

## STAFF REPORT

**DATE:** July 15, 2008

**TO:** City Council

**FROM:** Charter City Subcommittee (Lamar Heystek and Stephen Souza)  
Kelly Stachowicz, Deputy City Manager

**SUBJECT:** Proposed Charter for City of Davis

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### **Recommendation**

1. Review revised proposed Charter (Attachment 1)
2. Adopt resolution (Attachment 2) calling for a special election on November 4, 2008, for the purpose of submitting a ballot measure to the voters to determine whether Davis should become a Charter City.
3. Adopt resolution (Attachment 3) requesting the Yolo County Board of Supervisors to consolidate a special municipal election to be held on November 4, 2008, with the statewide general election to be held on that date.
4. Designate the Charter Subcommittee to prepare a ballot statement for signature by each City Council member.

### **Summary**

The City Council has been reviewing both charter city status and choice voting. Staff has been working with a Council-appointed Subcommittee to provide background and recommendations related to both topics. On June 24, 2008, City Council reviewed a proposed Charter and discussed whether to include choice voting in the Charter. Council directed the Subcommittee to return on July 15<sup>th</sup> with additional options and/or recommendations.

### **Fiscal Impact**

The cost to place a measure on the ballot generally runs between \$45,000 and \$60,000, depending on the number of other measures on the ballot. The November ballot already contains many items, so staff assumes the cost would be on the lower side. Money is budgeted every year from the General Fund for one election. Outside of the election, the only costs to implement a Charter include staff time and public information efforts, both of which would be included in the regular budget.

The proposed Charter is revenue neutral. It does not contain provisions that would automatically result in a cost or in revenue to the City.

### **Background and Analysis**

Excerpts from the June 24, 2008 staff report have been included as Attachment 4 for background information on city charters.

The City Council discussed a proposed City Charter, as well as choice voting, at the June 24, 2008 meeting. The Council directed the Charter City Subcommittee to return to the Council on July 15 with additional information and options. The Subcommittee met July 1, 2008 and July 8, 2008 to review options and formulate an alternate recommendation. The Subcommittee considered several options (in no particular order), all of which involve placing a Charter measure on the November ballot:

1. Simple, revised Charter. No reference to choice voting.
2. Revised Charter to include reference to choice voting (as originally proposed by subcommittee). Include information about choice voting in the report to Council for informational purposes only.
3. Revised Charter. Include a companion measure with the following wording: "By ordinance, the Council may institute a choice voting system."
4. Revised Charter. Companion measure to include choice voting as a Charter amendment.
5. Revised Charter which includes choice voting in detail in the body of the original Charter.

The Subcommittee considered the discussion of the Council as a whole, along with the concerns and questions outlined by Council members and members of the public attending the Subcommittee meeting and staff input. The Subcommittee concluded that passage of a Charter is the first step necessary if the community and Council ever want to consider additional options allowed by a Charter, such as (but not limited to) choice voting. Given the reservations expressed during the June 24<sup>th</sup> Council meeting, the Subcommittee believes the placement of a basic Charter, not to include any reference to choice voting, on the November ballot to be the best option. The Subcommittee and staff also note that individual Council members each have very different thinking on what a Charter might be able to do (or not do) for the city. The recommended version of the Charter also includes several revisions suggested by Council members at the last meeting, which are explained in greater detail later in the report.

There are reasons to pass a Charter that do not have anything to do with choice voting. To be clear, the Subcommittee continues to believe that choice voting is beneficial and should be considered but prefer that it be considered later, on its own merit and not as a part of a Charter. Likewise, consideration of a Charter without complicating the issue with choice voting allows for a pure discussion of the merits of becoming a Charter city. The separation of the two items is important if one believes that a Charter would be useful for any purpose beyond choice voting. If the Council agrees to place a Charter on the ballot and if the voters approve that Charter, then the community and the Council can begin a full discussion on whether to pursue choice voting.

Given the change in approach by the Subcommittee, staff will share information with the Council about choice voting separately, through the weekly FYI process. Staff has not included sample Davis wording, examples from other communities or specific background information about choice voting as part of this report.

#### Charter Revisions

Staff and the subcommittee have revised the proposed Charter, based on the June 24<sup>th</sup> Council discussion. Several items have been removed and in other places words have been changed. Below is a chart to explain the changes.

