CHARTER REVIEW COMMITTEE

FINAL REPORT

June, 1993

CITY OF SAN ANTONIO
CHARTER REVIEW COMMITTEE

REPORT AND
RECOMMENDATIONS TO CITY COUNCIL

June, 1993

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Acknowledgements

The Committee gratefully acknowledges the many public officials, city staff members, representatives of community organizations and individual citizens who have aided in the Committee's work. The following list includes those who spoke or provided written materials at the Committee's business meetings between December 1990 and February 1993 and at its three public hearings during 1991. The Committee also particularly acknowledges the outstanding staff support which has been provided to it for over two and a half years by Mr. Dick Porter, Assistant City Clerk, and Mr. Tom Finlay, Assistant City Attorney.

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INTRODUCTION

Since the founding of the Villa de San Fernando by settlers from the Canary Islands, the City of San Antonio has had at least seven complete city charters. The original charter, granted by the King of Spain, was succeeded by two charters enacted by the Congress of the Republic of Texas. The first of these incorporated the City of Bexar on January 5, 1837. In less than a year, this charter was replaced by a new Act which renamed the city San Antonio on December 14, 1837. In July of 1856, under the laws of the State of Texas, the city's fourth charter defined the city limits as a square, six miles on a side, centered on the cupola of San Fernando Church. Another new charter was adopted in 1886. Then, in the early 20th century, the Texas Constitution was amended to provide for municipal "home rule," allowing any city over 5,000 people to write its own charter without interference by the Legislature. Accordingly, in February 1914, the city adopted another completely new governing document. In contrast with the previous charters, which had provided for various numbers of aldermen to be elected from wards, this charter established a commission form of government. Finally, the current city charter replaced the commission form with the Council-Manager form of government in October 1951. This charter was written by an elected Charter Commission chaired by Walter W. McAllister. It is interesting to note that by 1993, the present city charter has already outlasted the average life expectancy of all the previous charters in San Antonio's history.

The present charter was formally reviewed in 1959, 1962, 1972 and 1974, but it has been amended only three times. These amendments included provisions for the direct election of the Mayor in 1974, the election of City Council members from single member districts in 1977, and a term limit for Council members in 1991. Meanwhile, the city has experienced a tremendous population increase and growth in territory over the last 42 years. Along with this growth has come a dramatic change in the scope and complexity of local government and an increased demand for city services. Yet the document which is the foundation and basic instrument of municipal government in San Antonio has remained essentially unchanged. As the city has grown and changed, its charter has become increasingly obsolete.

In November 1990, City Council appointed a Charter Review Committee to thoroughly re-examine the charter and recommend needed changes. The Committee was composed of 23 volunteer members, representing each of the 10 Council districts, the business community, neighborhood organizations, organized labor, and members with acknowledged technical expertise. For a task that was both legal/technical and quasi-political, the Committee was exceptionally well served. It counted among its members five with Ph.D. degrees, a former Mayor, a former City Attorney, and a number of long-time

community activists. One member resigned from the Committee because of her appointment to an unexpired term on City Council.

Council gave the Committee a broad and detailed charge: "to conduct a comprehensive study of the present Charter and recommend to the City Council any changes or additions that should be made thereto." The ordinance creating the Committee placed "no limits on the scope of [the Committee's] review." It also directed the Committee to "initially conduct a public education effort for the citizens of San Antonio that is designed to provide information about the Charter, its contents, and possible revision issues."

In mid-December, 1990, the Committee held an organizational meeting and elected its officers. It also formed an Education Subcommittee to carry out the public education program and inform the public of the Committee's activities, and a Research Subcommittee to collect information for the Committee's consideration.

The Committee divided its work into two substantive phases: one of research on the existing charter and possible charter revision issues, and the other for deliberations and the formulation of recommendations. In the initial phase, the Committee agreed not to make any decisions on any issues until it had completed its research on the subjects to be addressed. The Committee also determined to review the charter section-by-section, and to record, consider and vote on every specific proposal which it received, regardless of the proposal's content or origin.

In an attempt to submit its recommendations prior to the May 1991 city election, the Committee proceeded through Phase I on an ambitious schedule. It met almost every week for four months in order to obtain the greatest possible range of information from interested groups and individuals. The Committee met at locations in every City Council district and it held three public hearings in various parts of the city, in order to provide the public with every possible opportunity to voice their concerns and offer their suggestions regarding the charter.

Through this process, the Committee received information and suggested recommendations for amendments, both unsolicited and by invitation, from a number of present and former elected city officials, present and former city staff, representatives of a wide range of community organizations, as well as from concerned individual citizens. At each meeting, the Committee also received a background memorandum and a briefing by the City Attorney's office on the technical problems with the charter provisions under consideration. In addition, Committee members conducted their own extensive research and reviewed the charters of other major cities with the Council-Manager form of government, including Phoenix, San Diego, and Dallas. In fact, a number of the recommendations in the following report borrow liberally from these charters, as well as from the Model City Charter developed by the National Civic League, which is one of the premier organizations in municipal affairs in the country.

The Committee completed the first phase of its work at the end of April 1991. The following month, however, the voters approved a referendum to amend the charter by limiting Council members from ever serving more than two full terms in office. Because of a provision in the state constitution, this action prevented any further changes to the charter from being voted on for at least two years, or until August 1993. In light of this restriction, the Committee recessed for the summer of 1991 and began its second phase meetings in September of 1991.

In November 1991, the Committee presented an interim report to City Council. This report listed every proposed recommendation for charter change which the Committee had received during its research phase. The Committee found that more than half of the sections in the charter needed some kind of change either because they are contrary to state law, they do not reflect actual practice, or they are simply obsolete and non-functional. Many of these sections would require complete replacement or rewriting. It became increasingly clear to the Committee members that the charter is drastically outdated, and that the Committee's work would be much more extensive and time-consuming than originally envisioned. Acknowledging this reality, and recognizing the two-year restriction on additional charter amendments, City Council agreed that the review process should continue into the following year.

The Committee's deliberations and formulation of recommendations proceeded from September 1991 throughout the winter and spring of 1993. During this phase, the Committee reviewed, deliberated and voted on 218 proposals on 145 distinct issues.

The Committee's final recommendations are divided into two categories: "technical" recommendations and "substantive" recommendations. The "technical" recommendations all involve provisions of the charter which have been superseded by state law or judicial interpretation, which contain obsolete references to state statutes, or which are now meaningless transition provisions dating from the original adoption of the charter in 1951. Adoption of all of these recommendations will not make any actual change in the prevailing law. Instead, they would merely remove from the charter all of the provisions which are directly misleading because they conflict with superior authority, or which are nothing more than useless and meaningless clutter. In contrast, the "substantive" recommendations are all of those which would actually result in some change in the city's governing law.

In creating these categories of recommendations, however, the Committee must stress that the technical recommendations are in no way less important or less urgent than the substantive recommendations. In fact, the sheer bulk of the technical recommendations is itself one of the most basic issues of charter revision. The average citizen reading the existing charter has no way of knowing that so much of its apparent language is either contrary to state law, misleading in reality, or simply meaningless.

This steady accumulation of "technical" problems in the charter over the last 42 years has driven the Committee to a conclusion which we did not anticipate 2 1/2 years ago: San Antonio really needs a complete new city charter. This is not because of any fundamental flaw in the basic structure of Council-Manager government. Rather, it is because so much specific language in the charter is problematic that the entire document has become hopelessly obsolete and near impossible to patch-up adequately. The Committee members are unanimous in this conclusion.

Unfortunately, current state law does not allow for the Council to place on the ballot a complete new charter based on this Committee's recommendations. State law provides for the adoption of a new charter only through the vehicle of an *elected* Charter Revision Commission. Proceeding in this fashion would delay even further the implementation of this Committee's recommendations, and it would provide no assurance that this Committee's work would remain intact. Therefore the Committee urges Council to consider the following recommendations for amendments to the existing charter. The final section of our report below discusses the problem of comprehensive charter revision more thoroughly. It concludes with an additional recommendation, that Council seek an amendment to state law which would permit a new charter to placed on the ballot in the future as a single ballot proposition, rather than as an intolerably long sequence of single issue patchwork amendments.

For the reader's convenience, the Committee's recommendations are generally organized in the sequence of existing numbered sections of the charter. This sequence is repeated, from one end of the charter to the other, in both the technical recommendations and the substantive recommendations. In a few cases, where related separate sections must be discussed together, cross-references are provided. If an article or section number is not listed, the Committee does not recommend any change in that provision.

The Committee has tried to state the substance of our recommendations as clearly as possible, but generally we have not attempted to draft the actual language of revised charter provisions to implement these recommendations. Our purpose is to focus discussion at this stage on the substantive issue. After Council has come to an agreement on the substance of a recommendation, the task of legal draftsmanship should properly be assigned to the City Attorney. However, we have made one exception to this pattern, in the case of our recommended revision of §141, which deals with ethics and conflicts of interest. Because of the nature and complexity of this issue, the Committee believes that it is essential to go the next step in this case, in order to present and explain our recommendations adequately.

In conclusion, the Committee members are pleased to present this "homework" for our fellow citizens to consider. This final report represents many hundreds of hours of volunteer time devoted to gathering, researching, analyzing, organizing and deliberating on a multitude of proposals. We never envisioned that our initial appointment would turn into

a 2 1/2 year commitment. At the conclusion of this process, however, the Committee sincerely believes that our recommendations completely fulfill Council's original mandate. If City Council places these recommendations on the ballot and they receive voter approval, San Antonio will have a more effective, more efficient, and more accountable city government. It will once again be governed under a charter that is state-of-the-art and a model for other cities to follow.

