

City of Redondo Beach  
December 19, 1995

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Report of Charter Review Committee, 1994-1995

**TO:** Mayor and City Council

**FROM:** Charter Review Committee

**SUBJECT:** REPORT OF CHARTER REVIEW COMMITTEE, 1994-1995

**RECOMMENDATION:**

That the City Council accept the attached Report of the Charter Review Committee, 1994-1995.

**SUMMARY:**

The Charter Review Committee herewith presents the Report of its activities to the Mayor and City Council. The Committee held its first meeting on January 25, 1994 and its last meeting on November 18, 1995. During that time, it considered, evaluated and made recommendations to the City Council on many significant issues affecting the City Charter, which is the Constitution of our City. The Report should serve not only to apprise the City Council of the work done by the Committee but also as a historical document for use by the government and citizenry of our City in the years to come.

The members of the Committee express their appreciation to the Mayor and City Council for this opportunity to be of service to the People and government of Redondo Beach and the confidence shown by the Mayor and City Council in their integrity and judgment.

**Submitted by:**

CHARTER REVIEW COMMITTEE

DAVID SERENA  
Chairman

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## **REPORT OF CHARTER REVIEW COMMITTEE 1994-1995**

The City Council at its meeting of July 20, 1993 decided to create a Charter Review Committee to review the City Charter and recommend amendments thereto by March, 1994. It should be observed that there had been a previous Charter Review Committee formed in May, 1981 that had made recommendations for Charter changes, but it had ceased to exist after December, 1984.

The City Council determined that the Committee would consist of one appointee and an alternate from each of the five Council districts selected by each council member and a non-voting chairman appointed by the Mayor. (Council meeting July 20, 1993, p. 20) The Council subsequently decided to eliminate the veto power of the chairman and, instead, provided that he should have the right to vote and to make and second motions. (Minutes of Council meeting August 23, 1994, pp. 7-8) The initial appointees were as follows: David Serena, Chairman, with the Mayor as alternate; Pat Dreizler with Linda Kauffman as alternate from District 1; Phil Toomey with Lucille Holland as alternate from District 2; Frank Bostrom with Frank O'Leary as alternate from District 3; Kurt Schmalz with Archie Snow as alternate from District 4; Larry Cote with John Parsons as alternate from District 5. On May 30, 1995, Mr. Bostrom was replaced by Pam Lemke. On June 20, 1994, Ms. Holland resigned and was replaced by Dallas Covington.

The Committee first met on January 25, 1994. At that time and at its next meeting on February 12, 1994 it organized itself and adopted rules of procedure. The Committee determined to conduct regular meetings on the fourth Saturday of each month from 9:00 a.m. to 12:00 p.m. in the Council Chambers at City Hall. (Committee meetings of January 24, 1994, pp. 1-8 and February 26, 1994, p. 17) The Committee has generally followed such schedule, except that it held no meeting

in December, 1994 or in May or October of 1995. However, it held additional (special) meetings on February 12 and June 18, 1994. It held its last meeting on November 18, 1995, at which time it approved this report.

The Committee was mindful that it was a public body subject to the provisions of the Ralph M. Brown Act (California Government Code Section 54950 et sequitur), the so called "sunshine law" that requires its deliberations to be held in public, that the agenda for each meeting be posted at least 72 hours in advance and that the public be given an opportunity to speak on all issues that come before it. The Committee adopted rules of procedure which would give the widest latitude to public input and it determined that its meetings would be televised. (Minutes of Committee meetings of January 25, 1994, pp. 2-10 and February 12, 1994, pp. 1-9) The Committee believes that it has lived up to the spirit as well as the letter of the sunshine law.

From the beginning, the Committee solicited and received input from elected and appointed city officials, boards and commissions, as well as from elected bodies and community organizations. The Committee at its first meeting requested the City Attorney, City Clerk and City Treasurer to report back with items that they believed were necessary measures which should be placed on the ballot as soon as possible. (Minutes of Committee meeting of January 25, 1994, pp. 4-8)

Assistant City Attorney Stanley Remelmeyer was assigned as staff liaison to the Committee commencing with the March 19, 1994 meeting. Mr. Remelmeyer is an experienced municipal attorney, having been City Attorney of Torrance, a charter city, for many years. Also, he is an independent contractor, not a City employee, who, it was believed, would be able to function impartially on matters concerning the City Attorney's position or office. (Minutes of Committee meeting, February 26, 1994, p. 17)

Thereafter, Mr. Remelmeyer (joined sometimes by Assistant City Attorney Robert V. Wadden , Jr.) authored a considerable number of reports as set forth in attached Exhibit "A". These reports are well researched opinions written to guide the Committee through difficult areas of study, but they also have a value beyond such use. They will serve as a permanent database to guide the city officials and concerned citizens in dealing with subjects which can be expected to arise again in future years. For example, the report regarding the financial management structure of the City and the opinions regarding state preemption versus local control in the areas of concealed weapons permits, exposure of female breasts and the election and compensation of members of the Board of Education should prove especially valuable.

Approximately \$80,000 has been spent on the work of the Committee to date. This includes the work of Mr. Remelmeyer and other attorneys. and of legal secretary Jennifer Espinoza, in the City Attorney's office, the work of minute secretary Kim Chafin and Deputy City Clerk Alice Muller, and the costs of preparing, printing and distributing the agendas. It is estimated that an additional \$12,000 remains to be spent thereon, including the costs associated with placing the proposed Charter amendments on the March, 1997 municipal election ballot. A breakdown of the past and future costs is outlined in attached Exhibit "B".

## I.

### MEASURES SUBMITTED TO VOTE OF ELECTORATE

The following Charter amendments recommended by the Charter Review Committee were submitted by the City Council to, and approved by, the electorate at the March 7, 1995 Municipal Election:

A. Organization Date for Commissions

An amendment to Section 15.4 of Article XV of the City Charter was approved by the electorate which provided that each board or commission shall meet as soon after the first day of October (rather than the first day of July) of every year as practical for the purpose of organizing. (Recommended by Committee May 28, 1994)

This change was suggested by City Clerk, John Oliver, for the reason that appointments to the various boards and commissions are made in September of each year, so that in fact they reorganize at their first meeting in October of each year rather than in July as required by the existing Charter provisions. (Memorandum from City Clerk Oliver dated January 25, 1994; minutes of Committee meeting May 28, 1994, p. 11)

B. Substitution of Registered Voter for Elector

An amendment to Sections 6.1, 8.1, 10.3, 15.7, 15.8, 15.10, 16.1 and 19.11 was approved by the electorate which substituted the word "registered voter" or similar term for the words, "elector", "qualified elector", "resident elector" and "qualified voter" where they appear in said sections. (Recommended by Committee May 28, 1994)

This change was also suggested by City Clerk Oliver who pointed out that the term "elector" was confusing to the public and that the generally understood operable words were "registered voter" rather than "elector." It was also noted that the change would allow the City Clerk more readily to determine whether a candidate for a City office is actually living within the City or the district at the time nomination papers are filed. (Memorandum from City Clerk Oliver dated January 25, 1994; minutes of Committee meetings, February 26, 1994, pp. 8-12, March 19, 1994, pp. 6-8, April 23,

1994, p. 7, May 28, 1994, pp. 10, 11) The City Attorney's office provided the Committee with an analysis of the terms "elector" and "registered voter" to clarify their meaning, (Memorandum from Stan Remelmeyer dated March 19, 1994) and with an opinion concluding that the 30 day durational residency requirement for candidates for public office now in the Charter could not be lengthened by the City's electorate, such period being a matter preempted by federal and state law. (Opinion of Stanley E. Remelmeyer dated May 28, 1994.)

