

MEMORANDUM

TO: 2009 Charter Review Committee

FROM: Judith Zeider, Chief Assistant City Attorney

RE: History of Vancouver City Charter and Its Amendments - Corrected

DATE: February 10, 2009

The Vancouver City Charter, adopted by vote of the people February 11, 1952, is the “constitution” of the City of Vancouver and provides the framework for the city government. By adopting a “home rule” charter, Vancouver gained broader authority to govern its own affairs and to adopt ordinances to meet local needs, as long as those ordinances do not conflict with the general laws of the state.

In 1973, Section 11.17 was added to the charter to provide for periodic reviews of the charter by a panel of fifteen residents. Your charge is to:

- 1.) Review the city charter; and
- 2.) Recommend to the city council any charter changes or amendments which the panel believes should be put to a vote of the people.

Proposed changes are to be presented in time for the city council to place them on the ballot that year. If a majority of council approves, the council will place the amendment on the ballot at the next municipal election, but it may place the amendment on the ballot sooner if the charter review falls in an even year.¹

Nothing in section 11.17 precludes citizens from petitioning as allowed by state law to put a charter amendment to a vote of the people or from allowing the council to present amendments to the voters.

Vancouver City Charter – Summary of Major Amendments since 1952.

Major changes to the charter since 1952 include:

1967 – Section 2.13 was amended to require only the title of an ordinance to be read aloud, rather than the entire section.

1969 – Section 2.02 was amended through a citizen petition drive to provide for direct election of the mayor. (The mayor had been elected by the council prior to that.)

¹ Municipal general elections are in odd numbered years. RCW 29A.04.330.

1973 – The Charter Review Committee and periodic review of the charter every 6th year was established by Charter Section 11.17. (The first committee had been appointed by the mayor as an advisory group in 1967).

1979

- Section 11.17 was amended to schedule charter reviews every 5 years; and
- Section 2.08 was amended to provide that persons appointed by council to fill a vacancy for election would only serve until the next election (whether municipal in odd—numbered years or in general in even numbered years.) The effect was to shorten the time an appointed councilmember may serve before having to run for office.

1987 – Section 7.02 was amended to allow fire and police chiefs to be exempted from civil service. This amendment was at the initiative of council, rather than a charter review committee, after the state law was amended to allow for this exemption.

1994 – Citizen’s Commission on Mayor/Council Salaries was created by new Section 2.18. Prior to that, the council had set its own salaries.

2004 – The mayor’s term was increased from two to four years.

Charter History – Detailed Account

For a first hand account of charter history from 1965 up to 1994, please read the attached “Brief and Informal History of the Present Vancouver City Charter.” Jerry King, Vancouver’s City Attorney from 1965 to 1994, prepared it for the 1994 Charter Review Committee. The first “review” of the charter was not done until 1967, so his account up to 1994 is based on his direct knowledge of events, and does not need to be repeated here.

His history also provides a summary of the forms of governance Vancouver has utilized since its incorporation in 1857, plus an overview of how a charter may be established and amended.

Charter from 1994 to present – a more detailed account.

1994 Charter Review

In 1994, the committee recommended several charter amendments, and forwarded four proposed amendments to council. All were placed on the ballot by city council and all were passed by the voters that November.

A new section 2.18 was added establishing a citizen’s commission to review and establish mayor and council salaries. The committee members who proposed this change were concerned that salaries had remained static for over a decade, and that council,

which fixed its salary by ordinance, was reluctant to increase salaries for fear of angering voters. Those proposing the change desired to free the salary review process from political pressures and to allow salaries to be adjusted by an independent commission so as to attract a wider range of qualified candidates to run for office.²

Section 3.04 was amended to clarify that the city council, council committees and individual councilmembers could seek legal assistance from the city attorney. The impetus for this proposal was the impression held by some councilmembers that they had been not given free access to the city attorney's office to seek advice. This amendment clarified that they could go directly to the city attorney if they wished, without first going through the city manager.