Respectfully submitted,

THE CHARTER REVIEW COMMITTEE

Gilbert F. Vazquez,
Chair

Mary Weaver,
Vice Chair

Thomas F. Brereton,
Secretary

Raymond Baird	John Gatti	Jose Medellin
Patricia Bridwell	Andy Hernandez	Choco Meza
Charles Cotrell	Jeff Judson	Phil Pyndus
June Deason	Gilbert Kissling	Rowena Rodgers
Ruben Flores	Earl M. Lewis	Albert Uresti
Jose Garza	Jane Macon	Edward Williams

TECHNICAL RECOMMENDATIONS

General Recommendations:

A. Eliminate all of the sections of the charter which have become inoperative because they have been superseded by state law. Replace these sections with simple provisions acknowledging the statutes involved.

B. Conform the charter to prevailing judicial interpretation, and eliminate all of the sections which have been held invalid.

C. Replace all of the specific references to obsolete statutory codifications with general references to "applicable law."

D. Eliminate all of the obsolete transitional provisions which no longer have any effect.

General Discussion:

When the Committee began its work, we were frankly unprepared for the sheer number of instances in which the apparent text of the charter is actually completely meaningless. The Committee was also shocked to discover the extent of this deadwood, which includes two entire Articles along with numerous sections and paragraphs from one end of the charter to the other. We suspect that the Council and the citizens are equally unprepared for these discoveries.

The fundamental reality is that San Antonio's city charter is not at all what it appears to be. State law obviously prevails over conflicting local provisions. The *actual* city charter has thus become a block of Swiss cheese. The "holes" are invisible to the casual reader, however, because the truly empty spaces *seem* to be filled with words. These provisions have been allowed to accumulate over 42 years simply because there has never been any sense of urgency to correct them. In fact, the Committee has collected 27 pages of memoranda from the City Attorney's office merely listing and briefly explaining the "technical" problems in the charter from a legal standpoint. In our view, the sum of these "technical" problems has reached the level of an absurdity.

Fortunately, the Committee believes that it should be possible to correct these problems through a "wholesale" amendment rather than by submitting separate ballot propositions on each individual change of wording. This would be a single, massive, "deadwood" amendment to the charter, similar to those which have been adopted from time to time in amending the Texas Constitution. The defining criterion which links all of the following recommendations under this heading is that they merely conform the charter to currently prevailing law. None of them is intended to make any real change in the operative law of the city.

In considering this recommendation, it is also worth noting §162 of the charter. This provides that the Council may pass an ordinance to renumber the articles, sections and paragraphs of the charter as it deems appropriate. With the wholesale elimination of

useless, obsolete and misleading provisions, it will obviously be necessary to exercise this power before the revised charter is reprinted.

The specific sections of the charter which are included within the Committee's general recommendation are as follows. In each case, the specific recommendation is accompanied by a brief explanation of the reason for it.

A. PROVISIONS WHICH HAVE BEEN SUPERSEDED BY STATUTE

ARTICLE I. INCORPORATION, FORM OF GOVERNMENT AND POWERS

§3 ¶9 Zoning

Recommendation:

Change the reference to the "zoning board of appeals" to read "zoning board of adjustment."

Explanation:

The terminology has been changed in state enabling legislation, and the board is well known locally by its correct name. The inaccurate charter language is thus a needless, if relatively harmless, source of confusion.

ARTICLE II. CITY COUNCIL

§5 Terms of Office

Recommendation:

Change the date for the beginning of Council terms from May 1st to June 1st.

Explanation:

This is perhaps the most egregious "technical error" in the entire charter. It was created by the state Election Code, which prevents the city from holding its election on the first Tuesday in April (as envisioned by §19 of the charter), and thus prevents the Council from taking office on the date specified. Obviously the actual election date is the first Saturday in May, and so the Council takes office on June 1st. These dates are now established by ordinance, since the charter provision is a legal nullity.

The Committee also recommends a substantive change in this section to increase the length of Council terms to four years. This is discussed in the following chapter of this report.

Contingent Recommendation:

If Council and the voters agree with the Committee's substantive recommendation to lengthen Council terms -

Provide that a Council seat is also automatically vacated if the Council member announces as a candidate for another office while more than one year remains in the Council member's term.

Explanation:
Article XI, section 11 of the state constitution contains this automatic vacating provision with respect to any elected office with a term longer than two years. It differs from the existing §5 of the charter in two ways: (1) it applies to *announcing* for office as well as to actually *filing* as a candidate, while §5 only applies to actually filing; and (2) it is only triggered if there is more than one year remaining, while §5 contains no minimum time limit. Since the state constitutional provision will operate in any event, it would be misleading not to reflect it in the charter.

If Council terms remain at two years, however, the Committee does not recommend any substantive change in this section of the charter.

§8 Vacancies

Contingent Recommendation:
If Council and the voters agree with the Committee's substantive recommendation to lengthen Council terms -

Provide that all vacancies shall be filled by a special election called within 120 days after the vacancy occurs.

Explanation:
Article XI, Section 11 of the state constitution also contains this provision with respect to an elective office with a term longer than two years. Again, it would be misleading not to reflect it in the charter.

The Committee has also considered the method of filling vacancies on the Council as a substantive issue. This included considering a special election in all cases, a special election if more than a certain proportion of a Council member's term remains, and some kind of required interview process before the Council fills a vacancy by appointment. However, the Committee does not recommend any change in the existing charter provision if Council terms remain at two years.

§11 Meetings of the Council

Recommendation:
Replace the present "open meetings" provision with a simple statement that all meetings shall be in compliance with the Texas Open Meetings Act.

Explanation:
The present sweeping, unqualified provision is overbroad and it is not the law under which the Council actually must operate. The requirements (including those concerning posting of an agenda) and the exceptions of the Open Meetings Act necessarily prevail over this provision. It is inappropriate for the charter to do anything more than to acknowledge this law.

The Committee also recommends a substantive change in this section, to delete the requirement that all meetings be held at City Hall. This is discussed in the following chapter.

ARTICLE III. ELECTIONS

§§19-25

Recommendation:
Replace this entire Article (except §21A, the term limit amendment) with a single section referring to the state Election Code.

Contingent Recommendation:
If the Committee's substantive recommendations on term limits are not approved -

Relocate the existing §21A as a part of Article II, concerning the City Council.

Explanation:
When the Legislature enacted the Election Code, it created a comprehensive system to govern all aspects of elections throughout the state. Thus all of the original provisions of this Article have been pre-empted, and nothing in them serves any purpose any longer.

Substantive changes in the Council term limit amendment are also recommended in the following chapter. If those recommendations are *not* approved, it would nevertheless be appropriate to relocate the existing amendment into Article II, since that is its proper context.

ARTICLE V. ADMINISTRATIVE SERVICE

§49 Boards, Commissions, Committees and Authorities

Recommendation:
Delete the reference to the Board of Equalization.

Explanation:
This board was formerly a part of the city's process of assessing and collecting property taxes. Since the Legislature enacted the Property Tax Code and created the Bexar Appraisal District to take over this function, the board no longer exists.

The Committee also recommends several substantive changes to this section in the following chapter.

§56 Finance Department - Powers and Duties

Recommendation:

Delete ¶5, which requires the Finance Department to assess property for taxation.

Explanation:

This function was also made obsolete by the enactment of the state Property Tax Code.

The Committee also recommends a substantive amendment in the following chapter, to delete this entire section among others which deal with the structure of individual city departments.

ARTICLE VI. CIVIL SERVICE

§78 Prohibitions

Recommendation:

Qualify the prohibition against campaign contributions by city employees as "except as provided by state law."

Explanation:

Under the statute which provides for collective bargaining, the police and fire unions are exempt from this provision. It is misleading for the charter to suggest otherwise.

The Committee also recommends a substantive change in the next chapter, to narrow the scope of this prohibition so it applies only to city elections.

ARTICLE VII. FINANCE

§§79-111

Recommendation:

Eliminate all of the various obsolete provisions concerning the assessment and collection of property taxes. This includes deleting references to the Board of Equalization and eliminating the suggestion that the city cannot contract for the collection of overdue taxes. Replace these provisions by a simple reference to the state Property Tax Code.

Explanation:

These provisions are woven throughout this Article to the extent that it would be unnecessarily tedious to detail all of them in this report.

Additional substantive changes are also recommended in the next chapter. This Article requires a thorough rewriting from one end to the other.

ARTICLE VIII. CORPORATION COURT

§§112-116

Recommendation:

Replace this entire Article with one new section (a) establishing the Municipal Court, (b) providing for the appointment of judges by City Council, and (c) providing for the powers and jurisdiction authorized by state law.

Explanation:

The state law which established the Municipal Court (once known as "Corporation Court") as a court of record has superseded this entire Article. The provision recommended to replace these sections is all that is appropriate.

ARTICLE IX. PLANNING COMMISSION

§118 Powers and Duties

Recommendation:

Substitute the power to "recommend" rather than to "adopt" subdivision regulations, and revise the reference to the application of subdivision regulations "in territory outside the city limits and within five miles of such limits" to read "outside the city limits and within the city's extra-territorial jurisdiction."

Explanation:

Under the Local Government Code, only the City Council can "adopt" subdivision regulations. The Planning Commission's role is limited to recommending them to Council for adoption. The Municipal Annexation Act also defines the city's extraterritorial jurisdiction as the area within five miles of the city limits which is not within the city limits or the ETJ of another city.

Additional substantive changes related to capital improvements are recommended in the next chapter.

ARTICLE XII. GENERAL PROVISIONS

§145 City Records Open to Public

Recommendation:

Replace this section with a reference to the state Open Records Act.

Explanation:

As with the "open meetings" provision (§11 above), the present language is too broad to be taken literally and the issue is pre-empted by state law. There is no point in having any other provision.

§152 School District Taxes

Recommendation:

Delete this entire section.

