

**ELK GROVE CHARTER COMMISSION  
REGULAR MEETING  
CITY COUNCIL CHAMBER, 8400 LAGUNA PALMS WAY  
TUESDAY, MARCH 17, 2009**

1. Call to Order / Roll Call / Pledge of Allegiance

The Regular Commission meeting of March 17, 2009 was called to order by Chair Allen at 6:10 p.m.

Present: Commissioners – Johnson, Loveland, Orrock, and Rambo

Absent: Commissioners – Allen, Martin, and Sendejas-Lopez (arrived at 6:11 p.m.)

Also Present: City Attorney Susan Cochran and City Clerk Susan Blackston

Commissioner Loveland led the pledge of allegiance.

Vice Chair Orrock read the following statement into the record:

*Chair Allen is presently in Washington D.C. and does not have access to a computer, but would like a message conveyed to the Charter Commission in regard to the feedback, as he understood it, from the City Council at its March 11 meeting. Remain focused on the issues of the original charge outlined in the formation resolution of the Charter Commission. Refrain from over utilizing the resources of the City Attorney's Office and do not focus on particular wording or phrasing of particular items of the proposed Charter, rather provide a stronger overall document for public review and comment.*

2. Public Comment (on non-agenda items)

Suzanne Pecci referenced the March 13 article in the Elk Grove Citizen newspaper regarding the scope and duties of the Charter Commission. She asked whether the planning and zoning issues discussed during the rural area community group meeting would be addressed in the charter.

Commissioner Rambo replied that Chair Allen is a strong supporter of rural area protection, as was posed during the Greater Sheldon Homeowner's Association community meeting, and he assured Ms. Pecci that it would be addressed by the Commission following the first charter draft that will be brought to the City Council in June.

Ms. Pecci recalled that the idea of financing taxing powers was also brought up during the community meeting.

Commissioner Rambo stated that all the issues addressed by attendees of the community meeting would be considered.

3. Approval of March 3, 2009 Minutes

MOTION/VOTE:

Commissioner Johnson made a motion, Sendejas-Lopez second, to approve the March 3, 2009 minutes as presented. The motion carried by the following vote:

Ayes: Commissioners – Johnson, Sendejas-Lopez, Loveland, and Rambo  
Noes: Commissioners – None  
Absent: Commissioners – Allen and Martin  
Abstain: Commissioners – Orrock (*due to absence at the 03-03-09 meeting*)

4. Receive presentation from Public Works staff and discuss and draft Charter language regarding the following issues:

- A. Recommendations from Public Works staff regarding project delivery methods (e.g. design-build construction projects);
- B. Local business and green business preferences;
- C. Provision prohibiting splitting single projects into two or more transactions for the purpose of evading bidding requirements;
- D. Prohibition for consistently using the same contractor for non-bid projects; and
- E. Define two-thirds vote in Article 6, Financial Procedures, Section 6.01, Public Works.

Public Works Director Richard Shepard distributed a 63 page Caltrans document entitled, “Innovative Procurement Practices” (filed). He recommended that language in the Charter not include or exclude certain types of contracting requirements. He explained that it was important to be able to utilize any project delivery method for efficiency in operating the government, i.e. for effectiveness, timeliness, and/or cost savings. He suggested including language that would allow for any alternative contracting method to be implemented on a two-thirds vote of the Council.

In answer to questions posed by Commissioners, Mr. Shepard stated that design-build should be used when it is beneficial to the project and the public. He explained that the purpose of design-build could be to save money and/or provide continuity and integrity to the quality of a project. He recommended that the dollar amount of a design-build contract be eliminated from the draft charter language and that the primary bidding mechanism in the charter default to design-bid-build.

Assistant Public Works Director Fritz Buchman briefly reviewed public contracting language in various city charters. He reported that many charters state, “The city council has the authority to adopt procedures or ordinances to regulate all aspects of bidding”. The most common default method is competitive bid requirements. He mentioned that some charters address issues such as prohibition of splitting projects to avoid the bidding process, conflict of interest

provisions for public contracting, local contractor preferences, and alternative contracting.

Commissioner Sendejas-Lopez , with subsequent consensus of the Commission, asked Public Works staff to develop a fact sheet with relevant charter language options and desired preferences to assist the Commission in further refining the charter as it pertained to Article VI Financial Procedures, Section 6.01 Public Works.

