



To: Volunteer Citizen-Based Charter Committee

From: Cathy Standiford, Partner

Subject: Summary of Interviews with Department Directors – Police, Fire, and Library

Date: October 13, 2015

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The Charter Committee is considering elements that should be included in the Charter “skeleton.” On September 15 the Committee approved a preliminary recommendation that “no departments be specifically mentioned in the Charter except as otherwise provided or delineated.” In other words, the preference is to avoid mentioning specific departments (or in some cases commissions) in the Charter unless there is a compelling reason to do so. The Committee will begin reviewing each of the departments currently referenced in the charter to determine whether such compelling reasons exist.

In anticipation of the Committee’s discussions, Management Partners has conducted interviews with the potentially affected department directors and the City Manager. (Note: Most of the City Manager’s comments were focused on the Water, Civil Service and Library departments.) This memorandum summarizes the results of the interviews that were completed on or before September 17, the agenda deadline for the Committee’s September 22 meeting. Committee members may wish to consider this information in developing specific recommendations.

An interview with the Civil Service Chief Examiner was completed. However, on Tuesday, September 22 the Civil Service Board will be discussing recommendations for the Charter Review Committee. Management Partners is scheduled to meet with the Chair of the Civil Service Board following that meeting to receive the Board’s recommendations. A verbal report regarding the Civil Service Board’s comments and recommendations will be provided to the Charter Committee at its meeting that evening.

An interview with the Water Department general manager also was completed. However, the complexity of issues regarding the City’s Water Department will require additional time to research. A separate memorandum will be prepared summarizing the results of this research as well as relevant interviews in time for the Committee’s October 13, 2015 meeting. The Water Department General Manager has expressed a desire to attend the Charter Committee’s October 13 meeting to provide additional input.

## **Police and Fire Departments**

Article X of the Charter contains provisions regarding the Police and Fire Departments. These provisions include establishing the Mayor as the “general supervisor” and the City Manager as the “immediate supervisor” for the Police and Fire Chiefs. The City Manager has financial authority over both departments as well as their “the organization, government and discipline.” Article X of the Charter also includes definitions regarding “membership” in the Police and Fire Departments and identifies duties for the Police and Fire Chiefs. Section 186 prescribes the standard for “fixing salaries, classifications and working conditions” of Police and Fire Department employees. As has been pointed out in the City’s Bankruptcy Plan of Adjustment, establishing salary provisions in a charter document is virtually unheard of.

### ***Interview Results***

The following are common themes from interviews with the Police Chief and Fire Chief.

- Current charter provisions do not significantly impact daily operations for either department.
- The charter provisions having an impact on public safety departments relate to civil service, personnel and/or employee compensation.
- Civil Service requirements in the charter related to recruitment, testing and selection can be cumbersome, particularly when a large number of vacant positions need to be filled. The recruitment process can be disjointed because a portion is under the direction of the Civil Service Department and a portion is controlled by the Human Resources Department.
- Civil Service provisions related to disciplinary appeals are perceived to lengthen the disciplinary process.
- Section 186 is sometimes used by employees to challenge disciplinary actions (e.g., demotions).
- Section 186 also specifies the positions the each department shall have. This is not of concern in the Fire Department, because the identified positions are consistent with those commonly found in the professional fire service. The positions defined in Section 186, however, have limited the Police Department’s ability to make operational changes consistent with best practices that would improve efficiency, such as civilianizing certain positions.
- The dual reporting relationships with the Mayor and City Manager are manageable but can be awkward. Both chiefs would prefer to be appointed and supervised by the City Manager, particularly since the City Manager has direct authority over their departmental budgets.
- The City’s municipal code would be a better place to handle specific provisions for the Police and Fire Departments, if necessary. (Note: Language regarding the establishment of the Fire and Police departments is already found in SBMC Sections 2.12 and 2.81, respectively.)
- There may be less resistance to excluding Section 186 from a substantially revised charter than there has been in the past.