Explanation:

The city has not collected the property taxes levied by the San Antonio I.S.D. for a number of years. This provision has been pre-empted by the state Property Tax Code and it will never again serve any useful purpose.

§154 Appointments to Boards, Commissions and Authorities

Recommendation:

Delete the reference to the Board of Equalization.

Explanation:

As noted previously, the board does not exist.

In the substantive recommendations below, the Committee also recommends deleting §154 in its entirety as the most practical means to resolve the contradictions between this section and §49.

B. PROVISIONS AFFECTED BY JUDICIAL INTERPRETATION

ARTICLE IV. RECALL, INITIATIVE AND REFERENDUM

§35 Power of Referendum

Recommendation:

Add zoning decisions to the list of ordinances which cannot be made the subject of a referendum.

Explanation:

The San Pedro North ("supermall") case in the 1970s established that zoning changes cannot be reversed in this manner. It is misleading to list the ordinances which are excepted from the referendum power and omit this exception.

ARTICLE VII. FINANCE

§103 Revenue Bonds

Recommendation:

Eliminate the requirement for a referendum on revenue bonds.

Explanation:
The requirement is legally void (City of Corpus Christi *vs.* Flato, 83 S.W.2d 433 [Tex. Civ. App.], 1935). Therefore regardless of whether anyone might support this provision as a matter of policy, it does not belong in the charter.

C. OBSOLETE STATUTORY REFERENCES

Various Sections
Recommendation:
Replace all of the specific references to obsolete statutory codifications by more general references along the lines of "as provided by law." These include the following provisions:

- **Section 3, paragraph 1 (twice);**
- **Section 3, paragraph 8;**
- **Section 3, paragraph 9;**
- **Section 25;**
- **Section 101, paragraph 3; and**
- **Section 163.**

Explanation:
Some of these references go back to Vernon's codifications of 1925. While it is important from a legal historical standpoint to know the precise derivation of the Acts being referenced, in the charter these references are increasingly obscure and irrelevant. In most cases it would be preferable to refer to the current statute by its legislative popular name.

D. OBSOLETE TRANSITION PROVISIONS

ARTICLE II. CITY COUNCIL

§4 Creation, Composition and Powers
Recommendation:
Delete the obsolete list of voting precincts in each Council district. The Committee suggests substituting general language to the following effect:

> **"The Council members shall be elected from districts or wards which shall be drawn by ordinance and shall be as nearly equal in population as practicable."**

Explanation:
The list of 1977 voting precincts in each Council district may have served a useful purpose originally in securing public understanding and approval of the amendment which created single member Council districts. However, it became totally useless and obsolete the first time the Council was redistricted, after the 1980 census. This provision will obviously never again be functional, and so it ought to be removed as meaningless clutter.

ARTICLE XII. GENERAL PROVISIONS

Various Sections

Recommendation:

Delete the sections which provided for the transition to a new form of government in 1951. These include the following:

§156 Effect of this Charter on Existing Law
§157 Interim Government, Transitional Provisions
§158 Special Provision for Appointments
§165 Submission of Charter to Electors

Explanation:

These provisions no longer have any effect. They are useless clutter which should be eliminated.

SUBSTANTIVE RECOMMENDATIONS

ARTICLE I. INCORPORATION, FORM OF GOVERNMENT AND POWERS

§3 ¶2 Annexation

Recommendations:

A. Delete the requirement for two formal readings of an annexation ordinance.

B. Add a provision for participation by the Planning Commission in the annexation process.

Rationale:

A. State statutes already require two public hearings on an annexation ordinance, including one in the area affected if the annexation is protested. The charter requirement merely duplicates the intention of this statute in a less effective manner. It is a procedural complexity which serves no useful purpose.

B. At present, the charter provides no role for the Planning Commission in annexation proceedings. The Committee believes that development or review of a proposed annexation plan should be an essential function of the Commission.

§3 ¶5 Urban Redevelopment

Recommendations:

A. Add language parallel to state statutes requiring an urban renewal plan to conform to the city's master plan.

B. Add a provision for participation by the Planning Commission in the process of adopting or amending an urban renewal plan.

C. Delete the requirement for a covenant preventing the sale of urban renewal land to a public housing agency or the use of urban renewal land by such an agency.

Rationale:

A. The Urban Renewal Law requires an urban renewal plan to conform to the city's master plan. This requirement should also be reflected in the charter.

B. Participation by the Planning Commission in the adoption or amendment of an urban renewal plan is essential to implement the requirement for conformance with the master plan.

C. At best, the present requirement for a covenant which prevents the use of urban renewal land by a public housing agency is an arbitrary and obsolete restriction. In fact, it is an anti-social provision which reflects the fears of a time that has long since passed. It directly interferes with effective city housing policy by preventing one city agency (the San Antonio Development Agency) from cooperating with another city agency (the San Antonio Housing Authority, including its nonprofit corporations). It is also inconsistent with the Texas Housing Cooperation Law of 1987. Clearly the kinds of nonprofit agencies which are now the primary instruments of city housing policy were not anticipated in the days of massive, institutional public housing "projects."

It is important to note, however, that if recommendation C is approved, a provision of the Texas Urban Renewal Law of 1957 (Local Government Code, §374.901 (b)) will still be applicable to the city. This requires a referendum to approve the use for public housing of property acquired through urban renewal. The San Antonio Housing Authority, which requested the Committee to consider this recommendation, has pledged to seek an amendment to this statute if this charter amendment is approved.

ARTICLE II. CITY COUNCIL

§4 Creation, Composition and Powers

The ordinance which appointed this Committee specifically directed us to study the results of the 1990 census to determine whether it would be advisable to enlarge the Council in order to reflect the city's racial and ethnic distribution, as required by the Voting Rights Act. The Committee has heard from both city staff and outside experts on this question, and we have concluded that such a recommendation is not necessary at this time.

It could also be argued, however, that the continued growth of the city has another impact on the Council which is independent of the ethnic representation issue. That is the subtle effect of steadily increasing the average size of Council districts. When single member districts were adopted, in 1977, Council members represented about 75,000 people each. Today they represent nearly 100,000 people each. In the long run, this changes the relationship between Council members and their constituents. Several citizens who spoke at the Committee's public hearings pointed to this impact and urged us to recommend enlarging the Council on these grounds. This could be implemented through a formula providing for a fixed ratio of Council members to population, rather than just a one-time change in the number of Council members. The Committee has sympathetically considered this argument. We believe the effect which is spoken of is real, but we do not believe that it has reached sufficient magnitude to justify a charter amendment to counteract it.

§5 Terms of Office

Recommendation:

Increase the length of Council terms to four years, with all terms running concurrently.

Rationale:

The present two-year term creates a fundamental weakness in the City Council. It effectively prevents the Council from following through on any long term policy commitments. At the same time, the nearness of the next election also systematically deters Council members from dealing with difficult and controversial issues for a large fraction of their term in office. This combination leads directly to the evasion of long term problems or to short term "fixes" in place of effective action. The resulting policy paralysis will eventually undermine public confidence in the effectiveness of city government.

The Committee is well aware of the common justification for short terms, to ensure that the Council remains responsive to the electorate. However, the record from 1977 to 1991 of Council members being routinely re-elected, term after term -- which was widely cited by the advocates of the term limitation amendment -- is actual evidence of the ineffectiveness of a short term of office in achieving this purpose. The Committee believes that a more effective approach to ensure responsiveness should include (1) measures to enlarge the pool of qualified candidates for Council, and thus the competitiveness of city elections, coupled with (2) a reasonable term limitation. (Both of these issues are discussed below.)

The Committee considered and rejected an alternative of recommending that Council elections be staggered, with half of the Council being elected every two years. This alternative has the initial appeal of seeming to be a less substantial change in the structure of the Council, since municipal elections would continue to be as frequent as they are today. However, this appeal does not stand up to examination. In fact, it offers a *false* appearance of continuity with the present system, since half of the voters would be prevented from voting for a Council member at every election. An argument that staggered terms are necessary to ensure continuity is gutted by the experience of turnover in the present Council, since the adoption of the term limit amendment. Certainly the theoretical possibility of a completely new Council every four years cannot be more dangerous than the existing possibility of every two years. Moreover, staggered terms present potentially serious hidden side-effects. If half of the Council is always elected on the same ballot as the Mayor, and the other half is always elected in the "off" election, the Council could become divided into pro- and anti-Mayor factions. The likely differences in voter turnout between elections with and without a Mayoral contest could also have unpredictable consequences.

The Committee is also aware that an incidental side effect of this recommendation would be to automatically increase the term limit for Council members from four to eight years. It is *not* our intention, however, to accomplish this result through such a "back door." The issue of the term limit is dealt with directly in §21A below.

§6 Compensation [Council Members], together with
§9 Mayor and Mayor Pro Tem [Compensation]

Recommendations:

A. Provide an annual salary for Council members of $13,600, plus a per diem of $200 per Council meeting, up to 52 meetings per year.

B. Provide an annual salary for the Mayor of $24,600, plus a per diem of $200 per Council meeting, up to 52 meetings per year.

C. Provide an additional salary of $400 per month for the Mayor Pro Tem throughout the period of the Council member's term in that office, rather than only "while serving as Mayor."

D. Provide for a mechanism to increase these figures with inflation, based on the recommendations of an independent commission and subject to a vote of the citizens.

Rationale:

A. The position of City Council member in a city of a million people is clearly a full-time position. The Committee's research shows that today's City Council members spend an average of more than 40 hours per week on city business in one form or another, including meetings with other governmental agencies, meetings with constituents, etc. All of the Council members who responded to a questionnaire from the Committee indicated that they receive time off or a reduction in duties from their employers in order to attend to Council business.