Mr. Buchman suggested that the charter include the statement “included but not limited to” when specifying contracting methods and stipulate that the city council should make certain findings.

Vice Chair Orrock asked the City Attorney to bring back a definition on “green” preference for the Commission to consider at a future meeting, to which Ms. Cochran answered in the affirmative noting that she would research Assembly Bill 32 *California Global Warming Solutions Act* and Senate Bill 375.

The Charter Commission discussed and considered charter language as drafted by City Attorney Cochran and agreed to changes as identified in **Exhibit A** to the minutes.

PUBLIC COMMENT:

None.

5. **Discuss and draft Charter language regarding the following subject:**

- A. Article III. Elections, Section 3.02 Independent Commission on City Districts; Duties

Commissioner Johnson reported that he had forwarded his recommended language regarding Article III. Elections, Section 3.02 Independent Commission on City Districts; Duties to City Attorney Cochran for inclusion in the charter, to which Ms. Cochran confirmed receipt.

PUBLIC COMMENT:

None.

6. **New Business / General Announcements**

Vice Chair Orrock reported that he, as well as Chair Allen, and staff, recommend the regularly scheduled Charter Commission meeting of April 7, 2009 be canceled, due to a conflict in scheduling with Congressman Lungren’s Town Hall meeting on the same date and location. Additionally, he noted that Vice Mayor Scherman had suggested that by cancelling the meeting, it would allow the Commissioners to attend Congressman Lungren’s meeting.

Commissioner Loveland expressed concern about canceling any meeting of the Charter Commission.

Commissioner Johnson preferred that the April 7, 2009 meeting be rescheduled, rather than canceled.

Commissioner Rambo suggested that the five topics previously determined to be considered on May 5 be moved to the April 7 meeting so that by the Commission's meeting of April 21, all items outlined in Resolution 2008-74 would be complete.

City Attorney Cochran stated that she had been directed to attend Congressman Lundgren's Town Hall meeting, therefore she would be unable to attend another meeting at the same time on April 7.

MOTION/VOTE:

Commissioner Loveland made a motion, Sendejas-Lopez second, to cancel the regularly scheduled Charter Commission meeting of April 7, 2009 and give consideration to rescheduling it.

Commissioner Rambo asked that the motion be amended to include the statement that the April 7, 2009 Charter Commission meeting was being canceled at the request of Vice Mayor Scherman and to accommodate staff, due to the unavailability of the City Attorney.

Commissioner Loveland agreed to the amendment.

The motion carried by the following vote:

Ayes: Commissioners – Orrock, Johnson, Sendejas-Lopez, Loveland, and Rambo

Noes: Commissioners – None

Absent: Commissioners – Allen and Martin

Vice Chair Orrock noted that the topics of discussion for the meeting of April 21 have been changed to: 1) Campaign Finance, 2) Availability of Financing Mechanisms, and 3) 50% +1 voting (primary versus general elections).

Commissioner Rambo believed that the campaign finance discussion would also include the subject of free speech and he expressed concern that the agenda item properly discloses this, to which City Attorney Cochran indicated that it could be discussed within the realm of the campaign finance topic.

Vice Chair Orrock reported that the topics of discussion for the May 5 meeting would be employment issues: 1) City Manager; 2) Departments; Agencies and Employees; and 3) Civil Service.

Commissioner Rambo asked the City Attorney to bring written recommendations to the May 5 meeting. Additionally, he believed that the position of City Clerk should be outlined in the charter as well. He suggested that topics for May 5 and May 21 be combined.

PUBLIC COMMENT:

Kristy Day, Community Relations Project Manager for HDR/The Hoyt Company, expected momentum to be built at the Special March 24 meeting and, therefore, recommended not allowing four weeks to lapse without holding another meeting in order to keep the public interest from waning during the interim period.

Discussion ensued regarding rescheduling meetings and reassigning topics.

MOTION:

Commissioner Rambo made a motion to schedule a Special Charter Commission meeting on April 6 to discuss topics tentatively scheduled for the May 5 meeting. The motion died for lack of a second.

7. Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:32 p.m.

ATTEST:

/s/ Susan J. Blackston.  
City Clerk

ARTICLE I. Powers of the City

EXHIBIT A

1.01. Powers, Rights and Privileges of the City:

The City shall have all powers, rights and privileges possible for a city to have under the Constitution and laws of the State of California as fully and as completely as though they were specifically enumerated in this Charter.

