

FINAL REPORT  
September 13, 2007

2006-2007 CITY OF MODESTO  
CHARTER REVIEW COMMITTEE

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[The Technical Appendices are available under separate cover and include consultant reports, written public input, samples of charter language from other cities reviewed by the Committee, Modesto Bee articles relevant to "city charter" issues, and minutes of Committee's meetings. If you are interested in reviewing, please direct such inquiries to:  
[charterreview@modestogov.com](mailto:charterreview@modestogov.com)  
or by call the Mayor's office at 571-5169]

## EXECUTIVE SUMMARY

The 2006-2007 Modesto Charter Review Committee (the "Committee") is pleased to submit its final report to the Modesto City Council.

### *Background*

The Committee was charged by the Mayor and City Council to undertake a review of the Modesto City Charter, a procedure that the City generally undertakes at least every decade. The Committee undertook an extensive public input process where it sought input from elected officials, City Charter Officers and heads of City departments, interested parties, and, most especially, the citizens of Modesto. The Committee conducted twenty-eight (28) public input meetings or presentations at civic organizations requesting information on the Charter Review process.

Two key themes emerged from this process that drove the proceedings of the Committee: a perceived need to move from an at-large system to some form of district elections in electing Modesto city councilmembers and a perceived need to increase the accountability of the City Hall to the electors and taxpayers of Modesto. In addition to these two key themes, the Committee believes attention is needed regarding, first, Modesto's unsatisfactory municipal run-off election system and, second, various technical amendments to the City Charter.

The Committee researched, received testimony, deliberated and developed recommendations regarding these issues in over thirty meetings of the Committee. The results of the Committee's work were set forth in a Public Review Draft (which preceded this Final Report) that was presented at a public meeting for final public comment on September 13, 2007. The recommendations that follow in this Final Report are a result of the public input, deliberations, and final public comment process.

### *Electing Councilmembers*

Regarding the method that Modesto elects councilmembers, the Committee presented an Interim Report to the Council on July 10, 2007 recommending a Public Outreach, Education Effort, and Advisory Vote on this important issue. The Council agreed with the recommendation and approved a Public

Outreach and Education Effort that will culminate in a public Advisory Vote on the November 6, 2007 election ballot.

This vote consists of two advisory measures: Measure I which asks whether Modesto voters desire to change the method of electing city councilmembers and Measure J which asks Modesto voters to advise the City Council which of two systems recommended by the Committee voters prefer were Modesto to make a change in its Election System. One recommended system entitled "By District" is a system where six council districts would be created and candidates would have to live in the district they wish to represent, and the voters who live in the district would vote on who will represent the district. This system would have six councilmembers. In essence, this system would switch Modesto's city council elections from an at-large, or citywide, basis to a by district basis. The other recommended system entitled "Mixed" is a system which would create the six council districts of the first system but would also have two at-large council seats where candidates may live anywhere in the City, and are voted upon by all City voters. This system would have eight councilmembers. In essence, this "Mixed" system would combine the "By District" proposal of six councilmembers but add two councilmembers who would be elected in the same manner as the current system.

The Committee unanimously believed that Modesto should move to a different system that had some manner of district representation. There was not consensus of what system should replace the current system and that was one of the reasons the Committee recommended the Public Outreach, Education Effort, and Advisory Vote process in its Interim Report.

The Committee also believes that the City Council should inform itself about the district election issue, understand and consider the two systems recommended by the Committee, consider the results of the November advisory election, and then be prepared to place a binding measure on the February ballot for final resolution by Modesto voters of this important issue.

In an effort to assist in implementing the outcome of this public advisory process, the Committee has drafted two versions [Option (a) and Option (b)] of the "Elect the City Council by Districts Measure of 2008" and recommend that the Council utilize them in its final decision on what to place on the February 5, 2008 ballot for a binding vote of Modesto voters.

### *Increase Accountability at City Hall*

On the accountability issue, the Committee found itself facing much input and many ideas revolving around the notion of increased accountability of City Hall to the citizens, residents, voters, and taxpayers of the City. The Committee considered many facets of this issue. We heard suggestions that Modesto should jettison its "City Manager" form of government in favor of a "Strong Mayor" form of government; should hire and fire heads of city departments currently responsible to the City Manager; should make the Finance Director a fifth Charter Officer; and should publicly disseminate confidential employee reviews.

As in the prior issue, the Committee undertook much research, received much testimony and engaged in many deliberations revolving around this accountability issue.

The Committee's recommendation is to maintain our City Manager form of government (formally, the "Council-Manager" form), but to enhance various powers and duties of the City elected officials to institutionalize a partnership between City elected officials and Charter Officers in an expectation that Modesto will be more effectively operated and accountability to the voters and taxpayers of City Hall will increase.

The Committee recommends that this partnership-building be achieved through the following: (1) delineate additional accountability powers for the Mayor; (2) revise the budget process to involve budgeting priorities of the Mayor and City Council early in the City Manager directed budgeting process; (3) create a process where the Mayor and City Council, with appropriate staff input, create written Statements of Policy for Charter Officers and for city department heads; (4) require that the Mayor and City Council utilize these Statements of Policy in an annual evaluation of Charter Officers and that the City Manager utilize these Statements of Policy in an annual evaluation of department heads; (5) create a Citizen's Salary Setting Commission with strict salary limits that will consider increasing compensation of the City's elected officials; (6) mandate an independent City Auditor as a fourth Charter Officer with specified duties; (7) increase disciplinary authority for deputy department directors, police captains, and fire battalion chiefs; and (8) make deputy directors and attorneys that work for the City at-will employees.

To implement the institutionalization of this partnership building, the Committee has drafted the "Increase Accountability in City Hall Measure of

2008” and recommends that the City Council place it on the February 5, 2008 ballot for a binding vote of Modesto voters.

### *Municipal Run-Off System*

In addition to the key themes of district elections and accountability in City Hall, the Committee believes Modesto’s unsatisfactory municipal run-off election system requires reform. The Committee unanimously believes that the current run-off system which consists of a December election on the heels of a November election is broken. On a close vote, the Committee recommends elimination of the run-off entirely. However, as the Committee refined the district election proposals, it became evident that if Modesto voters choose a district election system for city councilmembers, it could affect one’s view of the need for a run-off system. Consequently, the Committee recommends that the Council address how to fix the broken run-off system after the voters have made their final decision on district elections. In this way, a more thoughtful and focused discussion can occur on how the elimination of or the better implementation of run-off elections might work in Modesto. In any case, the Committee recommends that this issue be addressed no sooner than the June 3, 2008 election ballot. However, this issue should be addressed in a timely manner so that the fix of the broken run-off system in place prior to the next municipal regular election on November 3, 2009.

### *Technical Amendments*

In addition to these major matters, the Committee has recommended a number of technical amendments to the City Charter. The Committee recommends that these be addressed no sooner than the June 3, 2008 ballot. However, these amendments could also be placed on the November 2009 regular municipal ballot election without adverse consequences. We note for the Council’s consideration that there are three elections in 2008; the two previously mentioned and the third general presidential election. This plethora of elections provides the Council with many options to resolve the election-related issues prior to the next regular municipal election in November 2009.

## I. INTRODUCTION

The Modesto City Charter is the “local constitution” by which the electors of Modesto govern themselves. As the Mayor noted in his charge letter to the Committee, “(a) city charter, like the state and federal constitutions, is a statement of basic principles, outlining powers, relationships and responsibilities.”

City charters are authorized under the California Constitution, which allows a city to choose either to be a “general law” city under the laws of the state or become a self-governing “charter” city. Modesto became a charter city in 1911 after it approved its first city charter on September 14, 1910 when Modesto’s population was approximately 4,032. Modesto undertook major revisions of its Charter in 1949, 1950, and 1962. The Charter under which Modesto operates today was first adopted on November 6, 1962, when Modesto’s population had reached somewhat over 36,585. Section 1604 of the Modesto City Charter requires that the City Council shall cause the City Charter to be reviewed at least every 10 years. Since its 1962 adoption, previous charter review committees have met in 1971, 1980, 1989, and 1999. A brief history of historical milestones may be found at the end of this report.

The City Council appointed eleven (11) members to the 2006-2007 Charter Review Commission (Modesto City Council Resolution No. 2006-087 and 2006-225.) These Committee members were: Solange Altman, Susan Azevedo, Marie Bairey, Carolina Bernal, David Cogdill, Jr., Chris Harrigfeld, Sandra Lucas, George Petrulakis, John Shores, Jeremiah Williams and Thomas Wright. George Petrulakis was appointed by Mayor Ridenour to serve as Chairperson of the Committee. During our proceedings, Susan Azevedo resigned from the Committee due to an unavoidable and heavy travel schedule.

Traditionally, Charter Review Committees have been charged with various duties by the Mayor and have submitted a final written report to the Mayor and City Council. This effort constitutes our continuation of the tradition of providing a final written report to the Mayor and City Council on our deliberations and recommendations.

## II. CHARGE OF THE MAYOR AND CITY COUNCIL

On July 11, 2006, Mayor Ridenour confirmed the Committee's charge from the Mayor and City Council. The Mayor noted:

The function of your committee is to review Modesto's City Charter, make sure that we have a charter that provides the best organization, powers, and functions and essential procedures for the best possible City government.

Each member of the City Council believes this committee is vital to the future of Modesto. Due to repetitive issues of accountability and responsibility in City Hall, I believe we all expect this committee to do more than a caretaker's job in reviewing our local constitution. Be thorough in your ideas to improve our local government and governance.

One of the major themes I see for your work is the need for more accountability in City Hall. Please spend adequate time on this issue and help us determine what we can do to improve our accountability to our citizens, residents, voters, and taxpayers. This City Council has worked hard to fix the neglect of past years and decades. Despite the difficulty of the task, this City Council continues to believe that we must better meet the expectations of our citizens.

The Mayor went on to note that he had included a list of issues developed by the City Council and our City Department Heads and that, while the committee should "consider these as a starting point for your work," both the Mayor and the City Council provided the Committee "a wide charge to review the entire City Charter and make recommendations as you see appropriate for our City."

### III. PUBLIC INPUT

Early in its proceedings, the Committee undertook an extensive public input process to solicit the views of Modesto's citizens regarding necessary revisions of the Charter. The Committee hosted seventeen (17) meetings at various locations geographically dispersed throughout the City. Two of the meetings were held in the City Council chambers so that they could be telecast on public access cable television to facilitate public participation, and two meetings were held on Saturday mornings to ensure that commuters who were unavailable during the work week would be afforded an opportunity to address the Committee and provide input. These meetings, locations, dates, and times, and the major written materials utilized at these meetings, are shown in Appendix "A." While the Committee did not obtain as much public input as it hoped during these public input meetings, the Committee is grateful to members of the public that did attend. To the extent public input was received, it reaffirmed the pervasive two themes heard throughout our deliberations: a desire for district elections and a desire to increase accountability in City Hall.

In addition to these public input meetings, the Committee also made presentations to any civic organizations requesting presentations and on talk radio shows. These presentations are summarized in Appendix "B." These presentations uniformly included robust discussion by members of the various organizations with input and ideas that were shared with the Committee. These presentations also revolved around the pervasive two themes of the Committee's proceedings: district elections and a desire to increase accountability in City Hall. These presentations to civic organizations continued throughout our proceedings and more were scheduled even as we completed our Final Report.

The Committee invites interested members of the public to request a presentation on the Charter's Final Report. Such requests can be made to [charterreview@modestogov.com](mailto:charterreview@modestogov.com) or by calling the Mayor's office at 571-5169.

In addition to these public meetings, a section of the City's website was devoted to Charter Review issues. The site was easy to use and was accessible from the City's "front page" of its website. Public questions and suggestions were encouraged through an e-mail mail box on the website. A

copy of the first page of the Committee's home site and of the e-mail suggestion box is included as Appendix "C."

In addition to these methods, members of the Committee obtained public input in the form of letters, e-mail correspondence, individual conversations with the members of the public, and presentations made by members of the public at our Charter Review Committee meetings.

#### **IV. PROCEEDINGS AND ISSUES ADDRESSED AND ISSUES NOT ADDRESSED**

The Committee began its proceedings with the public input meetings described in Section III of this report and early orientation sessions regarding the purpose of a City Charter. A resource binder was provided to the Committee members and copies were provided to the City Council. Resource binders were also provided to the Stanislaus County Free Library, the Stanislaus County Law Library, and the League of Women Voters of Stanislaus County, all of which agreed to be depositories for these materials. The Resource Binder included an Introductory Note to Interested Citizens of Modesto, California and Annotated Table of Contents which is reprinted in Appendix "D." The additional major resources provided Committee members were: GUIDE FOR CHARTER COMMISSIONERS, FIFTH EDITION, National Civic League (1991); MODEL CITY CHARTER, 8<sup>TH</sup> EDITION, DEFINING GOOD GOVERNMENT IN A NEW MILLENNIUM, National Civic League (2003) ; TAILOR-MADE GOVERNMENT: A CITIZEN'S GUIDE TO CALIFORNIA'S CHARTER CITIES AND COUNTIES, California State Legislature Senate Local Government Committee (February 1998); and, THE ADAPTED CITY: INSTITUTIONAL DYNAMICS AND STRUCTURAL CHANGE, Frederickson, Johnson, and Wood (2004.)

Excluding the specified Public Input Meetings, the Committee has held over thirty Committee meetings to hear testimony, deliberate, and develop this final report. The Committee identified approximately forty (40) areas where suggestions were made during the public input process for Charter revision. These suggested changes had been brought to the Committee's attention either by Councilmembers, members of the public, civic organizations, city staff or members of the Committee. Of these areas of interest, the Committee a number of them were either not germane to Charter matters or were not specific enough to warrant additional attention. Thus, approximately twenty-three (23) potential changes to the Charter

were left for the Committee to consider. The Committee has made recommendations on a number of these in this report. The disposition of all the issues raised is shown in Appendix "E."

During deliberations of the Committee, two general categories of issues emerged upon which recommendations have been made. The "Technical" items involved tidying up provisions of the Charter, non-controversial issues, or addressing archaic or superseded Charter references. The "Major" items involved significant issues of governance for the future of Modesto such as the method by which city councilmembers are elected, increasing accountability in City government by refining the duties of the mayor, whether and how elected officials should be compensated, expansion of the role of the City Auditor as an independent Charter Officer, elimination or change in City's run-off election for city councilmembers, and increasing the disciplinary authority of deputy department directors, fire battalion chiefs, and police captains.

The Committee conducted research, heard testimony and invited elected officials from other Charter cities to provide information on the Major issues. At the request of the Committee, the City Council authorized the retention of subject matter experts to assist the Committee in understanding some of the more complex issues. Specifically, the City retained the services of Doug Johnson of National Demographics Corporation for issues related to the methods of election of councilmembers, and various professors affiliated with the Center for Public Policy Studies at California State University, Stanislaus for other issues that arose in the Charter Review process. The Technical issues were very ably presented by city staff members, most often with suggested draft language, which was very helpful to the Committee. Final votes for all recommendations may be found in the minutes of the Committee meetings.

The following recommendations resulted from these deliberations and proceedings:

## V. RECOMMENDATIONS

### A. District Elections.

*Interim Recommendation (UNANIMOUS):*

**Public Outreach, Education Effort, and Advisory Vote to be held November 6, 2007;**

*Final Recommendation (UNANIMOUS):*

**Binding Vote on February 5, 2008 on One of Two Options of The Elect the City Council by Districts Measure of 2008 based upon results of Public Outreach, Education Effort, Advisory Vote and Final City Council Decision.**

The issue of highest interest addressed by the Committee has been how Modesto voters elect city councilmembers. The Committee has devoted considerable time and resources to understanding, deliberating upon, and winnowing down the best methods for electing city councilmembers in Modesto's future.

The Committee obtained extensive public testimony on this issue, devoted two televised meetings to the matter, and heard from Mayor Dennis Donohue of Salinas regarding how one "By District" system operates and from Mayor Edward Chavez of Stockton regarding how one form of "From District" system operates. In addition, substantive presentations and workshops were presented to the Committee by Doug Johnson of National Demographics Corporation. The Committee also heard a presentation from Robert Ruben of the Lawyers' Committee for Civil Rights, one of the attorneys for plaintiffs in the *Sanchez v. City of Modesto* case, regarding various matters related to district elections. In addition, the Committee heard testimony regarding the Election Reform Act of 2007 from various citizens and reviewed a copy of the proposed initiative that is sponsored by Carmen Sabatino, William Thomas Jensen, Miguel Donoso, Ramon Magana, Ernie Foote, and Allen James. A copy of this proposal is attached as Appendix "F."

No members of the Committee support the current at-large system of electing councilmembers. However, there was no consensus on what form of election system should be considered to replace the current system.

Half of the committee members supported a "Mixed" system where six councilmembers are elected in six districts where a candidate must live in the district he or she wishes to represent and each district elects its own councilmember and two councilmembers are added to city council (for a total of eight councilmembers) and these two new members run at-large in the same manner as current councilmembers.

Some committee members supported a "By District" system of six districts for councilmembers where a candidate must live in the district he or she wishes to represent, and each district elects its own councilmember.

One committee member supported a "From District" system under which a candidate for council must live in a particular geographic district but runs city-wide in an at-large election. One committee member supported a "From District" variation involving a two-election system where candidates are nominated by districts in a first election and the top two vote getters then run in a second at-large election city wide. The committee also reviewed and discarded numerous other systems and variations.

In the end, however, two systems had much more support than any others so the Committee recommended in its Interim Report to the City Council that a Public Outreach, Education Effort, and Advisory Vote be conducted so that the electors of Modesto could participate in resolving which, if any, of the two proposed systems - "By District" or "Mixed" - should be presented to the community for a binding vote. This Interim Report was presented to the City Council on July 10, 2007. A copy of the interim report is included in Appendix "G." The Committee supported such an approach for a variety of reasons:

First, the method of electing councilmembers had become a recurring concern over the years and an acute community concern in recent years. The first mention we found in recent Charter review history regarding the method of electing councilmembers was in the 1970 report where the issue of electing councilmembers by district was one of six issues studied by that Charter Review Committee. The 1970 Committee affirmed the at-large election system. The 1989 Charter Review Committee also studied the City's electoral system as found in Sections 500, 501, and 700 of the Charter. The 1999 Charter Review Committee was again presented with the issue and it chose to "strongly recommend to the City Council that the issue of district elections and other possible alternatives to the current system of election 'by Chair' be studied and addressed further in a manner to be determined by the City Council." On the basis of this recommendation, the City Council appointed a

separate committee to address district elections. The resulting Ad Hoc Committee on District Elections and Term Limits presented its final report to the City Council on district elections on July 17, 2000. This report recommended that Modesto maintain its at-large election system. However, an initiative proposal for district elections appeared as Measure L on the November 6, 2001 ballot. While this measure was rejected by the voters by a two to one margin [16,589 "No" votes (33.68%) to 8,423 "Yes" votes (66.32%)], supporters of the measure have repeatedly complained over the years that the district election measure did not receive a fair hearing and vote because of undue prominence given the portion of the initiative that changed municipal election dates in Modesto from odd-numbered years to even-numbered years. In this rendering of the history, a combination of voter confusion and reluctance of the electorate who votes in odd-numbered years to switch to even-numbered years resulted in the defeat of the combined measure.

Second, the entire concept of district elections has received much press attention in recent years since due to the coverage of *Sanchez v. City of Modesto*, a case brought by voter plaintiffs against the City under the California Voter Rights Act of 2001. While the lawsuit was not a focus of the Committee's deliberations, as noted above, an attorney for the plaintiffs made a presentation to the Committee, and one of the plaintiffs in the lawsuit, Salvador Vera, organized a community meeting on the district election issue.

Third, the Committee noted a need to increase the quality and engagement of the debate surrounding how we elect councilmembers in Modesto. We noted much suspicion and distrust among various stakeholder groups and neighborhood representatives that we felt necessitated an effort to increase the quality and quantity of dialogue among citizens in our community.

With these reasons as a backdrop, it became evident to the Committee that the community should engage in a Public Outreach and Education Effort in an attempt to build community trust. The Committee believes this extra effort might lead to community consensus on whether and, if so, how Modesto should alter its method of electing city councilmembers. The Committee recommended such an effort to the Council culminating in an advisory vote on November 6, 2007. It is the Committee's hope that such a process will allow voters to engage the issue of how to elect councilmembers in a deliberative and thoughtful manner.

The Council agreed with the Committee's recommendation and two advisory measures will appear on the November 6, 2007 ballot after an extensive Public Outreach and Education Effort. This advisory vote consists of Measure I which asks whether Modesto voters desire to change the

method of electing city councilmembers and Measure J which asks Modesto voters to advise the City Council which of two systems recommended by the Committee voters prefer if Modesto is to make a change in its Election System.

The two recommended systems are:

**By District:** One system is a "By District" system where six council districts would be created and candidates would have to live in the district they wish to represent and the voters who live in the district would vote on who will represent the district. This system would have six councilmembers. In essence, this system would switch Modesto's city council elections from an "at-large" and citywide basis to a "by district" basis.

**Mixed:** One system is a "Mixed" system which would create the six council districts of the first system but would also have two at-large council seats where candidates may live anywhere in the City and are voted upon by all City voters. This system would have eight councilmembers. In essence, this "Mixed" system would combine the "By District" proposal of six councilmembers but add two councilmembers that would be elected in the same manner as the current system.

The wording of Measure I and Measure J appear in Appendix "H."

Because the Committee unanimously believed that Modesto should move to a different system that had some manner of district representation, the Committee chose to file a ballot argument in support of Measure I. The ballot argument appears in Appendix "I."

We hope Modesto electors will avail themselves of the following education opportunities on the issue: (1) read the City Attorney's impartial analysis that will appear in the sample ballot booklet and the one-page mailer that will be sent to Modesto voters [this mailer appears in Appendix "J"]; (2) attend one of the many public information meetings scheduled; (3) view on public access television the informational briefings to the City Council, or view them at their convenience on the City Charter page of the City Council website - [www.modestogov/CharterReview/](http://www.modestogov/CharterReview/) or (4) read the longer report prepared by NDC that is available on the webpage, at the Stanislaus County Library, or the Stanislaus County Law Library.

In addition, we recommend that the Councilmembers attend the City Council briefings on the matter, read the one-page summary and longer report, obtain public input at a meeting the week of the November election and be ready to

decide which measure, if any, to place upon the February ballot for a binding decision on this important matter.

One of the lessons that the Committee has drawn from its deliberations on this important issue is that no election system is perfect. Each system involves trade-offs among various important values and factors.

However, even given this reality, the Committee recommends that the Council choose one of the two systems presented in the advisory election for a binding vote on February 5, 2008. It was the unanimous opinion of the Committee that the Modesto has outgrown its current system. The Committee also believes that the two systems presented in the advisory vote were superior to other possible systems. To make this clear, we offer a summary of why other systems were rejected (we do not list the many advantages of the various systems; as indicated above, all systems involve a trade-off; only the most pertinent reasons why the system was rejected are included.)

**From District** (under this system a candidate would have to live in a district but would run city-wide; similar to the election system used by the City of Elk Grove)

---This system does not allow a district to actually elect a candidate of the district's choice. The candidate is elected city-wide and is not elected in a district.

---Also, because candidates must run city-wide, this system still makes campaigns expensive to run.

**From District with Primary and General Elections** (under this system a candidate would run in two elections: the first one in a district where the district would nominate two top vote getting candidates and a second one where these nominees would run city-wide; similar to the election system used by the City of Stockton)

---This system does not allow a district to directly elect a candidate. Because the district nominates two candidates, the preferred district candidate could lose city-wide.

---Also, because candidates must always run in two-elections with the second being citywide, this system makes campaigns expensive to run, even more expensive than some other city-wide elections.

**At Large in a Group** (under this system candidates would run in one group and the top vote getters would be elected; similar to the election system used in many general law cities, the Modesto City Schools Board, and the City of Modesto before 1963.)

---This system does not provide the geographic dispersal of a district election system.

---This system dilutes accountability of elected councilmembers because they run in a group. No one person can necessarily be held accountable to the electorate.

---Also, because candidates must run city-wide, this system still makes campaigns expensive to run.

**At Large By Chair** (Modesto's current system.)

---This system does not provide the geographic dispersal of a district election system.

---This system has led to various groups feeling disenfranchised in community decision-making.

---Also, because candidates must run city-wide, this system makes campaigns expensive to run.

**Other Systems.** The Committee also considered Cumulative Voting, Limited Voting, Proportional Voting, and Single Transferable Voting. Each of these was deemed inappropriate for Modesto.

After long deliberation, the Committee has drafted two versions of the "Elect the City Council by Districts Measure of 2008" for consideration for placement on the ballot in the February 5, 2008 election. The two versions are the same in establishing a Districting Commission appointed by the City Council (under the criteria listed below) that creates six council districts for future elections. They differ only in that the Mixed option adds language for two at-large councilmembers, elected in alternating terms. This at-large language is modeled on current provisions in the Charter. In either option, the Mayor continues to be elected at-large, that is, city-wide.

The proposed measures divide Modesto into six districts for purposes of electing six district councilmembers. The Citizen's Districting Commission (the "Commission") is created to determine the first districts and then to

redistrict after each Federal Decennial Census (every ten years.) The first Commission would be appointed no later than sixty (60) days after the effective date of the amendment and would meet and recommend a Districting Plan for implementation in the November 2009 and November 2011 municipal elections. Three districts would be voted upon in each election. The Council is required to appropriate adequate funds for the work of the Commission.

The Commission is appointed by the Council and consists of nine (9) voters within the city limits. Strong consideration must be given to having a retired Stanislaus County judge be the chairperson of the Commission and to appointing members that represent bona fide taxpayer, voter rights, civil rights, and previous Civil Grand Jury organizations. Additional members must have demonstrated civic involvement and a capacity to serve in an honest, independent, and impartial fashion. The Commission must reflect the demographic and geographic diversity of the City.

There are numerous prohibitions on who can serve on the Commission to prevent conflicts of interest. Relatives of the Mayor, Councilmembers, Charter Officers and City department heads and deputy department heads cannot serve on the Commission.

City employees, employees of labor unions for City employees or persons receiving compensation from the City or its labor unions cannot serve on the Commission.

Lobbyists and other persons with business before the City Council in a financial amount that would cause a conflict of interest under the City's TINCUP ordinance cannot serve on the Commission.

A member of the Commission cannot run for election to the City Council in any district whose boundaries were drawn by the Commission on which he or she served. Members of the Commission do not get paid for their service.

Objective criteria are set for consideration by the Commission in creating district boundaries including geographic compactness and contiguousness, following natural and man-made features, and representing communities of interest. Boundaries are not to be drawn with regard to where incumbents or challengers live or for the advantage or disadvantage of any political party.

The City must hire competent and experienced independent consultants to assist in the districting procedure. Numerous public hearings must be held during the districting process with the districting plans available to the public

well in advance of decision on them. The Council must approve or disapprove the recommended districting plan in its entirety. Any Council objections to the plan must be put in writing and are to be considered by the Commission. However, the Commission chooses the Final Districting Plan after consideration of any objections by the Council.

Any Final Districting Plan is subject to referenda.

Transition provisions are created to assign current councilmembers to a district based upon their current council chair number until the next election whether or not a councilmember lives in a particular district.

The Committee believes the Districting Commission is the superior method to create election districts for Modesto. Many cities allow the city council to create districts with little or no guidance in the Charter. The Committee believes this system will not be credible to Modesto voters who are looking for more accountability from City Hall. In addition, such a system is too susceptible to political shenanigans. Other cities delineate the actual districts in their city charter, including listing census tracts and other information that describe the district. The Committee believes such a system is too cumbersome in that it would require a Charter revision vote merely to update election districts. The Election Reform Act of 2007 presented to the Committee had some points, especially regarding districting criteria that are in our proposal, but the mechanism set up in that proposal did not have enough flexibility to ensure compliance with the Federal Voting Rights Act and would likely have to be amended at some point in the future in yet another election to achieve such compliance. In addition, it put the City Clerk in the difficult position of establishing election districts for her direct employers, the City Council.

Consequently, the Committee recommends that the Council place one of the two election systems being considered in the Advisory Election on the February 5, 2008 for a binding vote. Recommended language for the "By District" system option of "The Elect the City Council By Districts Measure of 2008" is included in Exhibit "1." Recommended language for the "Mixed" system option of "The Elect the City Council By Districts Measure of 2008" is included in Exhibit "2."

## B. Accountability of City Hall.

### *Final Recommendation (UNANIMOUS):*

#### **Binding Vote on February 5, 2008 on The Increase Accountability in City Hall Measure of 2008.**

Other than how we elect our city councilmembers in Modesto, the theme that the Committee heard about the most was increasing “accountability” in City Hall. What “accountability” means is certainly in the eye of the proponent and the Committee undertook much work to define the perceived inadequacies of our current system and to propose solutions.

Increasing accountability had different meanings for different people. Some meant it as urging that Modesto abandon its long tradition of a strong city manager form of government in favor of a strong mayor form of government that is common in eastern, Midwestern and some very large California cities such as Oakland, Fresno, San Diego and Los Angeles. Others thought the Mayor or City Council should directly hire and fire city department heads that currently are under the jurisdiction of the city manager. A proposal was made that the Finance Director should be a fifth Charter Officer responsible to the Council; another that the City should disseminate publicly confidential employee reviews.

As we undertook research, heard testimony, and deliberated, it was clarified that persons interested in this issue were describing increasing two kinds of accountability:

- the accountability of the City bureaucracy to the elected officials and to the electors and taxpayers of the City; and

- the accountability of elected officials to the electors and taxpayers of the City.

The Committee heard testimony from citizens, taxpayer advocates, Chamber of Commerce representatives and advocates of district elections on the need to increase the accountability of City Hall. Mayor Ridenour provided his views on how City Hall could be made to operate better. Former Mayor Gary Podesto of Stockton provided testimony on similar issues in his city that led to the passage of Measure U in Stockton in 2000. The text of Measure U may be found in Appendix “K.”

After our deliberations, the Committee's recommendation is to maintain our "City Manager" form of government, but (1) to enhance various powers and duties of the City elected officials to institutionalize a partnership between City elected officials and Charter Officers so that Modesto will be better run and accountability to the electors and taxpayers of the City bureaucracy will increase and (2) create new mechanisms to increase the accountability of the elected officials and administrative staff to each other and to the electors and taxpayers of the City. We believe these recommendations are consistent with modern trends of well-governed American cities. To understand some of the challenges faced by the Committee in navigating these waters, we urge interested persons to see a leading book-length treatment of the changing dynamics of political leadership, political responsiveness and administrative effectiveness in American cities entitled THE ADAPTED CITY: INSTITUTIONAL DYNAMICS AND STRUCTURAL CHANGE cited above. This book nicely summarizes the issues in straightforward, if academically dense, fashion.

The Committee recommends these eight improvements be made through various revisions to the City Charter which are found in The Increase Accountability in City Hall Measure of 2008:

**(1) Delineate Additional Powers for the Mayor.**

Under the current City Charter, the Mayor of Modesto is largely a figurehead. Other than presiding at City Council meetings, most of the duties specified for the Mayor are ceremonial in nature.

The Committee rejected the idea that Modesto abandon its City Manager form of government in favor of a Strong Mayor form of government, but the Committee does believe specific and limited new powers should be provided to the Mayor so that the Mayor can encourage accountability in City Hall.

Some of these are discussed in detail in the following subsections. Among the powers proposed that are not discussed below are: the ability to review the city council agenda with Charter Officers and add items to the agenda, if necessary; the ability to make policy recommendations to the city manager; the ability to gather information from Charter Officers; various committee appointing powers; the ability to hire independent, confidential staff to assist the Mayor and Councilmember in their duties; and the ability to nominate, for Council consideration, two nominees for the office of City Manager when a vacancy occurs.

**(2) Revise the Budget Process to Involve Budgeting Priorities of the Mayor and City Council Early in the Process.**

Under the current City Charter, all budget prioritization authority lies with the City Manager. The current city budget process essentially has the Mayor and Council react to a staff prepared budget.

The proposed revisions to the City Charter will allow the Mayor and Council to enter the budget process earlier in an effort to help set budget priorities for the City. Under the revisions, the City Manager will provide a five (5) year economic forecast of expenditures and revenues. Thereafter, the Mayor will prepare and deliver to the Council the Mayor's Proposed Budget Priorities and Direction. The City Manager will provide a mid-year budget report to the Mayor and Council and the Mayor will deliver a Mayor's Budget Message upon which the Mayor and Council will hold a public hearing. The Council may revise the budget message prior to its final adoption.

This Final Mayor's Budget Message will be utilized in the preparation of the draft city budget that the City Manager provides to the Mayor and Council. The Mayor may propose final Budget Modifications that will be considered by the Council. The Mayor and Council will consider and adopt any final modifications and the City Manager will then prepare the Proposed Budget that will be set for public hearing by the City Council for final adoption.

**(3) Create a Process where the Mayor and City Council, with Staff Input, Create Written Statements of Policy for Charter Officers and for City Department Heads.**

Under the current City Charter, the Committee did not see a mechanism for the Mayor and Council to set clear policy priorities for the City administration.

Under the Charter revisions, the Council will be required to adopt a written Statement of Policy for each Charter Officer and for each City department which is under the administration of the City Manager. The Statement of Policy will set forth the broad goals, objectives and aspirations to be accomplished by that department. The City staff will be involved in drafting these Statements of Policy by providing drafts of them to the Council that the Council may revise and amend.

The Statements of Policy are required to be reviewed and, if necessary, amended, every two years and when there are vacancies in Charter Offices or City department heads. When such review is conducted due to a vacancy in position, the Mayor and Councilmembers may adopt a set of questions which are intended to elicit responses from each prospective appointee concerning the goals, objectives and aspirations in the Statement of Policy. Prior to appointing any head of a City department, the City Manager is required to submit to the Mayor and Councilmembers, for their review, the responses to the Mayor and Councilmembers' questions submitted by the finalists for appointment to the vacant position.

Language which currently applies to the Mayor is added to apply to the City Council to make it clear that none of these revisions are to be construed in any way as an infringement or limitation on the powers and duties of the City Manager as chief administrative officer and head of the administrative branch of the City government.

**(4) Require that the Mayor and City Council Utilize These Statements of Policy in an Annual Evaluation of Charter Officers and that the City Manager Utilize These Statements of Policy in an Annual Evaluation of Department Heads.**

Currently, the City Charter does not require annual performance evaluations of key City officials. The Committee believes that these annual reviews should be required to confirm to the citizens of the community that the city organization is constantly being evaluated and, presumably, improved. The recommendations of the Committee would require that the Council annually conduct a written performance evaluation of the Charter Officers and that the City Manager annually conduct a written performance evaluation of each head of a City department that the City Manager administers.

In addition, the Committee believes the annual evaluations of key City officials should address the previously adopted written Statements of Policy. Thus, the Council could evaluate policy implementation by Charter Officers in their annual evaluation and the City Manager could do the same for City department heads. The Committee believes this will help solidify the partnership between key officials in City Hall.

As noted above, language which currently applies to the Mayor is added to apply to the City Council to make it clear that none of these revisions are to be construed in any way as an infringement or limitation on the powers and

duties of the City Manager as chief administrative officer and head of the administrative branch of the City government.

**(5) Create a Citizen's Salary Setting Commission with Strict Salary Limits that will Consider Appropriate Compensation of the City's Elected Officials.**

Under the current City Charter, the salaries of the Mayor and City Council are limited to \$800 per month. The Committee believes this is inadequate for a city the size of Modesto. The Committee also believes the Mayor should be compensated more than the City Council because the Mayor has significantly more duties and responsibilities.

The Committee also believes that the electors and voters of Modesto expect any compensation system for elected officials to be reasonable, independent, and not susceptible to manipulation. Consequently, the Committee recommends the creation of a Citizen's Salary Setting Commission with strict limits on compensation for the Mayor and City Councilmembers.

The Committee believes that any compensation should be established by ordinance only after: the Citizen's Salary Setting Commission has made a written recommendation for compensation pursuant to the strict limits of the Charter revisions; such written recommendation has been published for review pursuant to the Charter requirements; and mandated public hearings have been held on the recommendation.

Under the Charter revisions, a Citizen's Salary Setting Commission is established whose function is to recommend the compensation it deems appropriate for the Mayor and councilmembers. This Commission shall meet between March 1st and April 30th of every even-numbered year.

The Citizen's Salary Setting Commission shall consist of five (5) voters who live in the City of Modesto. Strong consideration must be given to having a retired Stanislaus County judge be the chairperson and to appointing members that represent bona fide taxpayer, voter rights, and previous Civil Grand Jury organizations. Additional members must have demonstrated civic involvement and a capacity to serve in an honest, independent, and impartial fashion.

There are numerous prohibitions on who can serve on the Commission to prevent conflicts of interest. Relatives of the Mayor, Councilmembers, Charter Officers and City department heads and deputy department heads cannot serve on the Commission.

City employees, employees of labor unions for City employees or persons receiving compensation from the City or its labor unions cannot serve on the Commission.

Lobbyists and other persons with business before the City Council in a financial amount that would cause a conflict of interest under the City's TINCUP ordinance cannot serve on the Commission.

Commission members will not be paid for their service. Commission members will serve for four (4) year terms. The terms will be staggered so the terms of commission members will be expiring every two years. Commission members are limited to serving two (2) terms.

The salary of the Mayor cannot be more than fifty percent (50%) of the amount of the salary of a Judge of the Superior Court of Stanislaus County. Under 2007 calculations, the Mayor's salary could be no higher than \$88,824.00. While we believe this amount is too high for Modesto's current size, we wanted to create a formula that allowed future increases as the difficulty of the Mayor's job grew. We emphasize that amount is a maximum. Many cities set minimums. We do not believe setting a minimum is good public policy. The Citizen's Salary Setting Commission should have the discretion to set a salary less than the maximum.

The salary of a Councilmember cannot be more than fifty percent (50%) of the median family income for the Modesto Metropolitan Statistical Area as reported by the United States Census Bureau. The salary of each Councilmember must be the same. Under the 2005 data initially available to the Committee, the salary for a councilmember could be no higher than \$26,298. Under the 2006 data reported in the Modesto Bee on August 29, of this year, the salary could be no higher than \$26,812. Again, we emphasize that this amount is a maximum. Many cities set minimums. We do not believe setting a minimum is good public policy. The Committee should have the discretion to set a salary less than the maximum. In the case of Council salary, we also approve of linking the amount to median family income as an objective standard of community prosperity.

Any monthly salary shall be reduced by one-fourth for each regular meeting of the Council not attended by the Mayor or a councilmember each month. In no case can compensation include retirement benefits or pension benefits of any sort for the Mayor and City Councilmembers.