This departure from the "classic" theory of Council-Manager government is permanent and irreversible. The range and depth of our problems, the complexity of the city's intergovernmental relationships, and the demands of our citizens all make it so. It is fantasy to believe that we can ever return to some romantic vision of part-time Council members who serve just a few hours a week as a civic obligation.

The effect of clinging to this fantasy is to severely compromise the quality of representation on the Council itself. The pool of effectively eligible potential candidates for Council is becoming restricted to a small minority of the population: those who have some independent means of support, or who are able to make the substantial personal sacrifice required to serve. *This is profoundly dangerous and unhealthy for our democratic system.*

In the Committee's view, the determination of the "right" level of compensation is a question of balance. On one hand, the compensation of Council members must be high enough to be economically realistic, so that the pool of citizens who can afford to offer themselves as candidates is not unreasonably restricted. On the other hand, obviously no one should be attracted to the office because of the salary it offers.

The figures which the Committee recommends above equate to an annual total of $24,000 per year for district Council members. According to the most recent available published data, this is just under the median household income in San Antonio. It thus has appeal as a benchmark, or balance point between conflicting considerations. By statistical definition, no one can get rich at this level, and at the same time it should not be too great of a sacrifice for too many people. In other words, we believe it is the most "democratic" figure which can be set.

The Committee considered and rejected alternatives of providing for a "straight" annual salary, with no additional per diem for Council meetings, or providing for compensation solely on a per diem basis, with no annual base. A number of speakers at Committee business meetings and public hearings, including a representative of the Homeowner-Taxpayer Association, advocated a substantial increase on a per diem basis. Others advocated a simple annual salary, quoting figures as high as $40,000 per year. In fact, there is little practical difference between these two approaches, since Council is unlikely ever to have fewer than 52 meetings per year and members' attendance at Council meetings is essentially 100%, unless they are unavoidably out of town. However, the Committee

believes there is substantial support for the concept that Council compensation should be based at least in part on attendance at Council meetings, and that this is a good principle.

B. Under §9 of the present charter, the Mayor receives the same compensation as every other Council member plus an additional $3,000.00 per year. This produces effective total compensation of $4,040.00 per year, or slightly more than four times that of the other Council members. However, the economic value of this supplement has been eroded by 42 years of inflation to the point that it is virtually meaningless. In contrast, the recommended base salary for the Mayor is just under twice that of the other Council members. The total compensation would be $35,000 per year, assuming 52 Council meetings.

In a city approaching a million people, no one can seriously dispute that the office of Mayor is a completely full-time position. Neither can anyone seriously contend that it could ever be otherwise. The recommended compensation level is designed to be low enough that no one would seek the office primarily for the salary it offers, while at the same time it is high enough that it is not too much of a sacrifice for too many potential candidates.

C. The present charter provides that "*while serving as Mayor* [emphasis added], the Mayor Pro Tem shall receive the same compensation as the Mayor." This refers to the additional $3,000 per year which is now provided by §9. This language has proven to be problematic, because it is difficult to define when the Mayor Pro Tem is truly "serving" as Mayor. In practice, it has been interpreted as authorizing the additional salary on a daily basis at the $3,000 annual rate on those days when the Mayor is out of the city. In reality, however, the Mayor Pro Tem must be available to serve in place of the Mayor every day, in a variety of official duties, whether or not the Mayor is in the city. This practical reality should be recognized with a defined salary supplement throughout the period of the Mayor Pro Tem's term in that office. The Committee believes that $400 per month is the minimum reasonable recognition of that fact.

D. In addition to the question of initial compensation levels, the charter should include a mechanism to adjust for inflation. The present per diem compensation of $20.00 per meeting, established in 1951, would be in the neighborhood of $109.00 per meeting today if it had merely been adjusted through the years for the decrease in purchasing power of a dollar.

The Committee believes that setting any dollar figure "in stone," as a permanently fixed number in the charter, can only lead to repeated recurrences of the present problem in the future. Indeed, it is the very difficulty of amending the charter that has led to the present wild imbalance between the compensation intended in 1951 and the realities of 1993. Therefore some mechanism must be designed to address this issue automatically.

At the same time, however, it is obvious that the citizens demand a vote on any increase in Council members' compensation. To be politically acceptable, it is essential that any proposal to increase compensation originate from a body which is independent of Council, and that this body's recommendation be based on a careful and neutral evaluation of realistic compensation requirements.

To achieve these objectives, the Committee recommends that the Council consider as a model the provisions of the city charter of Phoenix, Arizona. These include the following:

- Salaries for elected city officials are established by a Citizens' Commission on Salaries for Elected City Officials. The commission is composed of seven members appointed by the City Council for a three month term from among private citizens residing in the city.
- New appointments are made approximately six months before each regular city election.
- Vacancies on the commission are filled in the manner in which the original appointment was made for the balance of the term of the vacancy filled.
- Commission members serve without compensation, but may be reimbursed for expenses.
- During its term, the Commission reviews the rates of pay of elected city officials to determine and recommend pay levels appropriate to the duties and responsibilities of the positions covered by the review.
- The commission may hold public hearings to aid its work.
- The recommendations of the commission are certified by the City Clerk, and the City Council then automatically submits the recommendation to the qualified electors at the next regular municipal election.

§9 Mayor and Mayor Pro Tem [Selection of Mayor Pro Tem]

Recommendation:

Add a provision explaining how the Mayor Pro Tem is to be selected. The Committee suggests adding a sentence to the beginning of ¶2, to the following effect:

> **"By majority vote, the City Council shall elect from its membership a Mayor Pro Tem to serve during each term, or it shall elect various members to serve in such office for designated time periods during the term."**

Rationale:

Since the charter was amended in 1975 to provide for direct election of the Mayor, it has been silent on how the Mayor Pro Tem is to be selected. This is a matter of the fundamental structure of the city government which the charter should address. The Committee's recommendation is designed to allow the Council the maximum flexibility, including either a continuation of the current system of rotating this position among all

Council members or a return to the original practice of electing one Council member to be Mayor Pro Tem for the entire Council term.

§11 Meetings of the Council

Recommendation:

Delete the requirement that all meetings be held at City Hall.

Rationale:

Often it is desirable to schedule a Council meeting at the Convention Center or some other location, especially when a large crowd is expected. Yet this provision prevents the Council from conducting anything more than a workshop session or a public hearing outside of City Hall. It is an arbitrary restriction which serves no useful purpose.

§14 Ordinances and Resolutions - Introduction and Passage

Recommendation:

Require that the Council's agenda be broadcast on an available cable television public access channel at least 24 hours in advance, except for emergency items as provided for under the Texas Open Meetings Act.

Rationale:

The spirit of open government requires that public notice of Council business be made as widely and easily available as possible. Yet the city has failed to take full advantage of the technology which is available for the purpose. The present practice of broadcasting an abbreviated agenda on 21-CHIC is an ineffective gesture, rather than a reflection of a serious philosophical commitment.

ARTICLE III. ELECTIONS

§21A Term Limitation

Recommendations:

A. Replace the present limit of two full terms anytime in one's life with a limit of *successive* terms totalling *eight years*.

B. Clarify that for the purpose of this section, the office of Mayor shall be considered a separate office from that of Council member.

Rationale:

A. In May of 1991, the voters spoke definitively on the principle that there should be a limit on Council terms. However, the Committee believes that a lifetime limit of only four years is simply unreasonable. It amounts to a mindless churning of the Council's membership, rather than a reasoned principle of government. In addition, we believe that a lifetime ban on anyone who has ever held an office previously is wrong as a matter of principle.

The Committee also believes that the question of a term limit is a separate issue from the length of the Council term itself. Our intention is that the limit should be eight years in succession regardless of the length of the Council terms. Thus, if the Council and the voters approve of the previous recommendation to lengthen the terms to four years, the limit would then be two of these terms; if they do not approve of that recommendation, the limit should be four of the existing two-year terms.

B. §4 of the charter, creating the City Council, clearly makes the Mayor a member of the City Council. As written, the present term limit amendment thus appears to suggest that a district Council member who is completing a second term in office should be ineligible to ever run for Mayor. The Committee and the City Attorney understand that this was not the intention of the drafters of the amendment. However, the issue should be determined by the clear language of the charter, not by this kind of informal understanding.

ARTICLE IV. RECALL, INITIATIVE AND REFERENDUM

§34 Power of Initiative

Recommendations:

A. Add to the list of exceptions as proper subjects for an initiative the additional exception of an ordinance affecting a public works project after a construction contract has been awarded or after bonds have been sold to finance that project.

B. Add a time limit of 180 days for the collection of initiative petition signatures.

Rationale:

A. Initiative and referendum are two different processes. The Committee supports the continued availability and legitimate use of both. However, we have witnessed in recent years an abuse of these processes, in which an initiative was used as a disguised referendum. If this practice is allowed to be repeated, no action of City Council can ever be considered as definitive or final. Down this path lies civic chaos, rather than any form of orderly government.

B. The present lack of a deadline for the submittal of an initiative petition also creates an unacceptable uncertainty for an orderly system of government. It allows any group which can circulate a petition to hold the city's political process hostage indefinitely. A healthy political process should require that the issue be decided, one way or another, within a certain period of time. A deadline of 180 days for an initiative petition would be four and a half times as long as the present charter deadline of 40 days for a referendum petition. The Committee believes that this should be ample time to collect the signatures on any issue which has significant public support.

ARTICLE V. ADMINISTRATIVE SERVICE

§45 City Manager - Selection, Appointment and Removal

Recommendation:

Add a provision authorizing the Council to enter into a contract with the City Manager on terms and conditions of employment, including a provision for reasonable severance pay if the City Manager is removed from office.

