intended. As rewritten, the first part of section 23 would provide: “The office of mayor or office of city councilor becomes vacant: (1) Upon the incumbent’s: * * * (d) conviction of a public offense punishable by loss of liberty; * * *.”

Two aspects of this are worth noting. First, the vacancy would occur automatically, so that the council would have no discretion to overlook such a conviction. Second, many relatively minor offenses are “punishable” by loss of liberty (*i.e.*, jail time). To take an extreme example, under the Eugene Code, a second offense of riding a bicycle on the downtown mall is punishable by a jail term; so are at least some convictions for an unlawful noise disturbance.

More typically, public officers are deemed to forfeit their office upon conviction of a felony or a crime involving “moral turpitude.”

Section 25: In subsection (3)(a), change to read: “impartial administration and enforcement of the ordinance.” **Rationale:** clarification that it refers only to the ordinance described in this section.

Section 28: Consider eliminating requirement that an ordinance be read in full unless the council unanimously consents to reading by number or title only or the ordinance has been posted or published and provided to the council a week in advance. **Rationale:** reading an ordinance in full provides little in the way of public notice and is time-consuming; this requirement is nearly always waived. (I believe the Committee is also considering other changes to this section.)

Section 29: Revise first sentence to read: “Upon adoption of an ordinance, it shall be submitted to the mayor.” **Rationale:** Requiring a “true duplicate original” is unnecessary.

Section 31: Simplify by splitting into two sentences? (Try a period after “mayor” in third line.)

Section 32: In last sentence insert “or her” before “veto.”

Section 33: In the first sentence, change “divided” to “divide.”

Mary Walston

November 15, 2001

Page 3

Section 37: In the first sentence, revise the portion on remonstrances to read: "... and is signed by the owners of a majority of the parcels that would be assessed for the repair or improvement, no contract . . . (etc)." **Rationale:** this change would be closer to existing practice for remonstrances under ordinance. It would also allow the council to provide by ordinance for assessing property owners for beneficial improvements even if their property does not abut the improvement, without denying those owners the right to remonstrate. **Caveat:** This change may not count as "housekeeping."

In the second sentence, delete "and the mayor again approves the improvement or repair." **Rationale:** Local improvement districts are formed by resolution; the mayor neither votes for nor vetoes resolutions. Thus, the current language serves no purpose.

Section 40: Clarify the second sentence by revising it to read: "When the council has authorized an improvement and an assessment for it is entered in the city's lien docket, the assessment becomes a lien against the property so assessed."

Section 43: The phrase "prerogative of sovereignty" is obsolete and should be deleted from the first and fifth sentences of subsection (1) and both sentences in subsection (2).

The last sentence of subsection (1) should be revised to read as follows: "Any franchise granted by the council shall assure adequate service to city residents and shall require the franchisee to pay the city adequate compensation in the form of a percentage of the gross income from the franchise, or in an alternative form acceptable to the council, in amounts sufficient to cover present value and future development of the franchise." **Rationale:** Not all documents denominated "franchises" have required a percentage of revenue as compensation. Change would give council flexibility to obtain compensation for a franchise in some form other than a percentage of gross revenue. That would preserve council's options if, as contended by some telecom companies, federal law prohibits charging percentage of gross revenue as rent for use of city right-of-way. **Caveat:** There may be policy implications to this change.

The Committee may also wish to consider eliminating the requirement that city publish notice of proposed franchise for three weeks in newspaper. **Rationale:** burdensome and inconsistent with requirements for other ordinances.

Section 49: Depending on how the charter amendments/revision are presented to the voters, this section will need to be updated.

Section 50: If these charter amendments are presented to the voters as a charter revision, this section should read: "This revised charter takes effect on _____, 2002."

**HARRANG LONG GARY RUDNICK P.C. –
CITY ATTORNEYS**


Jerome Lidz

JL/gb

CITY OF EUGENE
INTER-DEPARTMENTAL MEMORANDUM
CITY ATTORNEY – CIVIL DEPARTMENT

Appendix W

To: Mary Walston - CS/CMO

Date: December 13, 2001

Subject: Charter Review Issues for December 13, 2001 Committee Meeting

CONFIDENTIAL ATTORNEY/CLIENT COMMUNICATION – NOT SUBJECT TO RELEASE UNDER THE PUBLIC RECORDS ACT
--

Below are my comments and proposed language for the various charter sections to be discussed at the Charter Review Committee's December 13 meeting.