C. Appointment of City Officers

An amendment to delete from the City Charter Sections 14 and 14.2-14.8 inclusive of Article XIV, which require the appointment of certain officers of the City, was approved by the electorate. (Recommended by Committee June 18, 1994)

This amendment removed a source of misunderstanding in the interpretation of the Charter. Sections 14 and 14.2 to 14.8, adopted in 1949, required the appointment of the City Engineer, Street Superintendent, Building Official, Chief of Police, Chief of Fire Department and Director of Recreation. Section 14.1, which was subsequently adopted by the People, stated that the City Council may provide for the creation, consolidation, alteration or abolition of departments and appointive officers after consideration of the City Manager's recommendation thereon. In the opinion of the City Attorney, the adoption of Section 14.1 rendered Sections 14 and 14.2-14.8 obsolete by giving the City Council-City Manager the authority to consolidate or abolish the said positions. (Memorandum from Assistant City Attorney Remelmeyer dated May 28, 1994) However, the failure to repeal those sections at the time Section 14.1 was adopted left a potential for argument that only the appointive offices not listed in Sections 14 and 14.2-14.8 could be abolished. The adoption of

the subject amendment in 1995 removed this problem and clarified that Section 14.1 was the governing provision. (Minutes of Committee meetings of March 19, 1994, pp. 2, 3, April 23, 1994, pp. 3-5, June 18, 1994)

D. Name of School District

The electorate approved an amendment to Section 16 of Article XVI to substitute the "Redondo Beach Unified School District" for the "Department of Education of the City of Redondo Beach" as the body having jurisdiction over the public schools of the City and retitling Article XVI to reflect such change. (Recommended by Committee, October 22, 1994)

There is and was no City Department of Education having jurisdiction over Redondo's public schools. Before the November, 1994 election, the elementary schools were under the Board of Education of the Redondo Beach Elementary School District and the high school was under the Board of Education of the South Bay High School District. The November, 1994 election dissolved said High School District and consolidated the City's elementary schools and high school into the Redondo Beach Unified School District, governed by its Board of Education. The subject Charter amendment was made to reflect this fact.

E. Issuance of Concealed Weapons Permits

In addition to the above referenced approved Charter amendments, the electorate at the March 1995 Municipal Election voted on and rejected an advisory measure, Proposition E, concerning the issuance of concealed weapons permits. Penal Code Section 12050 provides that the county sheriff or chief of police may issue a concealed weapon permit to residents of the county

(excepting members of certain prohibited classes) "upon proof that the person applying is of good moral character" and "good cause exists for the issuance." The sheriff or chief of police has the discretion to determine the existence of "good moral character" and "good cause."

A considerable number of persons residing both in and out of the City requested that the Committee recommend that the City Council adopt an ordinance or place on the ballot a Charter amendment to require the Chief of Police to issue such permit to any person who passed an approved firearms training course, unless such person is otherwise prohibited by law therefrom or poses a serious danger to the lives or personal safety of others. (Minutes of Committee meetings, May 28, 1995, pp. 2, 3, June 25, 1994, pp. 3-7, August 27, 1994, pp. 3-18) However, the City Attorney wrote an opinion, verified by the Legislative Counsel, that the State Constitution preempted the City Council from adopting an ordinance or the people from adopting a Charter amendment to change or interpret Section 12050. The Charter Review Committee, after extensive public input and discussion, accordingly recommended that such Charter amendment not be placed on the ballot. (Minutes of August 27, 1994 meeting, pp. 3-18)

The City Council as a compromise, instead of placing the issue before the voters as a proposed Charter amendment, put on the ballot Proposition E as an advisory measure. Proposition E directed the City Council to ask the State Legislature to modify Section 1250 as requested to liberalize the issuance of concealed weapons permits. However, the measure was rejected by the City's electorate at the March 7, 1995 municipal election.



NOTE: Write-In Candidate at Runoff Elections

The electorate at the March 7, 1995 municipal election also voted on and approved an amendment to Section 18.4 of Article XVII of the Charter to provide that when any person qualifies as a write-in candidate for a runoff election for a city office, except elections for members of the Board of Education, the candidate who receives a plurality of the votes cast for that office shall be elected. This amendment was approved for inclusion in the ballot by the City Council at its meeting of July 20, 1993, at which time it also decided to form the Charter Review Committee. Consequently, the Committee had no part in the placement of this measure on the ballot.

II.

MEASURES TO BE SUBMITTED TO VOTE OF ELECTORATE

The following Charter amendments considered by the Charter Review Committee have been approved by the City Council for submittal to a vote of the electorate at a future election:

A. Term Limits for School Board Members

The Committee recommended that Section 16.7 be added to Article XVI of the City Charter to impose a two term limit on members of the Board of Education as embodied in Resolution No. 3. (Minutes of October 22, 1994 Committee meeting, pp. 6-10 and November 19, 1994 meeting, pp. 1-4) This recommendation was initially rejected by the City Council, along with certain other proposed resolutions pertaining to the Board of Education. (Minutes of December 6, 1994 Council meeting, pp. 12-19).

The Committee reconsidered this item at its meeting of June 24, 1995 and again voted to recommend that the City Council place on the ballot a proposition providing for a two term limit on members of the Board of Education as embodied in Resolution No. 3. (Draft Minutes of June 24, 1995 Committee meeting, pp. 6-10) The City Council accordingly reconsidered this item at its meeting of July 18, 1995 and approved placing on the ballot at a future election the recommended two term limit as embodied in Resolution No. 3, but modified the proposed amendment to strike the last sentence thereof which provided that previous and current terms of office shall be counted toward the two term limit. Acting on the recommendation of the City Attorney's office, the Council also directed that the City file a declaratory relief action in the Superior Court to determine the legality of the proposed amendment before placing it on the ballot for approval by the People. The work is progressing thereon. (Minutes of July 18, 1995 Council meeting, pp. 16, 17)

It was the view of the Committee that the members of the Board of Education should hold office under the same two term limitation as those imposed on the Mayor and City Council by the People of the City when they adopted Section 26 of the Charter in 1949. Also, considering the recent decision of the People of California to impose a two term limit on State Legislators, it was believed that the electorate was motivated to prevent professional politicians from indefinitely retaining the power of their offices.

#### **B. Exposure of Female Breasts**

At the request of Chairman Serena, the Committee considered the deletion of Section 21.3 of the City Charter prohibiting the exposure of female breasts on the grounds that the provision was unconstitutional and was preempted by State law. Councilman Pinzler had recommended its repeal

for the same reason. (Pinzler memorandum re Article XXI) The City Attorney's office wrote an opinion on this issue for the Committee in which it was concluded that Section 21.3 was invalid in that it is effectively preempted by the statutes of the Legislature and Rules of the Department of Alcoholic Beverage Control governing sexual conduct, which is a matter of statewide concern rather than a municipal affair, and its application would probably be an infringement of the freedom of expression guaranteed by the First Amendment to the Federal Constitution. (Opinion of Stanley E. Remelmeyer dated April 23, 1994)

After considerable deliberation, the Committee voted to retain this provision in the Charter, Member Bostrom citing that the voters had twice before rejected such repeal, which is reflective of how the people feel about the subject. However, members Cote and Schmalz, later joined by Chairman Serena, filed a minority report. (Minutes of Committee meetings of February 19, 1994, pp. 3-5, March 19, 1994, p. 3; April 23, 1994, pp. 6, 7, 9; May 23, 1994, pp. 10, 11)

Thereafter, the City Attorney's office attempted to compromise these divergent points of view and recommended the enactment of a revised Section 21.3 embodied in Proposition Y which expanded the scope of the section to encompass all adult entertainment, but emphasized control by zoning and land use restrictions rather than outright prohibition. Chairman Serena and member Cote then recommended the adoption of the proposed revision rather than outright repeal of Section 21.3, but the Committee majority (Dreizler, Toomey, Bostrom, Schmalz) rejected the revision (Minutes of Committee meeting, April 22, 1995, pp. 2-3) However, the City Council adopted the minority view and subsequently voted to place Proposition Y on the ballot. (Minutes of Council meeting of June 6, 1995, p. 10)

### C. Removal of City Manager's Authority over Elected Department Heads

The Committee recommended and the City Council approved a Charter amendment to remove the supervisory authority of the City Manager over the three elected department heads, the City Attorney, City Clerk and City Treasurer.