Compensation revisions can only be made every two years in odd-numbered years. If the Commission does not make a recommendation, that will mean that no changes will be made in compensation levels. There are not automatic raises under the proposed provisions. Recommendations by the Commission must be in writing and available to the public for review. The Commission must hold two public hearings on the recommendations before they are sent to the Council. After a final recommendation has been submitted to the Council, it cannot be changed. The Council must hold a public hearing if it desires to adopt the compensation and there must be twenty (20) days public notice prior to this hearing. The Council may only adopt the actual recommendation of the Committee or adopt a lower compensation amount. It can in no case adopt a higher compensation amount than that recommended by the Commission.

Any final decision by the Council on compensation under this Section shall be subject to the referendum provisions of the Charter.

**(6) Mandate an Independent City Auditor as a Fourth Charter Officer with Specified Duties.**

While the current Charter provides for a City Auditor, this office exists in the Charter without any significant duties or functions. The City Auditor is currently combined with the City Clerk in one office. The Committee believes Modesto requires a full-time, fourth Charter Officer that is not combined with any other Charter Officer to conduct the audit function. The Committee also believes the Charter must detail the duties of the City Auditor as it does for the other three Charter Officers so the office will have equal dignity with those offices.

The proposal by the Committee creates the Office of City Auditor who is appointed by the City Council like the City Manager, City Attorney and City Clerk. The City Auditor may conduct fiscal audits, performance audits, and special audits and investigations. The City Auditor will have access to all City records and all City employees shall have a duty to permit access and examination of such records.

An additional proposal would prevent the Charter Officers – City Manager, City Clerk, City Attorney, and City Auditor – from being combined except in an emergency and in no case for more than three (3) months. This revision is meant to prevent the combining of the City Auditor position with the City Clerk as is currently done. The Committee believes that the City of Modesto must have a full-time auditor to monitor the performance of City Hall.

**(7) Increase Disciplinary Authority for Deputy Directors of City Departments.**

The current City Charter limits the persons that can impose employee discipline in the organization to the City Manager and department heads. The Committee heard testimony and agrees that the staff of the City of Modesto has grown too large for this to be effective. The recommended revision to the Charter would allow the City Manager and department heads to authorize deputy directors, police captains and fire battalion chiefs to recommend and impose discipline. The City Council also could enlarge this authorized list through city ordinance.

**(8) Make Deputy Directors and Attorneys that Work for the City At-Will Employees.**

Currently, deputy directors in city departments and attorneys in the City Attorney's Office are not at-will employees. The Committee heard testimony that this state of affairs makes it exceedingly difficult for policy to be implemented throughout the City bureaucracy. The Committee thus recommends that these key employees in the City organization be made at-will employees in an effort to increase accountability and responsiveness in the city organization.

In short, the Committee believes modest yet robust revisions are appropriate to institutionalize a partnership between elected officials and key city administrators to improve accountability in City Hall. We, for that purpose, have drafted the "Increase Accountability in City Hall Measure of 2008" and recommend that the Council place it on the February 5, 2008 ballot for a binding vote of Modesto voters. Recommended language for this proposal is included in Exhibit "3."

**C. February Election.**

*Final Recommendation (UNANIMOUS):*

**Limit February Ballot Measures to the Two Key Themes that Emerged During Committee Proceedings.**

The Committee believes action on Charter revisions during the February election should be limited to the two major items addressed by the Committee: (1) one version of The Elect the City Council by Districts Measure of 2008 [Option (a) or Option (b)]; and (2) The Increase Accountability in City Hall Measure of 2008. The Committee believes that the electorate should be provided an opportunity to give their full attention to these two most important issues for Modesto's future. More than two major items would unduly clutter an election ballot. Timely and early resolution of both of these issues is important to the citizens of Modesto. The technical amendments and disposition of our run-off election measure should be addressed later.

**D. Disposition of Municipal Run-Off Election.**

*Final Recommendation (UNANIMOUS):*

**Current November to December Runoff Election is Broken and Must be Fixed.**

*Final Recommendation (UNANIMOUS):*

**Consideration of Method to Remedy Broken Runoff Election Should Await Final Decision by Voters on District Elections But be Completed Before Next Regular Municipal Election.**

*Final Recommendation (UNANIMOUS):*

**Together with the Final Decision on Municipal Run-Off Elections, Charter Language Should be Reviewed and Adjusted, if Necessary, to Avoid Confusion of the November 2005 Election as to "Vote" Definition.**

*Final Recommendation (4 - 3):*

**Recommend Elimination of Runoff Election.**

In addition to the key themes of district elections and accountability in City Hall, the Committee believes Modesto's unsatisfactory municipal run-off election system requires reform. The Committee unanimously believes that the current run-off system which consists of a December election on the heels of a November election is broken and must be fixed. The Committee heard testimony from the City Clerk of the difficulty of conducting the December election. There is simply not enough time between the November and December runoff dates to conduct an efficient election. The conduct of the election is so difficult that the County Clerk-Recorder's Office refuses to conduct the election, and the City Clerk must conduct it utilizing outside contractors.

In addition, in recent years, two December run-off elections have been clouded by the broken run-off system. In 2001, the run-off election failed and had to be conducted again in the spring of 2002. In the 2005 November election, the vote was so close that a run-off was conducted but it was not clear if the run-off actually needed to be conducted due to confusion in the vote tally provided by the County Clerk Recorder's office.

On a 4-3 vote, the Committee recommends elimination of the run-off entirely. However, as the Committee refined the district election proposals, it became evident that whether Modesto voters choose a district election system for city councilmembers could affect one's view of the need for a run-off system. Consequently, the Committee recommends that the Council address how to fix the broken run-off system after the voters have made their final decision on district elections. In this way, a more thoughtful and focused discussion can occur on how the elimination of, or the better implementation of, run-off elections might work in Modesto.

In any case, the Committee recommends that this issue be addressed after the final decision by the voters on district elections but before our next regular municipal election on November 3, 2009. We believe the final decision should be made on how councilmembers are to be elected without the confusion that may ensue from incorporating the run-off discussion into those deliberations. Critics of City Hall contend that the Measure L vote in 2001 was clouded by deliberate confusion created over the District election that also included changing the date of municipal elections from odd-numbered to even-numbered years. Whatever the merits of such an argument, the Committee believes such arguments can be obviated by deferring final consideration of the run-off until after voters decide how to elect councilmembers in the future.

In addition, as part of the final resolution to the broken run-off system, attention should be given to the definition of "vote" in the City Charter to avoid confusion in any future election of the sort that beset the November 2005 municipal election when it was unclear whether a run-off election was necessary.

The correction for the broken run-off election system fully should be in place prior to our next regular municipal election. Should the Council choose to propose elimination of the run-off election, recommended language for this proposal is included in Exhibit "4."

## E. Technical Amendments.

### *Final Recommendation (UNANIMOUS):*

#### **Recommend Binding Votes on Technical Amendments After February 5, 2008.**

The Committee heard various proposals for technical amendments to the City Charter. The Committee approves of four technical amendments.

First, the Committee recommends elimination of the Board of Personnel Appeals and the transition of the selection of hearing officers in personnel matters from this Board to joint selection by the City and the affected employee. The Board of Personnel Appeals has been superseded by collective bargaining agreements between the City and labor unions. The Board serves no purpose, has not met in many years, and no appointees have been made in many years. Hearing officers are now jointly selected by the City and the affected employee. The recommended revisions would conform the Charter to the current state of the law, collective bargaining agreements, and modern practice. The recommended language for this proposal is included in Exhibit "5."

Second, the Committee recommends elimination of the mandatory requirement that some members of the Cultural Commission live outside the city limits. It has been difficult to identify people who live outside the city limits who want to serve on the Commission. The recommended revision would allow, but would not mandate, such a residency requirement. The recommended language for this proposal is included in Exhibit "6."

Third, the Committee recommends merger of the Human Relations Commission with the Equal Opportunity and Disability Commission into one Human Relations, Equal Opportunity and Disability Commission. The Committee found that these two separate committees have related responsibilities. Merging them will allow synergy and better representation of these important issues at City Hall and to the City Council. The recommended language for this proposal is included in Exhibit "7."

Fourth, the Committee recommends that various references throughout the Charter to the newspaper in which public notice be given be made consistent and further recommends that references in the Charter to "telegram" be changed to "electronic communication." Currently, newspaper references in the Charter exist in many different versions. However, Charter Section 1603(h) suggests that such references properly would be made to a "(n)ewspaper of general circulation within the City." We recommend that this defined term be used throughout the Charter so the references are clear and consistent. References, for example, to the "official" newspaper of the City are inappropriate as the City operates no "official" newspaper. In addition, various provisions of the Charter refer to providing notice by "telegram." Telegram operators no longer exist. The Committee recommends all such references be switched to "electronic communication." The recommended language for this proposal is included in Exhibit "8."

The Committee recommends that these technical amendments be considered after February 5, 2008 so that the focus of the February election remains on the two key themes that emerged during Committee's proceedings. These revisions are so technical in nature that placement of the ballot during the next regular municipal election on November 3, 2009 would be prudent if it saves tax dollars.

For ease of review, text showing the comparison of existing Charter language with the recommendations in this report are shown in Exhibit "9."

**F. Multiple 2008 Elections to Address Municipal Issues.**

*Final Recommendation (UNANIMOUS):*

**Note Availability of Three Statewide Regular Elections Prior to November 3, 2009 Municipal Election to Address All Municipal Election Issues Studied by Committee.**

This is not an official recommendation as much as a “point of information” for the Council. Three separate regular statewide elections are being held in California in 2008 – the February presidential primaries, the June state legislative primaries, and the November presidential election.

The Committee believes it is important that the City first address and focus on the two key themes that emerged during our proceedings. We elsewhere recommend that these key issues initially be addressed in the February 5, 2008 election. Here we merely note that all Charter issues related to the election of councilmembers and the municipal run-off election may be addressed in 2008 during the three regular statewide so that they can be resolved and implemented for the 2009 municipal election.

## **VI. CONCLUSION**

We would like to thank the Mayor and City Council with providing us the opportunity to serve on the 2006-2007 Charter Review Committee.

We believe we have identified modest yet robust improvements to Modesto city government that should be implemented, especially those related to district elections and the Increase Accountability in City Hall Measure of 2008.

We hope you will place these items on the February 5, 2008 ballot for consideration by the electors of Modesto.

We, the undersigned, submit this Final Report of the 2006-2007 Charter Review Committee to the Modesto City Council.

By: \_\_\_\_\_  
George Petrulakis, Chairman

By: \_\_\_\_\_  
Chris Harrigfeld, Member

By: \_\_\_\_\_  
Solange Atلمان, Member

By: \_\_\_\_\_  
Sandra Lucas, Member

By: \_\_\_\_\_  
Marie Bairey, Member

By: \_\_\_\_\_  
John Shores, Member

By: \_\_\_\_\_  
Carolina Bernal, Member

By: \_\_\_\_\_  
Jeremiah Williams, Member

By: \_\_\_\_\_  
David Cogdill, Jr., Member

By: \_\_\_\_\_  
Thomas Wright, Member

## Milestones in the History of Charter Government in the City of Modesto

Voters approved Modesto's first charter on September 14, 1910. Modesto's population in 1910 was 4,034.

The city government established by this first charter was a commission-style of government under which city councilmembers were selected as commissioners of city departments. The mayor was the chief executive officer of the city with a wide array of duties. The number of councilmembers established was four. Councilmembers are elected in an at-large group system and winners must receive a majority of the vote.

A major revision of the charter was adopted by voters on November 8, 1949. This charter was found legally deficient and a second major revision of the charter was adopted by voters on February 15, 1951. Modesto's 1950 population was 17,389.

The city government established by the 1951 charter changed Modesto from a commission-style to a city manager (formally called "council-manager" government) form of government. The number of councilmembers was increased to six. Councilmembers are elected in an at-large system group and winning candidates required a plurality of the vote.

Another revision of the charter was adopted by voters on November 6, 1962. Modesto's 1960 population was 36,585. This charter, as amended over the years, is the charter Modesto operates under today. This charter maintained the number of councilmembers at six. However, the method of election changed from at-large group to at-large by chair. Winning candidates still required a plurality of the vote.

The first amendment to this charter was approved by voters four months later on April 26, 1963, and added various ceremonial duties to mayor and clarified that the mayor's duties were not to infringe on the city manager's prerogatives.

On April 20, 1971, the Charter was amended to require that the charter be reviewed at least every ten years commencing in 1980.

On June 2, 1987, the Charter was amended to require winning candidates for mayor and city council to receive a majority of the vote, thus, a run-off election was instituted.

On November 3, 1998, the Charter was amended to mandate binding arbitration for employee negotiation disputes between the City and police and fire department employees.

On November 4, 2003, the Charter was amended to impose term limits on the mayor and city council.

## Acknowledgements

The Charter Review Committee would like to thank the many people who assisted us in our efforts. Our work could not have been completed without their contributions.

Thank you to the Mayor and City Council for providing us the opportunity to assist them in addressing the issues surrounding the governance of our city.

City Clerk Jean Morris and Stephanie Lopez in her office, City Attorney Susana Wood and Anne McGrew in her office, and City Manager George Britton and Judith Ray in his office all assisted our efforts, as did Kathy Espinoza, the assistant to the Mayor and City Council.

Special recognition is due to Bryan Whitemyer, formerly of the City Manager's Office, for his special interest and energy in helping the committee. We wish Bryan much success in his new position as the Deputy City Manager of Patterson.

The Committee would also like to thank Ellen Wright of the City Manager's Office; Public Information Technician Jessica Smart of the Parks and Recreation Department; Phillip Calbreath, Nick Reggiani, Julie Corgiat and Chief Information Officer Gary Cook of the City IT Department for their hard work on the Committee's website, newspaper advertisements and other informational items sent to the public on behalf of the Committee.

Recognition is also given to Director Jim Niskanen of the Parks, Recreation and Neighborhoods Department and Director Robin Renwick of the Personnel Department for the presentations they made to the Committee on various technical items in the Charter that needed to be addressed. The Committee would also like to show its appreciation for Kathy Wright, assistant to Robin Renwick for acting as a liaison between the Charter Review Committee and the members of the Human Relations Commission and the Equal Opportunity/ Disability Committee.

The Modesto City Schools also proved to be a tremendous help in the Committee's effort to provide public outreach by opening many of their campuses to host Public Input Meetings and Public Information Meetings on the District Elections Issue. As such, the Committee would like to thank Board Member Cindy Marks for the special interest she showed in our work,

as well as Sherri Jenkins and Christine Borja of the District's Facilities Department.

The Committee would also like to thank the staff of the following facilities for hosting Charter Committee meetings on their grounds: Beyer High School, Davis High School Downey High School, Johansen High School, Modesto High School, Enochs High School, Prescott Elementary, Shackelford Elementary, Orville Wright Elementary, Lakewood Elementary, Modesto Senior Center, King Kennedy Center, El Concilio Center, and the Red Shield Community Center.

The Committee expresses sincere appreciation to Mayor Edward Chavez of Stockton, Mayor Dennis Donohue of Salinas, and former Mayor Gary Podesto of Stockton for traveling to Modesto to share their experiences with the Committee.

Stanislaus County CEO Rick Robinson and Deputy CEO Keith Boggs assisted the Committee in retrieving information necessary for our deliberations. Similar assistance was provided by Michael Tozzi, CEO and Jury Commissioner, Superior Court, Stanislaus County.

Consultants to the Committee Doug Johnson of National Demographics Corporation Professors Dave Kolnic and Paul Shinn associated with the Center for Public Policy Studies at, California State University, Stanislaus helped the Committee understand various complex issues. Mr. Johnson of NDC should be singled out for helping the Committee navigate the heady waters of the election format issue for city councilmembers. Councilmember Janice Keating deserves recognition for alerting us to the excellent work of the Rose Institute at the Claremont Colleges which led us to NDC.

Radio talks show hosts Dave Diamond, Bill Mick both with the able assistance of Heather Voortman, Tim St. Martin, and Carmen Sabatino allowed members of the Committee to discuss the Committee's work on their radio shows and engage in spirited discussion. The Modesto Bee Editorial Board patiently listened to explanations of our efforts and this Final Report.

We thank the many civic organizations and service clubs listed elsewhere in the report who took an interest in our proceedings. Voluntary associations such as those are the underappreciated backbone of civic engagement and good citizenship, values still important in Modesto if less so elsewhere.

Our thanks are extended to the following persons for agreeing to have their organizations be depository organizations for the basic materials of the

Committee that were made available to the public: Vanessa Czopek, Stanislaus County Librarian, Susan Lilly, Librarian and Jo Roullard, Resource Librarian; Janice Miliken, Stanislaus County Law Librarian, Assistant Librarian Alex Kern and the Law Library Board of Trustees - President Bruce Ramsey and trustees the Honorable Marie S. Silveira, the Honorable Hurl W. Johnson, the Honorable Susan D. Siefken, the Honorable John G. Whiteside and Secretary Michael J. Krausnick; Pat Lundy, Past President, League of Women Voters of Stanislaus County.

The Committee would like to extend sincere and special thanks to Joshua Wilkerson and Joseph Flores of Petrulakis Jensen & Friedrich, LLP and San Joaquin Valley Advisors for their invaluable assistance. These young men aided the Committee throughout its work. Andrea Coffman and Carrie Rassmussen of Petrulakis Jensen & Friedrich, LLP also contributed much and Mr. Petrulakis would like to single out Ms. Coffman for her patience with revision after revision after revision of many documents dealt with by the Committee.

## Member Biographies of the 2006-2007 Charter Review Committee

**Solange Altman** is a Modesto attorney in private practice emphasizing immigration and social security matters. Prior to private practice, she worked for a public interest law firm providing legal services to low income clients and specialized in health issues. A mother of two, Mrs. Altman is an active parent volunteer for various school organizations and is a member of the American Immigration Lawyers Association, the Stanislaus County Bar Association, and the State Bar of California.

**Marie Bairey** retired after a distinguished career at Modesto City Schools as an elementary school teacher and administrator. Mrs. Bairey was the principal of Sonoma Elementary School from 1988 to 1998. After retirement in 2001, Mrs. Bairey joined the League of Women Voters of Stanislaus County where she has served as President, Local Action Director and is currently Secretary. She is also a past president and former secretary for Country Crossroads Quilters and is active in the Modesto Garden Club and McHenry Mansion Docents.

**Carolina Bernal** is the President and CEO of the Hispanic Chamber of Commerce for Stanislaus County. A Modesto resident since 1976, Ms. Bernal originally enjoyed a career in television that spanned 25 years. Her work included writing, producing and hosting several shows on Univision Channel 19. Her award-winning work was recognized by groups such as the National Commission Against Drunk Driving in 2001. She also serves on the Board of Directors for the United Way, Modesto Chamber of Commerce, and the Modesto Symphony Orchestra.

**Dave Cogdill Jr.** is the owner and president of Cogdill & Giomi, Inc. Real Estate Appraisers and Consultants. The father of two has been a member of the City of Modesto Planning Commission, the City of Modesto Board of Zoning Adjustment, and the Modesto Junior College Foundation. In addition, Mr. Cogdill has served on the Board of Directors of the Modesto Chamber of Commerce and Modesto Rotary Club.

**Chris Harrigfeld** is owner and President of California Mortgage Associates, a regional home loan firm. He serves as the Chairperson for the City of Modesto Housing Rehabilitation Loan Committee and is a member of the Board of Directors of Habitat for Humanity Stanislaus. He is a former President of the Mortgage Lender's Association of Stanislaus County. Mr. Harrigfeld organizes the annual fundraising golf tournament of that

organization benefiting Habitat for Humanity Stanislaus. He also participated on the committee conducting the five year review of the City's General Plan Housing Element.

**Sandy Lucas** is a licensed Marriage Family therapist and current serves as Director of Family Court for Stanislaus Superior Court. She was the former Vice President of the Latino Community Roundtable and is member of the League of Women Voters. Mrs. Lucas was a long-time member of the Stanislaus County Democratic Central Committee and served as Chairperson. Mrs. Lucas has also hosted a televised political talk show on area elections for the past nine years.

**George A. Petrulakis** is a partner at Petrulakis Jensen & Friedrich, LLP, a Modesto law firm. He served on the 1999 Charter Review Committee for the City and on its General Plan Steering Committee from 1992-1995. Mr. Petrulakis was the 2005 Chairman of the Board of Directors of the Modesto Chamber of Commerce. Mayor Ridenour selected Mr. Petrulakis to chair the 2006-2007 Charter Review Committee.

**John Shores** is retired after working for the Weyerhaeuser Packing Group as a salesman, sales manager and general manager since he moved to Modesto in 1967. Mr. Shores currently serves on the Stanislaus County Planning Commission and previously served on the 1995-1996 Stanislaus County Civil Grand Jury and as the public member (alternate and regular) on the Stanislaus Local Agency Formation Commission from 1996-2004. He also was a director of the McHenry Mansion Board of Directors, serving as President in 2001-2002. Mr. Shores and his wife, Marion, were recipients of the Julio and Aliene Gallo Humanitarian Award in 2002.

**Jeremiah Williams** is the owner of Oak Crafts by Jeremiah. Mr. Williams has served as President of both the Modesto Chapter of the NAACP and the Modesto's Kiwanis club. He has served on the Board of Trustees for the Gallo Center for the Arts and on the Board of Directors for the Doctors Medical Center Foundation. The father of three children, Mr. Williams is also a licensed Minister for United Pentecostal Church International.

**Thomas Wright** is retired after 39 years in banking. Mr. Wright was on the original Board of Directors of Community Hospice and Children's Crisis Center, and has served as Chairman of the Board of Directors of both. Mr. Wright was a Board Member of the Modesto Chamber of Commerce and President of the Ceres Chamber of Commerce. Mr. Wright is presently involved with the North Modesto Kiwanis Club and serves on a number of committees for St. Paul's Church and the Diocese of San Joaquin.

**Exhibit "1"**

**Elect the City Council by Districts Measure of 2008 -**

**[Option (a) that Matches the "By District" System in  
Measure J Advisory Vote]**

**Option (a) – “By District” System**

**REVISED SECTIONS 500, 501, 700.**

**SECTION 500. ENUMERATION.**

The elective officers of the City of Modesto shall be a Mayor and six (6) Councilmembers.

The Council shall consist of the Mayor and six (6) Councilmembers, each of whom, including the Mayor, shall have the right to vote on all questions coming before the Council.

**SECTION 501. METHOD OF ELECTION.**

(a) Mayor. The Mayor shall be elected at the regular municipal election on a general ticket from the City at large.

(b) District Councilmembers. The Six (6) Councilmembers shall be elected by district as described in this section. A candidate for, and councilmember of, each district must live in that district to be eligible to run for or hold the office of councilmember for that district. Only voters who live in a district shall be eligible to vote in the election for councilmember of that district.

(1) Six Districts. The City of Modesto is divided into six (6) districts for purposes of electing Councilmembers to the Council.

(2) Districting Commission; Duties. There shall be established a Citizen's Districting Commission, hereinafter “Commission,” whose function shall be to recommend to the Council the districts from which Councilmembers shall be elected. The first such Commission shall be appointed by the Council no later than sixty (60) days from the effective date of this Charter provision. The Commission shall meet and recommend to the Council a districting plan establishing six councilmember election districts in a timely manner for

use in the November 2009 and November 2011 municipal elections. Thereafter, a new Commission shall be appointed by the Council and then meet and recommend to the Council a plan for redistricting of the six councilmember election districts within nine (9) months of receipt by the City of the final Federal Decennial Census information. The Council shall appropriate adequate funds for the work of the Commission.

(3) Appointment of Commission. The Commission shall consist of nine (9) qualified electors residing within the City and shall be appointed by the City Council pursuant to the provisions below:

(A) Strong consideration shall be given to composing the Commission of:

- (i) a retired Stanislaus County judge as chairperson;
- (ii) one (1) member from a bona fide local taxpayer's association with tax-exempt status under the relevant provisions of the Internal Revenue Code;
- (iii) one (1) member from a bona fide local nonpartisan political organization, with tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, dedicated to encouraging informed and active participation in government;

- (iv) one (1) member from a bona fide local civil rights organization with tax-exempt status under Section 501(c)(3) of the Internal Revenue Code;
  - (v) one (1) member from a former Civil Grand Jury who has served in that role within the previous five (5) years;
  - (vi) additional members who have demonstrated civic involvement and a capacity to serve in an honest, independent, and impartial fashion, while upholding public confidence in the integrity of the redistricting process;
- (B) The Commission shall reflect the demographic and geographic diversity of the City.
  - (C) No member of the Commission shall be a relative by blood or marriage within the second degree of the Mayor, a member of the Council, any Charter officer, or any department head or deputy department head.
  - (D) No member of the Commission shall be an employee of the City nor any bargaining unit for employees of the City, nor be a person who receives compensation from the City or from bargaining units of the

City in any manner, including retirement benefits.

- (E) No member of the Commission shall be a lobbyist or other person with business before the City that represents an economic interest in excess of the limit for material financial effect as established by local ordinance for the time periods established by local ordinance.
- (F) A member of the Commission shall be ineligible for election to the City Council in any district whose boundaries were drawn by the Commission in which he or she serves.
- (G) In all other respects, the members of the Commission shall be chosen pursuant to the provisions of this Charter.
- (H) Members of the Commission shall serve without compensation.

(4) Criteria for Districting. To ensure fair and effective representation for all citizens of the City, the Commission, in recommending a districting or redistricting plan, and the Council, in approving or rejecting a districting or redistricting plan, shall consider the following criteria for the districts to the extent practicable:

(A) district boundaries should be geographically compact and contiguous;

(B) district boundaries should follow visible natural and man-made features;

(C) district boundaries should respect communities of interest. A community of interest is defined as a geographic area comprised of residents who share similar interests including, but not limited to, social, cultural, ethnic, geographic or economic interests, or formal government or quasi-governmental relationships, but not including relationships with political parties, incumbents, or candidates;

(D) district boundaries should be drawn without regard for advantage or disadvantage to incumbents or challengers;

(E) district boundaries should be drawn without regard for advantage or disadvantage to any political party.

(5) Procedure for Districting. The Commission and Council shall abide by the following procedure in any districting process:

(A) one or more, as necessary, independent consultants experienced and competent in the skills necessary for the districting work shall be utilized to assist the Commission in developing any of the Districting Plans detailed in this Section;

(B) the six districts shall be numbered for identification and other purposes as District One, District Two, District Three, District Four, District Five and District Six;

(C) the Commission shall hold at least one (1) public hearing prior to adopting its Draft Districting Plan;

(D) the Draft Districting Plan shall be made available for at least seven (7) days prior to the commencement of public hearings to take public testimony and comment on the Draft Districting Plan;

(E) the Commission shall hold at least one (1) public hearing between the release of its Draft Districting Plan and the adoption of a Recommended Districting Plan by the Commission;

(F) the Commission shall provide timely public access to all data used in the district boundary drawing process and to all testimony, letters, exhibits and proposed plans received by the Commission;

(G) The Commission shall adopt a Recommended Districting Plan and submit it to the Council.

(6) Consideration by City Council; Final Districting Plan.

After submittal of the Recommended Districting Plan to the Council:

(A) the Council shall hold at least one (1) public hearing on the Recommended Districting Plan of the Commission before any adoption of a Final Districting Plan;

(B) The Recommended Districting Plan approved by the Commission shall be available to the public for at least twenty (20) days prior to any vote by the Council to approve or disapprove the Plan.

(C) The Council may not alter the Recommended Districting Plan submitted to it by the Commission. Rather, the Council shall either approve or disapprove such a Recommended Districting Plan in its entirety. If the Council approves the Recommended Districting Plan, it shall become the Final Districting Plan and shall be implemented. If the Council disapproves the Recommended Districting Plan, the Council shall submit in writing to the Commission the reasons for such disapproval, including any deviation by the Commission from the criteria for districting detailed in this Section. The Commission shall consider any reasons for such disapproval submitted to it by the Council and may consider alterations to the Recommended Districting Plan in response to such reasons. After such consideration, the Commission shall submit its Final Districting Plan to the Council for implementation.

(7) Subject to Referendum. Any Final Districting Plan under this Section shall be subject to the referendum provisions of the Charter.

(d) The Transition from At-Large to District Elections. The City Clerk under former provisions of this Charter has previously designated each office held by an at-large councilmember with a descriptive designation commonly referred to as Chair One, Chair Two, Chair Three, Chair Four, Chair Five, and Chair Six. Under the City's election system, Chair Two, Chair Four, and Chair Five are subject to election in the 2009 municipal election and Chair One, Chair Three, and Chair Six are subject to

election in the 2011 municipal election. A period of transition from At-Large to District elections will occur from the time of adoption of the first districting plan to the time that the first district elections are held. For this period of transition, each councilmember currently holding a chair will be designated as the councilmember representing the district with the same numerical designation in the districting plan whether or not that councilmember lives in the district. For example, upon adoption of the first districting plan, the councilmember occupying Chair One will be designated the councilmember representing District One whether or not that councilmember lives in District One. Each of the councilmembers occupying office at the time of the effective date of this Charter revision shall be so designated. Thereafter, the first district elections for Districts Two, Four and Five shall occur during the municipal election in 2009 and the first district elections for District One, Three, and Six shall occur during the municipal election in 2011. Notwithstanding the provisions of Section 700 of the Charter, an incumbent councilmember at the time of the effective date of this provision may run for a Council seat other than the seat which that member currently holds if the councilmember is otherwise eligible to run in that seat, all subject to the limitations of terms of office in Section 503 of this Charter.

#### **SECTION 700. COUNCILMEMBERS. TERM OF OFFICE.**

Except as otherwise provided in this Charter, the members of the Council shall hold office for a term of four (4) years from and after the first Tuesday following their election. The members of the Council in office at the time this Charter takes effect shall continue in office until the expiration of their terms or until their successors are elected and qualified.

If a tie vote makes it impossible to determine which of two (2) or more candidates has been elected, said tie shall be settled by the drawing of lots, the procedure for which shall be determined by the Council. Each member of the Council shall have the right to vote on all matters coming before the Council.

No candidate shall file for more than one (1) elective office; and no incumbent member of the Council shall run for a seat other than that which the member holds, except that any incumbent member of the Council may run for the seat of Mayor, and an incumbent Mayor may run for the seat of Mayor or for any other seat on the Council, all subject to the limitations of terms of office in Section 503 of this Charter.

**Elect the City Council by Districts Measure of 2008 -**

**[Option (b) that Matches the "Mixed" System in  
Measure J Advisory Vote]**

## **Elect City Council by Districts Measure of 2008**

### **Option (b) – “Mixed” System**

#### **REVISED SECTIONS 500, 501, 700.**

#### **SECTION 500. ENUMERATION.**

The elective officers of the City of Modesto shall be a Mayor and eight (8) Councilmembers.

The Council shall consist of the Mayor and eight (8) Councilmembers, each of whom, including the Mayor, shall have the right to vote on all questions coming before the Council.

#### **SECTION 501. METHOD OF ELECTION.**

(a) Mayor. The Mayor shall be elected at the regular municipal election on a general ticket from the City at large.

(b) District Councilmembers. Six (6) Councilmembers shall be elected by district as described in this section. A candidate for, and councilmember of, each district must live in that district to be eligible to run for or hold the office of councilmember for that district. Only voters who live in a district shall be eligible to vote in the election for councilmember of that district.

(1) Six Districts. The City of Modesto is divided into six (6) districts for purposes of electing Councilmembers to the Council.

(2) Districting Commission; Duties. There shall be established a Citizen’s Districting Commission, hereinafter “Commission,” whose function shall be to recommend to the Council the districts from which Councilmembers shall be elected. The first such Commission shall be appointed by the Council no later than sixty (60) days from the effective date of this Charter provision. The Commission shall meet and recommend

to the Council a districting plan establishing six councilmember election districts in a timely manner for use in the November 2009 and November 2011 municipal elections. Thereafter, a new Commission shall be appointed by the Council and then meet and recommend to the Council a plan for redistricting of the six councilmember election districts within nine (9) months of receipt by the City of the final Federal Decennial Census information. The Council shall appropriate adequate funds for the work of the Commission.

(3) Appointment of Commission. The Commission shall consist of nine (9) qualified electors residing within the City and shall be appointed by the City Council pursuant to the provisions below:

(A) Strong consideration shall be given to composing the Commission of:

(i) a retired Stanislaus County judge as chairperson;

(ii) one (1) member from a bona fide local taxpayer's association with tax-exempt status under the relevant provisions of the Internal Revenue Code;

(iii) one (1) member from a bona fide local nonpartisan political organization, with tax-exempt status under Section 501©(3) of the Internal Revenue Code, dedicated to encouraging informed and active participation in government;

(iv) one (1) member from a bona fide local civil rights organization with

tax exempt status  
under Section 501(c)(3)  
of the Internal Revenue  
Code;

(v) one (1) member from a  
former Civil Grand Jury  
who has served in that  
role within the previous  
five (5) years;

(vi) additional members  
who have demonstrated  
civic involvement and a  
capacity to serve in an  
honest, independent,  
and impartial fashion,  
while upholding public  
confidence in the  
integrity of the  
redistricting process;

- (B) The Commission shall reflect the demographic and geographic diversity of the City.
- (C) No member of the Commission shall be a relative by blood or marriage within the second degree of the Mayor, a member of the Council, any Charter officer, or any department head or deputy department head.
- (D) No member of the Commission shall be an employee of the City nor any bargaining unit for employees of the City, nor be a person who receives compensation from the City or from bargaining units of the City in any manner, including retirement benefits.
- (E) No member of the Commission shall be a lobbyist or other person with business before the City that represents an economic interest in excess of the limit for material financial effect as established by

local ordinance for the time periods established by local ordinance.

- (F) A member of the Commission shall be ineligible for election to the City Council in any district whose boundaries were drawn by the Commission in which he or she serves.
- (G) In all other respects, the members of the Commission shall be chosen pursuant to the provisions of this Charter.
- (H) Members of the Commission shall serve without compensation.

(4) Criteria for Districting. To ensure fair and effective representation for all citizens of the City, the Commission, in recommending a districting or redistricting plan, and the Council, in approving or rejecting a districting or redistricting plan, shall consider the following criteria for the districts to the extent practicable:

(A) district boundaries should be geographically compact and contiguous;

(B) district boundaries should follow visible natural and man-made features;

(C) district boundaries should respect communities of interest. A community of interest is defined as a geographic area comprised of residents who share similar interests including, but not limited to, social, cultural, ethnic, geographic or economic interests, or formal government or quasi-governmental relationships, but not including relationships with political parties, incumbents, or candidates;

(D) district boundaries should be drawn without regard for advantage or disadvantage to incumbents or challengers;

(E) district boundaries should be drawn without regard for advantage or disadvantage to any political party.

(5) Procedure for Districting. The Commission and Council shall abide by the following procedure in any districting process:

(A) one or more, as necessary, independent consultants experienced and competent in the skills necessary for the districting work shall be utilized to assist the Commission in developing any of the Districting Plans detailed in this Section;

(B) the six districts shall be numbered for identification and other purposes as District One, District Two, District Three, District Four, District Five and District Six;

(C) the Commission shall hold at least one (1) public hearing prior to adopting its Draft Districting Plan;

(D) the Draft Districting Plan shall be made available for at least seven (7) days prior to the commencement of public hearings to take public testimony and comment on the Draft Districting Plan;

(E) the Commission shall hold at least one (1) public hearing between the release of its Draft Districting Plan and the adoption of a Recommended Districting Plan by the Commission;

(F) the Commission shall provide timely public access to all data used in the district boundary drawing process and to all testimony, letters, exhibits and proposed plans received by the Commission;

(G) The Commission shall adopt a Recommended Districting Plan and submit it to the Council.

(6) Consideration by City Council; Final Districting Plan. After submittal of the Recommended Districting Plan to the Council:

(A) the Council shall hold at least one (1) public hearing on the Recommended Districting Plan of the Commission before any adoption of a Final Districting Plan;

(B) The Recommended Districting Plan approved by the Commission shall be available to the public for at least twenty (20) days prior to any vote by the Council to approve or disapprove the Plan.

(C) The Council may not alter the Recommended Districting Plan submitted to it by the Commission. Rather, the Council shall either approve or disapprove such a Recommended Districting Plan in its entirety. If the Council approves the Recommended Districting Plan, it shall become the Final Districting Plan and shall be implemented. If the Council disapproves the Recommended Districting Plan, the Council shall submit in writing to the Commission the reasons for such disapproval, including any deviation by the Commission from the criteria for districting detailed in this Section. The Commission shall consider any reasons for such disapproval submitted to it by the Council and may consider alterations to the Recommended Districting Plan in response to such reasons. After such consideration, the Commission shall submit its Final Districting Plan to the Council for implementation.

(7) Subject to Referendum. Any Final Districting Plan under this Section shall be subject to the referendum provisions of the Charter.

(c) At-Large Councilmembers. Two (2) additional councilmembers shall be elected at the regular municipal election on a general ticket from the City at large. The City Clerk shall designate each At-Large councilmember by an appropriate descriptive designation and each at-large councilmember shall be elected as a separate office. Such designation shall be used on all nomination papers, certificates of election and all election papers referring to that office. After the election, the designation shall have no further significance except for the purposes of designating incumbency and for describing the office held. The two at-large councilmembers shall first be elected in the regular municipal election of 2009, one for a term expiring in 2011 and the other for a term expiring in 2013.

(d) The Transition from At-Large to District Elections. The City Clerk under former provisions of this Charter has previously designated each office held by an at-large councilmember with a descriptive designation commonly referred to as Chair One, Chair Two, Chair Three, Chair Four,

Chair Five, and Chair Six. Under the City's election system, Chair Two, Chair Four, and Chair Five are subject to election in the 2009 municipal election and Chair One, Chair Three, and Chair Six are subject to election in the 2011 municipal election. A period of transition from At-Large to District elections will occur from the time of adoption of the first districting plan to the time that the first district elections are held. For this period of transition, each councilmember currently holding a chair will be designated as the councilmember representing the district with the same numerical designation in the districting plan whether or not that councilmember lives in the district. For example, upon adoption of the first districting plan, the councilmember occupying Chair One will be designated the councilmember representing District One whether or not that councilmember lives in District One. Each of the councilmembers occupying office at the time of the effective date of this Charter revision shall be so designated. Thereafter, the first district elections for Districts Two, Four and Five shall occur during the municipal election in 2009 and the first district elections for District One, Three, and Six shall occur during the municipal election in 2011. Notwithstanding the provisions of Section 700 of the Charter, an incumbent councilmember at the time of the effective date of this provision may run for a Council seat other than the seat which that member currently holds if the councilmember is otherwise eligible to run in that seat, all subject to the limitations of terms of office in Section 503 of this Charter.

#### **SECTION 700. COUNCILMEMBERS. TERM OF OFFICE.**

Except as otherwise provided in this Charter, the members of the Council shall hold office for a term of four (4) years from and after the first Tuesday following their election. The members of the Council in office at the time this Charter takes effect shall continue in office until the expiration of their terms or until their successors are elected and qualified.