1. Protected Ordinance

A. Wording

"An ordinance adopted by initiative may be amended or repealed by the council only upon the affirmative vote of six [seven/eight] councilors."

OR

"There shall be an additional type of voter-initiated ordinance called the protected ordinance. The chief petitioners shall include with the prospective petition a statement declaring whether this initiative is to approve a regular or protected ordinance. Petitions for proposed protected ordinances and any qualified ballot measure shall state that it is proposed as a protected ordinance and describe the implications of such. Any protected ordinance adopted by the voters exercising their constitutional initiative powers may be amended or repealed only by a unanimous affirmative vote of councilors present and voting at a council meeting."

Note: The first, simpler version works if one assumes that petitioners will nearly always designate their proposed ordinance as a protected ordinance.

B. Placement in charter

1. If sections are to renumbered, try a new section to follow section 33 under "Ordinances."
2. If this is to be plugged into existing sections, try section 28, as a new last subsection.

**Re: Charter Review Issues for December 13, 2001 Committee Meeting
December 13, 2001
Page 2**

2. Citizen Participation

A. Wording

“The council shall afford citizens opportunities for informed, timely participation in decisions that may have a significant impact on public policy, city revenues, city expenditures, social services, human rights, economic activity or the natural environment.”

Note: The Committee may want to consider whether this provision is a statement of principle or a directive to act. If the latter, it should provide more guidance on the ways in which the council is to implement it (*e.g.*, “by ordinance”). As drafted, it does not appear to be self-executing, and it is not clear how and when a citizen would raise a claim of inadequate citizen participation.

B. Placement in charter

As new section 5, or (if sections aren’t renumbered) as section 4(4).

3. Section 14 - Conflict of Interest

Suggested language:

“The council shall by ordinance enact a code of ethics applicable to the mayor, councilors, city manager and any others designated by the council. At a minimum, the code shall provide that officials subject to the code must disclose the reason for any conflict of interest and that the mayor and councilors may not discuss, debate or vote on any matter in which the mayor or councilor has a pecuniary interest.”

Notes: (1) The amendments to section 14 - in this version and the Committee’s prior draft - include a substantive change from the current section 14. Section 14 currently prohibits a councilor from being pecuniarily interested in any contract that the city pays for, while the proposed amendments prohibit only discussing, debating and voting on such a contract. In other words, under the proposed version, the city could enter into such a contract; under the existing version, the city cannot do so. (2) The last sentence in the prior draft - that the code may establish additional ethical standards - is now covered by the inclusion of “At a minimum, . . .” in the second sentence; this approach also avoids the implication that Council would need express charter authority to adopt such policies. (3) This draft removes “potential or actual” from the second sentence, because those terms are not defined here and state law definitions may change. “Conflict of interest”, without modifiers, should cover both, and this gives the Council flexibility to address changes in state law terminology.

**Re: Charter Review Issues for December 13, 2001 Committee Meeting
December 13, 2001
Page 3**

City Auditor

“ . . .All audit reports are public records and are subject to disclosure as required by and in accordance with state law pertaining to disclosure of public records.”

5. Section 26

“(1) It is unlawful for any city official to expend or approve the expenditure or diversion of any moneys held by the city in excess of the amounts authorized by law or for any purpose other than the one for which the moneys were received, collected or appropriated.

(2) Any city official who knowingly or with gross negligence participates in an unlawful expenditure or diversion of moneys, as described in subsection (1) of this section, is guilty of malfeasance in office and may be removed from office pursuant to procedures provided by ordinance.

(3) Any person who, in good faith and for valuable consideration, holds evidence of debt by the city that is void because it was unlawfully issued, shall have a right of action against the responsible city official personally to recover on the evidence of debt, if the official is guilty of malfeasance in office.

(4) In case of any unlawful expenditure or diversion of moneys, as described in subsection (1) of this section, any qualified elector or taxpayer of the city shall have a right of action against the responsible city official personally to recover the amount unlawfully spent or diverted, with interest, for the benefit of the city, if the official is guilty of malfeasance in office.”