Rationale:

The practice is well established, both in San Antonio and in other cities, of entering into an employment contract with the City Manager. A provision for severance pay is a normal and even essential component of such a contract. The Committee believes that as a practical matter such contracts have become required in recruiting and retaining qualified City Managers. However, the present charter, with its emphasis on the Manager's serving at the pleasure of the Council, does not clearly contemplate the possibility of such arrangements. Therefore this section of the charter should be clarified to explicitly authorize a reasonable employment contract, without going into excessive detail on the kinds of provisions which may be negotiated.

§46 Same - Powers and Duties

The Committee's recommendation on the relationship between the Library Board and the City Manager incidentally involves ¶2 (a) of this section. This recommendation is discussed in the context of Article X below.

§47 Council Members Not to Interfere in Appointments or Removals

Recommendations:

A. Clarify the prohibition against Council members "dealing" with city staff except through the City Manager. The Committee suggests deleting the first half of the second sentence of this section, so that it reads in its entirety as follows:

> **"Neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately."**

B. Add a due process hearing procedure in case of violation.

Rationale:

A. The existing language, that "The Council and its members shall deal with the administrative service solely through the City Manager," is sweepingly vague and impossible to implement literally. Council members are obviously required to "deal" with staff every day. Requiring every contact, including routine requests for information, to be channeled through the City Manager would be an absurdity and an administrative impossibility. This provision therefore serves no useful purpose, and it ought to be eliminated.

In contrast, the prohibition against Council members giving "orders" to staff is pointedly clear and it is the real heart of the matter. This provision can only be improved by allowing it to stand on its own as a complete separate sentence.

B. This section also provides for the expulsion and replacement of a Council member who is found to have violated its prohibitions, by a two-thirds vote of the entire Council. It anticipates a public hearing on the issue, but it is otherwise silent on the procedures to be followed. The Committee believes that such an extreme sanction should only be authorized under an explicit requirement of due process.

§48 Investigations

Recommendation:

Delete the references to subpoena and contempt powers in City Council investigations.

Rationale:

Subpoena and contempt powers are essentially judicial devices, and they are clearly inappropriate in this context. As this provision is written, a failure to obey is only punishable in cases of city officers and employees. Obviously these individuals can be disciplined or dismissed for failure to obey an order concerning their employment or office, without resorting to these powers.

§49 Boards, Commissions, Committees and Authorities, together with
§154 Appointments to Boards, Commissions and Authorities

Recommendations:

A. Eliminate the contradictions between these two sections by deleting §154 entirely.

B. Delete the provision in §49 requiring the City Manager to recommend the members of advisory committees, and clarify that these committees advise the City Council as well as assist the heads of departments.

C. Authorize the Council to establish by ordinance a rate of compensation per meeting for the members of charter boards and commissions.

Rationale:

A. The existing sections 49 and 154 are now directly contradictory. Section 49 prohibits the creation of "boards, commissions, committees and authorities" with decisionmaking power, except for those established by the charter itself, those which administer building codes, and those established under state law. It then authorizes the Council to create *advisory* committees by ordinance. The members of such "boards, commissions or committees" are to be appointed by Council on recommendation of the City Manager. Section 154 provides that "The City Manager, with the approval of the Council, shall appoint all members of regulatory and zoning boards or commissions, and of all authorities heretofore or hereafter established..." The definitions of a "regulatory" board or commission, and of an "authority" within the meaning of this section, are unclear. Every

other section of the charter presumes or states that all boards and committees (whatever word is used), both advisory and decisionmaking, are appointed by Council.

In practice, the conflict between these sections has been resolved by following §49 and ignoring §154. Given the ambiguous terminology of §154, the Committee believes that this is the only reasonable solution. Section 154 should therefore be eliminated as a troublesome and fundamentally useless provision.

B. The provision in §49 that the City Manager shall recommend the members of advisory committees is politically unrealistic and has never been implemented. Clearly the Council appoints the members of these committees, and the Council solicits advice from whatever quarters it wishes. No City Manager would or should attempt to play any role in this selection process. At the same time, it is clear that many advisory committees -- including the Charter Review Committee itself -- have been established to advise the Council, rather than to assist city department heads in their administrative responsibilities. Many other advisory committees serve both functions. These fundamental realities should be reflected within the context of §49.

C. The only provision of §154 which is not in conflict with §49 is the requirement that the members of boards, commissions and authorities may not be compensated at a rate of more than $20 per meeting or $1040 per year. Section 49 effectively complements this provision by stating that the members of advisory committees shall serve without compensation.

The Committee believes that the provision of §49 is appropriate for advisory committees, and that the charter should also contain some provision to authorize and regulate compensation for the members of decisionmaking boards. However, the compensation level of 1951 is clearly outdated in 1993. As discussed above, in the context of Council compensation, merely to maintain the purchasing power of $20.00 in 1951 would require compensation of over $100 per meeting today. The Committee is reluctant to enshrine any specific dollar figure in the city charter because it would be bound to create a similar problem again in the future. Therefore we recommend that, with §154 deleted, a new provision be added to §49 which simply authorizes the Council to establish by ordinance the compensation for the members of the decisionmaking boards and commissions established by the charter. However, we also believe that it is appropriate to specify that such compensation should be on a per meeting basis, rather than being stated as an annual salary.

§§50-67 [Specific Departments]

Recommendation:

Revise §50 to eliminate the list of departments initially created by the charter, and delete the obsolete provisions on specific departments (§§53-67).

Rationale:
The city has long since outgrown the structure of eight administrative departments enumerated in §50 and detailed in §§53-67. These provisions are historical curiosities which serve absolutely no contemporary purpose. Nothing would be lost by deleting them, while a clearer presentation of the principles of the charter would be gained. The Committee notes that the provisions in the latter part of §50, dealing with administrative reorganizations, along with §§51, 52 and 68 are useful and should be retained.

ARTICLE VI. CIVIL SERVICE

§69 Establishment

Recommendations:

A. Explicitly exclude part-time and seasonal employees from the classified civil service.

B. Exclude division heads from the classified civil service, in addition to one assistant director and one executive secretary in each department, subject to a grandfather clause for the occupants of existing civil service positions.

A. Section 69 includes a list of the positions which are "exempt" from civil service. Part-time and seasonal employees are not explicitly addressed in this list, but they have traditionally been treated as exempt positions in the city's personnel policies. The Committee believes that this treatment is appropriate and in line with common practice in other jurisdictions and agencies. Therefore the practice should be authorized by the charter unambiguously.

B. The list of exempt positions now includes, in ¶ (e), "one principal assistant and one confidential secretary to each of the directors of departments." This ignores the fact that large staff departments sometimes have multiple assistant directors or division heads. These people often supervise more employees and have more responsibility than the heads of smaller departments. Making one of these positions exempt while the others are under civil service creates management complications which have no plausible justification. The Committee believes that effective management accountability requires the division heads to be exempt in these cases, as well as the department directors. However, we also believe that civil service protection must continue to be extended to those employees who have relied upon it in accepting their present positions.

§70 Municipal Civil Service Commission

Recommendation:

Provide for three alternate members of the commission, to serve as needed in the absence of regular members.

Rationale:
Both staff and members of the commission have advised the Committee that this commission has become seriously overloaded in recent years, and that it has difficulty in

obtaining or keeping a quorum at its frequent and lengthy meetings. This situation has reached the point that it is difficult even to recruit qualified individuals who are willing to take the assignment.

Several alternative approaches have been suggested, including providing for a full-time professional hearing examiner to reduce the time required by commission hearings, or enlarging the basic membership of the commission and authorizing it to meet in separate panels on individual cases. The Committee rejected the alternative of the professional hearing examiner because we believe it would reduce the stature of the commission as an independent and unbiased body in the eyes of employees with grievances. We also rejected the alternative of enlarging the commission itself, because this might lead to "panel shopping" by those with cases before the commission. Therefore we recommend the creation of alternate positions (similar, for example, to the Zoning Board of Adjustment) as the simplest and most effective solution to the problem.

§76 Suspensions, Reductions, and Removals

Recommendation:

Provide that the date for a hearing on an employee suspension, reduction or removal must be set within 10 days of an appeal, and that the hearing itself must be held within 60 days.

Rationale:

Paragraph 3 of §76 contains a provision which is at least arguably ambiguous. It reads "The Commission shall immediately fix a place and a time not later than ten days after such appeal for holding a hearing..." This has produced litigation over whether the hearing itself must actually be held within 10 days of an employee's appeal, or whether the commission is only required to take action within 10 days to set a date, with no actual deadline for the hearing itself. The Committee believes that requiring the hearing to be held within 10 days may be a strained interpretation and that it aggravates the problems of managing the commission's workload. At the same time, we recognize the need for an early decision on an appeal. We believe that 60 days is a reasonable deadline for a final resolution of the issue. Therefore both deadlines should be specified clearly in the charter.

§78 Prohibitions

Recommendations:

A. Revise the prohibitions on political activities by city employees to apply only to city elections.

B. Prohibit city employee organizations, as well as individual employees, from participating in campaigns for city elective office, except as authorized by state law.

Rationale:

A. The relevant part of §78, ¶1, reads as follows:

> No person in the classified civil service shall make any contribution to the campaign funds of any political party or any candidate for public office or take any part in the management, affairs or political campaign of any political party, further than in the exercise of his rights as a citizen to express his opinion and to cast his vote.

This provision is at once too broad (Recommendation A) and too narrow (Recommendation B). It is too broad in that it applies to all elections, at all levels of government. With respect to city elections, the city has an obvious and legitimate interest in regulating the political activities of persons on the city payroll. However, this interest does not extend to participation in the partisan campaigns of other governments. Such prohibitions have been successfully challenged in a variety of circumstances. The Committee believes that there is no justification for limiting the rights of city employees in non-city elections, and therefore the charter should not attempt to do so.