The plain language of Section 12.3 states that the City Manager as the chief administrative officer of the City, is responsible directly to the City Council "for the proper administration of all affairs of the City, and he shall have power and be required to: (a) Supervise and direct the activities of all department heads and employees of the City and coordinate the activities of all of the departments and commissions and the entire administrative affairs of the City of Redondo Beach." This is strong language without any exception being made for elected department heads. Presumably, if the framers of Redondo's charter had intended to exclude the City Attorney, City Clerk and City Treasurer from the City Manager's supervision, they would have so stated. It may simply have been an oversight.

Sections 11 and 11.1 listing the powers and duties of the City Clerk and City Treasurer respectively correlate only in part with Section 12.3 which defines the powers and duties of the City Manager. Section 11 provides that the Clerk shall "(f) Have charge of the administration of the financial affairs of the City under the direction of the City Manager..." The City Manager, however, is not given such authority over the City Clerk in the performance of the latter's record keeping and other functions. Also, Section 11.1 does not grant the City Manager any authority whatsoever over any of the activities of the City Treasurer, including the collection of City taxes and license fees.

The administrative interpretation of the said elective officers as department heads under the jurisdiction of the City Manager is also ambiguous. The City's 1994-1995 budget lists the City Clerk,

City Treasurer and City Attorney as departments of the City along with the departments whose heads are appointed by the City Manager. Contrariwise, they are not included as department directors in the Pay Plan and Benefits Plan for Employees in the Management and Confidential Unit; instead, along with the City Council, they are classified as "separate units".

Resolution of this ambiguity and indecisiveness is probably found in long administrative practice of the City which has excluded the City Clerk, City Treasurer and City Attorney from administrative control by the City Manager. Gordon Phillips, who was City Attorney from 1981 to 1993, has stated that it was his opinion that the said elected officers were not department heads for the purpose of any exercise of control over them by the City Manager and that this interpretation of the Charter has been followed in practice so long as anyone can remember. This result also corresponds with the rationale for the election of these three officers, which is that they be independent of control by the Mayor and City Council. Inasmuch as the City Manager is appointed by and responsible to the City Council, they should also be independent of the City Manager.

The same independence from the City Manager's control traditionally has been accorded the assistants and deputies in the office of the City Attorney, City Clerk and City Treasurer. The Charter expressly provides that the City Attorney may appoint Assistant and Deputy City Attorneys who shall be subject to removal by him and not included in the classified service. (Section 11.2(g)) Similarly, the City Treasurer may appoint deputies who shall hold office at his(her) pleasure. (Section 11.1(g)) There is no corresponding provision in Section 11 governing the powers and duties of the City Clerk. The present Deputy City Clerk, Alice Muller, holds her position, which is classified under the civil service system, by appointment of City Clerk Oliver. However, she performs her duties under the sole direction of the City Clerk and the rationale for exclusion of the Deputy City Attorneys and

Deputy City Treasurers from control by the City Manager was believed by the Committee to be applicable to the Deputy City Clerk(s) as well.

This conclusion, however, is not applicable to the employees in the offices of the City Clerk, City Treasurer and City Attorney. The clerks, secretaries, clerk-typists and like classifications are hired as employees of the City generally and not of any particular department or office, although they fill a vacancy which has arisen in a particular department or office. Mr. Phillips has informed the Committee that historically the employees, whether permanent, temporary or part time, have been considered to be under the ultimate control and supervision of the City Manager and that the administrative practice traditionally has followed this concept. The Civil Service Rules and Regulations reflect and confirm this vesting of authority in the City Manager.

The question of the City Manager's control over an elected department head and the deputies and employees in such department became a matter of concern and dispute within the last few years. Alice DeLong was the City Treasurer for many years before she was replaced by Ernie O'Dell following the March 1995 municipal election. During the last years of Ms. DeLong's tenure, it became apparent that the relationship between her and the City Manager, William Kirchhoff, had deteriorated to the point where the media regularly informed the public of disputes between them on investment policies, keeping and showing of records, treatment of personnel, inter alia. Mr. Kirchhoff informed the City Council that it was impossible for an appointed City Manager to supervise and control an elected department head. As a result, he asked the City Council to relieve him of any supervisory authority over the Treasurer, assuming he had such authority, which the Council did. Ms. DeLong informed the Committee that she believed he did not have such authority. (Minutes of Committee meeting, June 18, 1994, p. 9) Ms. DeLong subsequently brought suit in the Superior

Court against Mr. Kirchhoff, the City Council, the City Attorney and others alleging a conspiracy against her in the performance of her duties. Under these exigent circumstances the Committee decided that the Charter should be amended to clarify the authority of the City Manager over the elected department heads and their offices.

Accordingly, the Committee recommended a Charter amendment which would make such clarification by removing the authority of the City Manager over elected department heads. The recommendation, however, was embodied in proposed Proposition A which also included a recommendation to transfer the financial duties of the City Clerk to the City Manager. (Minutes of Committee meetings of June 24, 1995, pp. 4, 5 and September 23, 1995, pp. 1-8) The City Council rejected that part of Proposition A regarding the transfer of the City Clerk's financial duties to the City Manager (See Section III C of this report), voted to place on the ballot that portion of Proposition A removing the authority of the City Manager over elected department heads. (Minutes of City Council meetings August 22, 1995, p. 6 and November 7, 1995, Item 37)

This ballot measure amends subsection (a) of Section 12.3 of the Charter setting forth the powers and duties of the City Manager to read as follows:

~~(a) Supervise and direct the activities of all department heads and employees of the City and coordinate the activities of all of the departments and commissions and the entire administrative affairs of the City of Redondo Beach.~~

(a) Appoint, remove and assign, and supervise and direct the activities of, all non-elected department heads and employees of the City, subject to the provisions of this Charter and the ordinances, Civil Service Rules and Regulations of the City and directives of the City Council, except that the City Manager shall not have any such

or other authority over the Assistants or Deputies of the City Attorney, City Clerk or City Treasurer appointed in accordance with the provisions of this Charter and further, that the City Attorney, City Clerk and City Treasurer shall supervise and direct the day-to-day work assignments of the employees assigned to their respective departments.

However, the City Council directed that this measure be amended to retain the City Manager's authority to direct the performance of the City Clerk's financial duties as set forth in Section 11(f) of the Charter. (Minutes of Council meeting, November 7, 1995, Item 37)

### III.

#### MEASURES APPROVED BY COMMITTEE BUT REJECTED BY CITY COUNCIL

The following measures were approved by the Charter Review Committee for submittal to the electorate but were rejected by the City Council:

##### A. Election of Members of the Board of Education

The Committee approved a series of Charter amendments affecting the Board of Education which were rejected by the City Council. These recommendations included:

(a) A proposed amendment requiring that members of the Board of Education be elected and appointed by trustee areas coterminous with City Council districts, establishing their qualifications and for their initial election. This amendment was embodied in Resolution No. 2.