If a tie vote makes it impossible to determine which of two (2) or more candidates has been elected, said tie shall be settled by the drawing of lots, the procedure for which shall be determined by the Council. Each member of the Council shall have the right to vote on all matters coming before the Council.

No candidate shall file for more than one (1) elective office; and no incumbent member of the Council shall run for a seat other than that which the member holds, except that any incumbent member of the Council may run for the seat of Mayor; an incumbent Mayor may run for the seat of Mayor or for any other seat on the Council; an incumbent

councilmember representing a district may run for an at-large council seat; and an incumbent at-large councilmember may run for a council seat representing a district; all subject to the limitations of terms of office in Section 503 of this Charter.

**Exhibit "3"**

**The Increase Accountability in City Hall  
Measure of 2008**

**The Increase Accountability in City Hall Measure of 2008**

**REVISED SECTIONS 601, 703, 800, 801, 900, 903, 1201, 1303 AND 1304**

**NEW SECTION 725, 902.1, 1302.1 AND 1302.2**

**REVOKED SECTION 1302**

**SECTION 601. POWERS AND DUTIES OF MAYOR.**

The Mayor shall have the following powers and duties:

- (a) The Mayor shall be recognized as the official head of the City for all political, representative and ceremonial purposes and by the Governor for military purposes;
- (b) The Mayor may review with the City Manager, City Attorney and City Clerk prior to each Council meeting the items on the Council's agenda and to add matters thereto;
- (c) The Mayor may make recommendations to the City Manager on matters of policy and programs;
- (d) The Mayor may direct the Charter Officers to prepare and provide information to the Council on matters of policy and programs which require Council decision;
- (e) The Mayor may request budgetary and any other information from the Charter Officers that the Mayor determines is necessary for the conduct of the Mayor's duties;
- (f) The Mayor, together with the Council, annually shall conduct a written performance evaluation of each Charter Officer which shall include, without limitation, an evaluation of the Charter Officer's performance in implementing the Council's Statement of Policy for that Charter Officer developed pursuant to Section 725 of this Charter.
- (g) The Mayor may appoint, with the advice and consent of the Council, a Chairman, a Vice-Chairman, one regular member and one alternate member to each standing, special and ad hoc committee of the Council;

- (h) The Mayor may appoint, with the advice and consent of the Council, such advisory boards, commissions and ad hoc committees as may be necessary or desirable to advise and assist in the work of the Council;
- (i) The Mayor may appoint such other advisory boards and ad hoc committees as may be necessary or desirable to advise and assist in the work of the Mayor; provided, however, that the members of such advisory boards or ad hoc committees shall not receive any compensation;
- (j) The Mayor may recommend adjustments to the City budget and to propose the modification or curtailment of any city service. If the Mayor recommends any increases in the City budget, the Mayor shall recommend the method of financing such expenditures. If the Mayor proposes the modification or curtailment of any city service, the Mayor shall provide specific recommendations and the reasons for such proposal;
- (k) The Mayor shall prepare and deliver the Mayor's Proposed Budget Priorities and Direction and the Mayor's Budget Message pursuant to Section 1302A of the Charter and the Mayor's Final Budget Modifications pursuant to Section 1303 of the Charter;
- (l) The Mayor may select and hire staff to the office of Mayor and the City Council as may be necessary or desirable to advise and assist in the work of the Mayor and City Council; provided, however, that the Mayor shall not appoint to any position any business associate or any person related to him or her or to the City Manager or to any member of the Council by blood or marriage within the second degree. If staff is provided to the Council under this section, such staff shall be provided on an equal basis to each member of the Council. All such appointees shall serve at the pleasure of the Mayor in the Unclassified Service; and shall serve under such terms and conditions, salaries and benefits as are similar to other employees in Modesto's service. In the event an employee of the City who holds a Classified Service position is appointed to a position in the Unclassified Service under this Section, he or she may return to a position in the Classified Service. Such return to the Classified Service shall be without loss of any rights or privileges that currently pertain to the Classified Service;
- (m) When a vacancy occurs, the Mayor shall nominate at least two (2) candidates for Council consideration for appointment to the position of City Manager. The Mayor may express to the Council a preference among final candidates;
- (n) After consultation with the Council, the Mayor may comment in writing upon the independent, written performance evaluation conducted

annually by the City Manager of each head of a city department which is under the administration of the City Manager;

(o) The Mayor may attend and participate in executive meetings of the City Manager and heads of City departments which are under the administration of the City Manager;

(p) In time of public danger or emergency, the Mayor may, with the consent of the Council, or pending a meeting of the Council, direct the administration of the City Government through the City Manager;

(q) The Mayor shall be charged with the duty of making recommendations to the Council on all major matters of policy and program which require Council decision. The Mayor shall have the primary, but not exclusive, responsibility for interpreting the policies, programs and needs of the City government to the community;

(r) The Mayor may also, on the Mayor's own account, as may each individual Councilmember, inform the community on any matters of policy or program which the Mayor believes the welfare of the community makes necessary;

(s) It shall be the duty of the Mayor to represent the Council in its relationships with civic groups within the City, and by direction of the Council, the Mayor shall represent the City in its relationships with other governmental agencies on matters of policy and program.

(t) The Mayor shall preside at meetings of the Council and shall have a vote as a member of the Council. The Mayor shall have no power to veto any ordinance or resolution adopted by the Council;

(u) The Mayor shall have authority to preserve order at all Council meetings and to remove or cause the removal of any person from any meeting of the Council for disorderly conduct, to enforce the rules of the Council, and to determine the order of business under the rules of the Council;

(v) The Mayor shall exercise such other powers and perform such other duties as may be consistent with the Mayor's office or as may be granted to the Mayor by the Council not inconsistent with this Charter.

Nothing in this section shall be construed in any way as an infringement or limitation on the powers and duties of the City Manager as chief administrative officer and head of the administrative branch of the City government as prescribed in other sections of this Charter.

**SECTION 703. COMPENSATION FOR ELECTED OFFICIALS.**

(a) Compensation and Reimbursement. The Mayor and each member of the Council shall be paid as compensation for his or her services as a member of the Council for each calendar month during which he or she is a member of the Council a monthly salary together with appropriate benefits which shall be established by ordinance only after the Citizen's Salary Setting Commission has made a written recommendation for compensation pursuant to the strict limits of the section, such written recommendation has been published for review pursuant to the requirements of this section, and the mandated public hearings required by this section have been held on the recommendation.

The Mayor and members of the Council shall also receive reimbursement for expenses incurred while performing official duties of their office only so long as evidence of such expenses incurred is presented to the City in the manner prescribed for all other employees of the City.

No compensation or reimbursement shall be established for any member of the Council, including the Mayor, except as provided in this Section.

(b) Citizen's Salary Setting Commission. There shall be established a Citizen's Salary Setting Commission, hereinafter "Commission," whose function shall be to recommend the compensation it deems appropriate for the Mayor and members of the Council. This Commission shall meet between March 1st and April 30th of every even-numbered year.

The Citizen's Salary Setting Commission shall consist of five (5) qualified electors residing within the City and shall be appointed by the City Council pursuant to the provisions below:

- (A) Strong consideration shall be given to composing the Commission of:
  - (i) a retired Stanislaus County judge as chairperson;
  - (ii) one (1) member from a bona fide local taxpayer's association with tax exempt status under the relevant provisions of the Internal Revenue Code;
  - (iii) one (1) member from a bona fide local nonpartisan political organization, with tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, dedicated to

encouraging informed and active participation in government;

(iv) one (1) member from, a former Civil Grand Jury who has served in that role within in the previous five (5) years;

(v) additional members who have demonstrated civic involvement and a capacity to serve in an honest, independent, and impartial fashion.

(B) No member of the Commission shall be a relative by blood or marriage within the third degree of the Mayor, a member of the Council, any Charter officer, or any department head or deputy department head.

(C) No member of the Commission shall be an employee of the City nor any bargaining unit for employees of the City, nor be a person who receives compensation from the City or from bargaining units of the City in any manner, including retirement benefits.

(D) No member of the Commission shall be a lobbyist or other person with business before the City that represents an economic interest in excess of the limit for material financial effect as established by local ordinance for the time periods established by local ordinance.

(E) In all other respects, the members of the Commission shall be chosen pursuant to the provisions of this Charter.

(F) Members of the Commission shall serve without compensation.

Except as provided herein below, the regular term of office of each member of the Commission shall be four (4) years. The initial five (5) members of the Commission shall be appointed during the month of March 2008. Two of the members so appointed shall be appointed for a term expiring on December 31, 2010. Three (3) of the members, including the initial chairperson, so appointed shall be appointed for a term expiring on December 31, 2012. Commencing in December 2010, new appointments shall be made during the month of December of each even-numbered year to fill the offices of the members whose terms are expiring at the end of such even-numbered years. Such appointments

shall be for regular terms of four (4) years commencing on the first day of January of the following odd-numbered year and expiring on the thirty-first day of December of the second even-numbered year thereafter.

No Commission member may serve for more than two (2) terms. A Commission member may be removed from office at any time for misconduct, inefficiency or willful neglect in the performance of the duties of his or her office providing the Council first states in writing the reasons for such removal and gives such member an opportunity to be heard before the Council in his or her own defense. No tax dollars shall be expended on behalf of a Commission member for such defense. If a vacancy occurs before the expiration of a member's term, the Council shall appoint a qualified person to fill such vacancy for the remainder of the unexpired term of such member.

(c) Salary Limitations and Penalties. The salary of the Mayor shall not be more than fifty percent (50%) of the amount of the salary of a Judge of the Superior Court of Stanislaus County.

The salary of a Councilmember shall not be more than fifty percent (50%) of the median family income for the Modesto Metropolitan Statistical Area as reported by the United States Census Bureau. The salary of each Councilmember shall be the same.

Any appropriate benefits established under this provision may not include retirement or pension benefits of any sort.

No recommendation shall be made by the Commission except upon the affirmative vote of three (3) members of the Commission.

No recommendations may be made in odd-numbered years. The recommendation of the Commission will be made to the Council by April 30<sup>th</sup> of every even-numbered year to be effective for a two-year period commencing not before July 1 of that even numbered year. Failure of the Commission to make a recommendation in any even numbered year within the prescribed time shall be deemed to be a recommendation that no changes be made to existing compensation levels.

Any monthly salary shall be reduced by one-fourth for each regular meeting of the Council not attended by a councilmember each month, unless absent on official duty with the consent of the Council.

(d) Process to Set Compensation. Each recommendation by the Commission, together with the reasons for the recommendation, shall be made in writing by the Commission.

Before any such recommendation is provided to the Council, a draft recommendation shall be made available to the public and the Commission shall hold at least two public hearings on the matter before it adopts its final recommendation.

When such final recommendation has been submitted to the Council, it shall not thereafter be amended by the Commission.

Upon receiving the final recommendation from the Commission, the Council may adopt the compensation as recommended by the Commission or may adopt compensation in some lower amount, but in no case may adopt compensation in some higher amount. The Council may only adopt all such compensation by ordinance and after a public hearing of which legal notice is published in a newspaper of general circulation within the City at least twenty (20) days prior to said hearing. Salaries established by ordinance adopted pursuant to the provisions of this Section shall remain in effect until amended by a subsequent ordinance adopted pursuant to the provisions of this Section. The compensation being paid to Councilmembers as of the effective date of this Section shall continue until any subsequent compensation is established pursuant to the requirements of this Section.

(e) Subject to Referendum.

Any final decision by the Council on compensation under this Section shall be subject to the referendum provisions of the Charter.

**SECTION 725. STATEMENT OF POLICY FOR CHARTER OFFICERS AND CITY DEPARTMENTS; COUNCIL REVIEW OF ANNUAL EVALUATIONS.**

The Council shall adopt a written Statement of Policy for each Charter Officer and for each City department which is under the administration of the City Manager. Said Statement of Policy shall set forth the broad goals, objectives and aspirations to be accomplished by that department.

For Charter Officers, each Charter Officer shall provide to the Council a draft written Statement of Policy for his or her office for consideration, and, if deemed necessary by the Council, revision and amendment, prior to adoption by the Council. For each City department which is under the administration of the City Manager, the City Manager shall designate one or more persons in each such department to provide to the City Manager, for transmittal to the Council, a draft written Statement of Policy for each department for consideration, and, if deemed necessary by the Council, revision and amendment, prior to adoption by the Council.

Such Statements of Policy shall be reviewed and, if necessary, amended, in the first quarter of every even-numbered calendar year and when the position of a Charter Officer or the head of a City department which is under the administration of the City Manager becomes vacant.

When such review and amendment is conducted due to a vacancy in position, the Mayor and Councilmembers shall adopt a set of questions which are intended to elicit responses from each prospective appointee concerning the goals, objectives and aspirations in the Statement of Policy.

Prior to appointing any head of a City department, the City Manager shall submit to the Mayor and Councilmembers, for their review, the responses to the Mayor and Councilmembers' questions submitted by the finalists for appointment to the vacant position. This section shall not apply to the appointment of any "acting" department head to serve in an interim capacity.

The City Manager shall share and review with the Council the annual independent, written performance evaluations of each head of a city department which is under the administration of the City Manager.

Nothing in this section shall be construed in any way as an infringement or limitation on the powers and duties of the City Manager as chief administrative officer and head of the administrative branch of the City government as prescribed in other sections of this Charter.

#### **SECTION 800. CITY MANAGER.**

There shall be a City Manager who shall be the chief executive officer and head of the Administrative Branch of the City government. The City Manager shall be chosen on the basis of the person's executive and administrative qualifications with special reference to the person's actual experience in, or the person's knowledge of accepted practices with respect to the duties of the office as hereinafter set forth. No member of the Council shall be eligible for appointment to the office of City Manager during the term for which the member shall have been elected or appointed, nor within one (1) year thereafter. The City Manager need not be a resident of the City or State at the time of appointment, but during the City Manager's tenure of office, the City Manager shall reside within the City.

When a vacancy occurs, the Mayor shall nominate at least two (2) candidates for Council consideration for appointment to the

position of City Manager. The Mayor may express to the Council a preference among final candidates. The Council shall appoint the City Manager for an indefinite term and may remove the City Manager by a majority vote of its members; provided, however, that the City Manager shall not be removed from office during or within a period of ninety (90) days next succeeding the election of a member of the Council. The purpose of this provision is to allow any newly elected member of the Council to observe the actions and ability of the City Manager in the performance of powers and duties of this office.

#### **SECTION 801. POWERS AND DUTIES.**

The City Manager shall be the chief administrative officer and head of the administrative branch of the City government. The City Manager shall be responsible to the Council for the proper administration of all affairs of the City and to that end, subject to the personnel provisions of this Charter, the City Manager shall have power and shall be required to:

- (a) Appoint and, when necessary for the good of the service, discipline and remove all officers and employees of the City except as otherwise provided by this Charter, and except as the City Manager may authorize the head of any department or office to appoint or remove subordinates in such department or office. The City Manager may also authorize the head of any department, including deputy directors, police captains and fire battalion chiefs, or other city employees as designated by ordinance, to recommend and impose discipline in accordance with this Charter.
- (b) Prepare the draft budget annually and submit it to the Mayor and Council, prepare the proposed budget annually and submit it to the Mayor and Council and be responsible for its administration after its adoption by the Council, prepare all other necessary budget documents, and prepare and submit to the Mayor and Council the Capital and Operating Mid-Year Budget Report.
- (c) Prepare and submit to the Council within ninety (90) days of the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding year.

- (d) Review procedures relating to the assessment, levy and collection of ad valorem property taxes and make recommendations regarding the same to the Council if deemed appropriate.
- (e) Establish a centralized purchasing system for all City offices, departments and agencies.
- (f) Establish and enforce specifications for supplies, materials and equipment required by the City.
- (g) Cause all supplies purchased by the City to be inspected and a determination made that the same comply with specifications.
- (h) Prepare rules and regulations governing the contracting for, purchasing, storing, inventory, distribution or disposal of all supplies, materials and equipment required by any office, department or agency of the City government and recommend them to the Council for its adoption by ordinance. Preference shall be given to the purchase of supplies, materials and equipment from local merchants, quality and price being equal.
- (i) Enforce the laws of the State pertaining to the City, the provisions of this Charter and the ordinances, franchises and rights of the City.
- (j) Keep the Council advised of the financial conditions and future needs of the City and make such recommendations on any matter as the City Manager may deem desirable.
- (k) Make and execute contracts on behalf of the City involving budgeted or appropriated expenditures which do not exceed the amount specified by ordinance of the City Council.
- (l) Appoint advisory boards, without compensation, to assist the City Manager in the performance of the City Manager's duty, if the City Manager deems it necessary.
- (m) Interchange employees between or among departments if the City Manager deems it proper so to do.
- (n) Immediately upon taking office, and annually thereafter, inventory and place a value on all real estate, buildings,

furniture and fixtures, supplies and movable property of every kind and nature belonging to the City; and to require each officer or department head to inventory the same or any portion thereof. One (1) copy of such inventory shall be filed with the Council and one (1) with the auditor.

(o) Be responsible for the custody and control of all City property, the custody and control of which has not otherwise been provided for by this Charter.

(p) Perform such other duties as may be prescribed by this Charter or required of the City Manager by the Council not inconsistent with this Charter.

(q) Sign all contracts, deeds and other documents on behalf of the City when authorized to do so by the Council or by this Charter.

(r) The City Manager shall have the authority to transfer equipment and supplies between departments, and with the approval of the Council, sell obsolete, and unused or surplus personal property of the City.

(s) The City Manager shall be accorded a seat at the Council table and shall be entitled to participate in the deliberations of the Council, but shall not have a vote.

(t) The Council shall have the right to instruct the City Manager in matters of policy and the City Manager shall be responsible for implementing such Council policy. Any action, determination or omission of the City Manager shall be subject to review by the Council, but no such action, determination or omission shall be overruled or modified by a vote of less than four-sevenths of the members of such Council.

(u) The City Manager, pursuant to Section 725 of the Charter, shall direct creation of draft written statements of Policy for each City department which is under the administration of the City Manager.

(v) The City Manager annually shall conduct an independent, written performance evaluation of each head of a city department which is under the administration of the City Manager. Such performance evaluation shall include, without limitation, an evaluation of the department head's

performance in implementing the Council's Statement of Policy for that department. The City Manager shall provide such performance evaluations to the Council for their review pursuant to Section 725 of the Charter. After such Council review, the Mayor may comment on the performance evaluation pursuant to Section 601(m) of the Charter.

**SECTION 900. OFFICERS AND EMPLOYEES. GENERAL.**

The officers of the City of Modesto shall consist of a Mayor, the Council, a City Manager, a City Attorney, a City Clerk, a City Auditor and such other or subordinate officers, assistants, deputies and employees as the Council may deem necessary to provide by ordinance or resolution.

The City Attorney, the City Clerk and the City Auditor shall be appointed by and may be removed by the affirmative votes of four (4) members of the Council; provided, however, that neither the City Attorney, the City Clerk nor the City Auditor shall be removed from office during or within a period of ninety (90) days next succeeding the election of a member of the Council. The purpose of this provision is to allow any newly elected member of the Council to observe the actions and abilities of these officers in the performance of the powers and duties of the respective offices.

The City Manager shall be appointed and removed as provided by Section 800 of this Charter. Except as otherwise provided in this section, all other officers and department heads of the City shall be appointed by the City Manager and shall serve at the pleasure of the City Manager.

The City Auditor shall have such powers and be required to perform such duties, consistent with the provisions of this Charter, as may be required by the Council.

The City Manager, the City Attorney, the City Clerk, and the City Auditor may be referred to collectively in this Charter as "Charter Officers."

**SECTION 902.1. OFFICE OF THE CITY AUDITOR**

The Office of the City Auditor is hereby established. The City Council shall appoint the City Auditor who shall serve at its pleasure. The City Auditor shall be certified according to standards comparable to a Certified Public Accountant or a Certified Internal Auditor at time of appointment.

The City Auditor shall have the following powers and duties:

(a) Conduct or cause to be conducted annual post audits of all the fiscal transactions and accounts kept by or for the City. Such audits shall include but not be limited to the examination and analysis of fiscal procedures and the examination, checking and verification of accounts and expenditures. The audits shall be conducted in accordance with generally accepted auditing standards and accordingly shall include tests of the accounting records and other auditing procedures as may be considered necessary under the circumstances. The audits shall include the issuance of suitable reports of examination so the Council and the public will be informed as to the adequacy of the financial statements of the City.

(b) Conduct performance audits, as assigned by Council. A "performance audit" means a post audit which determines with regard to the purpose, functions and duties of the audited agency all of the following:

(1) Whether the audited department, office or agency, is managing or utilizing its resources, including public funds, personnel, property, equipment and space in an economical and efficient manner.

(2) Causes of inefficiencies or uneconomical practices, including inadequacies in management information systems, internal and administrative procedures, organizational structure, use of resources, allocation of personnel, purchasing policies and equipment.

(3) Whether the desired results are being achieved.

(4) Whether objectives established by the Council or other authorizing body are being met.

(c) Conduct special audits and investigations, as assigned by Council. "Special audits and investigations" mean assignments of limited scope, intended to determine:

(1) The accuracy of information provided to the Council.

(2) The costs and consequences of recommendations made to the Council.

(3) Other information concerning the performance of City Departments, Offices or Agencies as requested by the Council.

(d) The City Auditor shall have access to, and authority to examine any and all documents including but not limited to books, accounts, internal memoranda, writings and tapes, reports, vouchers, correspondence files and other records, bank accounts, money and other property of any City department, office or agency, whether created by the Charter or otherwise, with the exception of the office of any elected official.

It is the duty of any officer, employee or agent of the City having control of such records to permit access to, and examination thereof, upon the request of the City Auditor or his or her authorized representative. It is also the duty of any such officer, employee or agent to fully cooperate with, and to make full disclosure of all pertinent information.

(e) Prepare and submit to the Council quarterly reports of the City Auditor's activities and findings in the immediately preceding three calendar months, together with any recommendations to improve the administration of the City.

(f) Perform other auditing functions, consistent with other provisions of this Charter, and prepare and submit such other reports, as may be assigned by the Council.

The City Auditor may appoint and prescribe the duties of the professional, technical and clerical employees employed in the Office of the City Auditor; provided, however, that the City Auditor shall not appoint to any position any business associate or any person related to him or her or to the City Manager or to any member of the Council by blood or marriage within the second degree. All such appointees shall serve at the pleasure of the City Auditor in the Unclassified Service; and shall serve under such terms and conditions, salaries and benefits as are similar to other employees in Modesto's service. In the event an employee of the City who holds a Classified Service position is appointed to a position in the Unclassified Service under this Section, he or she may return to a position in the Classified Service. Such return to the Classified Service shall be without loss of any rights or privileges that currently pertain to the Classified Service.

Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any such officer or employee whom the City Auditor is empowered to appoint, but the Council may express its views and fully and freely discuss with the City Auditor anything pertaining to the appointment and removal of such officers and employees.

### **SECTION 903. DUTIES OF OFFICERS AND EMPLOYEES.**

After obtaining and considering the recommendations of the City Manager, the Council shall provide by ordinance or resolution, not inconsistent with this Charter, for the powers and duties of all officers and employees of the City.

Where the positions are not incompatible, the Council may combine in one (1) person the powers and duties of two (2) or more offices created or provided for in the Charter. Notwithstanding this provision, the offices of the City Manager, City Clerk, City Attorney and City Auditor shall not be combined except in cases of emergency, and in no event shall such combination exceed a period of three months.

No office provided herein to be filled by appointment by the City Manager may be combined with an office provided herein to be filled by appointment by the Council.

Notwithstanding the foregoing, the Council may transfer or consolidate functions of the City government to or with appropriate functions of the State or County government or may make use of such functions of the State or County government, and in case of any such transfer or consolidation, the provisions of this Charter providing for the function of the City government so transferred or consolidated shall be deemed suspended during the continuance of such transfer or consolidation, to the extent that such suspension is made necessary or convenient and is set forth in the ordinance or resolution establishing such transfer or consolidation. Any such transfer or consolidation may be repealed in like manner.

### **SECTION 1201. UNCLASSIFIED AND CLASSIFIED SERVICE.**

The administrative service of the City shall be divided into Unclassified and Classified Service.

- (a) The Unclassified Service shall comprise the following officers and positions:
  - (1) All elected officers.
  - (2) City Manager, any Deputy City Manager, City Attorney, any Assistant City Attorney, any Deputy City Attorneys, City Clerk, City Auditor, and all heads of departments and deputy directors.
  - (3) All members of boards and commissions.

- (4) Persons employed as unskilled laborers.
  - (5) Persons employed to render professional, scientific, technical or expert services of any occasional or exceptional character.
  - (6) Temporary and part-time employees paid on an hourly or per diem basis.
  - (7) Persons employed under Section 601(l) of this Charter.
- (b) The Classified Service shall comprise all positions not specifically included by this section in the Unclassified Service.

**SECTION 1302.1. SUBMISSION OF ECONOMIC FORECASTS;  
MAYOR'S BUDGET MESSAGE.**

The City Manager shall, on or before December 15 of each year, submit to the Mayor and to the Council a five (5) year economic forecast of expenditures and revenues for each City department, office or agency.

The Mayor shall, on or before January 15 of each year, prepare and deliver to the Council the Mayor's Proposed Budget Priorities and Direction for both the City's Capital Budget and for the City's Operating Budget.

The City Manager shall, on or before February 1 of each year, prepare and deliver to the Mayor and to the Council a Capital and Operating Mid-Year Budget Report for each City department, office or agency.

The Mayor shall, on or before February 15 of each year prepare and deliver to the Council the Mayor's Budget Message which shall include:

- (a) A statement of the fiscal priorities which the City should adopt for the ensuing fiscal year; and
- (b) Which City services, departments, offices or agencies the Mayor proposes to be expanded or reduced.

The Council shall hold a public hearing to consider the Final Mayor's Budget Message and to make any additions or revisions the Council deems advisable.

Upon close of the public hearing, the Council shall approve the Mayor's Budget Message as presented, or as revised.

**SECTION 1302.2. ANNUAL BUDGET.**

By April 30 of each year, the City Manager shall send to the Council a draft budget consisting of a careful estimate, in writing, of the amounts of expenditures required for the business and proper conduct of the various departments, offices, boards and commissions of the City, over which the City Manager has control during the next ensuing year. Said estimate shall be in such detail as the Council shall specify. The City Manager shall also include in the draft budget at said time and submit to the Council an estimate of the amount of income from fines, licenses and other sources of revenue, exclusive of taxes upon property, and the probable amount required to be levied and raised by taxation.

In addition to complying with the requirements of this section, The draft budget shall accurately reflect the recommendations and priorities specified in the Final Mayor's Budget Message as adopted by the Council.

The report of the City Manager accompanying the draft budget shall specify the budget allocations which implement each component included within the Final Mayor's Budget Message as adopted by the Council.

**SECTION 1303. MAYOR'S FINAL BUDGET MODIFICATIONS; PUBLIC HEARING ON THE PROPOSED BUDGET.**

At least thirty (30) days prior to the new fiscal year, the Mayor shall prepare and deliver to the Council the Mayor's Final Budget Modifications on the draft budget.

Following the receipt of the Mayor's Final Budget Modifications, the Council shall consider and review the draft budget as submitted by the City Manager together with the Mayor's Final Budget Modifications and may make such revisions as the Council may deem advisable. The document resulting from this process shall be deemed the "Proposed Budget."

Thereafter, the Council shall determine the time for holding of a public hearing upon the "Proposed Budget", and shall cause a notice thereof to be published not less than ten (10) days prior to said hearing by at least one (1) insertion in a newspaper of general circulation within the City.

Copies of the Proposed Budget to be considered at the public hearing shall be available for inspection by the public at the office of the City Clerk at least ten (10) days prior to said hearing.

At the time so advertised or at any time such public hearing from time to time be adjourned, the Council shall hold a public hearing on the proposed budget at which interested persons desiring to be heard shall be given such opportunity.

**SECTION 1304. ADOPTION OF THE BUDGET.**

After the conclusion of the public hearing, the Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable; and thereafter it shall adopt the budget with revisions, if any. Such revisions may add or increase programs or amounts or may delete or decrease programs or amounts except expenditures required by law or for debt service, provided that no revision to the budget shall increase proposed expenditures to an amount greater than the total estimated income plus unencumbered available reserves and estimated unencumbered balances of funds carried over from the preceding fiscal year.

Upon final adoption, the budget shall be in effect for the ensuing fiscal year.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the various departments or activities therein described. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered unless they shall have been designated in the budget as continuing appropriations. At any meeting after the adoption of the budget, the Council may amend or supplement the budget by resolution.

**Exhibit "4"**

**Proposed Charter Revision to Eliminate Municipal Run-  
Off Election**

**REVISED SECTION 300.**

**SECTION 300. REGULAR MUNICIPAL ELECTIONS.**

Regular Municipal Elections for the election of officers and for such other purposes as the Council may prescribe shall be held biennially on the first Tuesday after the first Monday in March of each odd-numbered year until the year 1983. Thereafter they shall be held biennially on the first Tuesday after the first Monday in November of each odd-numbered year commencing with the year 1985. The person elected to each elective office of the City of Modesto shall be the person for whom the highest number of votes were cast for each office.

**Exhibit "5"**

**Proposed Charter Revisions to Eliminate Board of  
Personnel Appeals and Transition the Selection of Hearing  
Officers in Personnel Matters from this Board to Joint  
Selection by the City and the Affected Employee**

**REVOKED SECTIONS 1108, 1109 and REVISED SECTION 1205.**

**SECTION 1108. [INTENTIONALLY OMITTED.]**

**SECTION 1109. [INTENTIONALLY OMITTED.]**

**SECTION 1205. HEARING OFFICERS.**

An appeal of any person in the Classified Service relative to any suspension, demotion or dismissal, where the right of appeal is granted by the Personnel System of the City of Modesto, shall be heard by a hearing officer, who shall be jointly selected by the City and the employee. The findings and recommendations of a hearing officer shall be made to the City Manager, who shall make the final determination relative to any suspension, demotion or dismissal. An alternative procedure for hearing and final determination of appeals may be delineated by a valid and binding Memorandum of Understanding or other instrument for nonrepresented employees.

Hearing officers shall have the power to administer oaths and affirmations in any appeals pending before them. Hearing officers shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before them. Subpoenas may be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoena or the refusal to testify (upon other than constitutional grounds), shall be deemed contempt and shall be punishable as provided by the general laws of this State.

**Exhibit "6"**

**Proposed Charter Revision to Eliminate Mandatory  
Requirement that Some Members of the Culture  
Commission Live Outside the City Limits**

**REVISED SECTION 1110.**

**SECTION 1110. CULTURE COMMISSION**

There shall be a Culture Commission consisting of seven (7) members that shall be registered electors of the City, except that up to two (2) members may live outside the City but shall be registered electors of Stanislaus County. The Commission shall have the power and duty to:

- (a) Act in an advisory capacity to the Council and the City Manager in all matters pertaining to art, literature, music and other cultural activities;
- (b) Formulate and recommend annually to the Council a program related to art, literature, and music and other cultural activities;
- (c) Promote the preservation of historic sites, landmarks, documents, paintings and other objects associated with the history of the City and its area, and develop educational interest in all such historical matters;
- (d) Act in an advisory capacity to the Council, City Manager and Director of any Museum or Cultural Center that may be established by the Council.

**Exhibit "7"**

**Proposed Charter Revision to Merge the Human Relations  
Commission and the Equal Opportunity and Disability  
Commission into One Human Relations, Equal Opportunity  
and Disability Commission**

**REVISED SECTION 1111.**

**SECTION 1111. HUMAN RELATIONS, EQUAL OPPORTUNITY AND DISABILITY COMMISSION.**

There shall be a Human Relations, Equal Opportunity and Disability Commission with the number of commissioners established by Council resolution. The Commission shall have the power and duty to:

- (a) Act in an advisory capacity to the City Council and the City Manager in matters pertaining to human relations, equal opportunity and disability awareness;
- (b) Perform such other duties with respect to human relations, equal opportunity and disability awareness as the City Council may prescribe by ordinance or resolution.

## **Exhibit "8"**

**Proposed Charter Revisions to Make Consistent Various  
References Throughout the Charter to the Newspaper in Which  
Public Notice be Given to Change References in the Charter  
from "Telegram" to "Electronic Communication."**

**REVISED VARIOUS SECTIONS 708, 716, 1104, 1307, and 1311.**

**To conform all newspaper references to existing definition at Section 1603(h), and to change references to “telegram” to “electronic communication.”**

**SECTION 708. SPECIAL MEETINGS.**

A special meeting may be ordered at any time by the Mayor whenever in the Mayor’s opinion the public business may require it, or upon the written request of any four (4) members of the Council. Whenever a special meeting shall be called, the City Clerk shall cause written notice of such meeting to be given to each member of the Council and to each local newspaper of general circulation within the City, radio or television station requesting notice in writing. Such notice must be delivered personally or must be deposited in the United States mail, postage prepaid, at least twenty-four (24) hours before the time of such meeting as specified in the notice. The notice and order shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the Council.

Written notice to each member of the Council may be dispensed with as to any member of the Council who, at or prior to the time the meeting convenes, files with the City Clerk a written waiver of notice. The waiver may be given by electronic communication. The written notice may also be dispensed with as to any member of the Council who is actually present at the meeting at the time it convenes.

**SECTION 716. REQUIREMENTS OF ORDINANCES. EMERGENCY ORDINANCES.**

With the sole exception of ordinances which take effect upon adoption referred to in this Article, no ordinance shall be passed by the Council on the day of its introduction nor within five (5) days thereafter nor at any other time than at a regular or adjourned regular meeting, nor until its publication at least once in full in a newspaper of general circulation within the City at least two (2) days before its adoption. As an alternative method of publication, the Council may order copies of any ordinance to be posted at least two (2) days prior to its adoption in at least three (3) prominent and distinct locations in the City together with a single publication in a newspaper of general circulation within the City of a notice setting forth the title of the ordinance, the date of its introduction,

and a list of the places where copies of such ordinance are posted. In case of an amendment being made to an ordinance before the final adoption of the ordinance, it must in like manner be published in full as amended at least one (1) day before its adoption as amended. The correction of typographical or clerical errors shall not constitute an amendment within the meaning of the foregoing sentence.

**Emergency Ordinances.** Any ordinance declared by the Council to be necessary as an emergency measure for preserving the public peace, health or safety, and containing a statement of reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least five (5) affirmative votes.

#### **SECTION 1104. MEETINGS. CHAIRPERSONS.**

As soon as practicable following the first day of January of each year, each of such boards and commissions shall organize by electing one of its members to serve as chairperson at the pleasure of such board or commission. Whenever a special meeting of any board or commission shall be called, the secretary shall cause written notice of such meeting to be given to each member of such board or commission and to each local newspaper of general circulation within the City, radio or television station requesting notice in writing. Such notice must be delivered personally or must be deposited in the United States mail, postage prepaid, at least twenty-four (24) hours before the time of such meeting as specified in the notice. The notice and order shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by said boards or commissions.

Written notice to each member of any board or commission may be dispensed with as to any member of any board or commission who, at or prior to the time the meeting convenes, files with the Secretary of such board or commission a written waiver of notice. The waiver may be given by electronic communication. The written notice may also be dispensed with as to any member of any board or commission who is actually present at the meeting at the time it convenes.

The affirmative or negative vote of a majority of the entire membership of such board or commission shall be necessary for it to take action. Unless otherwise provided by the Council, or by this Charter, the City Manager shall provide a secretary for the recording of the minutes of each of such boards and commissions who shall keep a record of its proceedings and transactions. Each board and commission shall prepare and submit to the Council an annual report of its activities. Such report

shall be made on the fiscal year basis and shall be submitted on or before September 1 of each year. Each board or commission shall prescribe its own procedural rules and regulations which shall be consistent with this Charter and copies of which shall be kept on file in the office of the City Clerk where they shall be available for public inspection.

### **SECTION 1307. PUBLIC WORK TO BE DONE BY CONTRACT.**

Every project involving an expenditure of City moneys of more than the amount which the City Council shall establish by ordinance, for the construction or improvement of public buildings, works, drains, sewers, utilities, parks, playgrounds, and streets (exclusive of projects for resurfacing, maintenance and repair of streets, or any park or parks playground project otherwise subject to the public bidding requirements of this section that involves any donated labor and/or material) shall be let by contract to the lowest responsible bidder after notice by publication in a newspaper of general circulation within the City by one or more insertions, the first of which shall be at least seven (7) days before the time for opening bids.

All bids shall be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the City. Such security shall be in an amount not less than that specified in the notice inviting bids or in the specifications referred to therein, or if no amount be so specified then in an amount not less than ten (10) percent of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract, within the time specified in the notice inviting bids or specifications referred to therein, the amount the person's bidder's security shall be declared forfeited to the City and shall be collected and paid into its general fund and all bonds so forfeited shall be prosecuted and the amount thereof collected and paid into such fund. The Council may reject any and all bids presented and may readvertise in its discretion.

The Council after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the City Manager the work in question may be performed better or more economically by the City with its own employees and after the adoption of a resolution to this effect by at least five (5) affirmative votes of the Council may proceed to have said work done in the manner stated, without further observance of the provisions of this section. Such contracts likewise may be let without advertising for bids, if such work shall be deemed by the City Council to be of urgent necessity for the

preservation of life, health or property and shall be authorized by resolution passed by at least five (5) affirmative votes of the Council and containing a declaration of the facts constituting such urgency. Nothing in this section shall be construed to apply to the acquisition or purchase of electricity, electric power or electric energy by the City for any use or purpose.

**SECTION 1311. CONTRACTS FOR OFFICIAL ADVERTISING.**

The Council shall let annually contracts for the official advertising for the ensuing fiscal year. In the event there is more than one (1) newspaper of general circulation within the City published and circulated in the City, the Council shall advertise for one (1) day, setting forth distinctly and specifically the work contemplated to be done, and asking for sealed proposals therefor. The proposals shall specify the type and spacing to be used at the rates named in the bids. The Council shall let the contracts for such official advertising to the lowest responsible bidder publishing a newspaper of general circulation within the City and has been in existence at the time of the awarding of the contract at least one year; provided, that the Council may reject any or all bids and advertise for new bids.

**Exhibit "9"**

**Comparison of All Proposed Charter Revisions to Existing  
Charter Provisions**

**Elect City Council by Districts Measure of 2008**

**Option (a) – “By District” System**

**REVISED SECTIONS 500, 501, 700.**

**SECTION 500. ENUMERATION.**

The elective officers of the City of Modesto shall be a Mayor and six (6) Councilmembers.

The Council shall consist of the Mayor and six (6) Councilmembers, each of whom, including the Mayor, shall have the right to vote on all questions coming before the Council.

~~(As amended November 4, 1980, and November 7, 1989)~~

**SECTION 501. ELECTED AT LARGE METHOD OF ELECTION.**

(a) Mayor. The Mayor and Councilmembers shall be elected at the regular municipal election on a general ticket from the City at large.