<u>Former/Current Section</u>	<u>Removed</u>	<u>Added</u>	<u>Reason</u>
2.02/2.02	2.02 General Powers	2.02 General Powers: Municipal Affairs	Added Municipal Affairs to the title to indicate focus of section.
8.01/2.02	<p><del>ARTICLE VIII. Interpretation</del></p> <p><del>8.01 Construction and Interpretation. The language contained in this Charter is intended to be permissive rather than exclusive or limiting and shall be construed in favor of the exercise by the people of the city of Davis of their powers to govern themselves with respect to any matter which is a municipal affair.</del></p>	2.02 ... This Charter is intended to be construed in favor of the exercise by the City of its powers related to municipal affairs.	Removed original section, reworded it to make it more succinct and moved it to General Powers section, where it fits well with the intent and meaning of the existing paragraph.
2.03/---	<p><del>2.03 Intergovernmental Relations.</del></p> <p><del>The City may exercise any of its powers to perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more cities, counties, states, or civil divisions or agencies thereof, or the United States or any agency thereof."</del></p>		<p>Removal of all section based on staff recommendation, city attorney input and Subcommittee concurrence.</p> <p>This section deemed unessential for basic Charter.</p>
Article IV/---	<p><del>ARTICLE IV. Elections.</del></p> <p><del>4.01 Election Procedure. Unless otherwise provided by ordinance, all elections shall be held in accordance with the provisions of the California Elections Code governing municipal elections so long as such provisions are not in conflict with this Charter.</del></p>		<p>Removal of all parts of section based on comments of June 24<sup>th</sup> Council meeting, city attorney input and subcommittee concurrence.</p> <p>Local elections are clearly listed as a municipal affair.</p>

	<p><del>4.02 Choice Voting. By ordinance, the City may institute a choice voting system, also referred to as instant runoff or preference voting.</del></p>		
<p>Article V/---</p>	<p><del>ARTICLE V. Fiscal Administration.</del></p> <p><del>5.01 Tax System. The City Council may, by ordinance, provide a system for assessment and for the levy and collection of City taxes upon real and personal property. All other taxes shall be levied in accordance with City ordinance and state law to the extent state law does not conflict with this Charter.</del></p> <p><del>5.02 Public Financing. The City Council shall have the power to establish standards, procedures, rules and regulations relating to financing of public improvements and services, including by not limited to the creation of special assessment districts.</del></p> <p><del>5.03 Reductions Prohibited. All revenues due to, and raised by the City, shall remain within the City of Davis for appropriation solely by the City Council. No such revenue shall be subject to subtraction, retention, attachment, withdrawal or any other form of involuntary reduction by any other level of</del></p>		<p>Removal of all parts of section based on comments of June 24<sup>th</sup> Council meeting, city attorney input and subcommittee concurrence.</p> <p>Regardless of Charter status, any tax must still be approved by the voters, as per state law.</p>

	<del>government.</del>		
6.01/4.01	<del>Local Limits of Growth Control</del>	Local Control of Growth	Change to focus on local control of growth rather than suggesting that section refers only to “limiting” of growth.
6.01/4.01	<del>...quintessential</del> elements of local control...	...essential elements of local control...	Determination that “essential” is a more appropriate word to use.
7.01/5.01	<del>...until repealed, amended, changed or superceded.</del>		Deletion because of redundancy.
9.01/6.01		...by a majority of the voters <u>of the city of Davis</u> voting at an election.	Addition to specify which voters.
9.01/6.01	<del>...at the time the amendment is filed with the Secretary of State by the City Clerk and chaptered by the State.</del>	...at the time the amendment is <u>accepted and</u> filed with the Secretary of State by the City Clerk.	A legal change to reflect the requirements laid out by the State.

Staff and the Subcommittee concur these changes tighten the document’s language to make it clear and concise. While there is no required template required for a Charter, this Charter contains the most basic provisions necessary to ensure that existing laws and policies remain intact until or unless the Council or voters make changes. With the Charter, the Council and the voters would have flexibility and additional options from which to choose, if they so desired.

Determining the Language for the Charter

In determining what language to recommend for a Charter, staff and the City Attorney referred to the section of the California Constitution that provides for cities to have charters. It reads as follows:

California Constitution XI, Section 5.

(a) It shall be competent in any city charter to provide that the city governed hereunder may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. City charters adopted pursuant to this Constitution shall supersede any existing charter, and with respect to municipal affairs shall supersede all laws inconsistent therewith.