(b) A proposed amendment providing for election of the members of the Board of Education by majority vote except at runoff elections with a write-in candidate. This amendment was embodied



in Resolution No. 4.

(c) A proposed amendment providing for the filling of vacancies in the membership of the Board of Education. This amendment was embodied in Resolution No. 5.

These proposed amendments, together with Resolution No. 3 imposing a two term limit on board members, were approved by the Committee at its meeting of October 22, 1994 (Minutes, pp. 5-8) and November 19, 1994. (Minutes, pp. 1-3) They were rejected by the City Council at its meeting of December 6, 1994. (Minutes, pp. 12-19) They were presented to the City Council a second time at its meeting of July 18, 1995, at which time the Council again rejected these three measures, although they voted to place Resolution No. 2 on the ballot. (Minutes, pp. 14-17)

One of the difficulties the Committee experienced with this subject matter was the reluctance of the Board of Education to commit itself to its position thereon until the issue finally appeared on the City Council agenda. Chairman Serena appeared personally at the March 7, 1994 meeting of the Board to announce that the Committee was studying the provisions of Article XVI of the City Charter governing the election of members of the Board and offered the Board members an opportunity to address the Committee on this subject. The Board answered that it had no statement to make at this time. (Letter from Superintendent Beverly Rohrer, Secretary to the Board, dated April 7, 1994) At the direction of the Committee, Mr. Remelmeyer wrote a letter to Dr. Rohrer dated May 2, 1994 informing her that the Committee at its April 23rd meeting considered the proposed amendments to Article XVI set forth in the above three resolutions as well as Resolution No. 3 and a proposal to deprive the Board members of their compensation and requested that the Board have its attorney deliver an opinion on the legality of these proposals. Dr. Rohrer on May 18th again answered that the Board had no position on these proposals.

At its meeting of October 22, 1994, the Committee studied these proposals for election of Board members from trustee areas coterminous with Council districts in the same manner and with the same qualifications as Council members. At that time, the Committee received an extensive legal opinion from Mr. Remelmeyer (dated October 22, 1994) in which he concluded that these proposed amendments were not preempted by state law and so were within the authority of the electorate to adopt, but because of the lack of judicial precedent, he recommended that the City file a declaratory relief action in the courts before submitting them to a vote of the People. The Committee at this meeting still had not received any legal opinion or other input from the Board on this subject matter. After debating this subject matter at length, the Committee decided to recommend that the City Council place on the ballot for a vote of the People, Resolutions No. 2, 4 and 5 (together with Resolution No. 3) set forth above. (Minutes of Committee meetings, October 22, 1994, pp. 5-10 and November 19, 1994, pp. 1-4)

The City Council considered this issue at its meeting of December 6, 1994, which was the first time that the Board of Education made its views on these issues known to City government. David Miller, an attorney representing the Board, told the Council that the Board opposed these proposed Charter amendments, as well as the proposal to place a two term limit on Board members. (See Section II A of this report) The Board, he said, believed that there was no good educational reason to make any changes in the manner of their election. Mr. Miller further stated that it was his opinion that the proposed ballot measures were invalid because the Education Code provisions governing the election of Board members prevailed over the City Charter. Mr. Miller had incorporated these arguments into a letter which was presented to the City Council as a "red folder" item on the day of the hearing on this matter, December 6th. At the conclusion of the hearing, the City Council decided

to reject the Committee's recommendation to place these measures on the ballot. (Minutes of City Council meeting of December 6, 1994, pp. 12-19)

NOTE: The City Council at said meeting did vote to place on the ballot the question of changing Article XVI to reflect the unification of the City's elementary schools and high school. (See Section I D of this report)

The matter, however, did not end there. At the Committee meeting of June 24, 1995, Member Cote requested that the Committee reconsider this subject because of the failure of the School Board to make its position known until the delivery of the red folder letter to the Council on the day of the hearing. The Committee did reconsider the item and, on motion of Member Cote, voted to re-refer to the City Council Resolution No. 2 re election by trustee areas, Resolution No. 3 establishing a two term limit, Resolution No. 4 re runoff elections and Resolution No. 5 re filling of vacancies. (Minutes of Committee meeting, June 24, 1995, pp. 10, 11)

The City Council responded affirmatively by considering this recommendation anew at its meeting of July 18, 1995. Attorney Miller again spoke for the Board of Education and informed the Council that the Board unanimously opposed these recommended measures. He further stated that, in his opinion, the City is precluded from adopting them for the reason that education is a matter of statewide interest, not a municipal affair, so the provisions of the Education Code govern over contrary provisions of the City Charter.

Assistant City Attorney Remelmeyer gave his opinion that the election and appointment of members of boards of education was a municipal affair and, although there were no governing judicial precedents, the proposed Charter amendments should prevail over provisions of the Education code

to the contrary; however, the subject of term limits was more difficult, but he believed that the City had a reasonable chance of prevailing thereon.

After hearing from the public and debate on the subject, the City Council again decided against placing Resolutions Nos. 2, 4 and 5 on the ballot. Councilman Hill believed that their passage would not benefit the students. Councilman Gin said he was opposed because it impacts the operation of another independent legislative body. (Minutes of Council meeting of July 18, 1995, pp. 14-17)

However, the City Council at the same meeting voted to place on the ballot Resolution No. 3 which imposed a two term limit on members of the Board of Education. (See Section II A of this report)

B. Deprive the Mayor of Veto Power and Create 6 Council Districts

The Committee at its meeting of April 22, 1995 recommended that the City Council place on the ballot Proposition X which would increase the number of Council districts from five to six and deprive the Mayor of the veto power but, instead, give the Mayor the right to make and second motions and to vote. (Minutes of Committee meeting of April 22, 1995, pp. 1-2) The City Council at its meeting of May 30, 1995 rejected the Committee's recommendation by taking no action to approve it. (Minutes of Council meeting of May 30, 1995, p. 25)

Councilman Pinzler, among others, had recommended that the office of Mayor be abolished and that the duties of the Mayor should be assigned to members of the City Council on a rotating basis for terms of nine months. (Memorandum from Councilman Pinzler dated February 21, 1994, p. 1); letter from Robe Richester read into minutes of February 26, 1994 meeting, pp. 14, 15) Frank

O'Leary had suggested that the number of council districts be increased from five to six, pointing out that each Council member now represented approximately 12,000 citizens instead of 5,000 as in the early days of the City, which ratio was too high for a truly representative government. (Letter from Frank O'Leary dated February 21, 1994)

Instead of abolishing the office of Mayor as an elective position, however, the Committee adopted the recommendation of John Parsons to keep the office as a city wide elective position, but deprive the Mayor of his veto power and give him the right to vote and make motions the same as a member of the City Council. The Committee agreed with Mr. O'Leary that the citizenry would be better served by increasing the number of council districts from five to six. The Committee observed that increasing the number of Council members to six would not result in a tie vote if it, as a corollary, the Mayor was given the right to vote as a member of the City Council. (Minutes of Committee meeting of February 25, 1995, pp. 2, 3) These recommendations regarding the Mayor and council districts were incorporated into the Committee's Proposition X, rejected by the City Council.

C. Transfer of City Clerk's Financial Duties to City Manager

The Committee recommended that the financial management structure of the City be reorganized by transferring the financial management duties of the City Clerk to the City Manager, but the City Council rejected the recommendation.