4. **Note: This amendment to charter section 26 would change the standard for a city official to be subject to removal from office and to be held personally liable for mis-expenditure. The change is from strict liability for any errors to liability only for knowing and grossly negligent errors. In this context, “gross negligence” means a reckless disregard of consequences or indifference to the applicable legal standards; the Oregon Supreme Court has also described it as an “I-don’t-care-what-happens” mental attitude. This would bring the city’s standard closer to that provided in state law, as amended by the 2001 legislature. I have attached a copy of HB 2389, amending ORS 294.100, to make officials personally liable for mis-expenditures only when the official is guilty of willful or wanton neglect of duty. Also attached is a short explanation of why the League of Oregon Cities supported HB 2389.**

The change to state law does not require this charter amendment. I suggest it - or something similar - for the reasons described by the League.

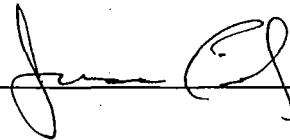
I also tried to translate some of the more arcane language into more modern terms.

Re: Charter Review Issues for December 13, 2001 Committee Meeting
December 13, 2001
Page 4

6. Section 34 - Voters' Qualifications

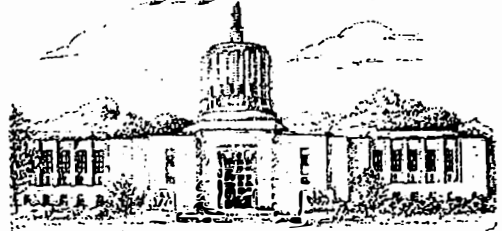
“No person may vote in a city election unless the person is a qualified voter of the state and has resided in the city for the length of time that state law requires a person to reside in the state to vote in a state election. No person may vote for an officer to be elected under this charter by ward unless the person has resided in the ward for the same length time required in the preceding sentence for a person to vote in a city election.”

HARRANG LONG GARY RUDNICK P.C.
- CITY ATTORNEYS


A handwritten signature in black ink, appearing to read "Gary Rudnick", is written over a horizontal line.

JL:lke
attachments

Legislative Bulletin



Number 13

League of Oregon Cities

April 6, 2001

In this issue...

Judicial Review Bill	2
Urban Renewal	2
Telecom Bills	3
Seismic Bills	4
City Day at the Capitol	4
Fiscal Education Project	5
Bill Summaries	6
Hearing Schedule	8

Bill Would Protect Public Officials from Lawsuit Threats, Liability

Anyone who has ever held an elected office knows that the expenditure of public money is a serious matter – and one that could lead to personal liability if handled incorrectly. In fact, ORS 294.100 provides that a public official who expends any public money over the amounts allowed by law or for a purpose other than that allowed by law has to *personally* pay it back. This seems reasonable, until you realize that a simple administrative error or misinterpretation, or even well-reasoned errors in math, budgeting, or judgement could leave you and your family financially bankrupt.

House Bill 2389 would greatly assist our public servants and elected officials by narrowing this current, broad standard for public official liability for unauthorized

expenditure of funds. This bill mandates personal repayment of funds only if the public official's expenditure constituted *malfeasance in office or wanton neglect of duty*.

HB 2389 is scheduled to be heard on Monday before the House Judiciary Civil Subcommittee, chaired by Rep. Cherryl Walker (R-Murphy). Other members of the subcommittee are Reps. Vic Backlund (R-Keizer), Kathy Lowe (D-Milwaukie), Charlie Ringo (D-Beaverton), Lane Shetterly (R-Dallas), and Max Williams (R-Tigard). If you are represented by any of these legislators, please call and inform them of your support for HB 2389.

- Christy Monson

71st OREGON LEGISLATIVE ASSEMBLY--2001 Regular Session

Enrolled House Bill 2389

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Joint Interim Judiciary Committee)

CHAPTER

AN ACT

Relating to public officials; creating new provisions; and amending ORS 294.100.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 294.100 is amended to read:

294.100. (1) It is unlawful for any public official to expend any *[money]* moneys in excess of the amounts provided by law, or for any other or different purpose than provided by law.