A. General Law Powers.

(i) Reservation. Nothing in this Charter shall be construed to prevent or restrict the City from exercising or consenting to the exercise of any and all powers, rights, and privileges heretofore or hereafter granted or prescribed by general laws of the state.

(ii) Exercise. The City is hereby authorized to exercise any and all, powers, ~~rights and~~ rights and privileges heretofore or hereafter granted or prescribed by the general laws of the state.

B. Municipal Affairs. The City is hereby authorized to make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in this Charter and in respect to other matters subject to applicable general laws. As regards municipal affairs, this Charter shall supersede all laws inconsistent therewith.

C. Intergovernmental Powers. The City is hereby authorized to exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states and the State of California, or any state civil division or agency, or the United States or any of its agencies.

D. Construction. The powers of the City under this Charter shall be construed liberally in favor of the City. The specific mention of particular powers in the Charter shall not be construed as limiting in any way the general powers granted in this Article or by this Charter.

ARTICLE II. Elected Officials

2.01 City Council.

A. Number and Election. The City Council shall consist of seven (7) Council members, including the office of Mayor, elected to office in a manner provided in this Charter.

ALTERNATIVE 1:

(1) The City shall be divided into five (5) districts. Each district shall elect one of its residents to the City Council. Districts shall ~~be apportioned~~ be apportioned pursuant to general law.

(2) One (1) Council member shall be elected by the voters of the City at large. The office of this Council member shall be included at a general municipal election at the same time as those Council members in even numbered districts. If this Charter is adopted by the citizens of the City of Elk Grove, the first such election shall occur in 2012 and the initial term shall be for two (2) years. Thereafter, the term shall be four (4) years.

ALTERNATIVE 2:

(1) The City shall be divided into six (6) districts; each district shall be represented by a Council member elected by the residents of that district. Districts shall be apportioned pursuant to general law.

(2) If this Charter is adopted by the citizens of the City of Elk Grove, the Council member for District Six shall be elected in 2012 and have an initial term of two (2) years. Thereafter, the term shall be four (4) years.

ALTERNATIVE 3:

(1) The City shall be divided into six (6) districts. To qualify for election, a Council member shall reside within a district, but shall be elected by a vote of the citizens at large. Districts shall be apportioned pursuant to general law.

(2) If this Charter is adopted by the citizens of the City of Elk Grove, the Council member for District Six shall be elected in 2012 and have an initial term of two (2) years. Thereafter, the term shall be four (4) years.

(3) Voting.

ALTERNATIVE 1: A candidate who receives the plurality (greatest number) of votes cast in the general election shall be elected. Any ties in voting shall be settled by the casting of lots under the supervision of, and in such manner and place as determined by the City Clerk.

ALTERNATIVE 2 (50% plus 1): A candidate who receives a majority (greater than 50%) of all votes cast at the primary election immediately preceding the general election shall be

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<sup>1</sup> Current practice of the City.  
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elected. When no candidate is so elected, the two candidates who received the highest number of votes shall be the candidates at the general municipal election. Any ties in voting shall be settled by the casting of lots under the supervision of, and in such manner and place as determined by the City Clerk. .

B. Term. The term of office shall be four (4) years. Alternatively, and successively, odd numbered districts shall be filled at one general municipal election and even numbered districts at the next such election. The term of a City Council member shall commence on the first meeting in December after the election results for the November General Election have been certified. The Council member shall serve until a successor qualifies.

C. Powers.

(1) All powers, rights and privileges of the City shall be vested in the City Council, subject to the provisions of the Charter and to the Constitution of the State of California.

(2) The City Council shall designate one of its members as Vice Mayor. The Vice Mayor shall perform the duties of the Mayor during the Mayor's absence or disability. The Vice Mayor shall serve in such capacity at the pleasure of the City Council.

**2.02 Mayor.**

A. Election and Term. The Mayor shall be elected by voters of the City at large. The term of office shall be four (4) years. The office of Mayor shall be included at a general municipal election at the same time as those City Council members in odd numbered districts.

B. Powers and Duties of Mayor.

(1) The Mayor shall be the presiding officer of all Council meetings. The Mayor shall have a voice and vote in all proceedings of the City Council. The Mayor ~~The Mayor The Mayor~~ shall have authority to preserve order at all City Council meetings, to remove or cause the removal of any person from any meeting of the City Council for disorderly conduct, to enforce the rules of the City Council and to determine the order of business under the rules of the City Council.