The Charter Review Committee voted unanimously at its meeting of June 24, 1995 to adopt its Resolution No. 95-3 regarding the financial management structure of the City. Resolution No. 95-3 embodied Proposition A, the passage of which would transfer the financial duties of the City

Clerk to the City Manager, delete the accounting course requirements for candidates for the office of City Clerk and delete the requirement that the City Clerk post a bond. The passage of Proposition A would also amend Section 12.3 of the City Charter governing the powers and duties of the City Manager by removing the supervisory authority of the City Manager over the City Clerk, City Treasurer, City Attorney and their assistants and deputies and over the day-to-day work assignments of the other employees in the office of the three elected department heads.

This recommendation of the Charter Review Committee was placed on the agenda of the City Council for its meeting of July 18, 1995. This item was tabled to the Council meeting of August 15th, at which time it was continued to August 22nd. During the Council discussion of this subject, Council member Hill commented that the suggestion of establishing a controller position was a good one and Council member Pinzler concurred. After discussion, the Council approved Council member Pinzler's motion to refer back to the Charter Review Committee the issue of transferring the financial duties of the City Clerk to the City Manager and to direct the Committee to provide the Council with a list of recommended options, including the creation of a controller position; and to place on the next available ballot the issue of the supervisory authority of the City Manager over elected department heads. (Council minutes of August 22, 1995, pp. 3-6)

Accordingly, the Charter Review Committee met on September 23rd to reconsider the issue in light of the Council's direction. Assistant City Attorney Remelmeyer made a presentation of the financial management structure of other cities, including those with an auditor or controller. City Clerk Oliver and City Treasurer O'Dell then gave the Committee their views concerning creating an elected or appointed controller position. Thereafter Member Schmalz moved, seconded by Member Lemke, to recommend that the City Council place a measure on the ballot concerning the creation

of an auditor/controller position with a series of options, including (option 5 was added later):

1. An Auditor/Controller appointed by the City Manager;
2. An Auditor/Controller appointed by the City Clerk;
3. An Auditor/Controller appointed by the City Council and
4. An elected Auditor/Controller.
5. None of the above (no change to the Charter)

Member Schmalz's motion failed by the following vote: AYES: Lemke, Schmalz; NOES: Dreizler, Toomey, Cote, Serena; ABSENT: None. (Draft Committee Minutes, Exhibit "C", pp. 1-7)

The Committee further observed that if the Council went ahead with its plan of bifurcation and placed on the ballot only that part of Proposition A which provided that the City Manager shall not have any authority to supervise and direct the activities of the City Attorney, City Clerk or City Treasurer (See amended subsection (a), Section 12.3 of Proposition A) it would have the unintended effect of depriving the City Manager of his existing authority to supervise the City Clerk in the performance of his financial duties. Thereupon, Chairman Serena moved, seconded by Member Cote, that Section 12.3(a) should be amended to say "except as specifically provided in Section 11(f)." Chairman Serena's motion carried by the following vote: AYES: Dreizler, Toomey, Lemke, Cote, Serena; NOES: Schmalz; ABSENT: None. (Draft Committee minutes, pp. 7, 8)

Finally, the Committee decided to stand by its original recommendation to place Proposition A on the ballot in its entirety. Member Toomey moved, seconded by Chairman Serena, to forward to the City Council the Committee's previous recommendation as the first option, and that the second option would be to place on the ballot the measure, as approved by the Council, to deprive the City Manager of control over elected department heads, but with additional language to retain the

Manager's control of his financial duties. The motion PASSED UNANIMOUSLY. (Draft Committee minutes, p. 8)

At its meeting of November 7, 1995 the City Council again rejected the recommendation to transfer the City Clerk's financial duties to the City Manager. At the same time, it reaffirmed its decision to place on the ballot a measure to deprive the City Manager of his supervisory powers over elected department heads with, however, the modification proposed by the Committee. (See Section II C)

#### D. Composition and Authority of Boards and Commissions

The Committee proposed an extensive revision of Article XV of the Charter governing appointive boards and commissions after prolonged study of the subject. (Minutes of Committee meeting, August 26, 1995, pp. 2-10) The Committee had requested and received opinions from Assistant City Attorney Remelmeyer on the identity of boards and commissions required by law (Opinion dated September 24, 1994) and on the necessity for retention of the Harbor Commission. (Opinion dated October 22, 1994) It had also received input from Councilman Pinzler, City Manager Kirchhoff, Assistant City Manager Simmons, Chairman Serena, the chairpersons of various boards and commissions and interested individuals. However, the revision was rejected by the City Council at its meeting of September 26, 1995. (Minutes of City Council meeting, September 26, 1995, pp. 2-9)

The Charter now requires that there be five commissions, the Planning Commission, Recreation and Parks Commission, Library Commission, Taxation and Budget Commission and Public Improvement Commission, but the Council can create such additional boards and commissions.



as it chooses. (Section 15) The proposed revision, which was drafted by Member Toomey, a lawyer, would restrict the required Commissions to the Planning Commission and those commissions required by law. It would reduce the number of Commissioners from seven to five, one appointed by the Mayor from each Council district, rather than at large as now permitted. The revision would also abolish all existing boards, whether advisory, administrative or quasi-judicial, but the Council could create new boards after a hearing. Such boards would have a two year lifespan unless renewed by the Council after a hearing for further successive two year periods. One of the five members of the board with an alternate would be appointed by each Council member from residents of the district, with the Mayor selecting one as chairman. Before a board was created or its term renewed, the Council must approve a restrictive mission statement and program of proposed work with an enabling budget allocation. The Committee further recommended the creation of a Public Works Commission, a Public Safety Commission, a Recreation, Cultural and Community Services Commission, a Finance Commission and a Harbor Commission. (Minutes of Committee meeting of August 26, 1995, pp. 2-10)

The Committee's rationale was that there were too many boards and commissions, that they were the result of political appointments and an unneeded expense for the City, using up valuable staff time without producing work commensurate with their cost. Also, because of their perpetual existence and failure to render regular reports, the Council had lost touch with what they were doing, and in some cases a commission had forgotten what it was created to do. It was also agreed that, except for the Planning Commission and those commissions necessary to the City, that boards and commissions should be created by ordinance and not by the Charter and that they should be subject to a sunset clause. Further, it was believed that the new method of appointment would preserve a

balance of representation from each of the Council districts. (Minutes of Committee meetings of July 23, 1994, pp. 2-7, September 24, 1994, pp. 4-7, October 22, 1994, pp. 1-3, January 28, 1995, pp. 1-7)

Although the City Council rejected the proposed revision as impracticable, it decided to obtain a better handle on the work done by the existing boards and commissions. It directed that each board and commission provide the Council by November 21, 1995 with a mission statement, a work program for the next twelve months, a budget, recommendations to accomplish program with less staff assistance and quarterly progress reports. (Minutes of Council meeting of September 26, 1995, p. 10)

#### IV.

#### MEASURES CONSIDERED BY COMMITTEE BUT NOT RECOMMENDED FOR THE BALLOT

The following proposed Charter changes were considered by the Committee, but were not recommended to the City Council for inclusion on the ballot for a vote of the People:

##### A. Appointment of City Attorney, City Clerk and City Treasurer

##### 1. APPOINTMENT OF CITY ATTORNEY

The Committee considered at some length a possible change in the Charter to make the positions of City Attorney, City Clerk and City Treasurer appointive instead of elective as presently provided, but decided not to recommend such change.

Former City Attorney, Gordon Phillips and Councilman Pinzler had recommended that the City Attorney position be made appointive. (Phillips undated letter received May 25, 1994; Pinzler Memorandum dated February 21, 1994, p. 1) It was their belief that in such case the City Council could select the appointee from a large pool of very experienced and qualified applicants, which pool was unavailable to the electorate. They pointed out, further, that all California cities, except Redondo and 9 others, had an appointive City Attorney.