(b) District Councilmembers. The Six (6) Councilmembers shall be elected by district as described in this section. A candidate for, and councilmember of, each district must live in that district to be eligible to run for or hold the office of councilmember for that district. Only voters who live in a district shall be eligible to vote in the election for councilmember of that district.

(1) Six Districts. The City of Modesto is divided into six (6) districts for purposes of electing Councilmembers to the Council.

(2) Districting Commission; Duties. There shall be established a Citizen's Districting Commission, hereinafter “Commission,” whose function shall be to

recommend to the Council the districts from which Councilmembers shall be elected. The first such Commission shall be appointed by the Council no later than sixty (60) days from the effective date of this Charter provision. The Commission shall meet and recommend to the Council a districting plan establishing six councilmember election districts in a timely manner for use in the November 2009 and November 2011 municipal elections. Thereafter, a new Commission shall be appointed by the Council and then meet and recommend to the Council a plan for redistricting of the six councilmember election districts within nine (9) months of receipt by the City of the final Federal Decennial Census information. The Council shall appropriate adequate funds for the work of the Commission.

(3) Appointment of Commission. The Commission shall consist of nine (9) qualified electors residing within the City and shall be appointed by the City Council pursuant to the provisions below:

(A) Strong consideration shall be given to composing the Commission of:

- (i) a retired Stanislaus County judge as chairperson;
- (ii) one (1) member from a bona fide local taxpayer's association with tax-exempt status under the relevant provisions of the Internal Revenue Code;
- (iii) one (1) member from a bona fide local nonpartisan political organization, with tax-exempt status under Section 501(c)(3) of the Internal Revenue

Code, dedicated to encouraging informed and active participation in government;

(iv) one (1) member from a bona fide local civil rights organization with tax-exempt status under Section 501(c)(3) of the Internal Revenue Code;

(v) one (1) member from a former Civil Grand Jury who has served in that role within the previous five (5) years;

(vi) additional members who have demonstrated civic involvement and a capacity to serve in an honest, independent, and impartial fashion, while upholding public confidence in the integrity of the redistricting process;

(B) The Commission shall reflect the demographic and geographic diversity of the City.

(C) No member of the Commission shall be a relative by blood or marriage within the second degree of the Mayor, a member of the Council, any Charter officer, or any department head or deputy department head.

~~general ticket from the City at large.~~

(D) No member of the Commission shall be an employee of the City nor any bargaining unit for employees of the City, nor be a person who receives compensation from the City or from bargaining units of the City in any manner, including retirement benefits.

~~(As amended November 4, 1980, and November 7, 1989)~~

(E) No member of the Commission shall be a lobbyist or other person with business before the City that represents an economic interest in excess of the limit for material financial effect as established by local ordinance for the time periods established by local ordinance.

(F) A member of the Commission shall be ineligible for election to the City Council in any district whose boundaries were drawn by the Commission in which he or she serves.

(G) In all other respects, the members of the Commission shall be chosen pursuant to the provisions of this Charter.

(H) Members of the Commission shall serve without compensation.

(4) Criteria for Districting. To ensure fair and effective representation for all citizens of the City, the Commission, in recommending a districting or redistricting plan, and the Council, in approving or rejecting a districting or redistricting plan, shall consider the following criteria for the districts to the extent practicable:

(A) district boundaries should be geographically compact and contiguous;

(B) district boundaries should follow visible natural and man-made features;

(C) district boundaries should respect communities of interest. A community of interest is defined as a geographic area comprised of residents who share similar interests including, but not limited to, social, cultural, ethic, geographic or economic interests, or formal government or quasi-governmental relationships, but not including relationships with political parties, incumbents, or candidates;

(D) district boundaries should be drawn without regard for advantage or disadvantage to incumbents or challengers;

(E) district boundaries should be drawn without regard for advantage or disadvantage to any political party.

(5) Procedure for Districting. The Commission and Council shall abide by the following procedure in any districting process:

(A) one or more, as necessary, independent consultants experienced and competent in the skills necessary for the districting work shall be utilized to assist the Commission in developing any of the Districting Plans detailed in this Section;

(B) the six districts shall be numbered for identification and other purposes as District One, District Two, District Three, District Four, District Five and District Six;

(C) the Commission shall hold at least one (1) public hearing prior to adopting its Draft Districting Plan;

(D) the Draft Districting Plan shall be made available for at least seven (7) days prior to the commencement of public hearings to take public testimony and comment on the Draft Districting Plan;

(E) the Commission shall hold at least one (1) public hearing between the release of its Draft Districting Plan and the adoption of a Recommended Districting Plan by the Commission;

(F) the Commission shall provide timely public access to all data used in the district boundary drawing

process and to all testimony, letters, exhibits and proposed plans received by the Commission;

(G) The Commission shall adopt a Recommended Districting Plan and submit it to the Council.

(6) Consideration by City Council; Final Districting Plan. After submittal of the Recommended Districting Plan to the Council:

(A) the Council shall hold at least one (1) public hearing on the Recommended Districting Plan of the Commission before any adoption of a Final Districting Plan;

(B) The Recommended Districting Plan approved by the Commission shall be available to the public for at least twenty (20) days prior to any vote by the Council to approve or disapprove the Plan.

(C) The Council may not alter the Recommended Districting Plan submitted to it by the Commission. Rather, the Council shall either approve or disapprove such a Recommended Districting Plan in its entirety. If the Council approves the Recommended Districting Plan, it shall become the Final Districting Plan and shall be implemented. If the Council disapproves the Recommended Districting Plan, the Council shall submit in writing to the Commission the reasons for such disapproval, including any deviation by the Commission from the criteria for districting detailed in this Section. The Commission shall consider any reasons for such disapproval submitted to it by the Council and may consider alterations to the Recommended Districting Plan in response to such reasons. After such consideration, the Commission shall submit its Final Districting Plan to the Council for implementation.

(7) Subject to Referendum. Any Final Districting Plan under this Section shall be subject to the referendum provisions of the Charter.

(d) The Transition from At-Large to District Elections. The City Clerk under former provisions of this Charter has previously designated each office held by an at-large councilmember with a descriptive designation

commonly referred to as Chair One, Chair Two, Chair Three, Chair Four, Chair Five, and Chair Six. Under the City's election system, Chair Two, Chair Four, and Chair Five are subject to election in the 2009 municipal election and Chair One, Chair Three, and Chair Six are subject to election in the 2011 municipal election. A period of transition from At-Large to District elections will occur from the time of adoption of the first districting plan to the time that the first district elections are held. For this period of transition, each councilmember currently holding a chair will be designated as the councilmember representing the district with the same numerical designation in the districting plan whether or not that councilmember lives in the district. For example, upon adoption of the first districting plan, the councilmember occupying Chair One will be designated the councilmember representing District One whether or not that councilmember lives in District One. Each of the councilmembers occupying office at the time of the effective date of this Charter revision shall be so designated. Thereafter, the first district elections for Districts Two, Four and Five shall occur during the municipal election in 2009 and the first district elections for District One, Three, and Six shall occur during the municipal election in 2011. Notwithstanding the provisions of Section 700 of the Charter, an incumbent councilmember at the time of the effective date of this provision may run for a Council seat other than the seat which that member currently holds if the councilmember is otherwise eligible to run in that seat, all subject to the limitations of terms of office in Section 503 of this Charter.

#### **SECTION 700. COUNCILMEMBERS. TERM OF OFFICE.**

Except as otherwise provided in this Charter, the members of the Council shall hold office for a term of four (4) years from and after the first Tuesday following their election. The members of the Council in office at the time this Charter takes effect shall continue in office until the expiration of their terms or until their successors are elected and qualified.

~~Three (3) Councilmembers shall be elected at the regular municipal election in 1963 and at each regular municipal election thereafter.~~

~~A Mayor shall be elected at the regular municipal election in 1963 and at each alternate regular municipal election thereafter.~~

If a tie vote makes it impossible to determine which of two (2) or more candidates has been elected, said tie shall be settled by the drawing of lots, the procedure for which shall be determined by the Council. Each

member of the Council shall have the right to vote on all matters coming before the Council.

~~Each elective office shall be deemed a separate office to be filled at any election. The City Clerk shall designate each such elective office by an appropriate descriptive designation. No candidate shall file for more than one (1) elective office; and no incumbent member of the Council shall run for a seat other than that which the member holds, except that any incumbent member of the Council may run for the seat of Mayor, and an incumbent Mayor may run for the seat of Mayor or for any other seat on the Council. Such designation shall be used on all nomination papers, certificates of election and all election papers referrals subject to the office. After election, the designation shall have no further significance except for the purpose limitations of designating incumbency terms of office in Section 503 of this Charter.~~

~~(As amended November 4, 1980, and November 7, 1989)~~

**Elect City Council by Districts Measure of 2008**

**Option (b) – “Mixed” System**

**REVISED SECTIONS 500, 501, 700.**

**SECTION 500. ENUMERATION.**

The elective officers of the City of Modesto shall be a Mayor and ~~six~~six~~eight~~ (6) Councilmembers.

The Council shall consist of the Mayor and ~~six~~six~~eight~~ (6) Councilmembers, each of whom, including the Mayor, shall have the right to vote on all questions coming before the Council.  
(As amended November 4, 1980, and November 7, 1989)

**SECTION 501. ELECTED AT LARGE METHOD OF ELECTION.**

(a) Mayor. The Mayor ~~and Councilmembers~~ shall be elected at the regular municipal election on a general ticket from the City at large.

(b) District Councilmembers. Six (6) Councilmembers shall be elected by district as described in this section. A candidate for, and councilmember of, each district must live in that district to be eligible to run for or hold the office of councilmember for that district. Only voters who live in a district shall be eligible to vote in the election for councilmember of that district.

(1) Six Districts. The City of Modesto is divided into six (6) districts for purposes of electing Councilmembers to the Council.

(2) Districting Commission; Duties. There shall be established a Citizen's Districting Commission,

hereinafter "Commission," whose function shall be to recommend to the Council the districts from which Councilmembers shall be elected. The first such Commission shall be appointed by the Council no later than sixty (60) days from the effective date of this Charter provision. The Commission shall meet and recommend to the Council a districting plan establishing six councilmember election districts in a timely manner for use in the November 2009 and November 2011 municipal elections. Thereafter, a new Commission shall be appointed by the Council and then meet and recommend to the Council a plan for redistricting of the six councilmember election districts within nine (9) months of receipt by the City of the final Federal Decennial Census information. The Council shall appropriate adequate funds for the work of the Commission.

(3) Appointment of Commission. The Commission shall consist of nine (9) qualified electors residing within the City and shall be appointed by the City Council pursuant to the provisions below:

(A) Strong consideration shall be given to composing the Commission of:

(i) a retired Stanislaus County judge as chairperson;

(ii) one (1) member from a bona fide local taxpayer's association with tax-exempt status under the relevant provisions of the Internal Revenue Code;

(iii) one (1) member from a bona fide local nonpartisan political organization, with tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, dedicated to encouraging informed

and active participation  
in government;

(iv) one (1) member from a  
bona fide local civil  
rights organization with  
tax-exempt status  
under Section 501(c)(3)  
of the Internal Revenue  
Code;

(v) one (1) member from a  
former Civil Grand Jury  
who has served in that  
role within the previous  
five (5) years;

(vi) additional members  
who have demonstrated  
civic involvement and a  
capacity to serve in an  
honest, independent,  
and impartial fashion,  
while upholding public  
confidence in the  
integrity of the  
redistricting process;

(B) The Commission shall reflect the  
demographic and geographic diversity of  
the City.

(C) No member of the Commission shall be a  
relative by blood or marriage within the  
second degree of the Mayor, a member of  
the Council, any Charter officer, or any  
department head or deputy department  
head.

(D) No member of the Commission shall be an  
employee of the City nor any bargaining  
unit for employees of the City, nor be a  
person who receives compensation from  
the City or from bargaining units of the  
City in any manner, including retirement  
benefits.

- (E) No member of the Commission shall be a lobbyist or other person with business before the City that represents an economic interest in excess of the limit for material financial effect as established by local ordinance for the time periods established by local ordinance.
- (F) A member of the Commission shall be ineligible for election to the City Council in any district whose boundaries were drawn by the Commission in which he or she serves.
- (G) In all other respects, the members of the Commission shall be chosen pursuant to the provisions of this Charter.
- (H) Members of the Commission shall serve without compensation.

(4) Criteria for Districting. To ensure fair and effective representation for all citizens of the City, the Commission, in recommending a districting or redistricting plan, and the Council, in approving or rejecting a districting or redistricting plan, shall consider the following criteria for the districts to the extent practicable:

(A) district boundaries should be geographically compact and contiguous;

(B) district boundaries should follow visible natural and man-made features;

(C) district boundaries should respect communities of interest. A community of interest is defined as a geographic area comprised of residents who share similar interests including, but not limited to, social, cultural, ethnic, geographic or economic interests, or formal government or quasi-governmental relationships, but not including relationships with political parties, incumbents, or candidates;

(D) district boundaries should be drawn without regard for advantage or disadvantage to incumbents or challengers;

(E) district boundaries should be drawn without regard for advantage or disadvantage to any political party.

(5) Procedure for Districting. The Commission and Council shall abide by the following procedure in any districting process:

(A) one or more, as necessary, independent consultants experienced and competent in the skills necessary for the districting work shall be utilized to assist the Commission in developing any of the Districting Plans detailed in this Section;

(B) the six districts shall be numbered for identification and other purposes as District One, District Two, District Three, District Four, District Five and District Six;

(C) the Commission shall hold at least one (1) public hearing prior to adopting its Draft Districting Plan;

(D) the Draft Districting Plan shall be made available for at least seven (7) days prior to the commencement of public hearings to take public testimony and comment on the Draft Districting Plan;

(E) the Commission shall hold at least one (1) public hearing between the release of its Draft Districting Plan and the adoption of a Recommended Districting Plan by the Commission;

(F) the Commission shall provide timely public access to all data used in the district boundary drawing process and to all testimony, letters, exhibits and proposed plans received by the Commission;

(G) The Commission shall adopt a Recommended Districting Plan and submit it to the Council.

(6) Consideration by City Council; Final Districting Plan. After submittal of the Recommended Districting Plan to the Council:

(A) the Council shall hold at least one (1) public hearing on the Recommended Districting Plan of the Commission before any adoption of a Final Districting Plan;

(B) The Recommended Districting Plan approved by the Commission shall be available to the public for at least twenty (20) days prior to any vote by the Council to approve or disapprove the Plan.

(C) The Council may not alter the Recommended Districting Plan submitted to it by the Commission. Rather, the Council shall either approve or disapprove such a Recommended Districting Plan in its entirety. If the Council approves the Recommended Districting Plan, it shall become the Final Districting Plan and shall be implemented. If the Council disapproves the Recommended Districting Plan, the Council shall submit in writing to the Commission the reasons for such disapproval, including any deviation by the Commission from the criteria for districting detailed in this Section. The Commission shall consider any reasons for such disapproval submitted to it by the Council and may consider alterations to the Recommended Districting Plan in response to such reasons. After such consideration, the Commission shall submit its Final Districting Plan to the Council for implementation.

(7) Subject to Referendum. Any Final Districting Plan under this Section shall be subject to the referendum provisions of the Charter.

(c) At-Large Councilmembers. Two (2) additional councilmembers shall be elected at the regular municipal election on a general ticket from the City at large. The City Clerk shall designate each At-Large councilmember by an appropriate descriptive designation and each at-large councilmember shall be elected as a separate office. Such designation shall be used on all nomination papers, certificates of election and all election papers referring to that office. After the election, the designation shall have no further significance except for the purposes of designating incumbency and for describing the office held. The two at-

large councilmembers shall first be elected in the regular municipal election of 2009, one for a term expiring in 2011 and the other for a term expiring in 2013.

~~(As amended November 4, 1980, and November 7, 1989)~~

(d) The Transition from At-Large to District Elections. The City Clerk under former provisions of this Charter has previously designated each office held by an at-large councilmember with a descriptive designation commonly referred to as Chair One, Chair Two, Chair Three, Chair Four, Chair Five, and Chair Six. Under the City's election system, Chair Two, Chair Four, and Chair Five are subject to election in the 2009 municipal election and Chair One, Chair Three, and Chair Six are subject to election in the 2011 municipal election. A period of transition from At-Large to District elections will occur from the time of adoption of the first districting plan to the time that the first district elections are held. For this period of transition, each councilmember currently holding a chair will be designated as the councilmember representing the district with the same numerical designation in the districting plan whether or not that councilmember lives in the district. For example, upon adoption of the first districting plan, the councilmember occupying Chair One will be designated the councilmember representing District One whether or not that councilmember lives in District One. Each of the councilmembers occupying office at the time of the effective date of this Charter revision shall be so designated. Thereafter, the first district elections for Districts Two, Four and Five shall occur during the municipal election in 2009 and the first district elections for District One, Three, and Six shall occur during the municipal election in 2011. Notwithstanding the provisions of Section 700 of the Charter, an incumbent councilmember at the time of the effective date of this provision may run for a Council seat other than the seat which that member currently holds if the councilmember is otherwise eligible to run in that seat, all subject to the limitations of terms of office in Section 503 of this Charter.

#### **SECTION 700. COUNCILMEMBERS. TERM OF OFFICE.**

Except as otherwise provided in this Charter, the members of the Council shall hold office for a term of four (4) years from and after the first Tuesday following their election. The members of the Council in office at the time this Charter takes effect shall continue in office until the expiration of their terms or until their successors are elected and qualified.

~~Three (3) Councilmembers shall be elected at the regular municipal election in 1963 and at each regular municipal election thereafter.~~

~~A Mayor shall be elected at the regular municipal election in 1963 and at each alternate regular municipal election thereafter.~~

If a tie vote makes it impossible to determine which of two (2) or more candidates has been elected, said tie shall be settled by the drawing of lots, the procedure for which shall be determined by the Council. Each member of the Council shall have the right to vote on all matters coming before the Council.

~~Each elective office shall be deemed a separate office to be filled at any election. The City Clerk shall designate each such elective office by an appropriate descriptive designation. No candidate shall file for more than one (1) elective office; and no incumbent member of the Council shall run for a seat other than that which the member holds, except that any incumbent member of the Council may run for the seat of Mayor, and; an incumbent Mayor may run for the seat of Mayor or for any other seat on the Council. Such designation shall be used on all nomination papers, certificates of election; an incumbent councilmember representing a district may run for an at-large council seat; and an incumbent at-large councilmember may run for a council seat representing a district; all election papers referring subject to the office. After election, the designation shall have no further significance except for the purpose limitations of designating incumbency terms of office in Section 503 of this Charter.~~

~~(As amended November 4, 1980, and November 7, 1989)~~

**The Increase Accountability in City Hall Measure of 2008**

**REVISED SECTIONS 601, 703, 800, 801, 900, 903, 1201, 1303 AND 1304**

**NEW SECTION 725, 902.1, 1302.1 AND 1302.2**

**REVOKED SECTION 1302**

**SECTION 601. POWERS AND DUTIES OF MAYOR.**

The Mayor shall have the following powers and duties:

(a) The Mayor shall be recognized as the official head of the City for all political, representative and ceremonial purposes and by the Governor for military purposes;

(b) The Mayor may review with the City Manager, City Attorney and City Clerk prior to each Council meeting the items on the Council's agenda and to add matters thereto;

(c) The Mayor may make recommendations to the City Manager on matters of policy and programs;

(d) The Mayor may direct the Charter Officers to prepare and provide information to the Council on matters of policy and programs which require Council decision;

(e) The Mayor may request budgetary and any other information from the Charter Officers that the Mayor determines is necessary for the conduct of the Mayor's duties;

(f) The Mayor, together with the Council, annually shall conduct a written performance evaluation of each Charter Officer which shall include, without limitation, an evaluation of the Charter Officer's performance in implementing the Council's Statement of Policy for that Charter Officer developed pursuant to Section 725 of this Charter.

(g) The Mayor may appoint, with the advice and consent of the Council, a Chairman, a Vice-Chairman, one regular member and

one alternate member to each standing, special and ad hoc committee of the Council;

(h) The Mayor may appoint, with the advice and consent of the Council, such advisory boards, commissions and ad hoc committees as may be necessary or desirable to advise and assist in the work of the Council;

(i) The Mayor may appoint such other advisory boards and ad hoc committees as may be necessary or desirable to advise and assist in the work of the Mayor; provided, however, that the members of such advisory boards or ad hoc committees shall not receive any compensation;

(j) The Mayor may recommend adjustments to the City budget and to propose the modification or curtailment of any city service. If the Mayor recommends any increases in the City budget, the Mayor shall recommend the method of financing such expenditures. If the Mayor proposes the modification or curtailment of any city service, the Mayor shall provide specific recommendations and the reasons for such proposal;

(k) The Mayor shall prepare and deliver the Mayor's Proposed Budget Priorities and Direction and the Mayor's Budget Message pursuant to Section 1302A of the Charter and the Mayor's Final Budget Modifications pursuant to Section 1303 of the Charter;

(l) The Mayor may select and hire staff to the office of Mayor and the City Council as may be necessary or desirable to advise and assist in the work of the Mayor and City Council; provided, however, that the Mayor shall not appoint to any position any business associate or any person related to him or her or to the City Manager or to any member of the Council by blood or marriage within the second degree. If staff is provided to the Council under this section, such staff shall be provided on an equal basis to each member of the Council. All such appointees shall serve at the pleasure of the Mayor in the Unclassified Service; and shall serve under such terms and conditions, salaries and benefits as are similar to other employees in Modesto's service. In the event an employee of the City who holds a Classified Service position is appointed to a position in the Unclassified Service under this Section, he or she may return to a position in the Classified Service. Such return to the Classified Service shall be without loss of any rights or privileges that currently pertain to the Classified Service;

(m) When a vacancy occurs, the Mayor shall nominate at least two (2) candidates for Council consideration for appointment to the position of City Manager. The Mayor may express to the Council a preference among final candidates;

(n) After consultation with the Council, the Mayor may comment in writing upon the independent, written performance evaluation conducted annually by the City Manager of each head of a city department which is under the administration of the City Manager;

(o) The Mayor may attend and participate in executive meetings of the City Manager and heads of City departments which are under the administration of the City Manager;

~~The Mayor shall be recognized as the official head of the City for all political, representative and ceremonial purposes, and by the Governor for military purposes.~~(p) In time of public danger or emergency, the Mayor may, with the consent of the Council, or pending a meeting of the Council, direct the administration of the City Government through the City Manager.;

(q) The Mayor shall be charged with the duty of making recommendations to the Council on all major matters of policy and program which require Council decision. The Mayor shall have the primary, but not exclusive, responsibility for interpreting the policies, programs and needs of the City government to the community. ~~The Mayor may also, on the Mayor's own account, as may each individual Councilmember, inform the community on any matters of policy or program which the Mayor believes the welfare of the community makes necessary.;~~

(r) The Mayor may also, on the Mayor's own account, as may each individual Councilmember, inform the community on any matters of policy or program which the Mayor believes the welfare of the community makes necessary;

(s) It shall be the duty of the Mayor to represent the Council in its relationships with civic groups within the City, and by direction of the Council, the Mayor shall represent the City in its relationships with other governmental agencies on matters of policy and program.

(t) The Mayor shall preside at meetings of the Council and shall have a vote as a member of the Council. The Mayor shall have no power to veto any ordinance or resolution adopted by the Council.;

(u) The Mayor shall have authority to preserve order at all Council meetings and to remove or cause the removal of any person from any meeting of the Council for disorderly conduct, to enforce the rules of the Council, and to determine the order of business under the rules of the Council. ~~The Mayor shall exercise such other powers and perform such other duties as may be consistent with the Mayor's office or as may be granted to the Mayor by the Council not inconsistent with this Charter.~~

(v) The Mayor shall exercise such other powers and perform such other duties as may be consistent with the Mayor's office or as may be granted to the Mayor by the Council not inconsistent with this Charter.

Nothing in this section shall be construed in any way as an infringement or limitation on the powers and duties of the City Manager as chief administrative officer and head of the administrative branch of the City government as prescribed in other sections of this Charter.

(As amended April 16, 1963, and November 7, 1989)

### **SECTION 703. COMPENSATION FOR ELECTED OFFICIALS.**

(a) Compensation and Reimbursement. The Mayor and each member of the Council shall be paid as compensation for his or her services as a member of the Council for each calendar month during which he or she is a member of the Council a monthly salary together with appropriate benefits which shall be established by ordinance only after the Citizen's Salary Setting Commission has made a written recommendation for compensation pursuant to the strict limits of the section, such written recommendation has been published for review pursuant to the requirements of this section, and the mandated public hearings required by this section have been held on the recommendation.

The Mayor and members of the Council shall also receive reimbursement for expenses incurred while performing official duties of their office only so long as evidence of such expenses incurred is presented to the City in the manner prescribed for all other employees of the City.

No compensation or reimbursement shall be established for any member of the Council, including the Mayor, except as provided in this Section.

(b) Citizen's Salary Setting Commission. There shall be established a Citizen's Salary Setting Commission, hereinafter "Commission," whose function shall be to recommend the compensation it deems appropriate for the Mayor and members of the Council. This Commission shall meet between March 1st and April 30th of every even-numbered year.

The Citizen's Salary Setting Commission shall consist of five (5) qualified electors residing within the City and shall be appointed by the City Council pursuant to the provisions below:

(A) Strong consideration shall be given to composing the Commission of:

- (i) a retired Stanislaus County judge as chairperson;
- (ii) one (1) member from a bona fide local taxpayer's association with tax exempt status under the relevant provisions of the Internal Revenue Code;
- (iii) one (1) member from a bona fide local nonpartisan political organization, with tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, dedicated to encouraging informed and active participation in government;
- (iv) one (1) member from, a former Civil Grand Jury who has served in that role within in the previous five (5) years;
- (v) additional members who have demonstrated civic involvement and a capacity to serve in an honest, independent, and impartial fashion.

(B) No member of the Commission shall be a relative by blood or marriage within the third degree of the Mayor,

a member of the Council, any Charter officer, or any department head or deputy department head.

(C) No member of the Commission shall be an employee of the City nor any bargaining unit for employees of the City, nor be a person who receives compensation from the City or from bargaining units of the City in any manner, including retirement benefits.

(D) No member of the Commission shall be a lobbyist or other person with business before the City that represents an economic interest in excess of the limit for material financial effect as established by local ordinance for the time periods established by local ordinance.

(E) In all other respects, the members of the Commission shall be chosen pursuant to the provisions of this Charter.

(F) Members of the Commission shall serve without compensation.

Except as provided herein below, the regular term of office of each member of the Commission shall be four (4) years. The initial five (5) members of the Commission shall be appointed during the month of March 2008. Two of the members so appointed shall be appointed for a term expiring on December 31, 2010. Three (3) of the members, including the initial chairperson, so appointed shall be appointed for a term expiring on December 31, 2012. Commencing in December 2010, new appointments shall be made during the month of December of each even-numbered year to fill the offices of the members whose terms are expiring at the end of such even-numbered years. Such appointments shall be for regular terms of four (4) years commencing on the first day of January of the following odd-numbered year and expiring on the thirty-first day of December of the second even-numbered year thereafter.

No Commission member may serve for more than two (2) terms. A Commission member may be removed from office at any time for misconduct, inefficiency or willful neglect in the performance of the duties of his or her office providing the Council first states in writing the reasons for such removal and gives such member an

opportunity to be heard before the Council in his or her own defense. No tax dollars shall be expended on behalf of a Commission member for such defense. If a vacancy occurs before the expiration of a member's term, the Council shall appoint a qualified person to fill such vacancy for the remainder of the unexpired term of such member.

(c) Salary Limitations and Penalties. The salary of the Mayor shall not be more than fifty percent (50%) of the amount of the salary of a Judge of the Superior Court of Stanislaus County.

The salary of a Councilmember shall not be more than fifty percent (50%) of the median family income for the Modesto Metropolitan Statistical Area as reported by the United States Census Bureau. The salary of each Councilmember shall be the same.

Any appropriate benefits established under this provision may not include retirement or pension benefits of any sort.

No recommendation shall be made by the Commission except upon the affirmative vote of three (3) members of the Commission.

No recommendations may be made in odd-numbered years. The recommendation of the Commission will be made to the Council by April 30<sup>th</sup> of every even-numbered year to be effective for a two-year period commencing not before July 1 of that even numbered year. Failure of the Commission to make a recommendation in any even numbered year within the prescribed time shall be deemed to be a recommendation that no changes be made to existing compensation levels.

~~The Mayor and members of the Council shall each receive~~Any~~monthly compensation in accordance with the schedule of compensation set forth in Section 36516 of the Government Code of the State of California, as the same now exists or may hereafter be amended, and without adoption of an ordinance; provided, however, that said monthly compensation~~salary shall be reduced by one-sixth~~fourth~~for each regular meeting of the Council, other than adjourned regular and special meetings, not attended by a councilmember each month, unless absent on official duty with the consent of the Council. Said monthly compensation shall be paid commencing at the time this amendment to the Charter takes effect; thereafter, changes in said monthly compensation shall be governed by Section 36516.5 of the Government Code of the State

of California. ~~The Mayor and members of the Council shall also receive reimbursement for expenses incurred while performing official duties of their office.~~

(d) Process to Set Compensation. Each recommendation by the Commission, together with the reasons for the recommendation, shall be made in writing by the Commission.

Before any such recommendation is provided to the Council, a draft recommendation shall be made available to the public and the Commission shall hold at least two public hearings on the matter before it adopts its final recommendation.

~~(As amended April 29, 1971, and November 4, 1980)~~

When such final recommendation has been submitted to the Council, it shall not thereafter be amended by the Commission.

Upon receiving the final recommendation from the Commission, the Council may adopt the compensation as recommended by the Commission or may adopt compensation in some lower amount, but in no case may adopt compensation in some higher amount. The Council may only adopt all such compensation by ordinance and after a public hearing of which legal notice is published in a newspaper of general circulation within the City at least twenty (20) days prior to said hearing. Salaries established by ordinance adopted pursuant to the provisions of this Section shall remain in effect until amended by a subsequent ordinance adopted pursuant to the provisions of this Section. The compensation being paid to Councilmembers as of the effective date of this Section shall continue until any subsequent compensation is established pursuant to the requirements of this Section.

(e) Subject to Referendum.

Any final decision by the Council on compensation under this Section shall be subject to the referendum provisions of the Charter.

**SECTION 725. STATEMENT OF POLICY FOR CHARTER OFFICERS AND CITY DEPARTMENTS; COUNCIL REVIEW OF ANNUAL EVALUATIONS.**

The Council shall adopt a written Statement of Policy for each Charter Officer and for each City department which is under the administration of the City Manager. Said Statement of Policy shall

set forth the broad goals, objectives and aspirations to be accomplished by that department.

For Charter Officers, each Charter Officer shall provide to the Council a draft written Statement of Policy for his or her office for consideration, and, if deemed necessary by the Council, revision and amendment, prior to adoption by the Council. For each City department which is under the administration of the City Manager, the City Manager shall designate one or more persons in each such department to provide to the City Manager, for transmittal to the Council, a draft written Statement of Policy for each department for consideration, and, if deemed necessary by the Council, revision and amendment, prior to adoption by the Council.

Such Statements of Policy shall be reviewed and, if necessary, amended, in the first quarter of every even-numbered calendar year and when the position of a Charter Officer or the head of a City department which is under the administration of the City Manager becomes vacant.

When such review and amendment is conducted due to a vacancy in position, the Mayor and Councilmembers shall adopt a set of questions which are intended to elicit responses from each prospective appointee concerning the goals, objectives and aspirations in the Statement of Policy.

Prior to appointing any head of a City department, the City Manager shall submit to the Mayor and Councilmembers, for their review, the responses to the Mayor and Councilmembers' questions submitted by the finalists for appointment to the vacant position. This section shall not apply to the appointment of any "acting" department head to serve in an interim capacity.

The City Manager shall share and review with the Council the annual independent, written performance evaluations of each head of a city department which is under the administration of the City Manager.

Nothing in this section shall be construed in any way as an infringement or limitation on the powers and duties of the City Manager as chief administrative officer and head of the administrative branch of the City government as prescribed in other sections of this Charter.

## **SECTION 800. CITY MANAGER.**

There shall be a City Manager who shall be the chief executive officer and head of the Administrative Branch of the City government. The City Manager shall be chosen on the basis of the person's executive and administrative qualifications with special reference to the person's actual experience in, or the person's knowledge of accepted practices with respect to the duties of the office as hereinafter set forth. No member of the Council shall be eligible for appointment to the office of City Manager during the term for which the member shall have been elected or appointed, nor within one (1) year thereafter. The City Manager need not be a resident of the City or State at the time of appointment, but during the City Manager's tenure of office, the City Manager shall reside within the City.

When a vacancy occurs, the Mayor shall nominate at least two (2) candidates for Council consideration for appointment to the position of City Manager. The Mayor may express to the Council a preference among final candidates. The Council shall appoint the City Manager for an indefinite term and may remove the City Manager by a majority vote of its members; provided, however, that the City Manager shall not be removed from office during or within a period of ninety (90) days next succeeding the election of a member of the Council. The purpose of this provision is to allow any newly elected member of the Council to observe the actions and ability of the City Manager in the performance of powers and duties of this office.

~~(As amended November 7, 1989)~~

## **SECTION 801. POWERS AND DUTIES.**

The City Manager shall be the chief administrative officer and head of the Administrative Branch~~Administrative Branch~~administrative branch of the City government. The City Manager shall be responsible to the Council for the proper administration of all affairs of the City and to that end, subject to the personnel provisions of this Charter, the City Manager shall have power and shall be required to:

- (a) Appoint and, when necessary for the good of the service, discipline and remove all officers and employees of the City except as otherwise provided by this Charter, and except as the City Manager may authorize the head of any department or office to

appoint or remove subordinates in such department or office. The City Manager may also authorize the head of any department, including deputy directors, police captains and fire battalion chiefs, or other city employees as designated by ordinance, to recommend and impose discipline in accordance with this Charter.

(b) Prepare the draft budget annually and submit it to the Mayor and Council, prepare the proposed budget annually and submit it to the Mayor and Council and be responsible for its administration after its adoption by the Council, prepare all other necessary budget documents, and prepare and submit to the Mayor and Council the Capital and Operating Mid-Year Budget Report.

(c) Prepare and submit to the Council within ninety (90) days of the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding year.

(d) Review procedures relating to the assessment, levy and collection of ad valorem property taxes and make recommendations regarding the same to the Council if deemed appropriate.

(e) Establish a centralized purchasing system for all City offices, departments and agencies.

(f) Establish and enforce specifications for supplies, materials and equipment required by the City.

(g) Cause all supplies purchased by the City to be inspected and a determination made that the same comply with specifications.

(h) Prepare rules and regulations governing the contracting for, purchasing, storing, inventory, distribution or disposal of all supplies, materials and equipment required by any office, department or agency of the City government and recommend them to the Council for its adoption by ordinance. Preference shall be given to the purchase of supplies,

materials and equipment from local merchants, quality and price being equal.

(i) Enforce the laws of the State pertaining to the City, the provisions of this Charter and the ordinances, franchises and rights of the City.

(j) Keep the Council advised of the financial conditions and future needs of the City and make such recommendations on any matter as the City Manager may deem desirable.

(k) Make and execute contracts on behalf of the City involving budgeted or appropriated expenditures which do not exceed the amount specified by ordinance of the City Council.

(l) Appoint advisory boards, without compensation, to assist the City Manager in the performance of the City Manager's duty, if the City Manager deems it necessary.

(m) Interchange employees between or among departments if the City Manager deems it proper so to do.

(n) Immediately upon taking office, and annually thereafter, inventory and place a value on all real estate, buildings, furniture and fixtures, supplies and movable property of every kind and nature belonging to the City; and to require each officer or department head to inventory the same or any portion thereof. One (1) copy of such inventory shall be filed with the Council and one (1) with the auditor.

(o) Be responsible for the custody and control of all City property, the custody and control of which has not otherwise been provided for by this Charter.

(p) Perform such other duties as may be prescribed by this Charter or required of the City Manager by the Council not inconsistent with this Charter.

(q) Sign all contracts, deeds and other documents on behalf of the City when authorized to do so by the Council or by this Charter.

(r) The City Manager shall have the authority to transfer equipment and supplies between departments, and with the approval of the Council, sell obsolete, and unused or surplus personal property of the City.

(s) The City Manager shall be accorded a seat at the Council table and shall be entitled to participate in the deliberations of the Council, but shall not have a vote.

(t) The Council shall have the right to instruct the City Manager in matters of policy and ~~any~~the City Manager shall be responsible for implementing such Council policy. Any action, determination or omission of the City Manager shall be subject to review by the Council, but no such action, determination or omission shall be overruled or modified by a vote of less than four-sevenths of the members of such Council.

~~(As amended April 20, 1971, November 4, 1980, and November 7, 1989)~~

(u) The City Manager, pursuant to Section 725 of the Charter, shall direct creation of draft written statements of Policy for each City department which is under the administration of the City Manager.

(v) The City Manager annually shall conduct an independent, written performance evaluation of each head of a city department which is under the administration of the City Manager. Such performance evaluation shall include, without limitation, an evaluation of the department head's performance in implementing the Council's Statement of Policy for that department. The City Manager shall provide such performance evaluations to the Council for their review pursuant to Section 725 of the Charter. After such Council review, the Mayor may comment on the performance evaluation pursuant to Section 601(m) of the Charter.

## **SECTION 900. OFFICERS AND EMPLOYEES. GENERAL.**

The officers of the City of Modesto shall consist of a Mayor, the Council, a City Manager, a City Attorney, a City Clerk, a City Auditor and such other or subordinate officers, assistants, deputies and employees as the Council may deem necessary to provide by ordinance or resolution.

The City Attorney, the City Clerk and the City Auditor shall be appointed by and may be removed by the affirmative votes of four (4) members of the Council; provided, however, that neither the City Attorney, the City Clerk nor the City Auditor shall be removed from office during or within a period of ninety (90) days next succeeding the election of a member of the Council. The purpose of this provision is to allow any newly elected member of the Council to observe the actions and abilities of these officers in the performance of the powers and duties of the respective offices.

The City Manager shall be appointed and removed as provided by Section 800 of this Charter. Except as otherwise provided in this section, all other officers and department heads of the City shall be appointed by the City Manager and shall serve at the pleasure of the City Manager.

The City Auditor shall have such powers and be required to perform such duties, consistent with the provisions of this Charter, as may be required by the Council.

The City Manager, the City Attorney, the City Clerk, and the City Auditor may be referred to collectively in this Charter as "Charter Officers."

### **SECTION 902.1. OFFICE OF THE CITY AUDITOR**

The Office of the City Auditor is hereby established. The City Council shall appoint the City Auditor who shall serve at its pleasure. The City Auditor shall be certified according to standards comparable to a Certified Public Accountant or a Certified Internal Auditor at time of appointment.