(b) It shall be competent in all city charters to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State for:

- (1) the constitution, regulation, and government of the city police force

- (2) subgovernment in all or part of a city
- (3) conduct of city elections and
- (4) plenary authority is hereby granted, subject only to the restrictions of this article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at which, and the terms for which the several municipal officers and employees whose compensation is paid by the city shall be elected or appointed, and for their removal, and for their compensation, and for the number of deputies, clerks and other employees that each shall have, and for the compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employees.

The Constitution does not speak to specific requirements of a charter, however, it is considered prudent to include in a charter any specific wording about a municipal affair for which the community is certain it wants to retain.

#### Reasons for a Charter

Although the differences between a Charter and a General Law city were outlined in the June 24<sup>th</sup> report, if Council is to place a measure on the ballot, it is important to review the reasons why a community would consider charter status. The overarching reason to become a charter city is the more abstract notion of having greater control over issues that the City (and the Courts) believes to be its business. There are specific concrete abilities that charter cities have that General Law cities do not. This list includes the following (excepted from a 2005 memo from the City Attorney):

#### City Council Qualifications

- *General Law City* - A council member must be a registered voter, 18 years old, and a resident of the city at least 15 days prior to the election.
- *Charter City* - May establish unique criteria for city office so long as the criteria is neither discriminatory nor violates the privileges and immunities clause of the United States Constitution.

#### Council Member Compensation

- *General Law City* - The salary ceiling is dictated by the city's population; however, voters may approve a higher salary. Council members must be given the same benefits that the city makes available to its employees.
- *Charter City* - May establish salaries, expense reimbursement rules, and benefits.

#### Elections

- *General Law City* - Municipal elections must be conducted in accord with the California Elections Code.
- *Charter City* - May establish election dates, rules and procedures.

Finance and Taxing Power - Proposition 218 is applicable to general law cities and charter cities. A charter city may have broader assessment and taxation powers; however, the power is determined on a case-by-case basis.

#### Form of Government

- *General Law City* - State law dictates the procedures for establishing the city's form of government. Absent formal action by the city council, the council retains authority over the management of a city.
- *Charter City* - Can provide for any form of government and can establish the process for selecting the city's officers

#### Legislative Authority

- *General Law City* - Must comply with state guidelines regarding the enactment of ordinances, including the requirements that an ordinance may only be passed at a regular meeting and must be read in full at the time of introduction and passage, unless waived by regular motion adopted.
- *Charter City* - May establish a method for the enactment of local ordinances and may also establish quorum requirements.

#### Penalties & Cost Recovery

- *General Law City* - May impose fines, penalties and forfeitures with a maximum fine of \$1,000.
- *Charter City* - May enact ordinances that provide for different penalties. The city may also determine the maximum limit for penalties.

#### Personnel Matters

- *General Law City* - Follows the civil service system. The Meyers-Milias-Brown Act is applicable.
- *Charter City* - May establish requirements for the hiring, compensation, and termination of city employees. The Meyers-Milias-Brown Act is applicable.

#### Public Funds for Candidates in Municipal Elections

- *General Law City* - Candidates are prohibited from expending public funds for election campaigns.
- *Charter City* - May authorize the use of local funds for election campaigns.

#### Process Associated with Public Contracts

- *General Law City* - Must comply with competitive bidding statutes.
- *Charter City* - May enact unique competitive bidding ordinances.

#### Rules Governing Procedure and Decorum

- *Charter City* - The Brown Act and the state's conflict of interest laws are applicable. A charter city may establish additional provisions relating to ethics, conflicts and campaign financing.

#### Zoning

- *General Law City* - Zoning ordinances must be consistent with the general plan.
- *Charter City* - Zoning ordinances are not required to be consistent with the general plan.

**Attachments**

- Attachment 1: Revised Proposed Charter
- Attachment 2: Resolution Calling a Special Election
- Attachment 3: Resolution Requesting a Consolidated Election
- Attachment 4: Excerpts from June 24<sup>th</sup> Staff Report to Council

**PROPOSED CHARTER OF THE CITY OF DAVIS 07-15-08**

**Preamble.**

The people of the city of Davis do enact and establish this Charter as the organic law of the city of Davis to secure the greatest degree of home rule possible, to preserve and enhance the quality of life, and to provide for the public health, safety, and welfare of all people of the city of Davis.

**ARTICLE I. Boundaries of the City.**

**1.01.** The boundaries of the city of Davis shall be the same as they are on the date of adoption of this Charter, and may be changed as prescribed by law.

**ARTICLE II. Powers of the City.**

**2.01 Legislative Power of the City.** The legislative power of the City shall be vested in the City Council, and in the people through the power of initiative and referendum, as provided for in the California Constitution.