However, City Attorney Goddard, backed by Councilman Colin, argued that the City was best served having an elected City Attorney based on the City's satisfactory experience with this position and on an elected Attorney's obligation to serve the People as his first priority client, rather than being controlled by a majority of the City Council, as would be the case with an appointed Attorney. They believed that the risk of having an incompetent City Attorney elected could be eliminated by increasing the qualifications. After considerable public input and debate among the members, the Committee voted to keep the position of City Attorney elective. (Minutes of Committee meeting, May 18, 1994, pp. 4-8)

Nevertheless, the subject was not laid to rest by said action. At its meeting of May 27, 1995, the Committee debated this matter anew. On motion of Member Dreizler, the Committee then voted to make the City Attorney's office appointive. (Minutes of Committee meeting, May 27, 1995, p. 5-6) At its next meeting on June 24, 1995, however, the Committee reconsidered its action of May 27th last and, on motion of Member Cote, voted to rescind its decision to make the office appointive and to reaffirm its action of May 28, 1994 to retain the office as an elected position. (Draft minutes of Committee meeting, June 24, 1995, pp. 2-4)

## 2. APPOINTMENT OF CITY TREASURER

There had been some questioning of retaining the City Treasurer as an elective position considering the complexity of safely and effectively managing the large investment portfolio of the City and the presumed necessity of having an experienced financial manager with appropriate credentials occupying the position. The City Treasurer, in addition to investing the surplus funds of the City, is also the cashier of the City, handling its cash flows, and collects City taxes and license fees. (City Charter, sec. 11) The Charter, however, is silent concerning any qualifications, other than residence in the City, for a candidate for City Treasurer. (City Charter, sec. 10.3, 11.1) It was observed that if the Treasurer's position was made appointive, the appointing authority could require the occupant to have professional qualifications such as a college degree or advanced degree in finance, economics or related field and have specific experience in managing large investment portfolios and cash flows.

The Committee considered this subject at its meeting of June 18, 1994 at which then City Treasurer Alice DeLong spoke at length on the duties and structure of her office and argued vigorously for the wisdom of keeping the City Treasurer as an elective office. She stated that 40% of California cities have elected Treasurers, that there was no relationship between the investment success or failure of City Treasurer's statewide on the basis of their election or appointment, that the People are able to judge the qualifications of candidates for the office, and that the City Manager should not interfere with the performance of her duties. After a great deal of public input and debate by the members, it was decided to recommend that the position of City Treasurer remain elective. (Minutes of Committee meeting of June 18, 1994, pp. 6-18, specifically p. 14)

The Committee based its decision largely on the belief that the problem of lack of relevant qualifications could best be solved by amending the Charter to include such qualifications rather than by making the office appointive. After voting to retain the office as an elective position, the Committee directed the City Attorney to study the issue of the Treasurer's qualifications and report back to the Committee at a future meeting. (Minutes of Committee meeting of June 18, 1994, pp. 15-18)

(NOTE: Ernie O'Dell succeeded Alice DeLong as City Treasurer on March 16, 1995 as a result of the General Municipal Election held on March 7, 1995.)

### 3. APPOINTMENT OF CITY CLERK

The Committee also decided that the position of City Clerk should remain elective. City Clerk John Oliver informed the Committee that the position should remain elective as it provides a system of checks and balances together with an appointed City Manager, elected City Council and elected City Attorney and ensures a fair election process. He was also of the opinion that the electorate would not support changing the position from elected to appointed because they are happy with the system of checks and balances. (Minutes of Committee meeting of June 25, 1994, pp. 7-14)

The Committee was concerned that the City Clerk as financial officer of the City was not required to have a degree or advanced degree in accounting or finance and significant financial management experience which would have been required of an appointive City Clerk with financial duties, but was required to have only 15 units of accounting courses or matching experience. (Section 11, City Charter) However, the Committee recommended solving this problem by transferring the City Clerk's financial duties to the City Manager, thus leaving the incumbent to handle only the normal duties of a City Clerk such as record keeping, election officer and secretary to the

City Council, boards and commissions, and thereby obviating the need to make the Clerk's position appointive. (See Section II D of this report)

B. Qualifications of City Attorney, City Clerk and City Treasurer

The Committee decided not to recommend any changes in the qualifications for the positions of City Attorney, City Clerk and City Treasurer as presently delineated in the Charter, assuming that they remain elective positions and that the City Clerk retains his authority as financial officer of the City.

The Charter now provides that the City Attorney shall have been admitted to the California bar and have engaged in the active practice of law in California for at least five years before appointment or election. (Section 11.2) The City Clerk is required to have 15 units of certain accounting courses and five years experience in municipal accounting. (Section 11) There are no qualifications for City Treasurer. (Section 11.2)

When studying whether to make these three positions appointive rather than elective, the Committee came to a tentative conclusion that the benefits of having them appointed could be obtained by leaving them elective but increasing the qualifications for the positions. (Minutes of Committee meetings, May 28, 1994, pp. 4-10, June 18, 1994, pp. 6-18, June 25, 1994, pp. 7-14) However, after studying this issue independently in depth, the Committee reluctantly concluded that there was no overall advantage in changing the qualifications now established in the Charter.

It was noted that any change in those qualifications must not only be appropriate for the position but must also be objectively ascertainable to be enforceable by the courts. The Committee observed that, so far as it could determine, there were no nationally recognized qualifications for such

positions as elective offices. Further, a review of the charters of 40 other California cities failed to reveal any education or experience requirements where the positions of City Clerk or City Treasurer were elective and further showed that such cities had the same qualifications for an elected City Attorney as did Redondo Beach. (See Memorandum on this subject from Assistant City Attorney Remelmeyer, dated June 24, 1995) Chairman Serena who is a lawyer, also noted that the existing qualification for City Attorney is the same as that for appointment or election of a Judge of the Municipal Court in California. Considering such factors, the Committee believed that the question of the qualifications of a candidate for such an elective position could best be left to the determination of the voters. (Minutes of Committee meetings, May 27, 1995, pp. 2-8, June 18, 1994, pp. 6-18)

#### C. Roll-Back of Assessment Levels and Restrictions on Further Assessments

The Committee rejected a proposal to roll back existing City assessments to their 1979 level and require a 2/3ds vote of the People on any increases in assessments or any new assessments.

Sal Princiotta had suggested that the Committee consider a Charter amendment to roll back the levy on assessment districts to their 1979 level and to require a two-thirds vote of the people on (1) any increase of the amount of the assessment above such levels as well as (2) on the formation of any new assessment districts or enterprise zones. The reason given therefor was that assessment districts were being used by some cities as a way of increasing taxes beyond the limits permitted by Proposition 13. A letter on this subject from People's Advocate, Inc., founded by Paul Gann, was introduced in support of this suggestion. (Minutes of Committee meeting, May 28, 1994, p. 1; item 8e, agenda Committee meeting, April 22, 1995) After introduction of this proposal at its October 22, 1994 meeting, the Committee referred the matter to the Taxation and Budget Commission for

a recommendation to consider its impact on the City's budget and to the City Attorney's office on the power to create assessment districts. (Minutes of October 22, 1994 meeting, p. 4)