B. At the same time, the critical provision of this section contains a major omission. While it severely restricts the activities of individual employees, it completely ignores the similar activities of employee organizations. In recent years, these organizations have become the principal vehicle for the kinds of activities which most need to be controlled.

The Committee is well aware that state law already authorizes certain activities by those employees who have collective bargaining rights. This is obviously beyond the reach of the city charter. Our recommendation thus may raise an issue of fairness between uniformed and civilian employees of the city. However, we believe that the existence of a problem in one area, as dictated by state law, does not justify allowing this problem to spread to other areas where local control is still possible.

ARTICLE VII. FINANCE

§§79-111 [Obsolete Dates and Procedures]

Recommendation:

Overhaul this entire Article to replace the obsolete dates defining the tax and fiscal year and specifying the deadlines for preparation of departmental budgets, for submission of a recommended budget to Council, and for adoption of the budget by Council. Revise these to reflect the implementation of the 1977 charter amendment (§99A).

Rationale:

The changes in the city's tax and fiscal years which were approved in 1977 have made much of this Article obsolete. In addition, the way this patch was inserted into the charter, as §99A, makes it difficult to decipher what portions of the preceding sections remain in effect. While it is appropriate to specify in the charter the essential dates for submission and adoption of the budget, much of the procedural detail is unnecessary. All of these

problems have also been compounded by the passage of the state Property Tax Code, which has made the elaborately detailed provisions on property assessment and tax collection completely meaningless. These problems can only be addressed effectively by a thorough rewriting of the entire Article.

§101 Purchase Procedure

Recommendation:

Delete the $3,000 threshold for Council approval of formal competitive bids, and provide generally for purchasing in accordance with state law.

Rationale:

This threshold figure produces the same problem as every other specified dollar amount in the charter: it is inherently subject to erosion by inflation. In this case, the figure has been raised once already by a charter amendment. (It was increased from $1,000 to $3,000 in 1974.) In the meantime, however, state law has been amended to authorize purchases up to $10,000 without formal competitive bids, and bills have been introduced in the Legislature to raise this to $25,000. The Committee believes that there is simply no good reason to set this threshold locally at a lower amount than that authorized by the state. At the same time, trying to amend the charter every few years to track changes in this state law is a fool's game. The charter should simply acknowledge that city purchasing must be done in accordance with the requirements of state law.

ARTICLE VIII. MUNICIPAL COURT

This entire Article has been superseded by the state law which established the Municipal Court as a court of record. The "technical" recommendation is discussed in that context above.

ARTICLE IX. PLANNING COMMISSION

§117 Organization

Recommendation:

Eliminate the *ex officio* memberships, and provide that the Commission shall have the same number of members as the City Council.

Rationale:

In theory, the charter provides that the City Manager, a member of City Council, the Chairman of the Zoning Commission, and the Chairman of the Zoning Board of Adjustment are all *ex officio* members of the Planning Commission. The Council is also authorized to appoint additional *ex officio* members. In practice, none of these members attend the meetings of the Commission, which makes this provision a useless gesture at best. The drafters of the charter in 1951 probably anticipated this possibility to a degree by providing that a quorum should be constituted by a majority of the *appointive* members.

However, they could not have anticipated that state law would override this provision by requiring a quorum of the Commission's full membership for certain replatting actions. This makes achieving a quorum distinctly problematic in such cases. Since the *ex officio* memberships do not add any real positive value to the Commission, they should simply be eliminated.

The charter also now specifies that the Commission "shall consist of nine members." In 1951, this was the same number of members as the City Council. Since 1977, however, this number has obviously been different. This forces all appointments to be made at-large, while for most other boards and commissions the Council follows the practice of allowing each Council member to appoint one commission member. The Committee believes that the latter arrangement produces a greater degree of political accountability than at-large appointments. Stated in more practical terms, it increases the confidence of each individual Council member in any recommendations which a board or commission ultimately produces. We also believe that the Planning Commission in particular has suffered from a lack of such accountability/confidence ever since the Council was enlarged to 11 members. This contrasts with the spirit of the charter, which clearly envisions a strong policy role for this commission.

The Committee has deliberately avoided phrasing its recommendation as simply to "expand the commission to 11 members" in order to facilitate possible future charter amendments which would again change the size of the Council. An amendment to repair the damage which was done to the commission by the single member districting amendment for City Council should not contain the seed of the same problem all over again.

§118 Powers and Duties

Recommendation:

Revise ¶1 (2) to provide that the recommended five year capital improvements program shall be submitted to the City Council as well as to the City Manager. Delete the reference to the budget calendar in ¶1 (2) and to the Finance Department in ¶1 (3).

Rationale:

The Committee believes that the failure to implement an effective process for a five-year capital improvements program is a major weakness in the role of the Planning Commission as it was envisioned by the framers of the charter. The capital improvements program is a policy matter by nature, and therefore the commission's recommendations should be submitted directly to the Council. The City Manager has an obvious interest in commenting on the commission's recommendations, but that role should be kept in its proper place.

The requirement that the commission's capital improvements program be submitted "not less than 90 days prior to the beginning of the budget year" is arbitrary and may conflict with the implementation of an effective policy development process.

The reference to the Finance Department is obsolete, since that department no longer includes the city budget office. (This is an echo of the Committee's previous recommendation, to eliminate the useless and obsolete provisions on specific departments in §§53-67.)

§121 Master Plan

Recommendation:

Define more clearly the elements which are required as components of the master plan. These should include the following:

(a) **A Basic Plan - including general background, goals and objectives, and basic policy principles;**

(b) **Elements of General Application - including a Land Use Plan, Transportation, and Major Thoroughfare Plan;**

(c) **Functional and Area Plans - including the development and operation of city facilities and services (such as parks, housing, libraries, fire stations, etc.), and plans for the development or redevelopment of specific areas in the city;**

(d) **Public Utilities Plans - including all municipally owned public utilities;**

(e) **Economic Development.**

Rationale:

At present, the only description of the content of the master plan is "the commission's recommendations for the growth, development and beautification of city territory." This has led to continual confusion over whether or not various specific functional and area plans require review by the Planning Commission. There have been threats of litigation over plans which have not been submitted for review, and the charter gives no real guidance on the issue. This is a fundamental weakness of the commission in operation, in contrast to the clear spirit of the charter. The Committee believes that a clearer definition of the elements of the master plan is essential to reinforce the commission's proper role and to preclude these issues in the future.

§123 Legal Effect of Master Plan

Recommendations:

A. Extend the legal effect of the master plan to include construction or authorization of facilities in the city's extraterritorial jurisdiction.

B. Authorize the Council to define by ordinance the real estate transactions which should be subject to (or exempt from) review by the Commission.

Rationale:

A. At present, the charter limits the legal effect of the master plan to facilities inside the city limits. This is despite the fact that state law authorizes the exercise of certain powers in the ETJ. This self-imposed limit simply makes no sense.

B. This section of the charter also provides that *no* real property may be acquired by the city

> "until and unless the location and extent thereof shall have been submitted to and approved by the commission... The widening, narrowing, relocation, vacation or change in the use of any street, river or watercourse, or other public way or ground or the sale of any public building or real property shall be subject to similar submission and approval."

Read literally, this should require formal commission approval of every real estate transaction, no matter how inconsequential. Obviously, such a literal interpretation would generate an impossible burden of administration. Any alternative, however, is without support in the charter and potentially vulnerable to challenge.

The Committee believes that it is impractical to try to define in the charter all of the small or routine real estate transactions which should be exempt from formal Planning Commission review. A more reasonable approach would be to authorize the Council to define these transactions by ordinance. Such an ordinance might include standards of the land area or dollar value involved, and specify procedures and requirements in this regard.

ARTICLE X. PUBLIC LIBRARY

§§124-127 [Relationship with City Manager]

Recommendation:

Revise this entire Article to bring the Public Library Board of Trustees within the structure of the Council-Manager form of government. This includes (1) providing a role for the City Manager in the appointment, evaluation and removal of the Library Director, (2) placing all other library employees under the authority of the City Manager, and (3) clarifying that the administration of the library system shall be conducted through the normal channels of city government.

This recommendation also incidentally involves deleting the present §46, ¶2 (a).

Rationale:

As established by the charter in 1951, the present Library Board is an anomaly. The board has the exclusive authority to hire and fire the Library Director, while every other department head is responsible to the City Manager (except the City Clerk, who is appointed directly by Council). The board has the authority "to appoint and remove all officers and employees of the library," although these employees are also (rather confusingly) made "subject to the civil service provisions" of the charter. In addition, the board is "exclusively responsible for the management, care, control and maintenance of [library] properties of every description."

These provisions are in fundamental conflict with the basic principles of the Council-Manager form of government. The Committee understands that they were the product of a political compromise in the 1951 charter commission, between the advocates of a completely independent countywide library system and the proponents of the library continuing as a regular department of the city. The Committee has been unable to discover any further substantive or persuasive rationale for this arrangement.

Recently, however, the Library Board has adopted a new set of bylaws which are designed to address some of the problems created by the library's anomalous status. They provide for consultation with the City Manager in the hiring, evaluation and removal of the Library Director. They eliminate the board's role with respect to other employees, and they address some other problems of coordinating administration. These bylaws have also been endorsed by the City Council. They are, however, still subject to serious question because they now conflict with the clear language of the charter. Therefore the city staff has developed a draft of the charter amendments which would be required to legitimize these bylaws. The Committee considers that the Council's action endorsing the new bylaws implies a commitment to amend the charter as required to implement them. Therefore we endorse the proposed amendments to this Article.

ARTICLE XI. FRANCHISES

The Committee does not recommend any changes in §§128-137. No one who addressed the Committee cited any problems with this Article.