**2.02 General Powers: Municipal Affairs.** The City shall have all powers possible for a city to have under the Constitution and laws of the State of California as fully and completely as though they were specifically enumerated in this Charter. The City shall have the power to make and enforce all ordinances and regulations with respect to municipal affairs, subject only to restrictions and limitations provided for in this Charter, and with respect to other matters subject to applicable general laws. Concerning municipal affairs, this Charter shall supercede all inconsistent laws. Nothing in this Charter shall be construed to prevent or restrict the City from exercising or consenting to the general laws of the State. This Charter is intended to be construed in favor of the exercise by the City of its powers related to municipal affairs.

**ARTICLE III. City Council.**

**3.01 Number of City Council Members.** The legislative body of the city of Davis shall be the City Council, comprised of five (5) Council members.

**3.02 Term of Council Members.** All City Council members shall be elected at large in the City's General Municipal Election, as specified by City ordinance, and all shall have a four-year term. The terms of Council members shall be staggered, two (2) being elected at one General Municipal Election and three (3) being elected at the next.

**3.03 Council Vacancies.** A vacancy in a City Council office shall be filled in compliance with the City's ordinance or in the absence of an ordinance, in compliance with state law.

**ARTICLE IV. Local Control of Growth**

**Deleted: 2.03 Intergovernmental Relations.** The City may exercise any of its powers to perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more cities, counties, states, or civil divisions or agencies thereof, or the United States or any agency thereof. ¶

**Deleted: ARTICLE IV. Elections.** ¶

**4.01 Election Procedure.** Unless otherwise provided by ordinance, all elections shall be held in accordance with the provisions of the California Elections Code governing municipal elections so long as such provisions are not in conflict with this Charter. ¶

**4.02 Choice Voting.** By ordinance, the City may institute a choice voting system, also referred to as instant runoff or preference voting. ¶

**ARTICLE V. Fiscal Administration.** ¶

**5.01 Tax System.** The City Council may, by ordinance, provide a system for assessment and for the levy and collection of City taxes upon real and personal property. All other taxes shall be levied in accordance with City ordinance and state law to the extent state law does not conflict with this Charter. ¶

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**Inserted:** ¶

4.01. The people of the city of Davis recognize and declare that managing and limiting growth and ensuring that necessary public facilities are provided to the people of the city of Davis are essential elements of local control and therefore are municipal affairs. The intent of this Charter is to allow the City Council and the voters to exercise the maximum degree of control over land use matters within the city of Davis.

**ARTICLE V. Transition.**

Deleted: II

**5.01 Continuity of Interests and Laws.** The city of Davis shall continue to own, possess, and control all rights and property, including causes of action, of every kind and nature owned, possessed, or controlled by it at the time this Charter takes effect, and shall continue to be subject to all debts, obligations, liabilities, and contracts. All ordinances, resolutions, rules, regulations, or portions thereof, in effect at the time this Charter takes effect, are hereby continued in full force and effect until repealed, amended, or superceded.

Deleted: changed,

**5.02 Continuity of Officers.** The members of the City Council in office at the time this Charter takes effect shall continue to hold their respective offices for the terms for which they were elected.

**5.03 Continuity of Employees.** All employees in positions at the time this Charter takes effect shall continue to perform the duties of their positions and employment without interruption, for the same compensation, under the same conditions, until the appointment and qualification of their successors and subject to removal and control as provided by City ordinance.

**ARTICLE VI. Amendment or Repeal**

**6.01** This Charter may be amended or repealed if approved by a majority of the voters of the city of Davis voting at an election. Amendments shall become effective at the time specified in the amendment, but if no time is specified, at the time the amendment is accepted and filed with the Secretary of State by the City Clerk.

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**RESOLUTION NO. 08-XXX, SERIES 2008**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAVIS CALLING A SPECIAL ELECTION BE HELD IN THE CITY ON NOVEMBER 4, 2008, FOR THE PURPOSE OF SUBMITTING A BALLOT MEASURE TO THE VOTERS TO ADOPT A CITY CHARTER**

WHEREAS, the city of Davis is currently a General Law City; and

WHEREAS, a charter acts as the constitution of a city, allowing a city to derive its basic powers from it; and

WHEREAS, charter cities are able to exercise greater control over municipal affairs; and

WHEREAS, charter cities currently have more options than do general law cities; and

WHEREAS, the city of Davis wishes to secure the greatest degree of home rule possible.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1: Calling of the Special Election. Pursuant to the laws of the State of California relating to municipal elections, including municipal elections consolidated with other elections, the City Council of the City of Davis hereby calls and orders held a special municipal election to be held in the City of Davis, County of Yolo, State of California on November 4, 2008, for the purpose of placing on the ballot the following measure:

Shall the Proposed Charter of the City of Davis Be Adopted?