(2) Any public official who expends any public *[money]* moneys in excess of the amounts[,] or for any other or different purpose *[or purposes]* than authorized by law[,] shall be civilly liable for the return of the money by suit of the district attorney of the district *[where]* in which the offense is committed, or at the suit of any taxpayer of such district, if the expenditure constitutes malfeasance in office or willful or wanton neglect of duty.

(3) On the demand in writing of 10 taxpayers of any municipal corporation with a population exceeding 100,000 inhabitants, filed with the tax supervising and conservation commission in the county in which the municipal corporation is situated, which demand sets forth that a public official *[or public officials have]* has unlawfully expended *[money]* public moneys in excess of the *[amounts]* amount or for any other or different purpose *[or purposes]* than provided by law[,] and that the expenditure constitutes malfeasance in office or willful or wanton neglect of duty, the tax supervising and conservation commission shall make an investigation of the facts as to *[such expenditures]* the expenditure. If the tax supervising and conservation commission finds that public moneys have been unlawfully expended[,] and that the expenditure constitutes malfeasance in office or willful or wanton neglect of duty, the commission shall proceed at law in the courts against the public *[officials who have]* official who has unlawfully expended the moneys for the return of the moneys unlawfully expended to the treasury of the municipal corporation. A right of action hereby is granted to the tax supervising and conservation commission for *[such purpose]* the purposes of this section.

SECTION 2. (1) Except as provided in subsection (2) of this section, the amendments to ORS 294.100 by section 1 of this 2001 Act apply to all claims under ORS 294.100, whether arising before, on or after the effective date of this 2001 Act.

(2) The amendments to ORS 294.100 by section 1 of this 2001 Act do not apply to any claim under ORS 294.100 for which a judgment has been entered in the register of a court before the effective date of this 2001 Act.

DRAFT

**PROPOSED REORDERING OF
EUGENE CHARTER
2002**

Appendix X

Title Page

List current Eugene city Council Members, the Mayor, City Manager, and Assistant City Manager.

Table of Contents

PREAMBLE: NOTE: currently there is no preamble, but the language suggested by Bern Johnson on citizen participation could be incorporated into a preamble. THIS WOULD NOT BE A HOUSEKEEPING ITEM, HOWEVER.

CHAPTER I – NAMES AND BOUNDARIES

- Section 1. Title
- Section 2. Corporate Name and Capacity
- Section 3. Boundaries

CHAPTER II - POWERS

- Section 4. Vesting, Grant, and Construction of Powers

CHAPTER III - FORM OF GOVERNMENT

- Section 5. Council - Membership
- Section 6. Councilors - Include election, qualifications
- Section 7. Mayor - Election
- Section 8. Terms of Office

CHAPTER IV - COUNCIL

- Section 9. Meetings
- Section 10. Quorum
- Section 11. Record of Proceedings (change journal to record in text)
- Section 12. Mayor's Functions at Council Meetings
- Section 13. Council President
- Section 14. Vacancies - Occurrence
- Section 15. Vacancies: Filling
- Section 16. Conflicts of Interest
- Section 17. Immunity

CHAPTER V - POWERS AND DUTIES OF OFFICERS

- Section 18. Mayor
- Section 19. City Manager
- Section 20. Municipal Court and Judges

CHAPTER VI - PERSONNEL*

- Section 21. Qualifications
- Section 22. Election
- Section 23. Terms
- Section 24. Oath or Affirmation
- Section 25. Compensation
- Section 26. Collective Bargaining
- Section 27. Liability for Unauthorized Expenditures
- *Insert sections on in-house legal counsel (City Attorney) and Performance Auditor

CHAPTER VII - ELECTIONS

- Section 28. Wards
- Section 29. Voters' Qualifications
- Section 30. Notice
- Section 31. Nominations

CHAPTER VIII - ORDINANCES

- Section 32. Ordaining Clause
- Section 33. Adoption by Council
- Section 34. Attestation and Approval
- Section 35. Veto
- Section 36. Overriding of Veto
- Section 37. Time of Effect

REST OF CHARTER REMAIN AS PRESENTLY ARRANGED OR AS PROPOSED BY
CHARTER REVIEW COMMITTEE