In his report, the City Attorney noted that the City presently had two operative assessment districts, one formed under the 1972 Landscaping and Street Lighting Act which was levied annually by the City Council to pay the costs of street lighting and landscape maintenance. The other assessment district was used to finance the cost of constructing street improvements on Manhattan Beach Boulevard in front of the TRW property, which would be wholly paid for by TRW and that as a matter of law the assessment therefor could not be rolled back to the 1979 level because it would violate the covenants in the bonds issued to finance the improvements. He also observed that the State law regarding assessment districts already contained a provision, the Majority Protest Act of 1931, by which a majority of the affected property owners could defeat a proposed assessment. (Memorandum from Stanley E. Remelmeyer dated October 22, 1994)

The Taxation and Budget Commission rendered its report to the Committee in which it disagreed with both aspects of the proposal. The Commission stated that implementation of the proposal would required a \$1,000,000 cutback in city service levels in addition to the significant reduction in general fund expenditures being contemplated by the City Council to accommodate the rehabilitation of the City's sewer system. The Committee further noted that the City had not abused the use of assessment districts in the past and the Ralph M. Brown Act required a public meeting and public hearing after extensive public notice by which the public would be fully apprised of any assessment proposals in the future. (Report of Budget and Taxation Commission dated January 24, 1995)



After receiving these reports and discussion at its April 22, 1995 meeting, the Committee decided to take no further action on the matter on the basis that it agreed with the Commission's conclusion and rationale. (Minutes of Committee meeting of April 22, 1995, p. 5)

D. Decrease Number of Signatures for Initiative and Referendum

The Committee rejected a recommendation that the number of signatures necessary to qualify a proposed initiative ordinance for the ballot or to qualify a referendum vote on a Council ordinance be reduced.

Section 18.3 of the City Charter states that the provisions of the State Elections Code governing the initiative, referendum and recall shall apply in this City in so far as they are not in conflict with the Charter. The State Elections Code now provides that if an initiative petition is signed by not less than 15 percent of the registered voters and contains a request that the proposed ordinance be submitted to a special election, it must be submitted to a special election, if not adopted instead by the City Council; and that if it is signed by not less than 10 percent of the registered voters, it must be submitted to the voters at the next regular municipal election, if not adopted instead by the City Council. (Sec. 9214, 9215, Elections Code) The Elections Code also provides that a Council ordinance is subject to referendum upon the presentation of a petition signed by not less than 10 percent of the votes cast in the City for Governor at the last gubernatorial election. (Sec. 9236, Elections Code)

Former Councilman Archie Snow, among others, had proposed that the number of signatures necessary to qualify an initiative measure for the ballot be substantially reduced. Member Schmalz pointed out that Redondo Beach now has about 34,000 registered voters consequently, the 15%

requirement is so restrictive as to effectively deny the People the right to propose initiative measures. He proposed, accordingly, that the 10% figure be reduced to 2000 signatures.

However, the other members of the Committee rejected the proposal and voted to retain the subject provisions of the Elections Code and not make any changes to Section 18.3. They were of the opinion that the 15% and 10% requirements were not unreasonable and reducing that figure would lead to a government of the most vocal elites; that if an initiative or referendum cannot obtain signatures from 15% or 10% of the registered voters, as the case may be, it would most likely fail anyway; and that special elections were so expensive that it should not be too easy to qualify such a ballot measure for a special election. Assistant City Attorney Remelmeyer also advised the Committee that these provisions of the Elections Code could not be used for an initiative measure to change the City Charter itself because the requirements therefor were specified in the State Constitution, which could not be modified by the voters of the City acting by themselves. (Minutes of Committee meeting of July 22, 1995, pp. 2, 3)

#### E. Campaign Reform

The Committee considered a proposal to amend the Charter to limit contributions to election campaigns of City officials, otherwise known as "campaign reform", but decided that it was not appropriate to have such provisions in the Charter and, instead, recommended that they City Council consider establishing such limitations by ordinance.

At the request of Members Bostrom and Schmalz, the Committee considered the adoption of a Charter amendment limiting the contributions to election campaigns of City officials in the manner set forth in the City of Long Beach Campaign Reform Act, Proposition M. (Minutes of

Committee meetings, March 19, 1994, p. 10 and January 28, 1995, p. 11) The Long Beach measure, which was an initiative ordinance, also imposed expenditure limits and time constraints on candidates choosing to receive public funds, placed limits on independent expenditures supporting or opposing any candidate, required the filing of a campaign statement in addition to those required by state law and restricted the disposal of surplus funds, among other provisions. The Committee also had before it at its July 22, 1995 meeting the campaign reform ordinances of the cities of Los Angeles, San Francisco and El Segundo and a memorandum from the City Attorney's office explaining the constitutional limits on this authority of cities to adopt laws on this subject. (Memorandum of Stanley E. Remelmeyer dated July 22, 1995)

Chairman Serena, after noting that Proposition M and the provisions on campaign reform of the other three cities were ordinances, not charter amendments, commented that this subject could be better handled by an ordinance of the City Council rather than by a Charter amendment. It was also observed that it would be difficult to amend the Charter to take advantage of the frequent changes in the law on this subject, which was still evolving, and the fluctuations in the value of the dollar over long periods of time. The other Committee members agreed with Chairman Serena's conclusions. After hearing no objections from Committee members or the public, the Committee unanimously decided on motion of Member Toomey to refer back to the City Council the issue of limitations on contributions to election campaigns of City officials, otherwise known as "campaign reform," and indicate that it would be appropriate to discuss this in the form of an ordinance rather than in the form of a Charter amendment. (Minutes of Committee meeting of July 22, 1995, pp. 3, 4)

The City Council agreed with the Committee's recommendation that campaign reform not be included in the Charter and that the Council consider adopting an appropriate ordinance instead. Councilman Pinzler announced that the League of Women Voters, Common Cause and other groups had proposed remedial legislation and suggested that the Council defer action until such legislation was adopted or rejected. On motion of Councilman Dawidziak, the City Council then directed the City Attorney to draft an ordinance regarding campaign reform for the Council's consideration and that staff schedule a workshop thereon for the Council on a Saturday in November. (Minutes of Council meeting, August 22, 1995, pp. 6, 7)

F. Compensation of Members of Board of Education

The Committee decided not to recommend that the question of payment of compensation to members of the Board of Education be placed on the ballot for a vote of the electorate.

Section 16.1, Article XVI, of the Charter now provides that the members of the Board of Education shall receive no compensation for their services, except necessary expenses. At the municipal election on March 2, 1993, the voters of Redondo Beach had rejected a proposed measure to amend the Charter and pay compensation to members of the Board. Nevertheless, the members of the Board of Education were receiving compensation for their services pursuant to an opinion of Joan Birdt of Breon, O'Donnell, Miller, Brown & Dennis (dated March 11, 1994), the Board's legal counsel, affirming that compensation of Board members was a matter of statewide concern, not a municipal affair, which was governed by the provisions of the State Education Code expressly authorizing such payments rather than by the provisions of the City Charter prohibiting them.

Assistant City Attorney Robert Wadden rendered an opinion also dated March 11, 1994 in which he concluded that he could not determine with certainty whether the Charter prohibition would prevail over the permissive provisions of the Education Code, but he believed that it was unlikely that a court would decree that the Charter prevailed.

The Committee considered this subject at its meeting of October 22, 1994. At that time, it had before it the aforesaid opinions of Joan Birdt and Robert Wadden, as well as an opinion from Assistant City Attorney Remelmeyer dated October 22, 1994 in which he concluded that the question of compensation is probably not preempted by state law but, due to the lack of judicial precedent, declaratory relief action should be filed to finally determine the issue. After considerable debate, a motion by member Cote to seek declaratory relief on this issue was defeated. No further action was taken by the Committee in this matter. (Minutes of Committee meeting, October 22, 1994, pp. 5-10)

#### G. Revise Charter to Eliminate Gender Specific Language

The Committee rejected a recommendation that the Charter be rewritten to substitute gender neutral for gender specific language; however, pursuant to the instructions of the Committee, all the ballot propositions which were recommended by the Committee to the City Council were written in a gender neutral manner.