Section 8.04 was amended to provide representation on the Parks and Recreation Commission from every school district with territory within the city limits and increasing the number of at large members which council could appoint from seven to nine. When the charter was first adopted in 1952, Vancouver was much smaller and the only school district with territory within the city was the Vancouver School District. With the urbanization of Clark County, the expansion of the city limits east, Evergreen School District had by 1994 territory annexed into the city. This provision was adopted to expand representation on the Parks and Recreation Commission to all in-city districts equally. The cap on at large members was increased from seven to nine.

Section 6.10 was amended to provide for award of city contracts for public improvements to the lowest and most responsible bidder. As a first class, charter city, Vancouver sets standards for purchase of supplies, equipment, and materials through its charter and ordinances. Section 6.09 had since 1952 provided for award for these contacts to the lowest most responsible bidder. In 1994, staff proposed an amendment to the Section 6.10 on public works improvement bidding was proposed to make the two sections (6.09 and 6.10) identical in terms of the "most responsible" bidder language.

The 1994 committee also discussed and studied whether to establish a ward or district system for selection of councilmembers. Several variations of this were discussed, but ultimately, the committee voted not to forward a proposal on this issue to council.³

² As background, the state constitution prohibits municipal officers who fix their own salaries from increasing them during their term of office and also prohibits reduction of salaries during their term of office. See Article XI, section 8 (no reduction or increase in salary of municipal officer during term in office) and Article III, Section 1 (allowing increase in salaries during the term of officers who do not fix their own salaries). This resulted in an anomaly where new council members could have higher salaries than those who had served for many years. This issue had been addressed by Amendment 78 to the state constitution for state elected officials in 1986 by authorizing an independent commission to fix their salaries. The City's salary commission provision was modeled on this state constitutional provision. In 2001, the legislature clarified its intent that all Washington cities have the option to establish such commissions to fix the salaries of city elected officials. RCW 35.21.015.

³ Minutes August 2, 1994, Charter Review Committee.

The 1994 committee also discussed at length establishing a performance auditor position in the city government and whether to do so by charter amendment or by ordinance. Ultimately, the committee voted to recommend establishing a performance auditor by ordinance.⁴

1999 Charter Review.

The next Charter Review Committee was convened in 1999. Having been convened shortly after Vancouver doubled in size and population through annexation, there was much discussion and review of the city governance. The city has operated under the council/manager and elected the mayor and councilmembers at large since the charter was adopted in 1952. The 1999 committee debated the form of government and election of mayor and council at length.

The council placed two questions related to these debates on the November, 1999 ballot as nonbinding advisory questions.

On first advisory question, “Should Vancouver change the present at-large method of electing councilmembers to some form of geographic district or ward system?” The vote was 48.6% “Yes” and 51.4% “No.”

The second advisory question, “Should the Vancouver City Council undertake a review of the advantages and disadvantages of changing the form of government of the City of Vancouver from the present council/manager form of government to some form of mayor/council or other authorized form of municipal government?” The vote was 50.3% voting “Yes” and “49.7%” voting “No.”

Given the narrow margins on the two advisory questions, Council did not move forward with further amendments on these issues.

Three charter amendments which were placed on the November 1999 ballot as binding measures were approved by the voters.

The first added a new Section 2.18 to the charter giving council the option to authorize Run Off Voting (“IRV”) for council and mayor elections, thus eliminating the need for a primary.⁵

A second amendment revised Section 8.05 (Library) to provide for continuation of ample library services should the present library system be dissolved.⁶

The third amendment to Sections 2.04 2.08 clarified a method of succession for the mayor and mayor *pro tempore* in the event the office of mayor becomes vacant. Under the

⁴ Minutes, August 2, 1994, Charter Review Committee.

⁵ Council has not opted to use IRV at this point. IRV pilot program legislation for first class cities with an IRV charter provision was adopted in 2005. See Ch 29A.53 RCW.