The City Auditor shall have the following powers and duties:

(As amended November 4, 1980)

(a) Conduct or cause to be conducted annual post audits of all the fiscal transactions and accounts kept by or for the City. Such audits shall include but not be limited to the examination and analysis of fiscal procedures and the examination, checking and verification of accounts and expenditures. The audits shall be conducted in accordance with generally accepted auditing standards and accordingly shall include tests of the accounting records and other auditing procedures as may be considered necessary under the circumstances. The audits shall include the issuance of suitable reports of examination so the Council and the public will be informed as to the adequacy of the financial statements of the City.

(b) Conduct performance audits, as assigned by Council. A "performance audit" means a post audit which determines with regard to the purpose, functions and duties of the audited agency all of the following:

(1) Whether the audited department, office or agency, is managing or utilizing its resources, including public funds, personnel, property, equipment and space in an economical and efficient manner.

(2) Causes of inefficiencies or uneconomical practices, including inadequacies in management information systems, internal and administrative procedures, organizational structure, use of resources, allocation of personnel, purchasing policies and equipment.

(3) Whether the desired results are being achieved.

(4) Whether objectives established by the Council or other authorizing body are being met.

(c) Conduct special audits and investigations, as assigned by Council. "Special audits and investigations" mean assignments of limited scope, intended to determine:

(1) The accuracy of information provided to the Council.

(2) The costs and consequences of recommendations made to the Council.

(3) Other information concerning the performance of City Departments, Offices or Agencies as requested by the Council.

(d) The City Auditor shall have access to, and authority to examine any and all documents including but not limited to books, accounts, internal memoranda, writings and tapes, reports, vouchers, correspondence files and other records, bank accounts, money and other property of any City department, office or agency, whether created by the Charter or otherwise, with the exception of the office of any elected official.

It is the duty of any officer, employee or agent of the City having control of such records to permit access to, and examination thereof, upon the request of the City Auditor or his or her authorized representative. It is also the duty of any such officer, employee or agent to fully cooperate with, and to make full disclosure of all pertinent information.

(e) Prepare and submit to the Council quarterly reports of the City Auditor's activities and findings in the immediately preceding three calendar months, together with any recommendations to improve the administration of the City.

(f) Perform other auditing functions, consistent with other provisions of this Charter, and prepare and submit such other reports, as may be assigned by the Council.

The City Auditor may appoint and prescribe the duties of the professional, technical and clerical employees employed in the Office of the City Auditor; provided, however, that the City Auditor shall not appoint to any position any business associate or any person related to him or her or to the City Manager or to any member of the Council by blood or marriage within the second degree. All such appointees shall serve at the pleasure of the City Auditor in the Unclassified Service; and shall serve under such terms and conditions, salaries and benefits as are similar to other employees in Modesto's service. In the event an employee of the City who holds a Classified Service position is appointed to a position in the Unclassified Service under this Section, he or she may return to a position in the Classified Service. Such return to the Classified Service shall be without loss of any rights or privileges that currently pertain to the Classified Service.

Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any such officer or employee whom the City Auditor is empowered to appoint, but the Council may express its views and fully and freely discuss with the City Auditor anything pertaining to the appointment and removal of such officers and employees.

### **SECTION 903. DUTIES OF OFFICERS AND EMPLOYEES.**

After obtaining and considering the recommendations of the City Manager, the Council shall provide by ordinance or resolution, not inconsistent with this Charter, for the powers and duties of all officers and employees of the City.

Where the positions are not incompatible, the Council may combine in one (1) person the powers and duties of two (2) or more offices created or provided for in the Charter. ~~No office provided herein to be filled by appointment by~~ Notwithstanding this provision, the offices of the City Manager may, City Clerk, City Attorney and City Auditor shall not be combined with an office provided herein to be filled by appointment by the Council except in cases of emergency, and in no event shall such combination exceed a period of three months.

No office provided herein to be filled by appointment by the City Manager may be combined with an office provided herein to be filled by appointment by the Council.

Notwithstanding the foregoing, the Council may transfer or consolidate functions of the City government to or with appropriate functions of the State or County government or may make use of such functions of the State or County government, and in case of any such transfer or consolidation, the provisions of this Charter providing for the function of the City government so transferred or consolidated shall be deemed suspended during the continuance of such transfer or consolidation, to the extent that such suspension is made necessary or convenient and is set forth in the ordinance or resolution establishing such transfer or consolidation. Any such transfer or consolidation may be repealed in like manner.

**SECTION 1201. UNCLASSIFIED AND CLASSIFIED SERVICE.**

The administrative service of the City shall be divided into Unclassified and Classified Service.

(a) The Unclassified Service shall comprise the following officers and positions:

(1) All elected officers.

(2) City Manager, any Deputy City Manager, City Attorney, any Assistant City Attorney, any Deputy City Attorneys, City Clerk, City Auditor, and all heads of departments and deputy directors.

(3) All members of boards and commissions.

(4) Persons employed as unskilled laborers.

~~(5) Positions in any class or grade created for a special or temporary purpose for a period of not longer than ninety (90) days in any one (1) fiscal year.~~

~~(65)~~ Persons employed to render professional, scientific, technical or expert services of any occasional or exceptional character.

~~(76) Part~~ Temporary and part-time employees paid on an hourly or per diem basis.

(7) Persons employed under Section 601(l) of this Charter.

(b) The Classified Service shall comprise all positions not specifically included by this section in the Unclassified Service.

**SECTION 1302.1. SUBMISSION OF ECONOMIC FORECASTS; MAYOR'S BUDGET MESSAGE.**

The City Manager shall, on or before December 15 of each year, submit to the Mayor and to the Council a five (5) year economic forecast of expenditures and revenues for each City department, office or agency.

The Mayor shall, on or before January 15 of each year, prepare and deliver to the Council the Mayor's Proposed Budget Priorities and Direction for both the City's Capital Budget and for the City's Operating Budget.

The City Manager shall, on or before February 1 of each year, prepare and deliver to the Mayor and to the Council a Capital and Operating Mid-Year Budget Report for each City department, office or agency.

The Mayor shall, on or before February 15 of each year prepare and deliver to the Council the Mayor's Budget Message which shall include:

- (a) A statement of the fiscal priorities which the City should adopt for the ensuing fiscal year; and
- (b) Which City services, departments, offices or agencies the Mayor proposes to be expanded or reduced.

The Council shall hold a public hearing to consider the Final Mayor's Budget Message and to make any additions or revisions the Council deems advisable.

Upon close of the public hearing, the Council shall approve the Mayor's Budget Message as presented, or as revised.

#### **SECTION 1302.1302.2. ANNUAL BUDGET.**

~~On such date in~~ By April 30 of each year as shall be fixed by the Council, the City Manager shall send to the Council a draft budget consisting of a careful estimate, in writing, of the amounts of expenditures required for the business and proper conduct of the various departments, offices, boards and commissions of the City, over which the City Manager has control during the next ensuing year. Said estimate shall be in such detail as the Council shall specify. The City Manager shall also include in the draft budget at said time and submit to the Council an estimate of the amount of income from fines, licenses and other sources of revenue, exclusive of taxes upon property, and the probable amount required to be levied and raised by taxation.

(As amended November 4, 1980, and November 7, 1989)

In addition to complying with the requirements of this section, The draft budget shall accurately reflect the recommendations and priorities specified in the Final Mayor's Budget Message as adopted by the Council.

The report of the City Manager accompanying the draft budget shall specify the budget allocations which implement each component included within the Final Mayor's Budget Message as adopted by the Council.

**SECTION 1303. MAYOR'S FINAL BUDGET MODIFICATIONS; PUBLIC HEARING ON THE PROPOSED BUDGET.**

At least thirty (30) days prior to the new fiscal year, the Mayor shall prepare and deliver to the Council the Mayor's Final Budget Modifications on the draft budget.

Following the receipt of the Mayor's Final Budget Modifications, the Council shall consider and review the draft budget as submitted by the City Manager together with the Mayor's Final Budget Modifications and may make such revisions as the Council may deem advisable. The document resulting from this process shall be deemed the "Proposed Budget."

~~After reviewing the proposed budget as submitted by the City Manager and making such revisions as it may deem advisable~~ Thereafter, the Council shall determine the time for holding of a public hearing upon the "Proposed Budget", and shall cause a notice thereof to be published not less than ten (10) days prior to said hearing by at least one (1) insertion in the official newspaper of general circulation within the City.

~~Copies of the proposed budget~~ Proposed Budget to be considered at the public hearing shall be available for inspection by the public at the office of the City Clerk at least ten (10) days prior to said hearing.

At the time so advertised or at any time such public hearing from time to time be adjourned, the Council shall hold a public hearing on the proposed budget at which interested persons desiring to be heard shall be given such opportunity.

#### **SECTION 1304. ADOPTION OF THE BUDGET.**

After the conclusion of the public hearing, the Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable; and thereafter it shall adopt the budget with revisions, if any. ~~Upon final adoption~~ Such revisions may add or increase programs or amounts or may delete or decrease programs or amounts except expenditures required by law or for debt service, provided that no revision to the budget shall be in effect for increase proposed expenditures to an amount greater than the ensuing total estimated income plus unencumbered available reserves and estimated unencumbered balances of funds carried over from the preceding fiscal year.

Upon final adoption, the budget shall be in effect for the ensuing fiscal year.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the various departments or activities therein described. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered unless they shall have been designated in the budget as continuing appropriations.

At any meeting after the adoption of the budget, the Council may amend or supplement the budget by resolution.

~~(As amended November 4, 1980)~~

**REVISED SECTION 300.**

**SECTION 300. REGULAR MUNICIPAL ELECTIONS.**

Regular Municipal Elections for the election of officers and for such other purposes as the Council may prescribe shall be held biennially on the first Tuesday after the first Monday in March of each odd-numbered year until the year 1983. Thereafter they shall be held biennially on the first Tuesday after the first Monday in November of each odd-numbered year commencing with the year 1985. The person elected to each elective office of the City of Modesto shall be the person for whom the highest number of votes were cast for each office.

~~If, at a regular municipal election held on the first Tuesday after the first Monday in November of each odd-numbered year, no candidate for one of the elective offices of the City of Modesto receives a majority of the votes cast at said regular municipal election, a second regular municipal election shall be held for said office on the second Tuesday in December of each odd-numbered year commencing with the year 1987. At said second regular municipal election, the two (2) candidates receiving the highest number of votes at the first regular municipal election shall have their names placed on the ballot for election to said office.~~

**REVOKED SECTIONS 1108, 1109 and REVISED SECTION 1205.**

**SECTION 1108. BOARD OF PERSONNEL APPEALS [INTENTIONALLY OMITTED.]**

~~There shall be a Board of Personnel Appeals consisting of three (3) members.~~

~~(As amended November 4, 1980)~~

**SECTION 1109. BOARD OF PERSONNEL APPEALS, POWERS AND DUTIES [INTENTIONALLY OMITTED.]**

~~The Board of Personnel Appeals shall have the power and duty to:~~

~~(a) Select a hearing officer to hear the appeals of any person in the classified service relative to any suspension, demotion or dismissal, so long as a separate and distinct procedure has not been delineated by a valid and existing Memorandum of Understanding.~~

~~(b) Act in an advisory capacity to the City Manager on such personnel matters as may be referred to it by the City Manager.~~

~~(As amended March 8, 1977, November 4, 1980, and November 7, 1989)~~

**SECTION 1205. HEARING OFFICERS.**

An appeal of any person in the Classified Service relative to any suspension, demotion or dismissal, where the right of appeal is granted by the Personnel System of the City of Modesto, shall be heard by a hearing officer, who shall be jointly selected by the ~~Board of Personnel Appeals~~ City and the employee. The findings and recommendations of a hearing officer shall be made to the City Manager, who shall make the final determination relative to any suspension, demotion or dismissal. An alternative procedure for hearing and final determination of appeals may be delineated by a valid and binding Memorandum of Understanding or other instrument for nonrepresented employees.

Hearing officers shall have the power to administer oaths and affirmations in any appeals pending before them. Hearing officers shall have the power and authority to compel the attendance of witnesses, to

examine them under oath and to compel the production of evidence before them. Subpoenas may be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoena or the refusal to testify (upon other than constitutional grounds), shall be deemed contempt and shall be punishable as provided by the general laws of this State.

~~(Added November 4, 1980, amended November 6, 1990)~~

**REVISED SECTION 1110.**

**SECTION 1110. CULTURE COMMISSION.**

There shall be a Culture Commission consisting of seven (7) members, ~~five (5) of whom~~ that shall be registered electors of the City, ~~and except that up to two (2) of whom shall~~ members may live outside the City but shall be registered electors of Stanislaus County. The Commission shall have the power and duty to:

(a) Act in an advisory capacity to the Council and the City Manager in all matters pertaining to art, literature, music and other cultural activities;

(b) Formulate and recommend annually to the Council a program ~~relating~~ related to art, literature, and music and other cultural activities;

(c) Promote the preservation of historic sites, landmarks, documents, paintings and other objects associated with the history of the City and its area, and develop educational interest in all such historical matters;

(d) Act in an advisory capacity to the Council, City Manager and Director of any Museum or Cultural Center that may be established by the Council.

~~(As amended November 5, 1974, and November 4, 1980)~~

**REVISED SECTION 1111.**

**SECTION 1111. HUMAN RELATIONS, EQUAL OPPORTUNITY AND DISABILITY COMMISSION.**

There shall be a Human Relations Commission consisting of seven (7) members, five (5) of whom shall be registered electors of the City, Equal Opportunity and two (2) of whom shall live outside Disability Commission with the City but shall be registered electors number of Stanislaus County commissioners established by Council resolution. The Commission shall have the power and duty to:

- (a) Act in an advisory capacity to the City Council and the City Manager in matters pertaining to human relations, equal opportunity and ~~behavior~~ disability awareness;
  - (b) ~~Formulate and recommend annually to the Council a program for furthering human relations in the community;~~
  - (eb) Perform such other duties with respect to human relations, equal opportunity and ~~behavior~~ disability awareness as the City Council may prescribe by ordinance or resolution.
- (Added November 4, 1980)

**REVISED VARIOUS SECTIONS 708, 716, 1104, 1307, and 1311.**

**To conform all newspaper references to existing definition at Section 1603(h), and to change references to “telegram” to “electronic communication.”**

**SECTION 708. SPECIAL MEETINGS.**

A special meeting may be ordered at any time by the Mayor whenever in the Mayor's opinion the public business may require it, or upon the written request of any four (4) members of the Council. Whenever a special meeting shall be called, the City Clerk shall cause written notice of such meeting to be given to each member of the Council and to each local newspaper of general circulation within the City, radio or television station requesting notice in writing. Such notice must be delivered personally or must be deposited in the United States mail, postage prepaid, at least twenty-four (24) hours before the time of such meeting as specified in the notice. The notice and order shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the Council.

Written notice to each member of the Council may be dispensed with as to any member of the Council who, at or prior to the time the meeting convenes, files with the City Clerk a written waiver of notice. The waiver may be given by ~~telegram~~ electronic communication. The written notice may also be dispensed with as to any member of the Council who is actually present at the meeting at the time it convenes.

(As amended November 7, 1989)

**SECTION 716. REQUIREMENTS OF ORDINANCES. EMERGENCY ORDINANCES.**

With the sole exception of ordinances which take effect upon adoption referred to in this Article, no ordinance shall be passed by the Council on the day of its introduction nor within five (5) days thereafter nor at any other time than at a regular or adjourned regular meeting, nor until its publication at least once in full in ~~the official~~ a newspaper of general circulation within the City of Modesto at least two (2) days before its adoption. As an alternative method of publication, the Council may order copies of any ordinance to be posted at least two (2) days prior to its adoption in at least three (3) prominent and distinct locations in the City

together with a single publication in ~~such official~~ a newspaper of general circulation within the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of such ordinance are posted. In case of an amendment being made to an ordinance before the final adoption of the ordinance, it must in like manner be published in full as amended at least one (1) day before its adoption as amended. The correction of typographical or clerical errors shall not constitute an amendment within the meaning of the foregoing sentence.

**Emergency Ordinances.** Any ordinance declared by the Council to be necessary as an emergency measure for preserving the public peace, health or safety, and containing a statement of reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least five (5) affirmative votes.  
(As amended November 4, 1980)

#### **SECTION 1104. MEETINGS. CHAIRPERSONS.**

As soon as practicable following the first day of January of each year, each of such boards and commissions shall organize by electing one of its members to serve as chairperson at the pleasure of such board or commission. Whenever a special meeting of any board or commission shall be called, the secretary shall cause written notice of such meeting to be given to each member of such board or commission and to each local newspaper of general circulation within the City, radio or television station requesting notice in writing. Such notice must be delivered personally or must be deposited in the United States mail, postage prepaid, at least twenty-four (24) hours before the time of such meeting as specified in the notice. The notice and order shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by said boards or commissions.

Written notice to each member of any board or commission may be dispensed with as to any member of any board or commission who, at or prior to the time the meeting convenes, files with the Secretary of such board or commission a written waiver of notice. The waiver may be given by ~~telegram~~ electronic communication. The written notice may also be dispensed with as to any member of any board or commission who is actually present at the meeting at the time it convenes.

The affirmative or negative vote of a majority of the entire membership of such board or commission shall be necessary for it to take action. Unless otherwise provided by the Council, or by this Charter, the City Manager shall provide a secretary for the recording of the minutes of each of such boards and commissions who shall keep a record of its proceedings and transactions. Each board and commission shall prepare and submit to the Council an annual report of its activities. Such report shall be made on the fiscal year basis and shall be submitted on or before September 1 of each year. Each board or commission shall prescribe its own procedural rules and regulations which shall be consistent with this Charter and copies of which shall be kept on file in the office of the City Clerk where they shall be available for public inspection.

(As amended November 7, 1989)

### **SECTION 1307. PUBLIC WORK TO BE DONE BY CONTRACT.**

Every project involving an expenditure of City moneys of more than the amount which the City Council shall establish by ordinance, for the construction or improvement of public buildings, works, drains, sewers, utilities, parks, playgrounds, and streets (exclusive of projects for resurfacing, maintenance and repair of streets, or any park or parks playground project otherwise subject to the public bidding requirements of this section that involves any donated labor and/or material) shall be let by contract to the lowest responsible bidder after notice by publication in ~~the official~~ a newspaper of general circulation within the City by one or more insertions, the first of which shall be at least seven (7) days before the time for opening bids.

All bids shall be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the City. Such security shall be in an amount not less than that specified in the notice inviting bids or in the specifications referred to therein, or if no amount be so specified then in an amount not less than ten (10) percent of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract, within the time specified in the notice inviting bids or specifications referred to therein, the amount the person's bidder's security shall be declared forfeited to the City and shall be collected and paid into its general fund and all bonds so forfeited shall be prosecuted and the amount thereof collected and paid into such fund. The Council may reject any and all bids presented and may readvertise

in its discretion.

The Council after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the City Manager the work in question may be performed better or more economically by the City with its own employees and after the adoption of a resolution to this effect by at least five (5) affirmative votes of the Council may proceed to have said work done in the manner stated, without further observance of the provisions of this section. Such contracts likewise may be let without advertising for bids, if such work shall be deemed by the City Council to be of urgent necessity for the preservation of life, health or property and shall be authorized by resolution passed by at least five (5) affirmative votes of the Council and containing a declaration of the facts constituting such urgency. Nothing in this section shall be construed to apply to the acquisition or purchase of electricity, electric power or electric energy by the City for any use or purpose.

~~(As amended November 7, 1989, and November 2, 1999)~~

#### **SECTION 1311. CONTRACTS FOR OFFICIAL ADVERTISING.**

The Council shall let annually contracts for the official advertising for the ensuing fiscal year. In the event there is more than one (1) newspaper of general circulation within the City published and circulated in the City, the Council shall advertise for one (1) day, setting forth distinctly and specifically the work contemplated to be done, and asking for sealed proposals therefor. The proposals shall specify the type and spacing to be used at the rates named in the bids. The Council shall let the contracts for such official advertising to the lowest responsible bidder publishing a newspaper ~~in the City which is a newspaper~~ of general circulation within the City and has been in existence at the time of the awarding of the contract at least one year; provided, that the Council may reject any or all bids and advertise for new bids.

**Appendix "A"**

**Public Input Meetings and Major Written  
Materials Utilized**

Modesto Charter Review Committee  
Public Input Meetings

Location	Room	Address	Date	Time
El Concilio Center	Main Room	1314 H St. Modesto, CA	September 21, 2006	11:00 a.m.
Johansen High School	Cafeteria	641 Norsemen Modesto, CA	September 25, 2006	7:15 p.m.
Red Shield Community Center	Senior Lunch Room	1649 Las Vegas St. Modesto, CA	September 28, 2006	6:00 p.m.
Davis High School	Cafeteria	1200 W. Rumble Rd Modesto, CA	October 3, 2006	7:15 p.m.
Modesto High School	Cafeteria	18 "H" St. Modesto, CA	October 5, 2006	7:15 p.m.
Beyer High School	Scramble	1717 Sylvan Ave. Modesto, CA	October 10, 2006	7:15 p.m.
King Kennedy Community Center	Main Room	604 N. Martin Luther King Dr. Modesto, CA	October 14, 2006	10:30 a.m.
Lakewood Elementary School	Cafeteria	2920 Middleboro Pl. Modesto, CA	October 17, 2006	7:15 p.m.
Modesto Senior Center	Main Room	211 Bodem Street Modesto, CA	October 21, 2006	10:30 a.m.
Downey High School	Cafeteria	1000 Coffee Road Modesto, CA	October 25, 2006	7:15 p.m.
Prescott Senior Elementary School	Library	2243 W. Rumble Road	October 30, 2006	7:15 p.m.
Modesto City Hall	Room 2005	1010 Tenth St. Modesto. CA	November 5, 2006	5:30 p.m.
Modesto City Hall	Council Chambers	1010 Tenth St. Modesto, CA	November 6, 2008	5:30 p.m.
Enochs High School	Cafeteria	3201 Sylvan Ave. Modesto, CA	November 16, 2006	7:15 p.m.
Orville Wright Elementary School	Cafeteria	1602 Monterey Ave Modesto, CA	March 14., 2007	7:15 p.m.
King Kennedy Center	Main Room	604 N. Martin Luther King Dr. Modesto, CA	March 15, 2007	7:15 p.m.
Shackleford Elementary School	Cafeteria	100 School Ave. Modesto, CA	April 4, 2007	7:15 p.m.

## Modesto Charter Review Committee

The Modesto City Charter is our local "mini-constitution" establishing our city government. The Charter Review Committee was established by the Modesto City Council to review the Charter and obtain input from Modesto citizens to improve our city government.

### How to Contact the Charter Review Committee

Email Us:

[charterreview@modestogov.com](mailto:charterreview@modestogov.com)

Visit our Website:

[www.modestogov.com/charterreview](http://www.modestogov.com/charterreview)

View the Modesto City Charter directly on the internet  
[www.ci.modesto.ca.us/council/charter](http://www.ci.modesto.ca.us/council/charter)

Write Us:

Modesto Charter Review Committee  
c/o Bryan Whitemyer  
1010 Tenth Street  
P.O. BOX 642  
Modesto, CA 95353

- *Send us suggestions to make the City Charter better or comments about the Charter Review Process.*
- *Request a speaker for your club or organization.*



WHAT TYPES OF ISSUES DOES A CITY CHARTER ADDRESS?

City Charters Often Deal With These Types of Issues:	City Charters Do Not Normally Deal With These Issues:
City Elections: Procedure, Timing, At-Large or Districts, Specific Seats or Not	Traffic Signals Not Synchronized
Grant of Powers to City Government	Not Enough Parking
Terms of Office for City Council; Term Limits	Tree roots ruining sidewalks, curbs, landscaping or sewer lines
Salary & benefits of elected and appointed officials	Bad road maintenance and potholes
Appointment and removal of city officials and employees	Garbage not getting picked up
Limits on power of city government	Late response time of police officers or animal control
Form of government	Weeds in empty lot
Power and duties of Mayor, Vice Mayor, City Council, City Manager, City Attorney, City Clerk & City Auditor	Streetlight is burned out
Deputies, clerks and employees for city officials	Junk in the street that needs pick-up

Prepared for the Modesto 2006-2007 Charter Review Committee. The Committee would like to thank Bryan Whitmeyer, Josh Wilkerson and Andrea Coffman for their assistance in preparing this chart.

Municipal affairs	Barking dogs/Other animal control issues
Organization/regulation of most City Departments like Police, Fire, Parks, Planning and Public Works	Neighbor's tree is hanging into my yard
Local Taxes: Mandated, Prohibited, Requirements and Procedure	Too much traffic
Budget Requirements and Procedure	Too hard or takes too long to get a city permit or license
City Contract & Franchise Requirements	Traffic Laws
School System	U.S. or California Constitutional Protection
City Personnel System (hiring, pay, benefits, termination)	Quality/cost of Cable TV Service
Appointed Commissions, Boards, Committees, Forums and Task Forces	Recycling Service
	Noise Complaints
	Bus or Transit system problems
	Fees at City Golf Courses

Prepared for the Modesto 2006-2007 Charter Review Committee. The Committee would like to thank Bryan Wintemeyer, Josh Walkerson and Andrea Coffman for their assistance in preparing this chart.

**Modesto Charter Review Committee  
Speaker Request**

The Modesto City Charter is our local "mini-constitution" establishing our city government. The Charter Review Committee was established by the Modesto City Council to review the Charter and obtain input from Modesto citizens to improve our city government.

If you would like to request a Speaker from the Modesto Charter Review Committee for your club or organization meeting, please fill out the form below.

Group/Organization: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Contact Email: \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_

Group/Organization Mailing Address: \_\_\_\_\_

When does your group normally meet: \_\_\_\_\_

Where does your group normally meet: \_\_\_\_\_

Time of regular meetings: \_\_\_\_\_

Address of regular meetings: \_\_\_\_\_

Estimated Number of Attendees: \_\_\_\_\_

Time Allotted to Present: \_\_\_\_\_

Do you want a Question & Answer Period? Y/N  
(If yes, we will assume it will be part of the "Time Allotted to Present")

Any Additional Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Appendix "B"

Civic Presentations on Charter Review

Modesto Charter Review Committee  
Civic Presentations on Charter Review

Organization	Location	Date	Time	Address
Modesto Rotary Club	Double Tree	October 3, 2006	12:15 p.m.	1150 9th St Modesto, CA
Modesto Lions Club	Old Mill Cafe	October 11, 2006	12:00 p.m.	600 9th St Modesto, CA
"Bill Mick Live" Radio Show	1360 Radio Station	October 13, 2006	7:30 a.m.	2121 Lancy Dr. Modesto, CA
League of Women Voters	Appetitez Restaurant	October 31, 2006	11:45 a.m.	825 West Roseburg Modesto, CA
Masonic Temple	Temple Lodge No. 206	November 3, 2006	12:30 p.m.	800 Rose Ave. Modesto, CA
Chamber of Commerce	Chamber Meeting Room	November 10, 2006	12:00 p.m.	1114 "J" St. Modesto, CA
N. Modesto Kiwanis Club	Mallard's Restaurant	January 4, 2006	7:00 a.m.	1700 McHenry Ave. Modesto, CA
Tim St. Martin- Live Radio Show	KMPH 840 AM Radio Station	February 9, 2007	7:35 a.m.	1192 Norwegian Modesto, CA
"Bill Mick Live" Radio Show	1360 Radio Station	March 12, 2007	8:00 am.	2121 Lancy Drive Modesto, CA
Modesto Kiwanis Club	Seasons Hall	March 14, 2007	12:00 p.m.	945 McHenry Ave Modesto, CA
"The Morning Mayor"	KMPH Radio Station	July 24, 2007	8:00 a.m.	1192 Norwegian Ave. Modesto, CA
Breakfast Lions Club	Denny's Restaurant	September 4, 2007	7:00 a.m.	1525 McHenry Ave. Modesto, CA

**Appendix "C"**

**Committee's Home Site on  
City's Web Page at [www.modestogov/CharterReview/](http://www.modestogov/CharterReview/)  
and E-Mail Suggestion Box**

Modesto City Council Charter Review Committee - Microsoft Internet Explorer provided by City of Modesto

File Edit View Favorites Tools Help

Address http://development.modesto.ca.gov/charter/

Search Web

Google SMART Tools

Welcome to the City of Modesto

ABOUT NEWS FORMS CONTACTS EMPLOYMENT SEARCH

## Charter Review Committee

The Modesto Charter Review Committee consists of eleven members. Currently, the committee is reviewing the charter to determine if any changes are needed. The Charter is a unique document that, in many ways, acts like a constitution for the city. The committee will be holding town hall meetings in the future to garner input from the residents of Modesto. Any amendments to this document must be approved by a majority vote of the city's voters.

- General Information
  - Charter Review Committee Information and Membership
  - Current City of Modesto Charter
  - Questions and Suggestions
- Other Resources
  - Web Links
- Agendas
  - Current Charter Review Agenda
- Minutes
  - Recent Charter Review Minutes
- Reports
  - 1970 Charter Committee Report
  - 2000 Charter Committee Report
  - 2005 Charter Committee Report

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Topics:
 

- Contracts
- Finance
- Governmental Affairs
- Construction

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 Technical questions or website bugs may be addressed to [web@cityofmodesto.org](mailto:web@cityofmodesto.org)

City of Modesto Feedback - Microsoft Internet Explorer provided by City of Modesto

File Edit View Favorites Tools Help

Address http://development.modesto.ca.gov/charter/suggestions.aspx?Title=Feedback%20Form&ID=10000000

Search Web

Google SMART Tools

CITY OF MODESTO

ABOUT NEWS FORMS CONTACTS EMPLOYMENT SEARCH

## City of Modesto Suggestion Box

We want to provide the best services possible. Your feedback is important as we work together to improve our city.

Name:

Email:

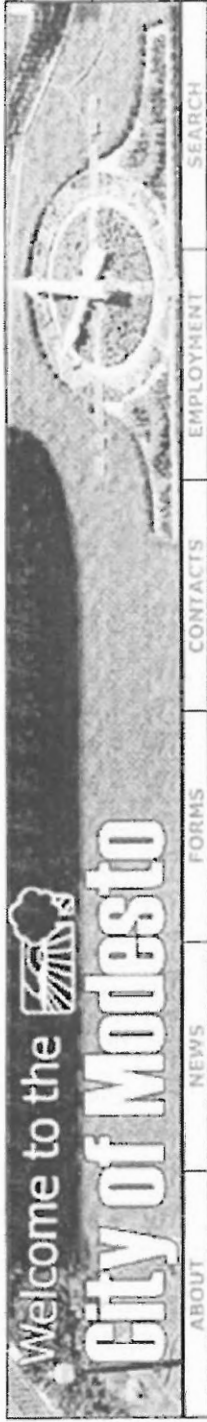
Subject:

Message:

Reply Requested:  No  Yes

Your feedback will be sent to: [feedback@modestotexas.gov](mailto:feedback@modestotexas.gov)

[Return to City Home Page](#)



## Charter Review Committee

The Modesto Charter Review Committee consists of eleven members. Currently, the committee is reviewing the charter to determine if any changes are needed. The Charter is a unique document that, in many ways, acts like a constitution for the city. The committee will be holding town hall meetings in the future to garner input from the residents of Modesto. Any amendments to this document must be approved by a majority vote of the city's voters.



Meet The City Council

- **General Information**
  - [Charter Review Committee Information and Membership](#)
  - [Current City of Modesto Charter](#)
  - [Questions and Suggestions!](#)
  - [Charter Review Auditors \*New!\*](#)
  - [Charter Review Runoffs \*New!\*](#)
  - [Modesto Compensation Report \*New!!\*](#)
- **Other Resources**
  - [Web Links](#)
  - [District Elections Presentation - 2-20-07](#)
- **Agendas**
  - [Current Charter Review Agenda](#)
- **Minutes**
  - [Recent Charter Review Minutes](#)
- **Reports**
  - [1970 Charter Committee Report](#)
  - [1980 Charter Committee Report](#)
  - [1989 Charter Committee Report](#)
  - [1999 Charter Committee Report](#)

**Search by keyword**

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Technical questions or website bugs may be addressed to [webmaster@modestogov.com](mailto:webmaster@modestogov.com)

[Click here to view the City of Modesto Online Privacy and Use Statement](#)

Appendix "D"

Introductory Note from Committee's Resource Binder

# Resource Binder for 2006-2007 City of Modesto Charter Review Committee

## Introductory Note to Interested Citizens of Modesto, California and Annotated Table of Contents

First Prepared: July, 2006  
(Revised July 21, 2006; January 23, 2007)

This resource binder is as an attempt to implement the suggestion in the National Civic League's GUIDE FOR CHARTER COMMISSIONS pamphlet that some basic useful material be provided to citizens serving on a charter committee or commission. That work suggested that the city charter, relevant state constitutional provisions and statutes, leading state supreme court decisions, and various other materials be included. The suggested items and other documents and resources are provided in this binder.

Although lengthy, the materials in this collection can in no way be considered complete. While in the end we attempted to provide the key materials that might be useful in charter deliberations, no attempt was made to be comprehensive. No thorough review of the academic and legal literature was undertaken. The results no doubt have a bias to what is available through internet searches. No experts were consulted and they likely would provide other useful material.

Consequently, if any reader is aware of other useful or necessary materials, please bring them to the attention of the committee.

Sincerest thanks to Joshua Wilkerson, Carrie Rasmussen, Andrea Coffman and Joseph Flores of Petrulakis Jensen & Friedrich, LLP and Bryan Whitemyer of the City Manager's office for their research and preparation assistance. Their support and advice was invaluable. All mistakes should not be attributed to them, but, rather errors are of the Committee Chairman.

Additional thanks to the Charter Officers of the City of Modesto for their review and suggestions: City Manager George Britton, City Attorney Susana Wood, and City Clerk Jean Morris.

In the descriptions below, we have often liberally borrowed from the source without additional attribution. Please assume such use of the materials. Internet referencing is provided where we know of it.

The materials found most useful are marked by ... A resource provided to Committee members that is not in the Resource Binder is indicated as a "Stand-Alone Resource." Reproduction permission has been obtained or is pending for copyrighted materials.

The distribution of this resource binder will include many expected parties – members of the Charter Review Committee, the Mayor and Councilmembers, the City Charter Officers and the press.

The committee has also arranged to have materials available to the public. Information about and updates for the Modesto Charter Review Committee may be found at <http://www.modestogov.com/charterreview>.

In addition, the Modesto chapter of the League of Woman Voters has agreed to be a "depository civic organization" for the materials. Our sincere thanks to the Executive Committee of the League of Woman Voters – Modesto for their assistance.

Stanislaus County Librarian Vanessa Czopek has agreed to allow the Stanislaus County Free Library to be a "depository library" for the committee's materials. Our sincere thanks to her, staff members of the county library and County CEO Rick Robinson. The main library at 1500 I Street will be a keeper of the materials [telephone at 209-558-7801.]

Stanislaus County Law Librarian Janice Milliken and the Stanislaus County Law Library Board of Trustees comprised of the Honorable Marie S. Silveira, the Honorable Hurl W. Johnson, the Honorable Susan D. Siefken, the Honorable John G. Whiteside, Secretary Michael J. Krausnick and President Bruce Ramsey, deserve thanks and recognition for also allowing the Stanislaus Law Library to be a "depository library" for viewing and access by the public. The Law Library is located at 1101 13<sup>th</sup> Street [telephone at 209-558-1709.]

Through these efforts, the committee echoes the encouragement of the editors of the fine book HOME RUN IN AMERICA in an exhortation to their readers to be involved in matters of home rule. Like those authors, the members of our committee believe that these materials:

can illuminate the role in local politics played by questions about the authority and choices available to local government officials. We encourage our readers in their capacity as citizens of their locality to be alert to proposals to augment or diminish the discretion of local officials. Changes in local authority not only affect what may happen to the locality,

*but the changes may also shape what and how the community can act in the future. Debates over the extent of extraterritorial jurisdiction or the use of "own source" revenues for community development may not be as exhilarating as debates over property tax assessments or street closures, but proposals about local government authority which become law govern the resolution of other issues. Home rule questions typically are discussed by city hall and county court house veterans – officials, civil servants, local reporters, and local attorneys. As a matter of practical democratic politics, home rule issues define the limits of local public action. Therefore, we invite all of our readers to learn more about home rule and to support appropriate action to insure that popular sovereignty remains a vital force in each community. (HOME RULE IN AMERICA, page 475.) (Emphasis added.)*

Thank you for your interest in this charter review process.

*Charter Review Committee  
City of Modesto*

The titles in bold below correspond to the tabs in the Resource Binder. (The title of the Resource Binder tabs are included in parentheses.)

**A. Modesto City Charter ("City Charter")**

**\*\*\*MODESTO CITY CHARTER**

The "local constitution" for how we govern ourselves in matters of "municipal concern" in the City of Modesto. Cities may establish city charters under Article 11, Section 3(a) of the California Constitution.

The City Charter may be found on the City's website in the location of the City's Municipal Code. The link below is to the municipal code, you must then hit the hyperlink entitled "CHARTER":

<http://www.ci.modesto.ca.us/ccl/municode> (follow "CHARTER" hyperlink to table of contents entitled "THE CHARTER OF THE CITY OF MODESTO.")

[http://ordlink.com/codes/modesto/\\_DATA/CHARTER/index.html](http://ordlink.com/codes/modesto/_DATA/CHARTER/index.html)

A printed version of the City Charter is available at the Stanislaus County Law Library with the loose-leaf, binder version of the Municipal Code.

CALIFORNIA STATUTES REFERENCED IN THE MODESTO CITY CHARTER (char1),  
City of Modesto Charter Review Committee (July 2006)

SELECTED PROVISIONS OF CALIFORNIA STATUTES REFERENCED IN THE  
MODESTO CITY CHARTER, City of Modesto Charter Review Committee (July  
2006)

## **B. Process and Procedure ("Procedures")**

ROSTER, City of Modesto Charter Review Committee

RULES AND REGULATIONS, City of Modesto Charter Review Committee  
(2006)

*Stand-Alone Resource:* \*\*\*GUIDE FOR CHARTER COMMISSIONS, Fifth Edition  
(1991) National Civic League ("NCL")

\*\*\*Excerpts from REVISING A CITY CHARTER, Thomas H. Reed (1947)  
Governmental Research Association, pages 1-8 and Postscript.

Reed, an early expert in municipal affairs, authored this gem of a short pamphlet on revising a City Charter. This work was quoted in the NCL Guide for Charter Commissioners pamphlet. It is worth reading for the genteel nature of the post-World War II advice and wisdom.