Vanessa Poster, Coordinator, Women's Coalition South Bay, had suggested that the Charter be rewritten in gender neutral language. (Letter from Vanessa Poster dated August 7, 1994) From the beginning of its discussions, the Committee noted that the Charter had been written in gender specific language, always using the masculine specific "he" or "him" when referring to a City officer. Accordingly, it had directed the City Attorney to write each proposed ballot proposition using non-

sexist language, which instruction was followed. The Committee, however, determined that it would be too expensive and without cost benefit to rewrite the entire Charter at this time in a gender neutral manner. (Minutes of Committee meeting, April 22, 1995, pp. 4, 5)

#### 4. Revise Charter to Insert Moral Precepts

The Committee rejected a proposal that the Charter be revised to insert therein certain moral precepts proposed by Sal Princiotta.

In a letter to the Committee dated May 31, 1994, Mr. Princiotta noted that Mr. Remelmeyer had written an opinion that Section 21.3 of the City Charter prohibiting the exposure of female breasts was invalid. (See Section II B of this report) He suggested that it was appropriate to replace Section 21.3 with 21 moral precepts as espoused by the Way to Happiness Foundation of Los Angeles which reflect the character of the Ten Commandments but were secular in nature.

The Committee at its September 24, 1994 meeting rejected the proposal for the reason that the Charter was a legal and not a moral document, so it would not be appropriate to include moral precepts therein. The Committee also rejected as inappropriate a suggestion that, as a substitute, it recommend to the City Council that it adopt a resolution incorporating these 21 precepts. (Minutes of meeting of September 24, 1994, pp. 7, 8)

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We are pleased to have been of service to the Mayor and City Council and to the People of the City of Redondo Beach. We are proud of our accomplishment in reviewing and considering the provisions of our Charter, the Constitution of the City, and making recommendations for changes where needed. Hopefully, the amended Charter will serve us by well and truly guide the government of the City into the first part of the twenty-first century.

Respectfully submitted,

THE CHARTER REVIEW COMMITTEE

\_\_\_\_\_  
David Serena, Chairman

\_\_\_\_\_  
Pat Dreizler

\_\_\_\_\_  
Larry Cote

\_\_\_\_\_  
Pam Lemke

\_\_\_\_\_  
Kurt Schmalz

\_\_\_\_\_  
Phil Toomey

## REPORTS OF CITY ATTORNEY TO CHARTER REVIEW COMMITTEE 1994-1995

### 1. *Election and compensation of members of the Board of Education*

- a. Report from Assistant City Attorney, Robert V. Wadden, Jr., regarding compensation for Board of Education members. Item 6b, April 23, 1994 meeting.
- b. Report from Robert V. Wadden, Jr. regarding Mr. Serena's requests - election of Board of Education members by district, term limits on members, qualification of members, consolidation with city elections. Item 6c, April 23, 1994 meeting.
- c. Report by Assistant City Attorney, Stan Remelmeyer regarding Department of Education and/or the Board of Education of the City of Redondo Beach. Item 7a, October 22, 1994 meeting.
- d. Opinion by Stan Remelmeyer on Validity of Charter Amendment Establishing Qualifications for Superintendent of Schools. Item 5b, November 19, 1994 meeting.

### 2. *Substitution of "Registered Voter" for "Elector"*

Report from Stan Remelmeyer re change of "Elector" type words for "Registered voter". Item 8, March 19, 1994 meeting and Item 8, April 23, 1994 meeting.

### 3. *Residence Requirement for Public Office.*

Report from Stan Remelmeyer re 30 day residence requirement for public office. Item 9a, May 28, 1994 meeting.



4. *Amendment re: Appointive Officers - Article XIV*

- a. Report from Stan Remelmeyer on Article XIV of City Charter re Appointive Officers.

Item 7, May 28, 1994 meeting.

- b. Report from Stan Remelmeyer on Qualifications for City Clerk, City Treasurer, City Attorney and City Controller. Item 5c, June 24, 1995 meeting.

5. *Section 21.3, Exposure of Female Breasts*

Report from Stan Remelmeyer on Validity of Section 21.3 of City Charter Prohibiting Exposure of Female Breasts. Item 8, April 23, 1994 meeting and Item 9b, May 28, 1994 meeting.

6. *Concealed Weapons Permits*

Report from Stan Remelmeyer on Proposed Charter Amendment Regarding Authority of City of Redondo Beach to Require Chief of Police to Issue Licenses (Permits) to Carry Concealed Weapons to all Residents of City, with Certain Exceptions. Item 9, August 27, 1994 meeting and Item 12, September 24, 1994 meeting.

7. *Financial Management Structure - City Controller*

Report from Assistant City Attorney, Stan Remelmeyer entitled Conflict Between Duties of City Manager and Elective Officials and Establishment of City Controller Position. Item 6a & 7a, January 28, 1995 meeting.

8. *Amendment re Boards and Commissions*

a. Report from Stan Remelmeyer on Boards and Commissions Required by Law. Item 6a, September 24, 1994 meeting.

b. Report from Stan Remelmeyer on the Harbor Commission. Item 5b, October 22, 1994 meeting.

c. Report from Stan Remelmeyer on Boards, Commissions and Committees. Item 5a, August 26, 1995 meeting.

9. *Assessment District Roll Back*

Report by Stan Remelmeyer regarding the financial impact on the City of a "roll back" to 1979 on City assessment and/or enterprise zones and requiring a 2/3's vote of the people on any increase in assessments or on any new assessments. Item 6a, October 22, 1994 meeting.

10. *Campaign Reform*

Report from Stan Remelmeyer entitled Campaign Reform. Item 6a, July 22, 1995 meeting.

11. *Ralph M. Brown Act*

Report from Stan Remelmeyer on application of Brown Act to Resource Allocation Commission. Item 13(1), May 27, 1995 meeting.

**CURRENT AND FUTURE COSTS OF CHARTER REVIEW COMMITTEE  
1994-1995**

**A. Current Costs**

The Committee has cost the City approximately \$80,000.00 as of November 18, 1995. This figure includes the following work:

- |    |   |                 |
|----|---|-----------------|
| 1. | <b>City Attorney's office:</b>  |                 |
|    | (a) Work of Assistant City Attorney Stan Remelmeyer:  | \$38,900        |
|    | (b) Work of City Attorney Jerry Goddard, Assistant City<br>Attorney Robert Wadden and Deputy City Attorney<br>Albert Gieseeman: | \$15,000        |
|    | (c) Work of Legal Secretary Jennifer Espinoza:  | \$12,520        |
|    | (d) Postage to mail all agendas:  | \$ 610          |
| 2. | <b>City Clerk's office:</b>   |                 |
|    | (a) Work of Deputy City Clerk Alice Muller:   | \$ 1,480        |
|    | (b) Minute secretary Kim Chafin:  | \$ 9,000        |
|    | (c) Work of the Print Shop in printing all agendas:   | \$ 130          |
| 3. | <b>Outside services:</b>  |                 |
|    | (a) Imagery Video Productions for filming of the meetings:  | \$ 2,300        |
|    | <b>TOTAL</b>  | <b>\$79,940</b> |

**B. Future Costs**

Future Costs of the Charter Review Committee is estimated at: \$12,000

(This will include the printing of the ballot propositions for the three proposed charter amendments at the March 1997 municipal election, any arguments and the City Attorney's analysis)

**GRAND TOTAL** **\$91,940**