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(2) The Mayor shall be the official head of the City for all ceremonial purposes.

(3) The Mayor shall have all powers, rights and privileges of a Council member.

(4) 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.

(5) The Council may grant to the office of Mayor the power to suspend administrative actions ("administrative suspension") of the City Manager, City Attorney, and other subordinate officers and employees of the City provided that such suspension shall be ~~referred~~referred to the City Council at its next regular meeting for review. Such review may be to affirm, reverse or modify the decision of the Mayor. As used in the section, "administrative action" shall not apply to the following:

- \_\_\_\_\_ (a) The employment, hiring, firing or demotion of employees;
- \_\_\_\_\_ (b) The investigation, apprehension, or prosecution of criminal actions;
- \_\_\_\_\_ (c) The function or duty of the police;
- \_\_\_\_\_ (d) The commencement or prosecution of any action brought in the name of the People of the State of California.

(6) The Mayor shall exercise such other powers and perform such other duties as may be prescribed by the City Council, provided that 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 herein provided, the Mayor shall possess only such authority over the City

Manager and the administrative branch as the Mayor possesses as one member of the City Council.

### 2.03 Vice Mayor.

At the first Council meeting in January of each year, or sooner if required, the City Council shall elect one of its members, other than the Mayor, to serve as Vice Mayor during the ensuing calendar year. The member of the council so elected shall serve as Vice Mayor until a successor is elected as provided above. The Vice Mayor may be removed from the office and replaced by an affirmative vote of the City Council:

The Vice Mayor shall act as Mayor during the absence or inability of the Mayor to act, provided, however, that the Vice Mayor may not exercise the administrative suspension power authorized by this Charter unless the City Council shall, by a vote of X, so delegate this power to the Vice Mayor after the absence or inability of the Mayor to act has occurred. - In the case of the temporary absence or disability of both the Mayor and the Vice Mayor, the Council shall designate one of its members to act as Mayor Pro Tempore. For purpose of this section, "absence" or "inability of the Mayor to act" shall mean any of the following:

- (a) A notice by the Mayor to the Council and the Vice Mayor of a planned absence that will require action by the Vice Mayor; or
- (b) Notice by the City Manager to the City Council and the Vice Mayor that the Mayor is otherwise absent or incapacitated.

### 2.04 Vacancies.

If a vacancy shall occur in the office of Mayor or Councilmember, the Council shall forthwith appoint a person to fill such vacancy for the remainder of the term; - provided, however, that if the unexpired term of office that is vacated exceeds two (2) years, the appointee shall serve until term of office shall be limited to the unexpired term remaining and the office shall be subject to election at the next regularly scheduled election for Councilmember or Mayor. Said appointee shall possess such qualifications for eligibility as are set forth in this Charter and shall hold office until a successor is duly elected and qualified, provided, however, that only a current Councilmember shall be eligible to fill the vacancy of the office of Mayor. Such successor shall be chosen at the next regular municipal election, or as otherwise may be required by recall proceedings instituted involving the office of Mayor or a Councilmember.

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In the event that the Council shall fail to fill a vacancy by appointment within thirty (30) days after such office shall have become vacant, it shall forthwith cause a special election to be held to fill such vacancy, provided, however, that no appointment or election shall be required if the vacancy occurs within one hundred twenty ~~ninety (90)~~ (120) days of an election at which a Council Member or Mayor stands for election.

A vacancy shall be deemed to exist in the office of Mayor or Councilmember under any of the following circumstances:

(1) Resignation;

(2) Death;

(3) Absences from four (4) consecutive regularly scheduled meetings. Vacancy under these circumstances shall be found only if determined by a unanimous vote of the Council at a regular meeting of the Council where discussion and deliberation of the vacancy is properly placed on an agenda.

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## **ARTICLE III. Elections**

### **3.01 Election Procedures:**

Unless otherwise provided by ordinance, all elections shall be held in accordance with the provisions of the State Elections Code for the holding of municipal elections so far as the same are not in conflict with this Charter.

A. Special Elections. The City Council may call special elections for such purposes as the City Council may prescribe. A special election may be held on any date specified by the City Council.

B. Initiative, Referendum and Recall. The electors of the City reserve to themselves the powers of initiative and referendum and the recall of elective officers, to be exercised in the manner prescribed by the State Elections Code.