ARTICLE XII. GENERAL PROVISIONS

§141 Interest in City Contracts Prohibited

Recommendation:

Replace Section 141 of the charter in its entirety with new provisions along the following lines.

§141 Conflicts of Interest and Ethics Commission

A. Activities Prohibited

The use of public office for private gain is prohibited. No City Council member, officer or employee of the city with decision making authority over expenditures, contracts or other city business shall have a financial interest, direct or indirect, in any contract with the city, or in the sale to the city of any land, materials, supplies or service, except on behalf of the city as an agent or employee.

B. Contributions and Gifts Prohibited

No City Council member shall accept political contributions with a total value of more than $100.00 during any calendar year from any person, entity or employee group doing or seeking to do any business with the city. No City Council member, officer or employee of the city with decision making authority over expenditures,

contracts or other city business shall accept any gifts of cash, or any other gifts (including entertainment or services) with a total value of more than $100.00 during any calendar year from any person, entity or employee group doing or seeking to do any business with the city. The $100.00 threshold of political contributions and other gifts which are prohibited shall be indexed to equal one-half of the per diem compensation of City Council members as that compensation may be increased in the future. City Council shall also provide by ordinance for regulation or public disclosure of gifts of token or nominal value.

C. Regulation by Ordinance

The City Council shall implement the provisions of this section by ordinance. Such ordinances shall provide for regulations on the following subjects, and shall include definitions and reasonable rules of interpretation:

- Requirements for public disclosure of sources of income and unsecured debts;
- Requirements for public disclosure of political contributions by persons or entities doing or seeking to do any business with the city;
- Prohibitions against participation in any decision in which the official has a private interest distinct from that of the public at large;
- Prohibitions against appearing as a representative in any private cause involving any agency of the city;
- Limitations on outside employment which may be incompatible with an official's public duties;
- Restrictions on private business arrangements among city officials;
- Restrictions on negotiating future employment with any entity doing or seeking to do any business with the city;
- Prohibitions against representing any private interest on a matter which a person previously handled as a city official.

D. Ethics Commission - Creation and Structure

The City Council shall by ordinance establish an Ethics Commission to administer and enforce this section and the related implementing ordinances.

- The commission shall have no fewer than seven members and no more than eleven members.
- The members of the commission shall be nominated by the Mayor and approved by City Council.
- The ordinance establishing the commission shall provide for a definite term of office and shall provide for the removal of members only for cause.
- No member of the commission may hold any elective or appointive office in any government or any political party.

E. Ethics Commission - Powers and Functions

Insofar as consistent with state law, the commission shall have the power:

- to issue binding opinions on the interpretation and application of the provisions of this section and of the implementing ordinances;
- to conduct investigations, both on referral or complaint and on its own initiative;
- to compel the production of witnesses and evidence;
- to recommend cases for prosecution;
- to enforce its decisions through the assessment of civil fines;
- to hire independent counsel.

The City Council shall appropriate sufficient funds to the commission to enable it to perform the functions assigned to it.

F. Penalties for Violation

Any violation of this section, or of the provisions of the implementing ordinances, shall constitute malfeasance in office, and any Council member, officer or employee guilty thereof shall thereby forfeit his office or position. The City Council shall establish by ordinance such further penalties as it may deem appropriate. Such ordinances shall provide for the right of citizens to bring suit to enjoin violations and to invalidate actions taken by any official in violation. Any violation of this section or of the implementing ordinances, with the expressed or implied knowledge of the person or entity contracting with the city, shall render the contract involved voidable by the City Manager or the Council.

Rationale:

Because of the nature of this recommendation, the Committee considers it desirable to go the next step in the process by recommending the actual text of a proposed charter amendment. This is necessary in order to convey our intentions clearly and to address all aspects of the recommendation without ambiguity.

In developing this recommendation, the Committee has considered the testimony of numerous individuals who addressed us in business meetings and public hearings. They raised concerns and offered proposed recommendations on a number of related issues. The Committee has also considered the report of the Ethics Committee which was appointed by Council in 1991 and the ordinance which Council adopted in 1992, following that committee's report. In addition we have considered the provisions of the National Civic League's Model City Charter and researched the literature on conflict of interest and ethics legislation. We are impressed by the obvious breadth and depth of continuing public concern over these issues, and we believe this concern merits a thorough and thoughtful response.

The background, rationale and justification of each section of our recommendation are as follows.

A. Activities Prohibited

The provision that "the use of public office for private gain is prohibited" is an introductory statement which is designed to capture the essence of the entire following section of the charter. Although it does not immediately and directly translate into specific applications, we believe it serves a useful function of expressing the spirit of the whole section. It is taken directly from the Model City Charter.

The remainder of this subsection is a modified version of the first sentence in the existing §141.

It changes "No officer or employee of the city" to "No City Council member, officer or employee of the city" in order to mesh more easily with ordinances which may distinguish between Council members and other "officers" of the city.

With respect to employees, it adds the qualification "with decisionmaking authority over expenditures, contracts or other city business" in order to avoid the unintended excessive sweep of the existing provision. (A literal reading of the existing charter section could prohibit *any* city employee from owning any stock, for example, in a Fortune 500 company which proposes to sell any goods or services to any agency of the city.)

It adds the phrase "in any contract with the city" in order to reinforce the existing language on "the sale to the city of any land, materials, supplies or service."

It also substitutes the word "agent" for "officer" in order to focus the provision more appropriately.

The remainder of the existing §141 is contained in modified form in subsection F below.

B. Contributions and Gifts Prohibited

This subsection is completely new. It addresses a major area of concern which the charter now completely ignores.

The Committee believes that it is imperative to regulate political contributions by individuals and groups which have an interest in doing business with the city. This is justified both by the need to preserve the integrity of the Council's decisionmaking and as a protection against pressure on potential contributors.

The Committee believes that all gifts of cash from any person or group with an interest in city business should be banned outright. We cannot imagine any justification for allowing such conduct.

The Committee considered and rejected a complete ban on all political contributions by city contractors and related groups. We believe this is unnecessary and

inappropriate because below some minimum level such contributions represent a mere token gesture of support or a symbolic expression of political opinion. The real problem is clearly at the level of contributions which are beyond the means of most ordinary citizens. We believe $100 per year is a reasonably conservative dividing line for this purpose.

As with other specific dollar amounts in the charter, however, the threshold between reportable and prohibited gifts must also allow for an inflation adjustment mechanism. The Committee considered the option of specifying a government-published index (such as a particular series of the Consumer Price Index) for this purpose. We rejected this because such data series are subject to definitional changes which could cause technical complications. We also considered directing the Council to adopt such an index by ordinance, but we rejected this because it might be subject to abuse. Since our previous recommendations on Council compensation provide for a controlled increase, subject to a vote of the citizens, we concluded that a link to that process would provide the simplest and most workable mechanism to handle the problem.

With respect to other gifts, there is also an obvious problem in handling inoffensive gifts of token or nominal value. The Committee believes that it is impossible for the charter to address effectively all of the details and circumstances surrounding this issue. Therefore we recommend that the Council be required to provide for regulation or public disclosure of these gifts by ordinance. The dividing line of $100 per year (escalating as provided above), above which all gifts are banned, should keep the focus on the real issue. We also believe that it is important to make clear that entertainment and services are as much a concern as gifts of tangible property.

C. Regulation by Ordinance

This subsection is also completely new. It lists the other issues which must be addressed in this context. In all of these cases, however, the Committee believes it is impossible for the charter to incorporate all of the necessary regulations, definitions and rules of interpretation. Therefore we recommend that the Council should be required to deal with these matters by ordinance. Some of these issues are already addressed by existing ordinances, while others are not and need to be.

Sources of income and unsecured debts. Public disclosure of these is fundamental to any effective ethics ordinance. The Committee does not believe that the charter should necessarily require specific dollar amounts to be revealed, but certainly some disclosure is essential for public officials' sources of income and for their unsecured debts.

Political contributions. Public disclosure of these is also essential, in addition to the limitations contained in subsection B above. It is appropriate to address this issue at the local level in addition to the requirements of state law.

Participation in decisions involving own private interest. This item is suggested by a provision in the Model City Charter. It is at the heart of the issue of "using public office for private gain." It is deliberately cast in general terms in order to include the appropriately broad scope of issues and circumstances. However, it is also important to qualify the interest as "distinct from that of the public at large" in order to avoid the "overkill" which could be produced by a literal reading of an excessively sweeping statement. (This problem with the existing §141 is also noted above, under subsection A.)

Representing private interests before city agencies. This provision is also suggested by the Model City Charter. Such activities have been a specific issue of recent public concern in the city. The Committee believes that this issue must be acknowledged and addressed in the charter.

Limitations on outside employment. This is an issue which has been included in recent ethics ordinances adopted by other cities and which is recommended to be addressed in legal literature on the subject. Although it has not yet become the focus of specific controversies in San Antonio, the Committee believes that it should it should also be included in this section of the charter.

Private business arrangements among city officials. This is another potential issue, rather than merely a reaction against past abuses. The Committee believes that we should not wait for a scandal before we address the subject.

Negotiating future employment with city contractors. This provision is again derived from the general literature on the subject area. Dealing with the "revolving door" between public and private employment has become a required feature of ethics laws at all levels of government.

Representing private interests on matters previously handled as a public official. This is another fundamental aspect of "revolving door" legislation. It must be addressed in any comprehensive consideration of ethics and conflict of interest issues.

D. Ethics Commission - Creation and Structure

The Council has already created an Ethics Commission as part of the new ethics ordinance. However, the Committee believes that there are significant deficiencies in this ordinance and that, in any case, the general structure and powers of such a commission should be spelled out in the charter.