⁶ The City has since the 1950’s partnered with the Fort Vancouver Regional Library District to provide library services. City voters approved annexation into the District in 1981.

amendments, the mayor *pro tempore* succeeds to the office of mayor until the next regular election, whether municipal or state. At that time, the voters elect someone to fill the unexpired term of the mayor. Previously, it had been unclear whether a mayor *pro tempore* who serves as mayor in this situation was on excused absence from the council seat and could return to serve his or her unexpired council term without running for election. It was thought that not all persons who were willing to serve as mayor *pro tempore* were interested in being mayor for the long term. Now, the mayor *pro tempore* fills the office of mayor until an election, at which the *pro tempore* may or may not run for mayor. If the mayor *pro tempore* chooses not to run, or loses the mayoral race, the mayor *pro tempore* still remains on council for his or her unexpired term.

The results of the election in 1999 are as follows:

1999 Proposed amendment	1999 Election results
Give Council option to authorize Instant Run off Voting for Council and Mayor elections	Approved New Charter Section 2.18 52.9% yes; 47.1% no
Update Section 8.05 (Library) to assure continuation of ample library services should present library system be dissolved	Approved Amended Charter Section 8.05 73.2% yes; 26.8% no
Clarify method of succession for mayor and mayor pro tem	Approved Amended Charter Sections 2.04 and 2.08 84.8% yes; 15.2% no

Two other proposals of the 1999 Charter Review Committee were not placed on the ballot in any form, binding or nonbinding:

- Increasing the term of the mayor from two to four years.⁷
- Providing that charter amendments approved by 80% of the Charter Review Committee members must be submitted to the voters after hearing by Council.

2004 Charter Review.

The 2004 Charter Review Committee again looked in depth at Vancouver’s form of government and the process for electing the mayor and council. To gain a broad perspective on how Washington cities are governed, the committee held a workshop session with a municipal law consultant from the Municipal Research Services Center of Washington (MRSC).

⁷ The main reason cited against a longer term for the mayor was that with three council seats and the mayor’s seat up for election every two years, citizens had the opportunity to elect a new four person majority each municipal election. Municipal elections are held every two years in odd number years. The proposal for a four year term for mayor was placed on the ballot in 2004, and was and approved by the voters.

The 2004 Charter Review Committee ultimately forwarded two proposals to council for consideration. Council placed them on the November 2004 ballot and they passed:

Section 2.01 was amended to increase the term for mayor from two years to four years. The 2005 mayoral election was the first for a four-year term. The primary argument for the four year term was that the job of mayor was becoming more complex as the City grew and that a four year term would allow the mayor sufficient time to accomplish his or her objectives.

Title X related to initiative and referendum was amended to make the process more understandable for users and easier for staff to administer. The major arguments in favor of these amendments were that the experience of citizens who had tried to bring forward initiative and referendum proposals in the years prior to 2004 brought to light that the existing processes were confusing and had lead to needless litigation and administrative expense.⁸

Council placed these measures on the November 2004 ballot and both passed:

Proposed amendment	2004 Election results
1. Increase the term of mayor from two to four years	Approved 53.60% yes; 46.40% no
2. Revise initiative and referendum sections of Charter Title X.	Approved 55.71% yes; 44.29% no

Conclusion.

I hope that this history puts the Charter and its evolution in perspective and is a help to the 2009 Charter Review Committee in its deliberations. If you have additional questions, please let me know.

Cc: Jan Bader, Program and Policy Development Manager, City of Vancouver
Ted Gathe, Vancouver City Attorney

⁸ Note that the earlier edition of this history given to the Committee at its January 29, 2009, meeting contained an error. Contrary to that memorandum, the City Council in 2004 did not approve a proposal to increase the percentage of signatures required to qualify an initiative or referendum petition for the ballot. The threshold to qualify an initiative remains signatures equal to 15% of the votes cast in the last municipal election. For referendum, the threshold remains 10%.