GETTING THE MOST OUT OF PUBLIC HEARINGS: IDEAS TO IMPROVE PUBLIC  
INVOLVEMENT, Institute for Local Government (2005)

The Institute for Local Government is the research affiliate of the League of California Cities, the organization providing education and advocacy services for 478 member California cities and other local agencies. The League of California Cities founded the Institute in 1955, to promote inter-jurisdictional cooperation among local

agencies. The League had determined it needed an independent research organization. Until 2005, the Institute was known as the Institute for Local Self Government. The brochure constitutes the Institute's advice for how to encourage productive public hearings.

<http://www.ca-ilg.org/publichearings> (last visited June 3, 2006).

"The Charter Commissioner," pp. 31-33 in *A GUIDE FOR CHARTER COMMISSIONERS, PART III IN THE MODERNIZING LOCAL GOVERNMENT IN MASSACHUSETTS SERIES*, Robert J. McHare (ed.) (undated) Bureau of Public Affairs, Boston College and Bureau of Government Research, University of Massachusetts.

Another of the pamphlets quoted in the NCL Guide for Charter Commissioners. The book is undated but likely dates from the late 1980's or early 1970's. Much of the work is dedicated to helping localities implement Massachusetts' then-new constitutional amendment finally allowing home rule adopted in November, 1966. The work thus focuses on Massachusetts policy issues and largely addresses drafting a charter from scratch. Only included are the excerpts about the "Charter Commissioner" - it is an unusually insightful summary of good advice to persons who find themselves in the position of drafting or revising a local charter.

### C. Agendas and Minutes of Charter Review Committee

#### D. Issues Presented to Charter Review Committee

#### E. California Constitutional Provisions on Home Rule and Cities in Article 11 ("Cal. Const.")

##### The Key Constitutional Provisions

<sup>\*\*\*</sup>CALIFORNIA CONSTITUTION, Article 11, Section 3

California constitutional provision authorizing the adoption of city charters.

<sup>\*\*\*</sup>CALIFORNIA CONSTITUTION, Article 11, Section 5

\*\*\*California "home rule" constitutional provision granting cities ultimate authority over "municipal affairs."

#### The Other Constitutional Provisions

CALIFORNIA CONSTITUTION, Article 11, Sections 2, 6, 7, 7.5, 8, 9, 10, 11, 12, 13

The California Constitution may be found on-line at the fine website entitled "Official California Legislative Information" maintained by the Legislative Counsel of California:

[http://www.leginfo.ca.gov/const/article\\_11](http://www.leginfo.ca.gov/const/article_11) (last visited June 3, 2006).

#### E. Major California Government Code Provisions Involving Charter Cities ("Gov't Code")

California Government Code Sections 34100-34102

Classification of California cities as either "chartered cities" or "general law cities."

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=34001-35000&file=34100-34102> (last visited June 4, 2006).

California Government Code Sections 34450-34462:

Methods of proposing, adopting, amending, and repealing charters or charter provisions.

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=34001-35000&file=34450-34462> (last visited June 4, 2006).

#### G. Leading California Supreme Court Cases Discussing Municipal Home Rule and City Charters ("Cal. Cases")

\*\*\*[Johnson v. Bradley](#) (1992) 4 Cal.4th 389, 14 Cal.Rptr.2d 470

This California Supreme Court case provides an excellent summary of the history of home rule in California at 4 Cal.4th 389, 394 to 400 (pages 4 to 7 as numbered in the top right-hand corner of the reproduced document.) If you read only one document on California home rule history, this excerpt should be the one. The rest of the case shows an example of how a court deciding whether a matter is proper for inclusion in a city charter.

California Federal Savings and Loan Association v. City of Los Angeles  
(1991) 54 Cal.3d 1, 283 Cal.Rptr. 569

Another California Supreme Court case shows an example of the case-by-case "facts and circumstances" analysis our state courts utilize to determine if a matter is one of "municipal" or "statewide" concern thus dictating whether a city charter may regulate the matter.

#### H. Home Rule and City Charter Background: The National View ("National View")

*Stand-Alone Resource: MODEL CITY CHARTER, 8TH EDITION, DEFINING GOOD GOVERNMENT IN A NEW MILLENNIUM, National Civic League (2003)*

The eighth version of the model charter from a leading national organization on civic affairs. The same organization that sponsors the "All-America City" competition Modesto has been involved in 2005 and 2006 and won in 1954 and 1972.

\*\*\*\*Introduction" chapter in Krane, Dale; Rigos, Platon N. and Hill, Jr., Melvin B, eds. *HOME RULE IN AMERICA - A FIFTY-STATE HANDBOOK* (2001).

This large and impressive book published by Congressional Quarterly is a compendium of different approaches to municipal home rule in the fifty states of the Union. The introduction is an excellent summary of the political, legal and academic history of home rule in the United States from a national perspective. Includes a discussion of the current significance of home rule.

Useful tables. The footnotes appear to constitute a historical bibliography of the major works in the home rule/city charter field of study.

"Home Rule" excerpts from Chapter 9 of Griffith, Ernest S., *A HISTORY OF AMERICAN CITY GOVERNMENT - THE PROGRESSIVE YEARS AND THEIR AFTERMATH 1900-1920* (1974) pp. 123-128.

A quite brief history of the development of municipal home rule from a national perspective.

"Development of Municipal Home Rule in the United States," chapter 9 in Reed, Thomas Harrison, *MUNICIPAL GOVERNMENT IN THE UNITED STATES* (1926), pp. 136-161.

An engaging longer history of the development of home rule from a national perspective.

"The Emergence of Municipal Thought," chapter 19 of Griffith, Ernest S., *A HISTORY OF AMERICAN CITY GOVERNMENT - THE CONSPICUOUS FAILURE, 1870-1900* (1974) pp. 266-275.

An interesting summary of the emergence and growth of academic study of city problems, European influences, and the National Municipal League - the former name of the National Civic League.

"The Capacity for Self-Government," chapter 2 of Reed, Thomas Harrison, *MUNICIPAL GOVERNMENT IN THE UNITED STATES* (1926), pp. 18-31.

Some could find offense in this chapter, but it illuminates the approach of the "Progressive" political scientists who pioneered work on municipal government issues such as immigrants, "vice" and "radical tendencies" in cities. Exposes biases and assumptions of this class of "experts" and "professionals."

1. Home Rule and City Charter Background: The California View (Can. View")

*Stand-Alone Resource: TAILOR-MADE GOVERNMENT: A CITIZEN'S GUIDE TO CALIFORNIA'S CHARTER CITIES AND COUNTIES*, California State Legislature Senate Local Government Committee (February 1998)

\*\*\*League of California Cities, "Types of Cities"

A brief, half-page description of the difference between "charter" and "general law" cities in California.

[http://www.caocities.org/userfiles/godoc/3242.Types%20of%20Cities.htm](http://www.cacities.org/userfiles/godoc/3242.Types%20of%20Cities.htm)  
(last visited July 12, 2006).

\*\*\*The Institute for Local Government, Charter City Project, downloads from web site

The Institute developed the Charter City Project "to provide individuals and cities with general information about charter cities, including a comparison of charter cities and general law cities, guidance on the process of becoming a charter city, how to amend or repeal a city charter, a list of California charter cities, and links to city charters."

Four documents from the project are provided in this resource binder:

"Foundational Aspects of Charter Cities"

A "question and answer" format dealing with the key aspects of city charters and "home rule" in California. Important concepts presented include that the California Constitution grants charter cities supremacy over "municipal affairs," but "municipal affairs" are undefined in the state constitution. Courts thus are left with determining whether a matter is a "municipal affair" in which the city reigns supreme or a "statewide concern" where the state legislature has ultimate authority. Court determinations are on a "case by case" basis.

<http://www.cacities.org/index.jsp?zone=ilsg&previewStory=5816#>  
(last visited June 3, 2006).

#### "Municipal Affairs"

A list of typical "municipal affairs" thus subject to full municipal regulation.

<http://www.cacities.org/index.jsp?zone=ilsg&previewStory=5877>  
(last visited June 3, 2006).

#### "Matters of Statewide Concern"

A list of typical matters of "statewide concern" thus not subject to sole municipal regulation.

<http://www.cacities.org/index.jsp?zone=ilsg&previewStory=5878#>  
(last visited June 3, 2006).

#### "Characteristics of General Law & Charter Cities"

A chart comparing the basic differences between "General Law" and "Charter" cities.

<http://www.cacities.org/index.jsp?zone=ilsg&previewStory=5529#>  
(last visited June 3, 2006).

Sokolow, Alvin D. and Detwiler, Peter M., "California" chapter in HOME RULE IN AMERICA - A FIFTY-STATE HANDBOOK, Krane, Dale, Rigos, Platon N. and Hill, Jr., Melvin B., eds. pp. 58-68.

The chapter on California in the impressive Congressional Quarterly volume entitled Home Rule in America - A Fifty-State Handbook. Basically, a decent general background on local government in California.

\*\*\*League of California Cities, THE MUNICIPAL LAW HANDBOOK, Part I "Introduction" of Chapter 1 "Nature of Municipal Corporations" sections 1.1.01 to 1.1.35, pages I-15 to I-54 (2006)

This document is the first section out of the summary of municipal law put out by The League of California

Cities. This introduction to cities provides a thorough and readable account of the pressing legal issues one should keep in mind in working with a city charter.

Meeke, Amanda, "An Overview of the History of Constitutional Provisions Dealing with Local Government," pp. 87 - 92 in Local Government section of CONSTITUTION REVISION HISTORY AND PERSPECTIVE, The California Constitution Revision Commission (1996)

This paper was prepared as a background report to the 1996 California Constitution Review Commission. It is a decent summary of the development of the actual provisions of the California Constitution that address local government.

[http://www.library.ca.gov/CCRC/reports/html/h\\_local\\_government.html](http://www.library.ca.gov/CCRC/reports/html/h_local_government.html)  
(last visited June 3, 2006).

[see also, pdf format of entire report at  
<http://www.library.ca.gov/CCRC/pdfs/history.pdf> (last visited June 3, 2006).]

Detwiler, Peter M. "Creatures of Statute . . . Children of Trade: The Legal Origins of California Cities," pp. 97-104 in Local Government section of CONSTITUTION REVISION HISTORY AND PERSPECTIVE, The California Constitution Revision Commission (1996)

A second background paper prepared as background for the California Constitution Review Commission. Its approach is thematic rather than structural.

[http://www.library.ca.gov/CCRC/reports/html/h\\_cities.html](http://www.library.ca.gov/CCRC/reports/html/h_cities.html)  
(last visited June 3, 2006).

[see also, pdf format of entire report at  
<http://www.library.ca.gov/CCRC/pdfs/history.pdf> (last visited June 3, 2006).]

WHAT TYPES OF ISSUES DOES A CITY CHARTER ADDRESS? (chart), City of Modesto Charter Review Committee (July 2006).

An attempt to contrast typical citizen concerns that are a part of a city charter and those that are not.

Report of the 1999 Modesto Charter Review Committee.

Report of the 1980 Modesto Charter Review Committee.

Report of the 1970 Modesto Charter Review Committee.

#### K. State and Federal Documents ("State & Fed. Doc's")

*Stand-Alone Resource:* THE CONSTITUTION OF THE UNITED STATES OF AMERICA & THE CONSTITUTION OF THE STATE OF CALIFORNIA (2005-2006 edition), California State Assembly.

This California Assembly book with many national and state foundational documents has been provided to us by Assemblyman David Cogdill, a former member of the Modesto City Council.

The Organic Laws of the United States: The Declaration of Independence, The Articles of Confederation, The Northwest Ordinance and The United States Constitution and Amendments.

These documents have been printed together at the front of the The United States Code, the official codification of United States statutes, for many decades now and are labeled there as "The Organic Laws of the United States." The concept of "organic law" had a particular meaning for those first placing these documents at the beginning of the Code in the 1870's as a set of basic agreements made through the years by a political community. They have no particular relevance to our proceedings. The United States Constitution, for example, makes no mention of local government. However, the replacement of the Articles of Confederation of 1777 by the Constitution ten years later reminds us that even very bright minds may imprudently or incorrectly organize their self-government. The national government was not working under the Articles and needed to be reconstituted. Our Bill of Rights, Civil

War and Reconstruction amendments, Progressive-era amendments and the others remind us how different eras respond to the task of revisions of a governing document. The Northwest Ordinance shows an example of a federal government providing for the establishment of new governments in new territories. The Declaration reminds us of the fundamental principle of the founding of the nation: "We hold these truths to be self-evident, that all men (and women) are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men (and Women), deriving their just powers from the consent of the governed... (parenthetical phrases added.)"

## Other Useful Resources Not Provided in the Resource Binder

### Books and Reports

Frug, Gerald E., *CITY MAKING: BUILDING COMMUNITIES WITHOUT BUILDING WALLS*, Princeton University Press (1999).

Giventer, Laurence, *GOVERNING CALIFORNIA*, McGraw-Hill (2004).

A good text summarizing California government by CSU Stanislaus Professor Giventer, Department of Politics and Public Administration. Useful for placing cities into the context of the rest of state and local government in California.

Goodnow, Frank, J., *MUNICIPAL HOME RULE A STUDY IN ADMINISTRATION*, Columbia University Press (1895).

A pioneering and significant work on home rule for cities.

Janiskee, Brian P. and Masugi, Ken, *DEMOCRACY IN CALIFORNIA: POLITICS AND GOVERNMENT IN THE GOLDEN STATE*, Rowman and Littlefield (2004).

Janiskee, Brian P. and Masugi, Ken, eds., *THE CALIFORNIA REPUBLIC: INSTITUTIONS, STATESMANSHIP & POLICIES*, Rowman and Littlefield (2004).

Matthews, Nathan, *MUNICIPAL CHARTERS A DISCUSSION OF THE ESSENTIALS OF A CITY CHARTER WITH FORMS OR MODELS FOR ADOPTION*, Harvard University Press (1914)

A former mayor of Boston became a lecturer of Harvard and offers his wisdom for city charter writers. An insightful quotation (also found quoted in the O'Hare pamphlet cited above) argues for simple, brief, and comprehensible language in a charter since manipulation can occur in a too-complex document:

"The more intricate and uncertain the provisions of law, the greater the opportunities for a corrupt use of them; and the citizen who has not made a special study of these complications is at a great disadvantage as compared with the municipal politician who is perhaps ignorant of every other subject, but a master of this." (Page 5.)

McBain, Howard Lee, AMERICAN CITY PROGRESS AND THE LAW (1917)

McBain, Howard Lee, THE LAW AND PRACTICE OF MUNICIPAL HOME RULE, Columbia University Press (1916).

A thick summary of law and legal issues related to city home rule.

McGoldrick, Joseph D., LAW AND PRACTICE OF MUNICIPAL HOME RULE 1916-1930, Columbia University Press (1933).

An update to McBain's 1916 work.

MODEL GOVERNMENT CHARTERS: A CITY, COUNTY, REGIONAL, STATE AND FEDERAL HANDBOOK (Kemp, Roger L. ed.), McFarland & Co. (2003)

Reed, Thomas H., and Webbink, Paul, DOCUMENTS ILLUSTRATIVE OF AMERICAN MUNICIPAL GOVERNMENT, The Century Co. (1926).

An interesting anthology of a wide variety of official documents relating to city government in the United States.

Reed, Thomas Harrison, MUNICIPAL GOVERNMENT IN THE UNITED STATES (1926)

U.S. Advisory Commission on Intergovernmental Relations, LOCAL GOVERNMENT AUTONOMY: NEEDS FOR STATE CONSTITUTIONAL, STATUTORY,

<http://www.library.unt.edu/gpo/acir/Reports/policy/a-127.pdf>  
(last visited July 12, 2006).

U.S. Advisory Commission on Intergovernmental Relations, STATE LAWS GOVERNING LOCAL GOVERNMENT STRUCTURE AND ADMINISTRATION (Washington, D.C.: ACIR, M-188, March 1993).

<http://www.library.unt.edu/gpo/acir/Reports/information/M-186.pdf>  
(last visited July 12, 2006).

*Major Legal Treatises* (“°” indicates that resource is available at the Stanislaus County Free Library and “\*” indicates that it is available at the Stanislaus County Law Library.)

Antieau, Chester J., ANTEAU ON LOCAL GOVERNMENT LAW, 2d ed. New York: Matthew Bender & Co., 1998 – (7 vols.)

McQuillin, Eugene, THE LAW OF MUNICIPAL CORPORATIONS, 3d ed. St. Paul, MN: West Group (Clark Boardman Callaghan), 1978 – (20 vols.)

Sands, C. Dallas & Libonati, Michael F., LOCAL GOVERNMENT LAW, St Paul, MN: West Group (Clark Boardman Callaghan), 1981 – (4 vols.)

\*Singer, Norman J., STATUTES AND STATUTORY CONSTRUCTION, 6<sup>th</sup> ed. Deerfield, IL: Clark Boardman Callaghan, 2000 – (4 vols.)

°\*45 Cal. Jur. 3d (2000) *Municipalities* §§ 102-116, pp. 173-199 [“Organization Under Charter”], and §§ 175-204, pp. 272-323 [“Respective Fields of Operation of State and Municipal Regulation”].

°\*8 Withkin, Summary of California Law (10<sup>th</sup> ed. 2005) *Constitutional Law*, §§ 993-1004, pp. 566-586 [“Exclusive Power Over Municipal Affairs.”]

*Journal and Law Review Articles* (Law reviews of California law schools and the *Harvard Law Review* are available at the Stanislaus County Law Library)

Albuquerque, Manuela, “California and Dillon: The Times They Are A-Changing,” 25 *Hastings Constitutional Law Quarterly* 187 (1998)

Frug, Gerald E., "The City As A Legal Concept," 93 Harvard Law Review 1057 (1979-1980)

Gronemeyer, Lyman S., "Legislative Control of Municipal Corporations in California," 7 U.C.L.A. Law Review 102 (1960)

Jones, William Carey, "'Municipal Affairs' in the California Constitution," 1 California Law Review 132 (1912-1913)

Levin, Marc A., "How to Find Local Law: A California Paradigm," 14 Legal References Quarterly 79 (1994)

Peppin, John C., "Municipal Home Rule in California: I," 30 California Law Review 1 (1941)

Peppin, John C., "Municipal Home Rule in California: II," 30 California Law Review 272 (1941-1942)

Peppin, John C., "Municipal Home Rule in California III: Section 11 of Article XI of the California Constitution," 32 California Law Review 341 (1944)

Peppin, John C., "Municipal Home Rule in California: IV: Sections 12 and 13 of Article XI of the California Constitution," 34 California Law Review 644 (1946)

Reed, Thomas H., "Municipal Home Rule in California," 1 National Municipal Review 569 (1912)

Sandalow, Terrance "The Limits of Municipal Power Under Home Rule: A Role for the Courts," 48 Minnesota Law Review 643 (1964)

Sato, Sho, "'Municipal Affairs' in California," 60 California Law Review 1055 (1972)

Schwartz, Gary T., "The Logic of Home Rule and the Private Law Exception," 20 U.C.L.A. Law Review 671 (1973)

## World Wide Web Resources

### Library Resources on the Internet:

Council of California County Law Librarians, "Your Public Law Library" website

<http://www.publiclawlibrary.org> (last visited July 12, 2006).

Georgetown University Law Center, Georgetown Law Library, California Research In Depth link

<http://www.ll.georgetown.edu/states/california-in-depth.cfm>  
(last visited July 12, 2006).

Institute of Governmental Studies, U.C. Berkley, California Local Government Information Website link

<http://www.law.berkeley.edu/library/classes/alr/local.html> (last visited July 12, 2006).

Northern California Association of Law Libraries, California Resources link

<http://www.nocall.org/calif.htm> (last visited July 12, 2006).

University of California - Berkley, Law Library, Local Government Legal Resources link

<http://www.igs.berkeley.edu/library/localweb.html> (last visited July 12, 2006).

University of California, Hastings College of the Law, Hastings Law Library, Local Government Clinic link

<http://library.uchastings.edu/library/Legal%20Research/Class%20Pages/local-govt.htm> (last visited July 12, 2006).

**Organizations Available on the Internet:**

California State Senate, Local Government Committee

[www.sen.ca.gov/locgov.Senate.HTP](http://www.sen.ca.gov/locgov.Senate.HTP)

City Clerks Association of California

[www.californiacityclerks.org](http://www.californiacityclerks.org)

Institute for Local Government (ILG)

[www.ilsg.org](http://www.ilsg.org)

*see especially, City Charter Project at the ILG*

[http://www.cacities.org/index.jsp?displaytype=11&zone=ilsg&section=projects&sub\\_sec=projects\\_charter&story=5446](http://www.cacities.org/index.jsp?displaytype=11&zone=ilsg&section=projects&sub_sec=projects_charter&story=5446) (last visited July 12, 2006).

International City/County Management Association (ICMA)

[www.icma.org](http://www.icma.org)

International Institute of Municipal Clerks (IIMC)

[www.iimc.com](http://www.iimc.com)

International Municipal Lawyers Association (IMLA)

[www.imla.org](http://www.imla.org)

*see especially, IMLA Hot Links - Local Government Resources on the World Wide Web*

<http://www.imla.org/links/local.htm> (last visited July 12, 2006).

League of California Cities (LCC)

[www.cacities.org](http://www.cacities.org)

League of Women Voters - Modesto

[www.lmvmodesto.org](http://www.lmvmodesto.org)

Post Office Box E  
Modesto, California 95352

(209) 524-1698

League of Women Voters of California

[www.ca.lwv.org](http://www.ca.lwv.org)

League of Women Voters (national)

[www.lwv.org](http://www.lwv.org)

Municipal Management Association of Northern California (MMANC)

[www.mmanc.org](http://www.mmanc.org)

National Civic League (NCL)

[www.ncl.org](http://www.ncl.org)

National League of Cities (NLC)

[www.nlc.org](http://www.nlc.org)

*see especially, About Cities: Cities 101 link (see subsection on "City Charters and Powers")*

<http://www.nlc.org/about%5Fcities/cities%5F101> (last visited July 12, 2006.)

Urban Affairs Association

[www.udel.edu/uaa](http://www.udel.edu/uaa)

U.S. Conference of Mayors

[www.usmayors.org](http://www.usmayors.org)

## **Compilations of California City Charters on the Internet**

Institute of Governmental Studies, U.C. Berkeley, California Local Codes and Charters link

<http://www.igs.berkeley.edu/library/calcodes.html>

League of California Cities Charter Library link

<http://www.cacities.org/charters>

League of California Cities Municipal Code Library link (many with charters)

<http://www.cacities.org/municodes>

## **Fast Facts About California Cities on the Internet:**

List of California Cities (478 cities in California as of October 3, 2003)

[http://www.cacities.org/resource\\_files/20455.city%20list.pdf](http://www.cacities.org/resource_files/20455.city%20list.pdf)

List of California Charter Cities (108 charter cities in California as of May 5, 2005)

<http://www.cacities.org/index.jsp?zone=locc&previewStory=571>

List of California Cities by Population (Modesto population of 207,634 makes it the 16th largest city in California as of May 30, 2006; Glendale is the next smallest and Fremont is the next largest)

[http://www.cacities.org/resource\\_files/24766.CitybyPop.rtf](http://www.cacities.org/resource_files/24766.CitybyPop.rtf)

List of California Cities by Date Incorporated (Modesto incorporated August 6, 1884)

[http://www.cacities.org/resource\\_files/20457.IncorpDateLO.doc](http://www.cacities.org/resource_files/20457.IncorpDateLO.doc)

Links to Websites of California Cities

<http://events.cacities.org/cgi-shl/TWServer.exe/Run:WEBLIST>

## Appendix "E"

### Disposition of Issues Raised in Public Input Process

**Modesto Charter Review Committee**  
**Disposition of Issues Raised in Public Input Process**

<b>Category</b>	<b>Issue</b>	<b>Source</b>	<b>Committee Action</b>
Accountability	Annual Performance Review of Charter Offices	Councilmember	Recommendation
Accountability	Finance Director As Charter Officer	Councilmember	No Recommendation
Accountability	Consider "At Will" Classification of Deputy Directors and City Attorneys	Councilmember	Recommendation
Accountability	Auditor as an Independent Charter Officer	Modesto Bee	Recommendation
Accountability	Publish Employee Evaluations	Public Input	No Recommendation
Accountability	Ensure Full Punishment for Charter Violations	Public Input	No Recommendation
Accountability	Form of Government, Powers of Elected Officials	Public Input	Recommendation
Accountability	Increase Transparency of Contract Bidding System	Public Input	No Recommendation
Accountability	Mandate Public Hearings to Raise Fees or Alter Public Employee Retirement Packages	Chamber of Commerce	No Recommendation
Accountability	Publish Department Reports on Employee Malfeasance and Exposure to Lawsuits	Chamber of Commerce	No Recommendation
Accountability	Provide Deputy Directors, Police Captains and Fire Battalion Chiefs with Disciplinary Authority	Public Input	Recommendation
Accountability	Evaluate and Reform Internal Controls	Councilmember	No Recommendation
Accountability	Accountability of City Hall	Comm. Applicant	No Recommendation
Accountability	Contract Oversight	Comm. Applicant	No Recommendation
Accountability	Come to Terms with City Size/ Modernize Government	Comm. Applicant	No Recommendation
Accountability	Increase Support when Complaints are Issued Against City	Public Input	No Recommendation
Accountability	Reduce Middle Management/ Increase Oversight	Public Input	No Recommendation
Accountability / Compensation	Compensation for Planning Commission	Public Input	No Recommendation

Category	Issue	Source	Committee Action
Accountability/ Compensation	Compensation for City Council	Modesto Bee, Comm. Applicants	Recommendation
Operations	Unify Police Response Times	Public Input	No Recommendation
Operations	Address Growth Outside City Limits	Public Input	No Recommendation
Operations	Put Emphasis on Preservation / Upkeep of Trees	Public Input	No Recommendation
Operations	Increased Public Access to the City Budget	Public Input	No Recommendation
Operations	Increase Efficiency of Customer Service at City Hall	Public Input	No Recommendation
Operations	Provide Improved Methods of Police Training	Public Input	No Recommendation
Policy / Operations	Increase Staff Numbers Instead of Using Overtime	Public Input	No Recommendation
Policy	City to Adopt Proactive Position on Growth	Public Input	No Recommendation
Policy	Regularly Scheduled Examination of Growth	Public Input	No Recommendation
Policy	Adopt Two Year Budgeting Process	Public Input	No Recommendation
Policy	Improve City and County Relations	Public Input	No Recommendation
Policy	Make the Charter and General Plan Consistent on Issues of Growth	Public Input	No Recommendation
Policy	Adopt Annual Disaster Preparedness Report	Public Input	No Recommendation
Technical	Eliminate Cultural Commission Residency Requirement	Dept. Director	Recommendation
Technical	Eliminate Board of Personnel Appeals	Dept. Director	Recommendation
Technical	Clarify Hourly Employee Classification	Dept. Director	Recommendation
Technical	Eliminate Archaic References	Modesto Bee , Comm. Applicants	Some Recommendations
Technical	Merger of Human Relations Commission with Equal Opportunity/ Disability Commission	Dept. Director	Recommendation
Elections	Establish District Elections, Election System to Increase Diversity and Accountability	Public Input	Recommendation
Elections	Eliminate / Reform Run Off System	Public Input	Recommendation
Elections	Mandatory Resignation of Elected Officials Who File for Another Office	Public Input	No Recommendation

Appendix "F"

Election Reform Act of 2007

January 17, 2007

RECEIVED  
MODESTO CITY CLERK  
07 JAN 17 PM 12:46

To:  
City Clerk, City of Modesto  
1010 10<sup>th</sup>. St.  
Modesto, Ca 95353

From:  
Modestan's for Fair District Elections  
PO BOX 1166  
Modesto, Ca. 95653

We request to be placed on the regular agenda for the November 23, 2007 Council Meeting.

Agenda items to include:

REQUEST FOR TITLE AND SUMMARY OF INITIATIVE PROPOSING  
CHARTER AMENDMENT

NOTICE OF INTENT TO CIRCULATE PETITION

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

ATTACHED TO BE PLACED ON BALLOT BY COUNCIL

Thank you,

*CS*

Carmen Sabatino  
Modestan's for Fair District Election

RECEIVED  
MODESTO CITY CLERK

07 JAN 17 PM 12:46  
NOTICE OF INTENT TO CIRCULATE PETITION

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Modesto for the purpose of amending the Charter of the City of Modesto with respect to establishing district elections. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

On February 22, 2000, the City Council of the City of Modesto were given the opportunity to allow the Citizens of Modesto to vote on reforms to the City election system that would increase voter participation and make elected city officials more accountable to the voters, namely in the form of district elections.

On a 4 to 3 vote of the City Council, the Citizens of Modesto were denied their right to vote on this important improvement. For too long, the City of Modesto has either ignored voter input or rejected the opportunity for such input altogether.

Modestans For Fair District Elections is a coalition of individuals, small business owners, labor, taxpayer advocates and minority representatives that firmly believe in the citizen's right to vote. Modestans For Fair District Elections has sponsored this initiative process to fundamentally change the election process in Modesto to ensure more accountability of our elected officials and to increase voter participation.

Signed by:

*Carmen Sabatino*

CARMEN SABATINO  
617 W. Granger Ave #37  
Modesto, Ca. 95350

*William Thomas Jensen*

WILLIAM THOMAS JENSEN  
1812 Robbie Ave  
Modesto, Ca 95350

*M. B. Donoso*

MIGUEL DONOSO  
2544 Beatrice Lane  
Modesto, Ca. 95350



07 JAN 17 PM 12:46

RECEIVED  
MODESTO CITY CLERK

Date January 17, 2007

RECEIVED  
MODESTO CITY CLERK

07 JAN 17 PM 12:46

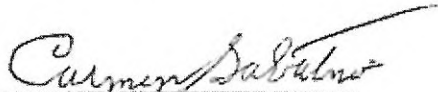
Jean Morris, City Clerk  
City of Modesto  
1010 - 10<sup>th</sup> Street, Suite 6600  
Modesto, Ca 95354

Re: Request for Title and Summary of Initiative Proposing Charter Amendment

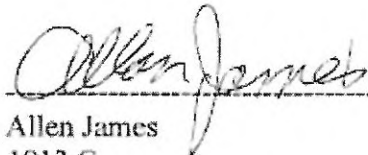
Dear Ms. Morris:

I enclose the text of a proposed initiative amending the Charter of the City of Modesto, a Notice of Intent to Circulate Initiative, and a check for \$200. Would you please transmit a copy of the proposed measure to the City Attorney for the preparation of a ballot title and summary. Do not hesitate to call if there are any questions.

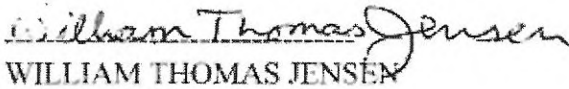
Very truly yours,



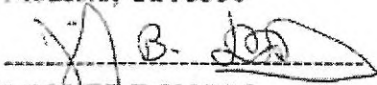
CARMEN SABATINO  
617 W, Granger Ave #37  
Modesto, Ca. 95350



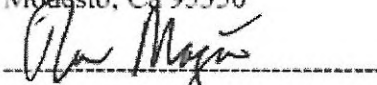
Allen James  
1913 C  
Edgebrook Drive  
Modesto, Ca 95354



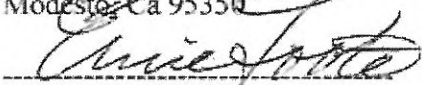
WILLIAM THOMAS JENSEN  
1812 Robbie Ave  
Modesto, Ca 95350



MIGUEL DONOSO  
2620 Beatrice Lane  
Modesto, Ca 95350



Ramon Magana  
1031 Brady Ave  
Modesto, Ca 95350



Ernie Foote  
1316 Sunrise Ave  
Modesto, Ca 95350-5554

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

SECTION ONE: *Declaration of Findings and Intent*

- A. This initiative shall be known as the "Election Reform Act of 2007."
- B. The Citizens of Modesto find that the City election system should be reformed and improved to increase voter turnout and to make elected city officials more accountable to the voters. Everyone will benefit if more people become actively involved in the City's elections, and if city officials become more accountable to the citizens. To that end, Modestans For Fair District Elections amend the City Charter to do the following.
  1. Elect Council members from districts. District elections allow everyone to Be represented by someone who lives in their part of town and who understands their concerns. District elections make candidates more accountable to the people they represent and increases interest in city elections.

SECTION TWO: *Charter Amendments*

SECTION 501 MANNER OF ELECTION

The Mayor shall be elected from the City at large at the times and in the manner provided in this Charter. The Council members shall be elected by District at the times and in the manner provided by this Charter.

SECTION 503 DESIGNATION OF COUNCILMEMBERS FOR ELECTION

As to Council members there shall be deemed to be six (6) separate offices to be filled, one of which shall be designated as District 1, another as District 2, another as District 3, another as District 4, another as District 5, and another as District 6. The City Clerk pursuant to Section 700 of this Charter has previously designated the six (6) separate Councilmember offices as Chairs 1 through 6. when the City Clerk initially establishes District boundaries pursuant to Section 505 of this Charter, the Councilmember previously elected to a numerically designated Chair shall be deemed to be the representative of the District with the same numerical designation. No candidate shall file for more than one (1) elective office. Such designation shall be used on all nomination papers, certificates of election and all election papers referring to the office.

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SECTION 504. TERM OF OFFICE.

- (a) Except as otherwise provided in this Charter, the terms of elective offices shall be Four (4) years.
- (b) In 2009 and every fourth (4<sup>th</sup>) year thereafter, the offices of Council members Designated as District 2, District 4, and District 5 shall be filled at the general Municipal election held in November, or at such other time as provided in this Charter. In 2011 and every fourth (4<sup>th</sup>) year thereafter, the offices of Mayor and Council members designated as District 1, District 3, and District 6 shall be filled At the general municipal election held in November, or at such other time as Provided in this Charter.

SECTION 505. ELIGIBILITY, DISTRICT ELECTIONS

Commencing with the 2009 general municipal election, no person shall be eligible to hold elective office as a Councilmember unless that person is, and has been for a period of at least thirty (30) days immediately preceding the filing of nomination papers for such office or appointment to such office, a resident within the Council District corresponding in number to the office to which that person is elected or appointed. Each Councilmember shall, during the 2009 general municipal election, the incumbents in District 2, 4, and 5 shall be subject to the residency requirements of this section. The initial boundaries of such Districts shall be determined by the City Clerk no later than July 1, 2008 and shall be redetermined by the City Clerk not later than one hundred eighty (180) days following the publication of each federal census thereafter. The District boundaries shall be determined or redetermined in conformance with the following standards:

- (a) The territory comprising each District shall be contiguous and as nearly compact in shape as possible.
- (b) The District should be as nearly equal in population as possible according to the Latest Federal Decennial Census.
- (c) District boundaries shall not cross census tract lines, except to the extent necessary to ensure that the Districts are as nearly equal in population as may be according to the latest Federal Decennial Census.
- (d) The six (6) districts shall be formed by dividing the City into six (6) geographic areas that split the City evenly into thirds from west to east, and again in half from north to south, thereby creating a northwestern, Midwestern, southwestern, northeastern, mid-eastern, and southeastern districts, consistent with the other standards listed below.

- (e) Consistent with Section 505 (d) above, District 1 shall be composed of the Northwestern-most census tracts in the city that contain one-sixth of the Population of the city. For purposes of this section, a census tract shall be considered to be to the northwest of other census tracts if it contains any area that is farther to the north and the west than all areas contained within the other census tracts. In the event that two or more census tracts are equally Northern by this definition, the City Clerk shall select the western-most Census tract.
- (f) Consistent with Section 505 (d) above, District 2 shall be composed of the Northeastern-most census tracts in the city that contain one-sixth of the Population of the city.
- (g) Consistent with Section 505 (d) above, District 3 shall be composed of the mid-Western most census tracts in the city that contains one-sixth of the population of the city.
- (h) Consistent with Section 505 (d) above, District 4 shall be composed of the mid-Eastern most census tracts in the city that contains one-sixth of the population of the city.
- (i) Consistent with Section 505 (d) above, District 5 shall be composed of the Southwestern-most census tracts in the city that contain one-sixth of the population of the city.
- (j) Consistent with Section 505 (d) above, District 6 shall be composed of the Southeastern-most census tracts in the city that contain one-sixth of the population of the city.
- (k) If at any time between each Federal Decennial Census, the city annexes Territory, the City Clerk shall adjust the boundaries of any or all the Districts of the city so that the Districts shall be nearly equal in population as may be according to the latest Federal Decennial Census.

SECTION THREE: *Severability*

If any provision of this measure or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or application, and to this end the provisions are severable.

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January 17, 2007

RECEIVED  
MODESTO CITY CLERK

07 JAN 17 PM 12:46

To:  
City Clerk, City of Modesto  
1010 10<sup>th</sup> St.  
Modesto, Ca 95353

From:  
Modestan's for Fair District Elections  
PO BOX 1166  
Modesto, Ca. 95653

We request to be placed on the regular agenda for the November 23, 2007 Council Meeting.

Agenda items to include:

REQUEST FOR TITLE AND SUMMARY OF INITIATIVE PROPOSING  
CHARTER AMENDMENT

NOTICE OF INTENT TO CIRCULATE PETITION

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

ATTACHED TO BE PLACED ON BALLOT BY COUNCIL

Thank you.

Carmen Sabatino  
Modestan's for Fair District Election

## NOTICE OF INTENT TO CIRCULATE PETITION


Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Modesto for the purpose of amending the Charter of the City of Modesto with respect to establishing district elections. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

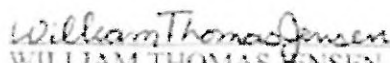
On February 22, 2000, the City Council of the City of Modesto were given the opportunity to allow the Citizens of Modesto to vote on reforms the city election system that would: creating city council districts that will make elected officials more accountable to the citizens they serve, and reduce the impact of special interest money on elections.

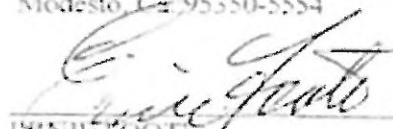
On a 4 to 3 vote of the City Council, the Citizens of Modesto were denied their right to vote on this important improvement: the City of Modesto has either ignored voter input or rejected the opportunity for such input altogether.

Modestans for Fair District Elections is a coalition of individuals, small business owners, labor, taxpayer advocates and minority representatives that firmly believe in the citizen's right to vote. Modestans for Fair District Elections has sponsored this initiative process to fundamentally change the election process in Modesto to ensure more accountability of our elected officials and to increase voter participation.

Signed by:

 Date 2-26-07  
CARMEN SABATINO  
617 W. Granger Ave #37  
Modesto, Ca. 95350

 Date 2/26/07  
WILLIAM THOMAS JENSEN  
1812 Robbie Ave  
Modesto, Ca. 95350-5554

 Date 02-26-07  
ERNIE FOOTE  
1316 Sunrise Ave  
Modesto, Ca. 95350-5554

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MODESTO CITY CLERK  
07 FEB 26 PM 3:10

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

SECTION ONE: *Declaration of Findings and Intent*

- A. This initiative shall be known as the "Election Reform Act of 2007."
- B. The stated intent of the initiative is to reform the City of Modesto's election system by creating city council districts that will make elected officials more accountable to the citizens they serve, and reduce the impact of special interest money on elections.