**3.02 Independent Commission on City Districts: Duties.** There shall be established an Independent Commission on City Districts, 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

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establishing ~~six~~ councilmember election districts in a timely manner for use in the Municipal Elections to be held in 2012. In each year ending in the number zero ~~T~~hereafter, the Council shall appoint new Commissioners who shall ~~a new Commission shall be appointed by the Council and~~ then meet and recommend to the Council a plan for redistricting of the ~~six~~<sup>2</sup> 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.

(A) **Appointment of Commission.** The Commission shall consist of thirteen (13)<sup>3</sup> qualified electors residing within the City and shall be appointed by the City Council and Mayor pursuant to the provisions below: The Commissioners shall serve until the next decennial census.

(1) Each councilmember shall appoint ~~two~~ (2) ~~one~~ (1) members from his or her district and the Mayor shall appoint one (1) member from the City at large. Another qualified Commissioner of each district shall be selected by lot.

~~(2) Strong consideration shall be given to composing the Commission of:~~<sup>4</sup>

(a) a retired judge as chairperson;

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

(c) 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;

(d) 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;

<sup>2</sup> "Six" districts is used until final determination of the number of district elections v. at wide is finally decided.

<sup>3</sup> True number to match number of council members.

<sup>4</sup> These additional criteria are drawn from Modesto's recently adopted Charter provision and are included for discussion/consideration only.

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~~(e) 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;~~

~~(3) The Commission shall reflect the demographic and geographic diversity of the City.~~

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~~(4) No member of the Commission shall be an immediate family member of the Mayor, a member of the Council, or prior candidate for elective City office. As used in this section "immediate family member" shall mean spouse, child, parent, siblings, in-law, or registered domestic partner.~~

~~(5) 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, at time of appointment, receives compensation from the City or from bargaining units of the City in any manner, including retirement benefits.~~

~~(6) 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.~~

~~(7) In all other respects, the members of the Commission shall be chosen pursuant to the provisions of this Charter.~~

~~(8) Members of the Commission shall serve without compensation.~~

~~(9) No member of the Commission shall have been the subject of a conservatorship, guardianship, or a sustained petition under Health and Safety Code section 5150 within the five years preceding his or her appointment.~~

~~(10) Members of the Commission shall be free from incarceration for a period of ten (10) years prior to their appointment and shall not currently be on probation or parole for any crime.~~

~~(B) **Removal of Commission Member.** Upon a petition to the City Council signed by no less than one-half of the seated members of the Commission, the City Council may remove, by 2/3 vote, a Commission Member.~~

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~~(CB) **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:

(1) district boundaries shall comply with the Voting Rights Act;

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

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

(4) 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;

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

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

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

(1) 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;

(2) 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;

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

(4) 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;

(5) 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. Any person seeking to challenge the Final Districting Plan in court shall have presented objections to the Plan at such public hearings. Failure to present such objections may be deemed a failure to exhaust administrative remedies:

(6) 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:

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

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

(1) 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;

(2) 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.

(3) 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. The Commission shall, for each reason for disapproval submitted by the Council, issue written findings regarding the acceptance or rejection of such disapproval. If the finding by the Commission is supported by a 2/3 vote of the Commission, the

decision of the Commission shall be final and shall be reflected in the Final Districting Plan. After such consideration, the Commission shall submit its Final Districting Plan to the Council for implementation.

(4) Action on and implementation of the Final Districting Plan shall be completed by ~~November~~January of the year following receipt by the City of the final Federal Decennial Census information.

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

(F) **Limitation on Judicial Challenge.** Any legal challenge to the Final Districting Plan shall be brought within thirty (30) days of its adoption by the Council.

#### **ARTICLE IV. City Manager**

##### **4.01 Council-Manager Form of Government.**

The municipal government provided by this Charter shall be known as the "Council-Manager" form of government.

##### **4.02 Powers and Duties.**

#### **ARTICLE V. Departments, Agencies and Employees**

#### **ARTICLE VI. Financial Procedures**

##### **6.01 Public Works.**

(A) Definition of Public Work.

(1) Every project involving an expenditure of more than fifty thousand dollars (\$50,000) for a public work shall be let by contract to the responsible bidder submitting the lowest responsible bid after notice by publication in the official newspaper by one or more insertions, the first of which shall be at least ten days before the time for opening bids.

(2) As used in this section, "public work" means:

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(a) The erection, expansion, or improvement of public buildings.