The Committee recommends that the commission should have between seven and eleven members. This is in contrast to the three members of the existing commission. A range is suggested in order to allow the Council discretion is structuring the commission by ordinance. The Committee does not recommend

specifying in the charter any particular areas of expertise to be required of the members. However, this is not intended to prevent the Council from including specific professional requirements in the implementing ordinance.

The Committee recommends that all members of the commission should be nominated by the Mayor and approved by the Council. This is in contrast to the existing commission, in which all members are appointed at the sole discretion of the Mayor. The Committee believes that it is fundamentally inappropriate and unwise to place such power entirely in the hands of any one person. However, we also believe that a system in which each Council member appoints one commissioner would make it difficult to produce a commission with the proper balance of professional backgrounds and uniformly high standing in the community. In addition, we believe that a system of at-large appointments by the Council would not guarantee any better result. Therefore the Committee has sought to define a mechanism which combines the advantages of appointment by the Mayor with the opportunity for public scrutiny of the nominees (created by requiring Council approval) before their appointment can become effective.

The Committee believes that it is essential to the independence of the commission that the members should have a definite term of office and that they should be removable only for cause. These are also deficiencies of the existing ordinance.

The Committee also recommends that the commission members should not be allowed to hold any elective or appointive office in any government or any political party. This provision is designed to reinforce the independence and integrity of the commission, which are of the utmost importance.

E. Ethics Commission - Powers and Functions

Alongside creating the commission, the charter should spell out its powers and functions. These powers should be as strong as possible, limited only by state law rather than by any self-imposed restrictions.

To issue binding opinions. Questions of interpreting and applying the ethics provisions of the charter and the implementing ordinances are inevitable, and so this function is obviously at the heart of the commission's purpose. In addition to being essential to enforcement, this function offers needed protection to any city official or employee who relies on the commission's opinion in good faith.

To conduct investigations. The Committee believes it is essential that the commission be authorized to conduct investigations on its own initiative, as well as on referral or complaint. To deny the commission independent investigative authority is to render the commission impotent.

To compel witnesses and evidence. The subpoena power is obviously essential to any effective investigative function.

To recommend cases for prosecution. This is the simple and logical conclusion from the preceding functions.

To enforce its decisions through civil fines. The Committee believes that this power is essential to complete the commission's enforcement capability. It is an important supplement or alternative to judicial prosecution.

To hire independent counsel. The Committee believes that this power is also essential to the commission. The commission should not be dependent on the approval of any outside body in order to exercise this power.

The Committee also recognizes that the strongest statement of powers in the charter will be meaningless without the funds to perform the commission's functions effectively. The recommended provision requiring the Council to appropriate "sufficient funds" for the purpose clearly is not self-executing, but there is no way to devise a charter formula which would guarantee this outcome. This provision is taken from the Model City Charter, and we believe it serves a useful purpose in pointing out the seriousness of the issue.

F. Penalties for Violation

This subsection is a slightly modified version of the remainder of the existing §141, following the part which was incorporated in subsection A above.

It adds "or provisions of the implementing ordinances" to "violations of this section," since the charter provision is not self-executing. It also adds "Council member" to "officer or employee," to better coordinate with the pattern established by existing ordinances.

It adds a new provision that "The Council shall establish by ordinance such further penalties as it may deem appropriate." This is necessary to establish that removal from office (which is provided for in the first sentence of this subsection) is not the only possible sanction against a city official, and that voiding of the contract (provided for below) is not the only possible sanction against a contractor. It is the mechanism by which the commission's power to assess civil penalties would be implemented.

The new language continues "Such ordinances shall provide for the right of citizens to bring suit to enjoin violations and to invalidate actions taken by any official in violation." The Committee believes that the absence of such a provision would call into question the seriousness of the city's commitment to deal with the problem.

Finally, it deletes the word "willful" with respect to a violation of this section which justifies the voiding of a contract because it unnecessarily complicates the burden of proof in such cases and it is redundant to the qualification (which is retained) "with the expressed or implied knowledge of the person" involved. It substitutes the word "entity" for "corporation" involved in a voidable contract in order to provide the correct scope for the provision. And again it adds "or of the implementing ordinances" to "violation of this section."

NEW PROVISIONS

Periodic Charter Review

Recommendation:

Add a section to the charter which requires the Council to create a Charter Review Committee to review the entire charter and recommend amendments at least every 10 years, without precluding interim review at other times.

Rationale:

The sheer length and number of issues in this report is itself the most dramatic illustration of the need for this recommendation. Without this provision, it is necessary to overcome massive political inertia in order to initiate a complete review of the charter. The inevitable consequence is that, year by year, ever more and more of the charter becomes obsolete and needs to be overhauled while nothing ever gets done about it. The number of "technical corrections" or "deadwood amendments" which are contained in the Committee's very first recommendation above -- to merely bring the charter up to date with state law -- is overwhelming proof of the problem. We are also particularly dismayed that some of the recommendations of the last committee which reviewed the entire charter, in 1974, are repeated in this report nearly 20 years later. The unfortunate provision of the state constitution which prevents the Council from submitting charter amendments less than two years apart effectively prevents anything but the "highest priority" issues from ever being considered. Therefore all of the "lower priority" issues simply continue to accumulate. The only possible remedy for this problem is to require the Council to face the issue of a comprehensive charter review automatically at some reasonable periodic interval.

A requirement that the Council create a charter review committee clearly does not commit the Council to approve any of that committee's recommendations or to submit any actual proposed amendments to the voters. The Committee has also deliberately refrained from recommending any particular number of members or formula for the composition of future charter review committees. We believe that question should be decided by the Council which is in office at that time, in light of the issues and priorities of the time. But we also believe strongly that no future charter review committee, and no future City Council, should ever again have to consider as many different issues -- including as many comparatively "minor" ones, and as many obsolete and totally useless provisions -- as this committee has considered.

CONCLUSION

The Need for Comprehensive Charter Revision

All of the preceding recommendations lead to one fundamental conclusion: the City of San Antonio really needs a complete new city charter. It does not, however, need a fundamentally new form of government.

The Committee is intensely aware of the sheer number of our recommendations. We have deliberately declined to categorize these recommendations into "higher" and "lower" priorities because we believe that *all* these recommendations are needed. Any attempt to categorize some recommendations as "less important" or "less urgent" than others can only result in the "lower" priority recommendations continuing to be ignored. This would perpetuate the accumulation of obsolete, useless, and troublesome charter provisions, rather than address a fundamental problem in the existing charter. In fact, the viability of San Antonio's existing charter has declined to the point that it is barely possible to consider revising the document adequately through the normal amendment process. The passage of additional time, or the elimination of some of our recommendations as "non-essential," will not improve this situation.

Yet at the same time, the Committee believes that the fundamental concept of the Council-Manager form of government is sound. There is no support in the community for a change in the basic structure of city government, and in our view there is no reason to advocate such a change. We believe that, in principle, this form of government can continue to serve San Antonio well for a long time to come. But to do so, the city's government must be founded on a charter which is stripped of conflicts with state law and fundamentally rewritten to reflect the changes in our society over the last 42 years.

Unfortunately, this Committee's mandate does not extend to proposing a complete new charter. State law does not contemplate the possibility that a city would ever need a complete new charter unless it is considering a completely new form of government (as San Antonio did when it adopted the Council-Manager system in 1951). Therefore the state provides for only two alternatives: (1) piecemeal amendment of an existing charter or (2) adoption of a wholly new charter as recommended by an elected Charter Revision Commission. In the case of amendments to an existing charter, each amendment must be narrowly framed to deal with a single subject of change. This is impractical in our situation, because the number of necessarily separate issues of charter revision may be too great to place on a single ballot. At the same time, the city is prevented by a provision in the state constitution from proposing amendments to its charter more than once every two years. As a practical matter, this means that any amendments which are put off from the first round of charter revision are unlikely to be revived by a new Council two years later. Thus, the "lower" priority amendments would simply never be seriously considered, and their number would continue to accumulate over time. This has been the story of San Antonio's charter since 1951.

The alternative process of adopting a complete new charter, however, is even less attractive. In this case, the law requires Council to call for the *election* of a Charter Review Commission. That commission would then have to start all over again on the task which has absorbed this Committee for 2 1/2 years. At the end of that process, the complete text of the commission's recommended new charter must be mailed to every registered voter in the city, it *must* be placed on the ballot *as proposed by the commission*, and it must be voted upon as a single ballot proposition. This process, in other words, is completely unaccountable to the existing elected City Council. Council would have no discretion to determine what specific changes would be submitted to the voters. While this process may have been appropriate, for example, in shifting from a commission form of government to the Council-Manager form in 1951, it is dangerous and unwarranted in our existing situation.

Therefore the Committee concludes that **the city should seek an amendment to state law to authorize a third approach to charter revision.** This should allow for an appointed and politically accountable committee (like the present one) to *recommend* a new charter to City Council. It should authorize the Council to place a new charter on the ballot as a single proposition after it has considered the Committee's recommendations and determined which changes should actually be submitted to the voters as part of that proposed new charter. While it is obviously too late to pursue such legislation in the 1993 Legislature, the Committee believes that this is the only viable way to update San Antonio's charter as thoroughly as needed. Work should begin now to develop the proposed legislation and to secure support from the local legislative delegation. A *thorough* revision of San Antonio's charter -- not just a series of piecemeal amendments -- is essential.

In the meantime, however, there is no reason to delay revising the charter as much as possible under the existing process. In other words, this additional recommendation is not a substitute for all of the preceding specifically recommended amendments. Although the existing process is excessively cumbersome, because of the sheer number of our recommendations, it is the only mechanism which is practically and legally possible today. The Committee believes that if City Council approves our recommendations and if the voters agree, San Antonio can once again be governed under a charter which represents the "state of the art" and a model for other cities to follow.