- The provisions of Section 186 have now been included in the new memorandum of understanding with the Police Officers' Association. The new agreement preserves those provisions for the next five years.
- Recent Common Council action to contract with San Bernardino County for fire and emergency medical services would make Section 186 irrelevant for fire employees.
- Public safety employees are beginning to recognize that Section 186 may be less helpful in driving compensation than market forces, and that it is in the City's best interest to provide fair and reasonable compensation.

During the interviews the Chiefs were asked if there are particular recommendations the Charter Committee makes. In addition to addressing the issues cited above, they offered the following suggestions.

- Create a completely new, streamlined charter reflecting modern-day practices.
- Ensure the charter supports a stronger, more effective governance structure, led by a strong city manager.
- Ensure the charter provides maximum flexibility to make organizational and operational changes to respond to community needs.
- Eliminate the provision requiring the Common Council to approve every individual hire, promotion or salary.

### ***Additional Considerations***

A review of 17 peer agency charters found only four contain sections specifically related to public safety departments. They are Stockton, Glendale, Pomona (Police only) and Salinas. The remaining 13 agencies have placed provisions concerning the police and fire departments in the municipal code. As has been previously reported, all of the peer agencies authorize the City Manager to appoint the Police Chief and Fire Chief, although Chula Vista and Santa Ana also require confirmation by the City Council. In all 17 cities the chiefs report directly to the City Manager, not an elected official.

Most, if not all of the provisions currently found in Article X of the San Bernardino charter are more commonly found in either a municipal code (i.e., duties of the chief) or in a negotiated agreement with labor associations (i.e., all of Section 186).

### **Library**

Article XII of the Charter establishes the Free Public Library, managed by a five-member Board of Trustees appointed by the Mayor and approved by the Common Council. The Trustees receive no compensation. Section 207 requires a minimum annual tax levy of \$2,000 to maintain the Library and to purchase books, journals and periodicals, which is grossly insufficient to operate a modern-era library system. The Charter gives the Library Board the authority to hire the City's Librarian and set the salaries for the Library's employees. The Board also has administrative and policy-making powers, including the ability to enforce the Library's rules and regulations.



## *Interview Results*

Management Partners interviewed the Library Director to obtain his perspective on the Charter and its implications for the Library. The following are the themes from that interview.

- The charter provisions have some impact on the operation of the Library by vesting administrative and policy-making authority with the Board. This has allowed the Board to operate the Library as effectively as possible, despite significantly constrained resources. The City has the ultimate control over the Library's budget, not the Board.
- Having a somewhat independent Board with administrative and governance authority is perceived to be beneficial.
  - The Board obtains input from the public on community needs and consequently is effective in representing community interests, particularly when changes to the Library are being contemplated by the City's elected and appointed leadership. A perception exists that the Library would have been completely closed during the economic downturn were it not for the intervention and advocacy of the Board of Trustees.
  - The Board is essential for addressing patron misbehavior because it has the authority to ban patrons from the facilities if they do not follow established rules and regulations. The Board also functions as an appeal body if patrons disagree with a policy or how a policy or rule is being carried by the Library staff.
- The Library Director would prefer to maintain the existing reporting relationship with the Board of Trustees, although he has a good relationship with City management. The Director stated it is beneficial to have performance feedback from multiple people rather than a single supervisor.
- The language regarding Library funding in the charter is archaic and should not be retained. In particular, the Charter should be silent on funding for the Library.
- The Library relies upon the City's internal support functions, such as Human Resources, Finance and purchasing. It does not have its own internal support functions or staff.
- Referencing the Board of Trustees in the municipal code instead of the charter itself may be acceptable, as long as the roles, responsibilities and authorities of the Board remain the same. The Library Director does not support eliminating the Board of Trustees or converting it to an advisory body.
- It would be acceptable to have the Board of Trustees appointed by the Mayor and Common Council as a whole (instead of appointment by the Mayor and confirmation by the Council), following the same application process that is currently used.
- Less is more. The new charter should be streamlined and modernized to provide flexibility for the efficient operation of the Library.

## *Additional Considerations*

None of the peer agencies specifically reference library services in their charter, except for Riverside. Section 808 of the Riverside Charter establishes the Library Board of Trustees with powers and authorities similar to the San Bernardino Library Board of Trustees. Where references to libraries exist, they are found in the municipal code. Some peer agencies do not



operate their own libraries, but instead receive services through a county library system. Table 1 below provides a profile of library services and their governance for the 17 peer agencies.