The stated intent of the initiative is reform the City of Modesto's election system by forming six (6) representative districts.

SECTION TWO: *Charter Amendments*

SECTION 501 MANNER OF ELECTION

The mayor shall be elected from the city at large at the times and in the manner provided in this charter. The council members shall be elected by district at the times and in the manner provided by this charter.

SECTION 503 DESIGNATIONS OF COUNCILMEMBERS FOR ELECTION

As to council members there shall be deemed to be six (6) separate offices to be filled, one of which shall be designated as District 1, another as District 2, another as District 3, another as District 4, another as District 5, and another as District 6. The city clerk pursuant to Section 700 of this Charter has previously designated the six (6) separate councilmember offices as chairs 1 through 6 when the city clerk initially establishes district boundaries pursuant to Section 505 of this charter, the council member previously elected to a numerically designated chair shall be deemed to be the representative of the district with the same numerical designation. No candidate shall file for more than one (1) elective office. Such designation shall be used on all nomination papers, certificates of election and all election papers referring to the office.

SECTION 504: TERM OF OFFICE.

- A. Except as otherwise provided in this charter, the terms of elective offices shall be four (4) years.
- B. In 2009 and every fourth (4<sup>th</sup>) year thereafter, the offices of council members designated as District 2, District 4, and District 5 shall be filled at the general municipal election held in November, or at such other time as provided in this

07 FEB 26 PM 3:19  
THE CITY CLERK  
MODESTO CITY CLERK

charter. In 2011 and every fourth (4<sup>th</sup>) year thereafter, the offices of mayor and council members designated as District 1, District 3, and District 6 shall be filled at the general municipal election held in November, or at such other time as provided in this charter.

SECTION 505: ELIGIBILITY, DISTRICT ELECTIONS

- A. Commencing with the 2009 general municipal election, no person shall be eligible to hold elective office as a council member unless that person is, and has been for a period of at least one hundred and thirty (130) immediately preceding the filing of nomination papers for such office or appointment to such office, a resident within the council district corresponding in number to the office to which that person is elected or appointed. Each council member shall, during the 2009 general municipal election; the incumbents in District 2, 4, and 5 shall be subject to the residency requirements of this section.
- B. The initial boundaries of such districts shall be determined by the city clerk no later than July 1, 2008 and shall be redetermined by the City Clerk not later than one hundred eighty (180) days following the publication of each federal census thereafter. The city clerk recommendations shall be subject to judicial review. The district boundaries shall be determined or redetermined in conformance with the following standards:
  - a) The territory comprising each District shall be contiguous and as nearly compact in shape as possible.
  - b) The district should be as nearly equal in population as possible according to the latest Federal Decennial Census.
  - c) District boundaries shall not cross census tract lines, except to the extent necessary to ensure that the districts are as nearly equal in population as may be according to the latest Federal Decennial Census.
  - d) The six (6) districts shall be formed by dividing the City into six (6) geographic areas that split the city evenly into thirds from west to east, and again in half from north to south, thereby creating a northwestern, Midwestern, southwestern, northeastern, mid-eastern, and southeastern districts, consistent with the other standards listed below.
  - e) Consistent with Section 505 (d) above, District 1 shall be composed of the Northwestern-most census tracts in the city that contain one-sixth of the population of the city. For purposes of this section, a census tract shall be considered to be to the northwest of other census tracts if it contains any area that is farther to the north and the west than all areas contained within the other census tracts. In the event that two or more census tracts are

equally northern by this definition, the city clerk shall select the western-most Census tract.

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- k) If at any time between each Federal Decennial Census, the city annexes territory, the city clerk shall adjust the boundaries of any or all the districts of the city so that the districts shall be nearly equal in population as may be according to the latest Federal Decennial Census.

### SECTION THREE: *Severability*

If any provision of this measure or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or application and to this end the provisions are severable.

# The Sabatino Report

June 27, 2007

## **MODESTO DISTRICTS INITIATIVE MEASURE**

### INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

#### SECTION ONE: Declaration of Findings and Intent

A. This initiative shall be known as the "Election Reform Act of 2007."

B. The stated intent of the initiative is to reform the City of Modesto's election system by creating city council districts that will make elected officials more accountable to the citizens they serve, and reduce the impact of special interest money on elections.

The stated intent of the initiative is reform the City of Modesto's election system by forming six (6) representative districts.

#### SECTION TWO: Charter Amendments

##### SECTION 501 MANNER OF ELECTION

The mayor shall be elected from the city at large at the times and in the manner provided in this charter. The council members shall be elected by district at the times and in the manner provided by this charter.

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As to council members there shall be deemed to be six (6) separate offices to be filled, one of which shall be designated as District 1, another as District 2, another as District 3, another as District 4, another as District 5, and another as District 6. The city clerk pursuant to Section 700 of this Charter has previously designated the six (6) separate councilmember offices as chairs 1 through 6 when the city clerk initially establishes district boundaries pursuant to Section 505 of this charter, the council member previously elected to a numerically designated chair shall be deemed to be the representative of the district with the same numerical designation. No candidate shall file for more than one (1) elective office. Such designation shall be used on all nomination papers, certificates of election and all election papers referring to the office.

#### SECTION 504: TERM OF OFFICE.

A. Except as otherwise provided in this charter, the terms of elective offices shall be four (4) years.

B. In 2009 and every fourth (4th) year thereafter, the offices of council members designated as District 2, District 4, and District 5 shall be filled at the general municipal election held in November, or at such other time as provided in this charter. In 2011 and every fourth (4th) year thereafter, the offices of mayor and council members designated as District 1, District 3, and District 6 shall be filled at the general municipal election held in November, or at such other time as provided in this charter.

#### SECTION 505: ELIGIBILITY, DISTRICT ELECTIONS

A. Commencing with the 2009 general municipal election, no person shall be eligible to hold elective office as a council member unless that person is, and has been for a period of at least one hundred eighty (180) days immediately preceding the filing of nomination papers for such office or appointment to such office, a resident within the council district corresponding in number to the office to which that person is elected or appointed. Each council member shall, during the 2009 general municipal election; the incumbents in District 2, 4, and 5 shall be subject to the residency requirements of this section.

B. The initial boundaries of such districts shall be determined by the city clerk no later than July 1, 2008 and shall be redetermined by the City Clerk not later than one hundred eighty (180) days following the publication of each federal census thereafter. The city clerk recommendations shall be subject to judicial review. The district boundaries shall be determined or redetermined in conformance with the following standards:

- a) The territory comprising each District shall be contiguous and as nearly compact in shape as possible.
- b) The district should be as nearly equal in population as possible according to the latest Federal Decennial Census.
- c) District boundaries shall not cross census tract lines, except to the extent necessary to ensure that the districts are as nearly equal in population as may be according to the latest Federal Decennial Census.

d) The six (6) districts shall be formed by dividing the City into six (6) geographic areas that split the city evenly into thirds from west to east, and again in half from north to south, thereby creating a northwestern, Midwestern, southwestern, northeastern, mid-eastern, and southeastern districts, consistent with the other standards listed below.

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SECTION THREE: Severability

If any provision of this measure or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or application and to this end the provisions are severable.

Posted by Carmen at 12:02 PM | TrackBack (0)

June 2007

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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District Elections  
Senior Class Statement  
Final request for public records  
Historical update to Zagaris takeover  
Mayor Peggy Mensinger warning of 1987  
REDEVELOPMENT...THE COOKIE JAR IS OPEN  
Credit Card transactions not reported by the Modesto Bee  
Patrick McGrath's testimony  
What did the Modesto Bee know and when did they know it? What do they know now?  
Full Disclosure Now Comment  
For your information  
For your information, more on the landfill  
More on the Landfill  
"I really don't know much about Lee Torrens. I never really saw the guy much."  
Mark Vasche has lost his way!  
The Donkey and the Well...

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Full Disclosure Now television show KBSV-TV Channel 23 every Thursday from 6:30 PM - 7:00 PM.

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00005332

## The Sabatino Report

« Senior Class Statement | Main | Modesto Districts Initiative Measure »

March 03, 2007

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### **DISTRICT ELECTIONS**

Elections are coming up and I wanted to share this information with everyone about the district election initiative measure.

Below is a copy of the complete Initiative. You can download the document here or at **District Elections**

I'd like to hear your thoughts on this topic, please leave your comments and thoughts in the comments section of this posing.

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### INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

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SECTION 505: ELIGIBILITY, DISTRICT ELECTIONS

- A. Commencing with

the 2009 general municipal election, no person shall be eligible to hold elective office as a council member unless that person is, and has been for a period of at least one hundred and thirty (130) immediately preceding the filing of nomination papers for such office or appointment to such office, a resident within the council district corresponding in number to the office to which that person is elected or appointed. Each council member shall, during the 2009 general municipal election; the incumbents in District 2, 4, and 5 shall be subject to the residency requirements of this section.

B. The initial boundaries

of such districts shall be determined by the city clerk no later than July 1, 2008 and shall be redetermined by the City Clerk not later than one hundred eighty (180) days following the publication of each federal census thereafter. The city clerk recommendations shall be subject to judicial review. The district boundaries shall be determined or redetermined in conformance with the following standards:

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c. District boundaries

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SECTION THREE:

*Severability*

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or the application thereof to any person or circumstances is held invalid,  
that invalidity shall not affect other provisions or application and  
to this end the provisions are severable.

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Posted by Carmen at March 5, 2007 08:55 AM | [TrackBack](#)

**Comments**

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Appendix "G"

Interim Report of Charter Review Committee

TO: Mayor and City Council

FROM: Charter Review Committee

SUBJECT: **INTERIM REPORT OF THE CHARTER REVIEW COMMITTEE**

CONTACT: George Petrulakis, Chair of Charter Review Committee  
[gpetrulakis@jplaw.com](mailto:gpetrulakis@jplaw.com) or 522-0500

**RECOMMENDED COUNCIL ACTION:**

Receive and Accept the Interim Report. Adopt a Resolution directing implementation of the Committee's Recommended Option as forwarded by the Charter Review Committee including a Public Outreach, Education Effort, and Advisory Vote on the method of electing city councilmembers for the November 2007 Election; Direct the Charter Review Committee to continue deliberation and discussion and return to the City Council for a final report in time for the February, 2008 Election.

**I. INTRODUCTION:**

This interim report of the City of Modesto Charter Review Committee (the Committee) appointed last year by the Modesto City Council is being presented to the Council to provide a status report on the activities of the Committee to date and interim recommendations. The report explains the history of the current Charter Review Committee, including the large breadth and scope of the Committee's work, the large number of public outreach meetings, and the information that was gathered by the Committee, including information presented by consultants working with the Committee. Finally, the report will provide recommendations for possible action by the City Council.

**II. BACKGROUND:**

Section 1604 of the Modesto City Charter requires that the City Council shall cause the Charter to be reviewed at least every 10 years. Accordingly, on February 14, 2006 the City Council appointed seven (7) members to the 2006 Charter Review Commission by resolution number 2006-087. Following the appointment of these initial seven members, on March 29-30, 2006, the Charter Review Committee interviewed twenty-four (24) candidates who were also interested in serving on the committee. These interviews resulted in a recommendation to the City Council that an additional four members be added to the Committee, by Resolution No. 2006-225 on April 25, 2006. These Committee members are: Solange Altman, Susan Azevedo, Marie Baïrey, Carolina Bernal, David Cogdill, Jr., Chris Harrigfeld, Sandra Lucas, George Petrulakis, John

Shores, Jeremiah Williams and Thomas Wright. During our proceedings, Susan Azevedo resigned from the Committee due to an unavoidable and heavy travel schedule.

Since June of 2006, the Charter Review Committee has held thirty-six (36) meetings. In an unprecedented effort to solicit and encourage public participation in the Charter review process, the Committee held seventeen (17) Community Input Meetings throughout the City. Great effort was taken to hold these meetings in geographically diverse locations throughout the North, South, East and West quadrants of the City in order to better facilitate participation. Two of the meetings were held in the City Council chambers so that they could be telecast on cable to facilitate public participation, and two meetings were held on Saturday mornings to ensure that commuters who were unavailable during the work week would be afforded an opportunity to address the Committee and provide input.

In addition to these meetings, members of the Committee made presentations to civic organizations and additional input was received from the public in the form of letters, email correspondence, and individual conversations with the members of Committee. The overriding theme of public input received by the Committee was to increase the accountability to the public of the city government.

Twenty-one (21) General Committee Meetings have been held wherein the Committee considered, discussed, and deliberated upon approximately twenty-three (23) potential changes to the Charter. These suggested changes were brought to the Committee's attention either by Councilmembers, members of the public, civic organizations, city staff or members of the Committee. During the deliberations of the Committee, two general categories of issues emerged. The "Minor/Housekeeping" items involved tidying up provisions of the Charter, non-controversial issues, or addressing archaic or superseded Charter references. The "Major" items involved significant issues of governance for the future of Modesto such as the method by which city councilmembers are elected, increasing accountability in City government by adjusting the duties of elected officials, whether and how elected officials should be compensated, expansion of the role of the City Auditor as an independent Charter officer, elimination or change in City's run-off election for city councilmembers, and increasing the disciplinary authority of deputy directors, division chiefs, and police captains.

Many of the Major Issues addressed by the Committee deal with the theme of accountability. The Committee has found these issues to be challenging, complex, interrelated and time consuming.

The Committee conducted research and invited elected officials from other Charter cities to provide information on election systems, form of government, internal auditing processes, as well as compensation issues. At the request of the Committee, the City Council authorized the retention of subject matter experts to assist the Committee in understanding some of the more complex issues. Specifically, the City retained the services of Doug Johnson of National Demographics Committee, and various professors

affiliated with the Center for Public Policy Studies at California State University, Stanislaus.

The issue of highest interest addressed by the Committee has been how Modesto voters elect city councilmembers. The Committee has devoted considerable time and resources to understanding, deliberating, and winnowing down the best methods for electing city councilmembers in Modesto's future. No members of the Committee support the current At-Large system of electing councilmembers. However, there is not a consensus on what form of District election system should be considered to replace the current system. Half of the committee members support a Mixed System where six councilmembers are elected by District and two councilmembers are added to city council (for a total of eight councilmembers) and these two new members run At-Large. Some committee members support a By District system of six Districts for councilmembers where each District elects its own councilmember. One committee member supports a From District system under which a candidate for council must live in a particular geographic District but runs city-wide in an At-Large election. One committee member prefers a From District variation involving a two-election system where candidates are nominated by Districts and the top two vote getters then run in a second At-Large election city wide. The committee also analyzed and discarded numerous other systems and variations.

The lessons that the Committee has drawn from its deliberations on this important issue is that no election system is perfect. Each system involves trade offs among various important values and factors. The Committee also believes that the community and City Council must be involved in understanding the implications of moving to some form of District Election system in an effort to build community consensus.

### **III. STATUS OF COMMITTEE WORK.**

The Committee had hoped to be finished with its work in time for a November 2007 Charter Election, should the City Council deem one necessary. However, the work of the Committee will not be done due to the complexity of the issues addressed and the emphasis on public input encouraged by the Committee. While unfortunate, it is more important to the Committee that its work be done correctly, include the public, and work towards the improvement of Modesto.

The Committee Chairman met with representatives of all three Charter Officer departments and developed alternatives for Committee and City Council consideration. There was a deep feeling by Committee members that the community should address the highest profile issue, the form of election systems for city councilmembers, in some format this November, so citizens would have a role in this very important issue of self-governance.

#### Alternative Options Considered by Charter Review Committee:

The Committee considered the following options for consideration by the City Council:

**Option 1:**

- A. Place the "House Keeping" Charter changes on November 2007 ballot.
- B. Direct that the Committee continue to deliberate on the remaining major charter changes, and report back to the Council for possible inclusion on the ballot for 2008 (Choice of February, June, or November statewide elections).

**Option 2:**

- A. All recommended Charter changes are included in one measure that is placed on the ballot for 2008 (Choice of February, June, or November statewide elections.)

**Option 3:**

- A. Committee selects three election alternatives 1) Current System, 2) By District, and 3) Mixed System for advisory vote.
- B. House Keeping Charter changes on November 2007 ballot.
- C. Between September and November 2007 public outreach efforts take place to encourage the community to weigh in on district elections.
- D. Advisory Vote on form of election systems on November 2007 ballot.
- E. District Elections, other major charter changes on the ballot for 2008 (Choice of February, June, or November statewide elections.)

**Option 4:**

- A. Committee selects three election alternatives 1) Current System, 2) By District, and 3) Mixed System for advisory vote.
- B. Between September and November 2007 public outreach efforts take place to encourage the community to weigh in on district elections.
- C. Advisory Vote on form of election systems on November 2007 ballot.
- D. All Charter changes are placed on the ballot in 2008 (Choice of February, June, or November statewide elections.)

After considerable deliberations, the following is the recommendation of the Committee which is entitled Option 5 and is a variation of several of the options contained above.

**Option 5: (The Committee's Recommended Option)**

- A. The Committee believes the community should have an opportunity to participate in discussion, education and an advisory vote on the two forms of election systems with the most support on the Committee: the Mixed System and the By District System.

- B. The Committee believes a significant public outreach and education effort coordinated by NDC and Doug Johnson should occur so that the public has every opportunity to learn about and consider the proposed form of election options.
- C. The Committee believes that the public outreach and education campaign should include at least one, and more, if necessary, televised City Council workshops so that the City Council is briefed along with the public on the characteristics of the different form of election systems.
- D. The Committee believes that the City should conduct an advisory vote on the proposed options in November so the community has a natural discussion point and frame of reference to consider a transition to district elections.
- E. The Committee believes that Doug Johnson of NDC should help the Committee and Council craft an unbiased, scientifically sound advisory measure to test voter sentiment on the two alternatives recommended by the Committee.
- F. The Committee believes that a reauthorization vote after ten (10) years under any new election system should be considered so that voters would have to re-approve any changed election system after ten (10) years in use. We believe NDC should assist in that analysis to limit voter confusion.
- G. The Committee believes the Advisory Vote should be constructed in a manner that does not dilute or confuse those who may want Modesto to change how city councilmembers are elected so that there is clear input on Modesto's electoral future. This goal has been discussed with consultant Johnson.
- H. The Committee will present its final report including all other recommended Charter changes to the City Council in September of this year so the Charter election can be held in February 2008, the earliest of the three statewide elections being held next year.
- I. The Committee believes consideration of the Charter changes in February 2008 is advantageous because the limited nature of the February ballot will allow voters to focus on the Charter recommendations, many of which we feel are inter-related to increase the accountability of city government to the public. In addition, consideration of the Charter recommendations in February 2008 may involve more voters since a high turnout election is expected due to the contested Presidential primaries.

Submitted by the Charter Review Committee to the City Council.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
GEORGE PETRULAKIS, Chairperson

Appendix "H"

Text of Advisory Measure I and Advisory Measure J

**Measure I**

<b>Advisory Vote Only.</b>  <b>Should Modesto change its system of electing City Councilmembers?</b>  Please answer the next measure, whether you voted "Yes" or "No" on this measure.	YES	<input type="checkbox"/>
	NO	<input type="checkbox"/>

**Measure J**

<b>Advisory Vote Only.</b>  If the City of Modesto were to change its system of electing City Councilmembers, which of the following systems would you prefer? The Mayor would remain elected by all voters in the City under either option. (Choose only one)	
a. "By District": Six Districts where candidates must live in the District they wish to represent and the voters who live in the District vote on who will represent that District.	<input type="checkbox"/>
b. "Mixed": Two At-Large Council seats, where candidates may live anywhere in the City and are voted on by all City voters; and Six Districts where candidates must live in the District they wish to represent, and the voters who live in the District vote on who will represent that District.	<input type="checkbox"/>

August 6, 2007

Mary Groves  
Staff Services Analyst  
Stanislaus County Elections Division  
1021 I Street  
Modesto, CA 95354

RE: Technical Amendments to City of Modesto Advisory Vote Measures

Dear Ms. Groves:

Pursuant to your request submitted to Modesto City Clerk Jean Morris, please accept this letter as signed verification that the Technical Amendments to the City of Modesto Advisory Vote Measures I and J are not substantive in nature. Because the questions have been separated into separate measures, the requested Technical Amendments are necessary to better align the language with the format of the measures, to avoid possible confusion.

For your ease of reference, I am enclosing both a "clean" and "dirty" copy of the requested Technical Amendments. Please advise me if you require any further information.

Very truly yours,

SUSANA ALCALA WOOD  
City Attorney

Enclosures

cc. Jean Morris

Technical Amendments

Measure I

Advisory Vote Only.	YES	<input type="checkbox"/>	
Should Modesto change its system of electing City Councilmembers?	NO	<input type="checkbox"/>	Deleted: 1.
Please answer the next <u>measure</u> , whether you voted "Yes" or "No" on this <u>measure</u> .			Deleted: question
			Deleted: question 1

Measure J

Advisory Vote Only.			
If the City of Modesto were to change its system of electing City Councilmembers, which of the following systems would you prefer? The Mayor would remain elected by all voters in the City under either option. (Choose only one)			Deleted: 2.
a. "By District": Six Districts where candidates must live in the District they wish to represent and the voters who live in the District vote on who will represent that District.		<input type="checkbox"/>	Deleted: 2.
b. "Mixed": Two At-Large Council seats, where candidates may live anywhere in the City and are voted on by all City voters; and Six Districts where candidates must live in the District they wish to represent, and the voters who live in the District vote on who will represent that District.		<input type="checkbox"/>	Deleted: 2.

Appendix "I"

Charter Committee Ballot Argument Submitted in Favor of  
Measure I.

In our duties as members of the Modesto Charter Review Committee, we undertook a thorough study of how Modesto voters could best elect their City Councilmembers.

As you know, Modesto currently elects its City Councilmembers in a pure At-Large system where candidates may live anywhere in the City and are voted on by all City voters.

The committee received much public input that the current system did not adequately meet the needs of a larger city.

In response to this public input, we studied nine major systems of electing members to the City Council. In addition, we discovered that there are many variations of these major systems. We found that each system has different advantages and disadvantages and that there is no "perfect" system.

While only five of the ten committee members are allowed under state law to sign this ballot argument, we want you to know that the committee unanimously agrees that Modesto needs a different system, and we thus urge you to vote Yes on Measure I.

In our deliberations, we identified two different systems that we believe should be considered by Modesto voters in this advisory election. These two systems are presented for your consideration in Measure J.

We hope that you will take the time to attend a public forum, watch an informational forum on public access television, or read information materials about the measures sent out in utility bills and available on the internet at [www.modestogov.com/charterreview](http://www.modestogov.com/charterreview).

We hope that you will participate in this advisory vote process to advise our City Council on whether you want a change, and if you want a change, which of the two recommended systems you believe will work best for the City of Modesto.

Please join us in voting Yes on Measure I.

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MODESTO CITY CLERK  
07 AUG - 8 AM 11:56

ARGUMENT STATEMENT FORM

The undersigned proponent(s) or author(s) of the

argument in favor

argument against

(circle one of the above)

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MODESTO CITY CLERK

07 AUG -8 AM 11:56

ballot measure I at the (Regular/Special) election for the City of  
(letter)

Modesto to be held on NOVEMBER 6, 2007 hereby state that such argument is  
(date of election)

true and correct to the best of THEIR knowledge and belief.  
(his/her/their)

Signed Sandra Lucas Date 8/6/07

Please print name SANDRA LUCAS member charter review committee

Address & Phone # 2000 VISTA DR Modesto, 95355 2099884481

Signed Solange B. Altman Date 8/6/07

Please print name SOLANGE B. ALTMAN MEMBER MODESTO CHARTER REVIEW COMMITTEE

Address & Phone # 603 MYRTLE AVE. Modesto, 95350 (209) 577-8758

Signed E. Thomas Wright Date 8/6/07

Please print name E. THOMAS WRIGHT Member Modesto Charter Review Com.

Address & Phone # 908 TERRACE E. Modesto, CA 95350 (209) 577-7846

Signed Jeremil Williams Date Aug 6 2007

Please print name Jeremil Williams Member Modesto Charter Review

Address & Phone # 301 Ribien ST Modesto Ca

Signed John E. Shores Date 8/7/07

Please print name JOHN E. SHORES MEMBER CHARTER REVIEW COM.

Address & Phone # 508 GREENWICH LANE Modesto 95350 209 529-9426

NOTE: A maximum of five people may sign an argument, per Election Code 9282-9285. If submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers must be included. If a rebuttal is filed, the same person(s) who sign(s) the argument may submit a rebuttal. Arguments may not exceed 300 words. Signers must be registered voters inside the Modesto City limits and eligible to vote on the measure they support or oppose.

## Appendix "J"

City Attorney's Impartial Analyses and One-Page  
Summary of Measure I & Measure J Advisory Measures  
Distributed by City

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CITY OF MODESTO

07 AUG 20 PM 3:02

**CITY ATTORNEY'S IMPARTIAL ANALYSIS OF ADVISORY MEASURE I**

**ADVISORY VOTE ONLY:**

The City Council by majority vote approved holding an advisory election seeking opinions from City of Modesto voters on whether or not the City should keep its current system of electing City Councilmembers.

California Elections Code Section 9603 authorizes cities to hold advisory elections for the purpose of allowing voters to voice their opinions on substantive issues and provides an opportunity for voters to indicate their approval or disapproval of a proposal to the City Council. The result of this vote is not binding on the City Council; however the City Council can use the results to ascertain whether to place before the voters a charter amendment that would propose to amend the City's election system.

This advisory measure asks whether the City of Modesto should change its system of electing City Councilmembers. It asks the voters to voice their opinion on this question by indicating either "Yes" they agree the City should change its system of electing City Councilmembers, or "No" the City should not change its system of electing City Councilmembers.

The measure also asks the voters to proceed to vote on the next measure on the ballot, Measure J, whether or not they voted "Yes" or "No."

This measure is advisory only and establishes no policy that must be followed by the City. According to Section 9603(c), advisory votes express general voter opinion but do not bind the sponsoring legislative body to act. Therefore, the advisory vote will not change existing law or bind the City Council to act.

s/Susana Alcalá Wood  
City Attorney

The above statement is an impartial analysis of Measure I. If you desire a copy of the measure, please call the Modesto City Clerk's Office at (209) 577-5396, and a copy will be mailed at no cost to you.

CITY OF MODESTO

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MODESTO CITY CLERK

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF ADVISORY MEASURE J

07 AUG 20 PM 3:02

**ADVISORY VOTE ONLY:**

The City Council, by majority vote, approved holding an advisory election seeking opinions from City of Modesto voters on two proposed options for electing City Councilmembers.

California Elections Code Section 9603 authorizes cities to hold advisory elections for the purpose of allowing voters to voice their opinions on substantive issues, and provides an opportunity for voters to indicate their approval or disapproval of a proposal to the City Council. The result of this vote is not binding on the City Council; however, the City Council can use the results of this vote to ascertain whether to place before the voters a charter amendment that would propose to amend the City's election system.

The City of Modesto's current system of electing City Councilmembers is an "at-large" system, where the candidates for City Council run for a particular "Chair," can live anywhere in the City, and are voted upon by all voters in the City. There are six (6) Councilmembers and a Mayor for a total of seven (7) Council seats.

This advisory measure provides that in the event the City of Modesto were to change its election system, a couple of options have been presented for the voters' consideration. It asks voters to proceed to indicate their preference for one of two proposed new election systems:

Under the first option "a" entitled "**By District,**" the City would be divided into six (6) election districts and candidates would have to live in the district they wish to represent, and would be elected by voters who also live in that district. The Mayor would still be elected at large. The total number of Council seats would thus be seven (7).

Under the second option "b" entitled "**Mixed,**" the City would be divided into six (6) election districts and candidates would have to live in the district they wish to represent, and would be elected by voters who also live in that district. Additionally, two (2) new Council seats would be added and these candidates could live anywhere in the City and would be elected by all voters in the City. The Mayor would still be elected at large. The total number of Council seats would thus be nine (9).

According to Section 9603(c), advisory votes express general voter opinion but do not bind the sponsoring legislative body to act. Therefore, the advisory vote will not change existing law or bind the City Council to act.

s/Susana Alcalá Wood  
City Attorney

07 AUG 20 PM 3:02

RECEIVED  
MODESTO CITY CLERK

The above statement is an impartial analysis of Measure I. If you desire a copy of the measure, please call the Modesto City Clerk's Office at (209) 577-5396, and a copy will be mailed at no cost to you.

# Which Way Modesto?

Is it time to change the way we elect City Councilmembers?  
The November 6 election is your chance to vote on it.



**Measure I:** *Should Modesto change its system of electing City Councilmembers?*

**Measure J:** *If the election system were to change, which of the following systems would you prefer: "By District" with six districts, or "Mixed" with six districts and two at-large*

#### Informational Meetings:

1. Tuesday, Sept. 11, 5:30 pm @ City Council chambers
2. Wed., Sept. 19, 7pm @ Davis High library
3. Thur., Sept. 20, 7pm @ Johansen High cafeteria
4. Fri., Sept. 28, 7pm @ Enochs High room M103
5. Sat. Sept. 29, 2pm @ Maddux Youth Center Multipurpose room\*
6. Tues., Oct. 2, 5:30 pm @ City Council chambers
7. Wed., Oct. 3, 7pm @ Downey High cafeteria
8. Thur., Oct. 4, 7pm @ Beyer High cafeteria
9. Fri., Oct. 5, 7pm @ Modesto High cafeteria\*

\*- translator available

### Learn More!



- Attend the information meetings (dates & locations listed above)
- Visit the Charter Review Committee website: <http://www.modestogov.com/charterreview>

*Paid for by the City of Modesto*

## Modesto now has over 200,000 people Is it time for district elections?

Modesto has grown. Between 2001 and 2002, our population passed 200,000 people.

Our system of electing the City Council has remained constant. Is it time for change in Modesto?

Modesto and most cities smaller than 220,000 people in California elect City Councils in citywide elections, also know as "At Large" elections.

In contrast, district elections, require each Councilmember to reside in, and be elected by the voters of, a district.

With only one exception, all

California cities larger than 220,000 people elect their City Councils using some form of district elections.

Generally, citywide elections tend to focus the Council on citywide concerns.

Generally, district elections tend to focus the Council on the concerns of neighborhoods.

A mixed system includes some district representatives with some citywide representatives. In all three systems, the Mayor remains elected citywide.

What election system do you think is best for Modesto?

Let Your  
Voice Be  
Heard:  
**VOTE**  
November  
6<sup>th</sup>  
2007



Current System	By District System	Mixed System
Six Councilmembers elected citywide.	Six Councilmembers elected individually from six districts.	Two Councilmembers elected citywide. Six Councilmembers elected individually from six districts.
Mayor is elected citywide.	Mayor is elected citywide.	Mayor is elected citywide.
Each voter casts 6 votes: one for each Council position.	Each voter casts 1 vote for his/her own district Council member.	Each voter casts 3 votes: 1 for his/her district Council member; 2 for the two citywide Council members

#### Common Questions & Answers:

**Why change now?** There may not be a change. The decision is up to you. Modesto is nearing the population when the cost of running for office and concern that neighborhoods may not be heard lead some California cities to change to district elections. This makes it a good time to consider what approach makes sense for Modesto today.

**Why an advisory vote?** An advisory vote allows everyone in Modesto to learn about and debate this question in a relatively open and flexible environment. An advisory vote allows multiple options, without the limits of a single Yes/No question.

**If I want to keep the current system, should I still vote on Measure J?** Yes! If you think the current citywide election system is the best option, vote no on Measure I. Your opinion on Measure J (districts vs. mixed) still counts, however, so be sure to vote on BOTH measures this November.

**How can I find out more about this issue?** Learn more – and share your own thoughts – at one of the many public forums scheduled (see dates and locations to the left). Reports, presentations, meeting dates, more frequently-asked questions and answers, along with additional information are all available on the Charter Review Committee website: <http://www.modestogov.com/charterreview>. If you don't see the answer to your question here, send it in and we will add it to the list of questions and answers.

# ¿De qué manera Modesto?

¿Es el tiempo de cambiar la manera en que elegimos a los Miembros del Consejo de la Ciudad?  
La elección del 6 de Noviembre es su oportunidad de votar por esto.



**Medida I:** ¿Debería Modesto cambiar su sistema de elección de Miembros del Consejo de la ciudad?

**Medida J:** Si cambiara el sistema de elecciones, ¿Cuál de los siguientes sistemas de elecciones preferiría usted? "Por Distrito" con seis distintos distritos, ó "Combinado" con seis distintos distritos y dos "en general" a nivel ciudad.

## Reuniones de Información:

1. Martes, Sept. 11, 5:30 pm, cámara del Consejo de la ciudad
2. Miércoles, Sept. 19, 7pm, biblioteca de Davis High
3. Jueves, Sept. 20, 7pm, cafetería de Johansen High
4. Viernes, Sept. 28, 7pm, Enochs High, aula M103
5. Sábado, Sept. 29, 2 pm, Maddux Youth Center, sala multiuso \*
6. Martes, Oct. 2, 5:30 pm, cámara del Consejo de la ciudad
7. Miércoles, Oct. 3, 7pm, cafetería de Downey High
8. Jueves, Oct. 4, 7pm, cafetería de Beyer High
9. Viernes, Oct. 5, 7pm, cafetería de Modesto High \*

\*: traductor disponible

## Aprenda Mas!



- Asista a las juntas informativas:  
(de la lista anterior)
- Visite el portal de Charter Review Committee:

<http://www.modestogov.com/charterrev>

Pagado por la Ciudad de Modesto

## Modesto tiene ahora más de 200,000 habitantes. ¿Es acaso el tiempo de tener elecciones de distrito?

Modesto ha crecido. Entre el 2001 y 2002, la población de Modesto sobrepasó los 200,000 habitantes.

Nuestro sistema de elegir los Miembros del Consejo Municipal se ha mantenido constante. ¿Es tiempo para un cambio en la Ciudad de Modesto?

Modesto y la mayoría de las ciudades pequeñas en California que cuentan con menos de 220,000 habitantes eligen a los Miembros del Consejo de la ciudad en votaciones. Estas elecciones se llaman "en general."

En contraste, elecciones de distrito, requiere que cada Miembro del Consejo resida en el distrito que desea representar y debe ser elegido sólo por los votantes de ese distrito.

A excepción de una, todas las ciudades grandes de California que cuentan como más de 220,000 habitantes eligen a los Miembros del Consejo de la ciudad utilizando alguna forma de elección de distrito.

Generalmente, en las elecciones de la ciudad el Consejo tiende a enfocarse en las preocupaciones de la ciudad. Generalmente, en las elecciones de distrito el Consejo tiende a enfocarse en las preocupaciones de los vecindarios.

Un sistema combinado incluye algunos representantes de distrito con algunos representantes de la ciudad.

En los tres sistemas, el Alcalde permanece electo a nivel municipal.

¿Cuál sistema de elección considera usted que sea el apropiado para la Ciudad de Modesto?

Deje Que  
Su Voz Sea  
Escuchada:

VOTE

El 6 de  
Noviembre  
2007



El Sistema Actual	El Sistema por Distrito	El Sistema Combinado
Seis miembros del Consejo son elegidos a nivel ciudad.	Seis miembros del Consejo son elegidos individualmente de los 6 distintos distritos.	Dos miembros del Consejo son elegidos a nivel ciudad. Seis miembros son elegidos individualmente de los 6 distintos distritos.
El Alcalde es elegido a nivel ciudad.	El Alcalde es elegido a nivel ciudad.	El Alcalde es elegido a nivel ciudad.
Cada votante deposita 6 votos: uno por cada posición del consejo.	Cada votante deposita 1 voto, para su propio representante del consejo a nivel distrito.	Cada votante deposita 3 votos: uno para su propio representante del consejo a nivel distrito. Dos votos para elegir a los miembros del consejo a nivel ciudad.

## Preguntas y Respuestas Comunes

**¿Por qué cambiar ahora?** Quizás no haya un cambio. La decisión es de usted. La Ciudad de Modesto se está acercando al tamaño de población donde los costos de campaña y las preocupaciones de los vecindarios no son atendidas lo cual causó que en otras ciudades de California cambiaran a elecciones por distrito. Ahora es un buen tiempo para que Modesto considere que sistema funciona mejor para la ciudad.

**¿Por qué un voto consultado?** Un voto consultado permite a todos en Modesto a aprender y a discutir sobre ésta pregunta en un ambiente relativamente abierto y flexible. Un voto consultado permite múltiples opciones, sin los límites de un simple Sí ó No.

**Si quiero conservar el sistema actual, ¿Debería de votar aún por la Medida J? ¡Si!** Si usted piensa que el sistema actual de elección municipal es la mejor opción, vote No por la Medida I. Su opinión sobre la Medida J (por distrito vs. combinado) aún cuenta, sin embargo, asegúrese de votar este Noviembre por AMBAS medidas.

**¿Cómo puedo obtener más información sobre este tema?** Aprenda más - comparta tus opiniones - en los foros públicos programados (vea fechas y ubicaciones en el lado izquierdo). Reportes, presentaciones, fechas de reuniones y preguntas más recientes con sus repuestas junto con información adicional esta disponible en el portal de Charter Review Committee: <http://www.modestogov.com/charterreview>. Si usted no ve la respuesta a su pregunta ahí, mándela y la añadiremos con las otras preguntas del portal.

Appendix "K"

Measure U from City of Stockton

**AMENDMENTS TO THE CHARTER  
of  
THE CITY OF STOCKTON**

As effectuated by Measure U ratification, March 7, 2000

Article IV of the Charter of the City of Stockton is hereby repealed and a new Article IV enacted which shall be as follows:

Charter Article IV  
The City Council

**SECTION 400. Powers.**

The City Council shall be the governing body of the municipality. All powers of the City shall be vested in the Council subject to the provisions of this Charter, the Constitution of the State of California and the Constitution of the United States. The Council may establish the method or methods by which any of such powers may be exercised.

**SECTION 401. Membership.**

The Council shall consist of seven (7) members, six (6) Councilmembers and the Mayor, each of whom shall have the right to vote on all matters coming before the Council.

**SECTION 402. Meetings**

The Council shall call and hold regular and special meetings in such manner and at such time and place within the City of Stockton as it may prescribe.

**SECTION 403. Open Sessions**

All legislative sessions of the Council, whether regular or special, shall be open to the public except for sessions closed to the public as permitted by law. The public shall have access to the minutes and records of sessions open to the public at all reasonable times in accordance with applicable law.

**SECTION 404. Quorum**

A majority of the members of the Council shall constitute a quorum for the transaction of business. Every member when present, must vote upon all propositions.