(b) Street or sewer work, except maintenance and repair.

(c) ~~repair.~~Exceptions~~repair.~~

(B) ~~Exceptions~~ to Bid Requirements.

(1) The City Council may reject any and all bids presented and may re-advertise in its discretion.

(2) The City 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 more efficiently, more timely or more economically by the city with its own employees and after the adoption of a resolution to this effect by at least 2/3 affirmative votes of the City Council may proceed to have said work done in the manner stated, without further observance of the provisions of this section.

(3) The City Council may find that the need to perform work otherwise required to be advertised for bids is of urgent necessity for the preservation of life, health or property, and shall be authorized by motion passed by at least 2/3 affirmative votes of the City Council and containing a declaration of the facts constituting such urgency.

~~(3)~~(4) Sole source.

~~(C)~~(d) Special Assessment The provisions of this article shall not apply to any contract entered into pursuant to or under any special assessment proceeding wherein competitive bidding proceedings are specified by laws of the State of California.

~~(D)~~(e) Design-BuildAlternate Contracting Methods.

(1) The City Council may, by a resolution adopted by a 2/3 vote of the members, authorize use of a design-build contract or other contracting process for projects estimated to cost one million dollars (\$1,000,000) or more when the Council finds it is anticipated that this use of an alternative contracting method will reduce project cost, expedite project completion, improve project quality, or provide design features not achievable through the design-bid-build method. The City may award a design-build contract procured through these alternative contracting methods based on either the low responsible bid or best value.

(2) As used in this section:

a. *“Best value”* means a value determined by objective criteria and may include, but is not limited to, price, features, functions, life-style costs, and other specified criteria.

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b. "Design-build" means a procurement process in which both the design and construction of a project are procured from a single entity.

(3) The City Manager or his/her designee is authorized to develop and implement appropriate rules and regulations necessary to carry out the intent of this Chapter. At a minimum, the rules and regulations will address the following issues: information to be included in alternative contracting method design-build requests for proposals, procedures for evaluating and awarding design-builds such proposals; and awarding design-build contracts, bonding and insurance requirements for design-build contractors, and subcontractor listing requirements for design-build proposals.

E. Preferences.

The City Council may, by ordinance, adopt preferences for local business and green business not to exceed five percent (5%) of the contract value. As used in the Chapter, "local business" shall mean ~~blah, blah, blah~~(insert definition). As used in this Chapter, "green business" shall mean ~~run by leprechauns~~(insert definition).

F. Splitting Prohibited.

It shall be unlawful to split or separate into smaller work orders or projects any public work project, as defined in this Charter, for the purpose of evading the provisions of this Charter requiring public work to be done by contract after competitive bidding.

G. Limitations on No Bid Contract Award.

(3) No vendor shall be awarded non-bid contracts in an aggregate amount in excess of two (2) times the amount set forth in 6.10(A)(1) in any fiscal year.

**ARTICLE VII. General Provisions**

**ARTICLE VIII. Charter Amendment**

**ARTICLE IX. Transition/Severability**

- 9.01 Transition/Severability Provision
- 9.02 Transition of Current Elected Officials
- 9.03 Continuity of Laws, Officers and Employees

**9.01. Transition/Severability Provision:**

All City ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances adopted pursuant thereto.

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A. Inconsistent Acts. To the extent that the constitution and laws of the State of California permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

B. Severability of Provisions. If any provision of this Charter is held to be invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions or circumstances shall not be affected thereby.

**9.02. Transition of Current Elected Officials:**

At the time of the adoption of this Charter those persons serving in elected office shall continue to serve until the end of the term for which they have been elected, and until their successors have been elected and qualified.

**9.03. Continuity of Laws, Officers and Employees:**

The City shall continue to own, possess and control all rights and property of every kind and nature owned, possessed or controlled by it on the effective date of this Charter, and shall be subject to all its debts, obligations and liabilities.

A. Continuation of Acts. All lawful ordinances, resolutions, and rules and regulations in force on the effective date of this Charter and not in conflict or inconsistent herewith are continued in force until repealed or amended.

B. Continuation of Officers and Employees. The present officers and employees of the City shall retain their respective offices and employments subject to the provisions of this Charter.

C. Commission Transition. The transition of membership on the Planning Commission from the method of appointment which existed prior to the adoption of this Charter and that which is established by this Charter shall be as determined by ordinance.