*Table 1. Summary of Peer Agency Library Services*

Population	City-Operated Library	Library Commission/Board	Comments
<b>200,000 to 299,000</b>			
<b>Chula Vista</b>	Yes	Yes	Appointed by City Council. Advisory only. Library Director reports to City Manager, serves as technical advisor to the Library Board of Trustees
<b>Irvine</b>	No	Not applicable	Services provided by Orange County Library
<b>Modesto</b>	No	Not applicable	Services provided by Stanislaus County Library
<b>Stockton</b>	No	No	Library services provided by Stockton-San Joaquin County Library System, a joint partnership between the City and San Joaquin County. Serves Stockton, eight other cities, and the county unincorporated areas
<b>300,000 to 399,000</b>			
<b>Anaheim</b>	Yes	Yes	Appointed by City Council. Advisory only. Library Director reports to City Manager, serves as technical advisor to the Library Board of Trustees
<b>Bakersfield</b>	No	Not applicable	Services provided by Kern County Library
<b>Riverside</b>	Yes	Yes	Board of Trustees has powers similar to San Bernardino, including enforcement of Library rules, and appointment/removal of Library Director. Director reports to the Board, not the City Manager
<b>Santa Ana</b>	Yes	No	Library is a Division of the Parks, Recreation and Community Services (PRCS) Department. Library director reports to PRCS Director.
<b>150,000 to 199,000</b>			
<b>Glendale</b>	Yes	No	Library Director reports to City Manager
<b>Hayward</b>	Yes	Yes	Appointed by City Council. Advisory only. Library Director reports to City Manager, serves as technical advisor to the Library Board of Trustees
<b>Lancaster</b>	No	Not applicable	Services provided by Los Angeles County Library
<b>Oceanside</b>	Yes	Yes	Board of Trustees appointed by Mayor with confirmation by City Council. Has advisory and enforcement powers
<b>Palmdale</b>	Yes	Yes	Board of Trustees appointed by Mayor with confirmation by City Council. Has advisory and enforcement powers. City has contracted operations to a private vendor (LSSI).



Population	City-Operated Library	Library Commission/ Board	Comments
<b>Pomona</b>	Yes	Yes	Board of Trustees is advisory with appeal authority to “resolve citizen/library issues.” All but one Library staff member was eliminated in FY 2012-13 due to budgetary constraints. After a two-week closure, the Library is now open only 30 hours per week
<b>Salinas</b>	Yes	Yes	Appointed by City Council. Advisory only. Library Director reports to City Manager, serves as technical advisor to the Library Board of Trustees
<b>Santa Rosa</b>	No	Not applicable	Services provided by Sonoma County Library
<b>Torrance</b>	Yes	No	Library is a division of the Community Services Department. Library Manager reports to the Community Services Director
<b>Total</b>	<b>11</b>	<b>8</b>	

Source: Peer Agency websites and municipal codes

Table 1 shows that of the 11 peer agencies operating a City library, only 8 have a Library Commission or Board of Trustees. Of those 8 agencies, four of the Library Boards or Commissions (Riverside, Oceanside, Pomona and Palmdale) have authority to enforce library rules and regulations and/or hear appeals. Only two of the Library Boards (Oceanside and Riverside) have authority to hire or remove the Library Director. The Library Director reports to the City Manager in eight of the peer agencies. A private vendor provides a Library Director for Palmdale. Management Partners was unable to confirm the reporting relationship between the library services vendor in Palmdale and the Palmdale Library Board of Trustees.

## Conclusion

Based on the review of comparable peer agencies and best practices, the basic structure of the San Bernardino charter should not include reference to the Police, Fire or Library departments. Instead, provisions for these departments, if necessary, should be incorporated into the San Bernardino Municipal Code by an ordinance adopted by the Common Council. While there may be a benefit to having the Library Board of Trustees function as an appeal body with the power of enforcement, such provisions need not be specified in the Charter.