**SECTION 405. Appointees.**

The Council shall select the City Manager, City Attorney, City Clerk, City Auditor, and such other positions as may be provided for elsewhere in this Charter

March 8, 2000

and such professional, technical and clerical employees to or for its own body as it may deem necessary; provided, however, that the Council shall not appoint to any position any business associate or any person related to the City Manager or any member of the Council by blood or marriage within the third degree, except that the foregoing prohibition against nepotism may be waived by a vote of at least two-thirds (2/3) of the members of the Council if the Council finds that the proposed appointment is in the interest of the City. All such appointees shall serve at the pleasure of the Council in the unclassified service; and shall serve under such terms and conditions, salaries and benefits as are required of and received by other similar unclassified employees.

**SECTION 406. Investigations.**

The Council or any committee thereof duly authorized by the Council to do so, may investigate the financial transactions, and the official acts and conduct of any office or department of the City government. In conducting such investigations, the Council or any committee thereof shall have the authority to subpoena witnesses, administer oaths and require the production of evidence. Subpoenas may be issued in the name of the City and be attested by the City Clerk. Disobedience of any such subpoena or order shall be deemed contempt and shall be punishable as provided by the general laws of this State.

**SECTION 407. Qualifications of Members.**

The Council shall be the judge of the election and qualifications of its members. Except as otherwise provided in this Charter, the Council shall determine its rules of procedure. It may punish or expel any member for violation of its rules.

**SECTION 408. Interference with City Manager.**

Neither the Council nor any of its members nor the Mayor shall interfere with the execution by the City Manager of his or her powers and duties, nor in any manner dictate the appointment or removal of any City officers or employees whom the City Manager is empowered to appoint except as expressly provided in Charter Section 406. However, the Mayor and Councilmembers may express their views and fully and freely discuss with the City Manager anything pertaining to the appointment and removal of such officers and employees.

Except for the purpose of inquiries and investigations under Charter Section 406, the Council, its members and the Mayor shall deal with City officers and employees who are subject to the direction and supervision of the City Manager, City Attorney, City Clerk or City Auditor, solely through the City Manager, City Attorney, City Clerk or City Auditor, respectively, and neither the Council nor its members nor the Mayor shall give orders to any of the subordinates of those appointees, either publicly or privately, except as otherwise provided in this Charter.

**SECTION 409. Statement of Policy.**

The Council shall adopt a written Statement of Policy for each City department which is under the administration of the City Manager. Said Statement of Policy shall set forth the broad goals, objectives and aspirations to be accomplished by that department.

When the position of the head of such a department becomes vacant, the Council shall review and, if necessary, amend the previously approved Statement of Policy. The Mayor and Councilmembers shall adopt a set of questions which are intended to elicit responses from each prospective appointee concerning the goals, objectives and aspirations in the Statement of Policy.

For purposes of this section, the term "department" shall mean any department specified in Charter Section 405 as well as any department created by the Council pursuant to Charter Section 411.

Prior to appointing any department head, the City Manager shall submit to the Mayor and Councilmembers, for their review, the responses to the Mayor and Councilmembers' questions submitted by the proposed appointee. This section shall not apply to the appointment of any "acting" department head to serve in an interim capacity.

**SECTION 410. Compensation.**

Each member of the Council, including the Mayor, shall be paid as compensation for his or her services as a member of the Council, for each calendar month during which he or she is a member of the Council, a monthly salary together with appropriate benefits, which shall be established by ordinance adopted pursuant to and in accordance with the provisions hereinafter set forth in this Section. No salary shall be established for any member of the Council, including the Mayor, except as provided in this Section.

Between March 1st and April 30th of every odd-numbered year, the Council Salary Setting Commission shall recommend to the Council the amount of monthly salary and the benefits which it deems appropriate for the members of the Council, including the Mayor, for the two-year period commencing July 1 of that odd-numbered year. The amount recommended for each Councilmember shall be the same. The amount recommended for the Mayor may exceed that of the other members of the Council, however the amount received by the Mayor shall be not less than the amount received by the Chairman of the Board of Supervisors of the County of San Joaquin. The monthly salaries and benefits shall be in an amount which takes into account the time devoted to the office of Councilmember, the full time nature of the office of Mayor and shall be commensurate with salaries and benefits then being paid for other public or private positions having similar part time and/or full time duties, responsibilities

and obligations.

No recommendation shall be made except upon the affirmative vote of three (3) members of the Commission. Failure of the Commission to make a recommendation in any year within the time prescribed shall be deemed to mean a recommendation that no changes be made.

Each biennial recommendation, together with the reasons therefor, shall be made in writing. Before it submits any such recommendation to the Council, the Commission shall conduct at least one public hearing on the matter. When such a recommendation has been submitted to the Council, it shall not thereafter be amended by the Commission.

The Council shall, by ordinance, which shall be subject to the referendum provisions of this Charter, adopt the salaries as recommended by the Commission, or in some lesser amount, but in no event may it increase the amount.

Salaries established by ordinance adopted pursuant to the provisions of this Section shall remain in effect until amended by a subsequent ordinance adopted pursuant to the provisions of this Section.

The compensation being paid to the Councilmembers as of the effective date of this section shall continue until established as required by this section.

**SECTION 411. City Offices.**

The City Council may establish City departments in addition to those created by this Charter and may prescribe the functions, powers and duties of all departments, except that no department established by this Charter may be abolished. No function assigned by this Charter to a particular department may be discontinued or assigned to any other unless this Charter specifically so provides.

**Article VI of the Charter of the City of Stockton is hereby repealed and a new Article VI enacted which shall be as follows:**

**Charter Article VI**  
**Elective Officers**

**SECTION 600. Nomination and Election of the Mayor and Councilmembers.**

The six Councilmembers and the Mayor shall be nominated and elected as herein provided.

**SECTION 601. Councilmembers.**

The six (6) Councilmembers shall be nominated from districts, and shall be elected by the qualified electors of the City at large.

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(a) The voters of each district shall nominate two (2) candidates for Councilmember at the primary municipal election. The two (2) candidates must be residents of the districts from which they are nominated.

(b) The voters of the entire City shall elect the Councilmember for each district at the general municipal election. The Councilmember from each district must be one (1) of the two (2) candidates nominated from the district at the primary municipal election.

(c) All Councilmembers shall be elected to a term of four (4) years beginning on January 1 of the year following their election.

(d) Each member of the Council must reside in and be a qualified elector of the district from which said member is nominated and elected or appointed for a period of not less than thirty (30) days prior to the filing of his nomination papers or his appointment. The term of office of any Councilmember who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the district from which he or she was elected.

(e) Any member of the Council moving from his district during his term shall automatically forfeit his office, the same to be refilled by the Council from the electors of the district. Absence from five (5) consecutive regular meetings, unless excused by resolution of the Council, shall operate to vacate the seat of any member so absent.

(f) If a vacancy shall occur in the office of any Councilmember, the Council shall appoint a person to fill such a vacancy. The vacancy in the Council shall be filled by the Council from the electors of the district in which the vacancy occurs. Such person shall hold office until December 31st next following the next general election, and at such election a person shall be elected to hold office for the remainder of any unexpired term. If at any municipal election held under the provisions of this Charter, a Councilmember is not nominated or elected from a district by reason of a tie vote among any of the candidates therefor, then the Council shall select by lot one (1) of the persons receiving such tie vote to fill such nomination or office.

(g) Notwithstanding the provisions of this Section, if the City Clerk fails to adjust the boundaries in the year following the adoption of this Section or thereafter in the year following the year in which the decennial Federal census is taken, or if the boundaries adjusted by the City Clerk are held invalid, each Councilmember to be elected at the next election and at any

succeeding election shall be elected by and from the City at large. Councilmembers shall continue to be so elected until the Clerk makes a valid adjustment of the boundaries of the districts.

**SECTION 602. Mayor**

The Mayor shall be elected by the qualified electors of the City at large and shall hold such office for a term of four (4) years beginning on January 1 of the year following the Mayor's election and until a successor is elected and qualified.

(a) The voters of the entire City shall elect the Mayor at the primary municipal election; provided, however, that should no candidate for the office of Mayor receive at the primary municipal election a majority of the votes cast for all candidates for said office, the two (2) candidates receiving the highest number of votes cast for any such candidates shall thereby qualify as candidates for the office of Mayor at the runoff election to be held at the general municipal election.

(b) The Mayor must reside in and be a qualified elector of the City for a period of not less than thirty (30) days prior to the filing of nomination papers or appointment.

(c) Moving from the City during the term shall automatically forfeit the office. Absence from five (5) consecutive regular meetings, unless excused by resolution of the Council, shall operate to vacate the office.

(d) Any vacancy shall be refilled by the Council from the electors of the City. Any person so appointed shall hold office until December 31 next following the next general election, and at such election a person shall be elected to hold office for the remainder of any unexpired term.

**SECTION 603. Surety Bond.**

The Mayor and each Councilmember shall, before entering upon the duties of office, give and execute to the City a bond for an amount not less than five thousand (\$5,000.00) dollars. The City Council may by resolution increase the amount of the bond requirement. The City of Stockton will pay the costs of acceptable surety bonds. Every bond shall contain the conditions that the principal will well, truly, honestly, and faithfully perform the duties of office. The bonds of the Mayor and the several Councilmembers must be approved by the City Attorney, and the approval of the official bonds must be endorsed thereon. All bonds when approved shall be filed with the City Clerk. State law requirements which are not inconsistent with this Charter shall apply to bonds issued under the provisions of this Section.

**SECTION 604. Oath of Office.**

Every officer of the City, before entering upon the duties of his office, shall take the oath of office as provided for in the constitution of this State and shall file the same with the City Clerk.

**SECTION 605. Holding Other Office.**

No member of the Council shall hold any other City office or City employment during the term for which he or she was elected to the Council; provided and excepting, however, that a member of the Council may become a member of any advisory, administrative or governing body of any special district, entity, organization or committee when such is authorized by State law or where the offices are not incompatible.

**SECTION 606. Term Limits.**

No person elected as either Mayor or Councilmember shall be eligible to serve, or serve, as either Mayor or Councilmember for more than two (2) terms; but such service prior to January 1, 1989 shall not disqualify any person for further service as either Mayor or Councilmember.

**Article XI of the Charter of the City of Stockton is hereby repealed and a new Article XI enacted which shall be as follows:**

**Charter Article XI**  
**The Mayor**

**SECTION 1100. Mayor.**

There shall be a Mayor of the City of Stockton, elected pursuant to SECTION 602 of this Charter, who shall be the seventh member of the Council. The Mayor shall devote his or her full time to the Office of Mayor.

**SECTION 1101. Political Leader.**

It is the intent of this Article that the Mayor shall be the political leader within the community by providing guidance and leadership to the Council, by expressing and communicating to those he or she serves the City's policies and programs and by assisting the Council in the informed, vigorous and effective exercise of its powers.

**SECTION 1102. Powers and Duties.**

The Mayor shall have the following powers and duties:

- (a) To review with the City Manager, City Attorney and City Clerk prior to each Council meeting the items on the Council's agenda and to add matters thereto;

- (b) To make recommendations to the Council on matters of policy and programs which require Council decision;
- (c) To make recommendations to the City Manager on matters of policy and programs;
- (d) To direct those officials appointed by the Council to prepare and provide information to the Council on matters of policy and programs which require Council decision;
- (e) To request budgetary and any other information from those officials appointed by the Council that the Mayor determines is necessary for the conduct of the Mayor's duties;
- (f) To appoint, with the advice and consent of the Council, a Chairman, a Vice-Chairman, one regular member and one alternate member to each standing, special and ad hoc committee of the Council;
- (g) To appoint, with the advice and consent of the Council, such advisory boards, commissions and ad hoc committees as may be necessary or desirable to advise and assist in the work of the City Council;
- (h) To appoint such other advisory boards and ad hoc committees as may be necessary or desirable to advise and assist in the work of the Mayor; provided, however, that the members of such advisory boards or ad hoc committees shall not receive any compensation;
- (i) To address, not less than annually, the citizens of the City concerning the current status of City affairs and articulating the policy plans which the Mayor proposes for the City during the ensuing year;
- (j) To inform the citizens, at other times during the year, of any matters of policy or programs which the Mayor believes are for the welfare of the community;
- (k) To recommend adjustments to the City Budget and to propose the modification or curtailment of any city service. If the Mayor recommends any increases in the City budget, the Mayor shall recommend the method of financing such expenditures. If the Mayor proposes the modification or curtailment of any city service, the Mayor shall provide specific recommendations and the reasons for such proposal;
- (l) To preside at meetings of the Council and to vote as a member of the Council without power of veto;

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(m) To preserve order at all Council meetings, to remove or cause the removal of any person from any meeting of the Council for disorderly conduct, to enforce the rules of the Council and to determine the order of business under the rules of the Council;

(n) To select and appoint such professional, technical and clerical employees to the office of Mayor as may be necessary or desirable to advise and assist in the work of the Mayor; provided, however, that the Mayor shall not appoint to any position any business associate or any person related to him or her or to the City Manager or to any member of the Council by blood or marriage within the third degree, except that the foregoing prohibition against nepotism may be waived by a vote of at least two-thirds (2/3) of the members of the Council if the Council finds that the proposed appointment is in the interest of the City. All such appointees shall serve at the pleasure of the Mayor in the unclassified service; and shall serve under such terms and conditions, salaries and benefits as are similar to other unclassified employees;

(o) To exercise such other powers and perform such other duties as may be prescribed by the Council, provided the same are not inconsistent with this Charter.

Nothing in this Section shall be construed in any way as an infringement or limitation on the powers and duties of the City Manager as Chief Administrative Officer and head of the administrative branch of the City government as prescribed in other sections of this Charter. Except as otherwise provided in this Charter, the Mayor shall possess only such authority over the City Manager and the administrative branch as he or she possesses as one member of the Council.

**SECTION 1103. Vice Mayor.**

The Mayor shall nominate one (1) of the Councilmembers to serve as Vice Mayor.

(a) The term of the Vice Mayor shall commence upon ratification of the nomination by the Council and shall continue until the December 31 following the next general municipal election.

(b) During the temporary absence or disability of the Mayor, the Vice Mayor shall act as Mayor. In case of the temporary absence or disability of both the Mayor and the Vice Mayor, the Council shall elect one (1) of its members to be Mayor pro tempore. In case of vacancy in the office of the Mayor, the Vice Mayor shall act as Mayor until such vacancy can be filled as provided in this Charter.

Article XI-A is hereby added to the Charter of the City of Stockton and shall be as follows:

Charter Article XI-A  
Public Information Office

**SECTION 1150. Public Information Office.**

A Public Information Office is hereby established.

**SECTION 1151. Public Information Officer.**

The Public Information Office shall be administered by a Public Information Officer appointed by the Mayor who shall serve at his or her pleasure. The Public Information Officer shall be under the direction and supervision of the Mayor.

**SECTION 1152. Functions and Duties.**

The Public Information Officer shall gather and disseminate to the public and to the news media, in a timely manner, accurate and complete information concerning the policies of the Council and other information regarding the City and the general region in which it is located.

Article XII of the Charter of the City of Stockton is hereby repealed and a new Article XII enacted which shall be as follows:

Charter Article XII  
The City Manager

**SECTION 1200. Nomination.**

The Mayor shall nominate one (1) or more candidates for Council consideration for appointment to the position of City Manager. The City Manager shall be appointed by the Council for an indefinite term and shall not be removed from office except by a vote of a majority of the members of the Council; provided, however, that the City Manager shall not be removed from office within twelve (12) months from the date his or her duties are assumed, except for incompetence, malfeasance, misfeasance, or neglect of duty. In the case of removal within the said period, the City Manager may demand that written charges be made and a public hearing be held thereon before the Council prior to the date on which removal shall take effect; the decision and action on such a hearing shall be final, and pending such a hearing, the Council may suspend the City Manager from duty. The Council shall designate a qualified person to perform the duties of the City Manager in the event of the absence or disability of the City Manager, or in case there is a vacancy in such office. Whenever a vacancy occurs in the office of City Manager, the Mayor shall immediately initiate a procedure for the selection of a City Manager.

**SECTION 1201. Chief Administrative Officer.**

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The City Manager shall be the chief administrative officer of the City. He or she shall be responsible to the Council for the efficient administration of all the affairs of the City placed in his or her charge by or under this Charter. Without limiting the foregoing general grant of powers, responsibilities and duties, the City Manager shall have the following powers and duties:

(a) Except as otherwise provided elsewhere in this Charter, the City Manager shall appoint all officers and employees of the City; and, when he or she deems it necessary for the good of the service, the City Manager may, subject to the above-mentioned limitations, suspend without pay, demote, discharge, remove or discipline any City officer or employee whom under this Charter is appointed by the City Manager; provided, however, that the City Manager shall not appoint to any position any business associate or any person related to him or her or to any member of the City Council by blood or marriage within the third degree, except that the foregoing prohibition against nepotism may be waived by a vote of at least two-thirds (2/3) of the members of the City Council if the City Council finds that the proposed appointment is in the interest of the City.

(b) Except as otherwise provided elsewhere by this Charter, the City Manager shall direct and supervise the administration of all departments, offices and agencies of the City;

(c) The City Manager shall attend all regular and special meetings of the Council, other than closed executive sessions where the City Manager or another Council appointee is the subject of discussion, and to take part in its discussions, but not to vote. If the City Manager is unable to attend any regular or special meeting of the Council, he or she shall notify the Council in writing of such of such inability and set forth his or her reasons for non-attendance;

(d) The City Manager shall be responsible for the faithful execution of all laws, provisions of this Charter, and acts of the Council which are subject to enforcement by the City Manager or by officers who are under the City Manager's direction and supervision;

(e) The City Manager shall prepare and submit the annual budget to the Council in accordance with the provisions of Article XIX of this Charter;

(f) The City Manager shall recommend to the Council for adoption such measures and ordinances as the City Manager may deem necessary or expedient;

(g) The City Manager may make and execute contracts and authorize

expenditures of less than twenty thousand (\$20,000) dollars, or in such amounts as are established pursuant to SECTION 2002 of this Charter, on behalf of the City;

(h) The City Manager shall submit an annual report on the finances and administrative activities of the City as of the end of the preceding fiscal year to the Council at a public meeting to be held within thirty days following receipt of the Annual Financial Statement. The annual report, which shall be personally certified by the City Manager to be accurate and complete, shall contain a statement indicating:

(1) Whether the revenues budgeted for the preceding fiscal year were actually received, and an explanation concerning any material differences between the total revenues budgeted and the revenues actually received;

(2) The extent to which expenditures budgeted actually were incurred, and an explanation for any material variance between budgeted expenditures and actual expenditures;

(3) The amount of the financial reserves of the city;

(4) All other information which, in the opinion of the City Manager, is necessary to provide an accurate and complete picture of the fiscal status and condition of the city. The report shall be in a form which is susceptible to confirmation by audit. It shall be made available to the public in the Office of the City Clerk.

(i) The City Manager shall make such other reports as the Council from time to time may request concerning the operations of City departments, offices and agencies subject to his or her direction and supervision; shall keep the Council fully advised as to the financial condition and future needs of the City; and make such recommendations to the Council concerning the affairs of the City as he or she deems desirable or as requested by Council;

(j) The City Manager shall appoint such advisory boards and committees as may be necessary or desirable to advise and assist in the work of the City Manager; provided, however, that the members of such boards shall not receive any compensation.

(k) The City Manager shall exercise such other powers, and shall perform such other duties, as are specified in this Charter or as authorized or required by the Council.

Article XV of the Charter of the City of Stockton is hereby repealed and a new Article XV enacted which shall be as follows:

Charter Article XV  
City Auditor

**SECTION 1500.** Appointment of City Auditor.

The City Council shall appoint the City Auditor who shall serve at its pleasure. The City Auditor shall be certified according to standards comparable to a Certified Public Accountant or a Certified Internal Auditor at time of appointment.

**SECTION 1501.** Powers and Duties.

The City Auditor shall have the following powers and duties:

(a) Conduct or cause to be conducted annual post audits of all the fiscal transactions and accounts kept by or for the City. Such audits shall include but not be limited to the examination and analysis of fiscal procedures and the examination, checking and verification of accounts and expenditures. The audits shall be conducted in accordance with generally accepted auditing standards and accordingly shall include tests of the accounting records and other auditing procedures as may be considered necessary under the circumstances. The audits shall include the issuance of suitable reports of examination so the Council and the public will be informed as to the adequacy of the financial statements of the City.

(b) Conduct performance audits, as assigned by Council. A "performance audit" means a post audit which determines with regard to the purpose, functions and duties of the audited agency all of the following:

(1) Whether the audited department, office or agency, is managing or utilizing its resources, including public funds, personnel, property, equipment and space in an economical and efficient manner.

(2) Causes of inefficiencies or uneconomical practices, including inadequacies in management information systems, internal and administrative procedures, organizational structure, use of resources, allocation of personnel, purchasing policies and equipment.

(3) Whether the desired results are being achieved.

(4) Whether objectives established by the Council or other authorizing body are being met.

(c) Conduct special audits and investigations, as assigned by Council. "Special audits and investigations" mean assignments of limited scope, intended to determine:

(1) The accuracy of information provided to the Council.

(2) The costs and consequences of recommendations made to the Council.

(3) Other information concerning the performance of City Departments, Offices or Agencies as requested by the Council.

(d) The City Auditor shall have access to, and authority to examine any and all documents including but not limited to books, accounts, internal memoranda, writings and tapes, reports, vouchers, correspondence files and other records, bank accounts, money and other property of any City department, office or agency, whether created by the Charter or otherwise, with the exception of the office of any elected official.

It is the duty of any officer, employee or agent of the City having control of such records to permit access to, and examination thereof, upon the request of the City Auditor or his or her authorized representative. It is also the duty of any such officer, employee or agent to fully cooperate with, and to make full disclosure of all pertinent information.

(e) Prepare and submit to the Council quarterly reports of the City Auditor's activities and findings in the immediately preceding three calendar months, together with any recommendations to improve the administration of the City.

(f) Perform other auditing functions, consistent with other provisions of this Charter, and prepare and submit such other reports, as may be assigned by the Council.

#### SECTION 1502. Power of Appointment.

The City Auditor may appoint and prescribe the duties of the professional, technical and clerical employees employed in the Office of the City Auditor; provided, however, that the City Auditor shall not appoint to any position any business associate or any person related to him or her or to the City Manager or to any member of the Council by blood or marriage within the third degree, except that the foregoing prohibition against nepotism may be waived by a vote of at

least two-thirds (2/3) of the members of the Council if the Council finds that the proposed appointment is in the interest of the City. All such appointees shall serve at the pleasure of the City Auditor in the unclassified service; and shall serve under such terms and conditions, salaries and benefits as are similar to other unclassified employees;

Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any such officer or employee whom the City Auditor is empowered to appoint, but the Council may express its views and fully and freely discuss with the City Auditor anything pertaining to the appointment and removal of such officers and employees.

Article XIX of the Charter of the City of Stockton is hereby repealed and a new Article XIX enacted which shall be as follows:

Charter Article XIX  
Budget and Fiscal Affairs--Fiscal Authority

**SECTION 1900. Powers.**

The City of Stockton shall have the power to make and enforce all ordinances and regulations in respect to the conduct of the fiscal affairs of the City, subject only to the restrictions and limitations provided in this Charter, the Constitution of the State of California, and the Constitution of the United States.

**SECTION 1901. Fiscal Year.**

The fiscal year of the City of Stockton shall commence upon the first day of July of each year or such other time as may be fixed by ordinance.

**SECTION 1902. Taxes.**

The City shall, by ordinance, provide a system for the assessment, levy and collection of all City taxes.

**SECTION 1903. Capital Improvement Program.**

At least ninety (90) days prior to the beginning of each fiscal year, or at such earlier time as the Council may specify, the City Manager shall prepare and shall submit to the Council a Capital Improvement Program for the five (5) fiscal years immediately following the fiscal year within which such Program is submitted to the Council. On or before the day that he or she submits such Program to the Council, the City Manager shall also file a copy of the Program with the Planning Commission of the City. Such Capital Improvement Program shall include:

- (a) A clear summary of its contents;
- (b) A list of all capital improvements which are proposed to be undertaken

during the five fiscal years immediately following the fiscal year within which such Program is submitted to the Council with appropriate supporting information as to the necessity of such improvements;

(c) Cost estimates, methods of financing and recommended time schedules for each such improvement; and

(d) Such other information as the City Manager may deem desirable.

**SECTION 1904. Action on Capital Improvement Program.**

Upon receipt of the copy of the Capital Improvement Program prepared by the City Manager, the Planning Commission shall consider the Program and, within thirty (30) days from and after the date a copy of such Program was filed with the Commission, shall submit to the Council a written report setting forth its findings of consistency or inconsistency of the Program with the General Plan of the City.

The Council shall hold a public hearing on the Capital Improvement Program as submitted by the City Manager within thirty (30) days of the receipt of the Planning Commission's report. Copies of the Capital Improvement Program as submitted by the City Manager, and copies of such reports as may have been submitted by the Commission, shall be filed and available for inspection by the public in the office of the City Clerk for at least ten (10) days prior to said public hearing. The notice of public hearing shall state the time and place of hearing and the times and place when and where copies of the Capital Improvement Program as submitted by the City Manager and the report of the Planning Commission will be available for inspection by the public. At the time and place so advertised or at any time or place to which such public hearing shall from time to time be adjourned, the Council shall hold a public hearing on the Capital Improvement Program as submitted by the City Manager at which time interested persons desiring to be heard shall be given reasonable opportunity to be heard.

Upon conclusion of such hearing, the Council shall adopt a Capital Improvement Program for the five (5) fiscal years covered by the City Manager's proposed Capital Improvement Program with such amendments as it may deem desirable. Upon its adoption and until adoption of a new budget and a new five (5) year Capital Improvement Program, such Capital Improvement Program, as adopted by the Council, shall serve as a general guide to the Council and to the City administration in the planning and scheduling of capital improvements. From time to time, however, the Council may authorize such departures therefrom as it may deem necessary or desirable.

**SECTION 1905. Submission of Economic Forecasts and Mayor's Budget Message.**

Each Council Appointee shall, on or before December 15 of each year, submit to the Mayor and to the Council a five (5) year economic forecast of expenditures

and revenues for each City department, office or agency under his or her administration.

The Mayor shall, on or before January 15 of each year, prepare and deliver to the Council the Mayor's Proposed Budget Priorities and Direction.

Each Council Appointee shall, on or before February 1 of each year, prepare and deliver to the Mayor and to the Council a Capital and Operating Mid-Year Report for each City department, office or agency under his or her administration.

The Mayor shall, on or before February 15 of each year prepare and deliver to the Council the Mayor's Budget Message which shall include:

- (a) A statement of the fiscal priorities which the City should adopt for the ensuing fiscal year; and
- (b) Which City services, departments, offices or agencies the Mayor proposes to be expanded or reduced.

The Council shall hold a public hearing to consider the Mayor's Budget Message and to make any additions or revisions the Council deems advisable.

Upon close of the public hearing, the Council shall approve the Mayor's Budget Message as presented, or as revised.

#### **SECTION 1906. Draft Budget.**

At least forty-five (45) days prior to the beginning of each fiscal year, or at such earlier time as the Council may specify, the City Manager shall submit to the Mayor and to the Council a draft budget for the ensuing fiscal year, together with an accompanying report.

The draft budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Council may require or, in the absence of Council requirements, in such form as the City Manager deems desirable. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, including the amount proposed to be raised by property taxation, estimated unencumbered balances of funds to be carried over from the preceding year, estimated unencumbered available reserves, and all proposed expenditures, including debt service, for the ensuing year. The total of proposed expenditures shall not exceed the total of estimated income, estimated unencumbered balances of funds to be carried over from the preceding year and unencumbered available reserves.

In addition to complying with the requirements of this section, the draft budget shall accurately reflect the recommendations and priorities specified in the Mayor's Budget Message as adopted by the Council.

The report of the City Manager accompanying the draft budget shall specify the budget allocations which implement each component included within the Mayor's Budget Message as adopted by the Council.

**SECTION 1907. Mayor's Final Budget Modifications and Adoption of the Budget.**

At least thirty (30) days prior to the new fiscal year, the Mayor shall submit to the Council the Mayor's Final Budget Modifications to the draft budget.

Following receipt of the Mayor's Final Budget Modifications, the Council shall proceed to consider the same together with the draft budget; but the Council shall not adopt a budget, either as proposed by the City Manager or as revised by the Mayor's Final Budget Modifications, until after the Council shall have held a public hearing in accordance with the provisions of this section.

Copies of the draft budget as submitted by the City Manager together with the Mayor's Final Budget Modifications and any revisions or changes as shall have been approved and recommended by the Council shall be filed and available for inspection by the public in the office of the City Clerk for at least ten (10) days prior to said hearing. The notice of hearing shall state the time and place of the hearing and the times and place where copies of the draft budget together with the Mayor's Final Budget Modifications and revisions or changes as shall have been approved and recommended by the Council will be available for public inspection.

Following the public hearing, the Council shall adopt the budget with such amendments, if any, as it may deem desirable. Such amendments may add or increase programs or amounts or may delete or decrease programs or amounts except expenditures required by law or for debt service, provided that no amendment to the budget shall increase proposed expenditures to an amount greater than the total estimated income plus unencumbered available reserves and estimated unencumbered balances of funds carried over from the preceding fiscal year.

**SECTION 1908. Appropriations.**

After adoption of the budget, the various amounts proposed for the operation of each of the offices, departments and agencies of the City during the budget year and for other purposes or objects named in the budget shall be deemed appropriated. The budget may be amended from time to time during the fiscal year.

In the event the Council shall fail to adopt the budget by the beginning of the fiscal year, the various amounts proposed in the draft budget shall be deemed appropriated until the Council adopts a budget for the fiscal year.

No part of any appropriation shall be transferred from one fund to another fund unless authorized by the City Council.

No member of the Council, officer, department or agency of the City, during any budget year, shall expend or incur any obligation to expend money for any class or category of expenditure not authorized by or in excess of the amounts appropriated in the budget.

Except as otherwise provided in this Charter or where the Council may have, by resolution, provided for the continuance of an appropriation beyond the end of the fiscal year, all appropriations approved by the City Council shall lapse at the end of the fiscal year to the extent they shall not have been expended or encumbered.

**SECTION 1909. Control of Expenditures by City Manager.**

The several items of expenditure appropriated each fiscal year being based on estimated receipts, income or revenues which may not be fully realized, it shall be incumbent upon the City Manager to establish a schedule of allotments, monthly or quarterly or as he or she may otherwise determine, under which the sums appropriated to the several departments, offices and agencies shall be expended. The City Manager shall revise revenue estimates from time to time, and may revise allotments at any time.

**SECTION 1910. Annual Financial Statement.**

At the conclusion of each fiscal year, a comprehensive Annual Financial Statement shall be prepared in sufficient detail to show the financial condition of the City's funds for the preceding year. Such Annual Financial Statement shall be prepared in accordance with generally accepted accounting principles.

**SECTION 1911. Annual Audit**

As soon as practical after the close of the fiscal year, an Annual Audit shall be made of all accounts of the City. Such audit shall be made by a firm of certified public accountants selected by the City Council. The audit shall be made in accordance with generally accepted audit standards for audits of public agencies.

**SECTION 1912. Council Salary Setting Commission.**

There shall be, and there is hereby established, a Council Salary Setting Commission. The following provisions shall be applicable thereto:

- (a) Membership: The Council Salary Setting Commission shall consist of five (5) members appointed by the Civil Service Commission. Members

must be qualified electors of the City at all times during their term of office.

(b) Terms of Office: Except as provided herein below, the regular term of office of each member of the Council Salary Setting Commission shall be four (4) years. The initial members of the Council Salary Setting Commission shall be appointed by the Civil Service Commission during the month of June 2000. Two (2) of the members so appointed shall be appointed for a term expiring on December 31, 2002. Three (3) of the members so appointed shall be appointed for a term expiring on December 31, 2004. Commencing in December 2002, the Civil Service Commission shall, during the month of December of each even-numbered year, make appointments to fill the offices of the members whose terms are expiring at the end of such even-numbered years. Such appointments shall be for regular terms of four (4) years commencing on the first day of January of the following odd-numbered year and expiring on the thirty-first day of December of the second even-numbered year thereafter.

(c) Vacancies: The Civil Service Commission may remove a member from office at any time for misconduct, inefficiency or willful neglect in the performance of the duties of his or her office providing it first states in writing the reasons for such removal and gives such member an opportunity to be heard before the Civil Service Commission in his or her own defense. If a vacancy occurs before the expiration of a member's term, the Civil Service Commission shall appoint a qualified person to fill such vacancy for the remainder of the unexpired term of such member.

(d) Powers and Duties: The Council Salary Setting Commission shall biennially make recommendations respecting salaries for members of the Council, including the Mayor, as provided in Charter Section 410.

Article XXV of the Stockton City Charter shall be amended by adding thereto SECTION 2542 which shall be as follows:

**SECTION 2542. Appointments from Classified Service to Unclassified Service.**

In the event an employee of the City, who holds a Classified Civil Service position is appointed to a position in the Unclassified Service, should subsequently be removed or resign from the Unclassified Service, he or she shall have the right, if he or she has not been guilty of conduct bringing discredit, as that term is presently or hereafter defined in Government Code section 19572, upon the City, to be employed forthwith in a position consonant with his or her former classification in the Classified Service without loss of any rights or privileges and upon the same terms and conditions as if he or she had remained in

March 8, 2000

said classification.

Article XXVII of the Stockton City Charter shall be amended by adding thereto SECTION 2703 which shall be as follows:

**SECTION 2703. Definitions.**

Unless the provisions of the context otherwise require, as used in this Charter:

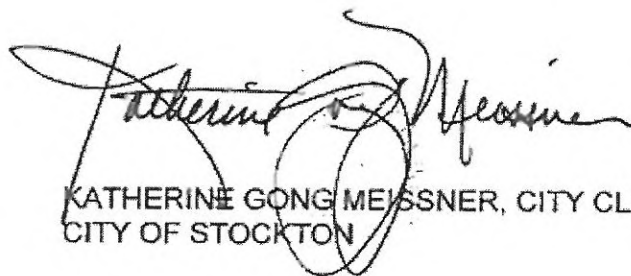
- (a) "Shall" is mandatory and "may" is permissive;
- (b) "City" is the City of Stockton and "department," "board," "commission," "agency," "officer," or "employee" is a department, board, commission, agency, officer or employee, as the case may be, of the City of Stockton;
- (c) "Council" is the Council of the City of Stockton;
- (d) A "Councilmember" means any one of the members of the Council, excluding the Mayor;
- (e) "County" is the County of San Joaquin;
- (f) "State" is the State of California;
- (g) "Newspaper of general circulation within the City" is defined by Section 6000 of the Government Code of the State of California;
- (h) The masculine gender includes the feminine and neuter;
- (i) "Council Appointees" are the City Manager, the City Attorney, the City Clerk, and the City Auditor;
- (j) "Unclassified Service" are employees not subject to Civil Service;
- (k) The terms "electors," "qualified electors" and "voters" are voters duly registered and qualified to vote in the next municipal election of the City of Stockton.

March 8, 2000

I, **KATHERINE GONG MEISSNER**, do hereby certify as follows:

I am the duly appointed, qualified City Clerk of the City of Stockton, a California municipal corporation; as such City Clerk, I am the custodian of the official records of the City Council of said City. The attached is a true, complete and accurate copy of the measure language of the proposed Charter amendment (Measure U) submitted to voters at the March 7, 2000 municipal election, on file in the City Clerk's office.

**IN WITNESS WHEREOF**, I have hereto affixed my hand and the seal of the City of Stockton on May 2, 2000.



KATHERINE GONG MEISSNER, CITY CLERK  
CITY OF STOCKTON

**Appendix "L"**

**Separate Commentary from Individual Committee  
Members**

**[No Separate Commentary Was Submitted by Any Committee  
Members]**

# Runoff elections Official compensation

Review for the City of Modesto,  
Charter Review Committee

Paul Shinn

CSU Stanislaus

Center for Public Policy Studies



# Overview of presentation

- Runoff options
- Runoff practices in California
- Runoff advantages and disadvantages
- Compensation of mayor, council members, and planning commissioners

# Methodology

- Review of city documents
  - Charter
  - Ordinances
  - Election results
- Survey of cities
- Review literature on runoffs and compensation

# California Cities over 180,000

- With runoffs
  - Chula Vista
  - Fresno
  - Long Beach
  - Modesto
  - Oakland
  - Riverside
  - Sacramento
  - San Bernardino
  - San Jose
  - Stockton
- Without runoffs
  - Anaheim
  - Bakersfield
  - Fremont
  - Glendale
  - Huntington Beach
  - Irvine
  - Oxnard
  - Santa Ana

Los Angeles, San Diego, and San Francisco were excluded from the study due to size and structure differences

# Comparing cities

	Runoff cities	Plurality cities
Median population	343,000	200,000
At large election	2 (incl. Modesto)	6
District election	6	1
Hybrid	2	1

# Runoff election calendars

- June-Nov. (or state primary-general)
  - 7 cities
- April-June even-numbered years
  - Long Beach
- November-December odd-numbered years
  - Modesto
- November odd year-February even year
  - San Bernardino

# Plurality election calendars

- April of odd-numbered years
  - Glendale
- November or state general
  - 7 cities

# Runoff advantages

- Majority support increases legitimacy and support of elected officials
- Voters may have more opportunities to review candidates
- May increase number of candidates
- Creates better representation of minorities (political or ethnic)
  - More likely to run
  - Slightly more likely to win

# Runoff disadvantages

- Increased cost of elections
- Increased cost to campaign
  - May discourage candidates from running
  - May increase influence of contributors
- Runoff election may have lower turnout
- Delay in result and taking office

# Other runoff systems

- Instant runoff or preferential voting
  - Used in San Francisco effective 2004
    - Voters select 1st, 2nd, and 3rd choice for each position
    - Candidate receiving 50% of 1st choice votes is elected
    - Candidate receiving fewest votes is eliminated and 2nd choice of that person's voters is counted.
    - Repeat until a candidate has 50% of votes.

# Election timing

- Elections at a presidential general election increase turnout by 36%
- Elections at gubernatorial general election increase turnout by 26%
- Elections at presidential primary election increase turnout by 21%

# Mayor and council compensation

- Mayor compensation
  - ranges from \$175 to \$13,583 monthly
  - median of all cities is \$4,390
  - Median (<250,000) is \$1,172
- Council compensation
  - ranges from \$50 to \$6,250 monthly
  - median of all cities is \$1,522
  - Median (<250,000) is \$800

# Setting official compensation

- Amount by charter--5 cities (1 for council only)
- State statute--3 cities
- Indexed--3 cities (2 for mayor only)
- Commission--4 cities (1 for council only)
- Ordinance--4 cities

# Planning commission compensation

- \$0--5 cities
- \$50-100/month--3 cities
- \$75-100/meeting--2 cities
- \$225/mo.--1 city