\_\_\_\_\_ YES \_\_\_\_\_ NO

SECTION 2. Said special election shall be held on November 4, 2008. In all particulars not recited in this Resolution, said special election shall be conducted as provided by law for the holding of municipal elections in the City and the consolidation of municipal elections with other elections. Said special election shall be consolidated with all other elections to be held within the City on November 4, 2008.

SECTION 3. The City Council hereby directs the City Attorney to prepare an impartial analysis of the measure in accordance with section 9280 of the Election Code showing the effect of the measure on existing law and the operation of the measure.

SECTION 4. Rebuttal arguments may be submitted as provided for in section 9285 of the Elections code of the State of California. The provisions of said section 9285 are hereby adopted and shall apply to this election.

PASSED AND ADOPTED by the City Council for the City of Davis on this fifteenth day of July 2008 by the following votes:

AYES:

NOES:

ABSENT:

Ruth Uy Asmundson  
Mayor

ATTEST:

Margaret Roberts, MMC  
City Clerk

**RESOLUTION NO. 08-XXX, SERIES 2008**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAVIS, CALIFORNIA,  
REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF YOLO  
CONSOLIDATE A SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 4,  
2008, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THAT DATE  
PURSUANT TO 10403 OF THE ELECTIONS CODE**

WHEREAS, the City Council of the City of Davis called a Special Election for the purpose of submitting an ballot measure to the voters of the City of Davis, to be held on November 4, 2008; and

WHEREAS, it is desirable that the Special Election be consolidated with the Statewide General Election to be held on the same date and within the City, that the precincts, polling places, and election officers of the City and the State elections be the same, and that the County Elections Department of the County of Yolo canvass the returns of the Special Election and that the election be held in all respects as if there were only one election.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAVIS DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1: Pursuant to Section 10403 of the Elections Code, the Board of Supervisors of the County of Yolo is hereby requested to consent and agree to consolidation of Municipal Special Election with the Statewide General Election on Tuesday, November 4, 2008, for the purpose of the submission of a city ballot measure to the voters related to a city charter. A full and complete copy of the Resolution calling the special election is attached hereto.

SECTION 2. The Board of Supervisors is hereby authorized and directed to canvass the returns of the election. The election shall be held in all respects as if there were only one election and only one form of ballot shall be used.

SECTION 3. The Board of Supervisors is requested to issue instructions to the County elections official to take any and all steps necessary for the holding of the consolidated election.

SECTION 4. The City of Davis shall reimburse the County of Yolo for all costs and expenses incurred by the County in conducting said election upon presentation of a bill to the City.

SECTION 5. The City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and the County election official of the County of Yolo no later than August 8, 2008.

SECTION 6. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED by the City Council for the City of Davis on this fifteenth day of July 2008 by the following votes:

AYES:

NOES:

ABSENT:

Ruth Uy Asmundson  
Mayor

ATTEST:

Margaret Roberts, MMC  
City Clerk

## CHARTER BACKGROUND

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### Timeline to Date:

- March 2005 – Governance Task Force presents report, which recommends that the city adopt a system of choice voting for city council elections. The Task Force report further recommends that the Council adopt a city charter if it is necessary in order to implement any Task Force recommendations. As of today, a charter would be required for the City to implement choice voting.
- November 2006 – Voters pass advisory Measure L by 54.7%, which recommends that the City Council consider choice voting for municipal elections.
- April 2007 to February 2008 – Council appoints Charter City Subcommittee, which reviews elements of a charter and drafts two versions of a proposed Davis charter.
- February 26, 2008 – Council reviews work of subcommittee and directs staff to bring additional information back to Council.
- June 24, 2008 – City Council discusses proposed charters and choice voting. Asks subcommittee to return to Council in July.

### Review of Charter City Status

There are two types of cities in California: General Law and Charter. General Law cities and counties follow the law set forth by the state's legislature. Charter cities and counties, on the other hand, derive their powers from the state Constitution, select statewide laws and their own individual charters. As of July 2008, California will have 479 incorporated cities (another will be added in the fall) and 58 counties. Of these, 112 cities are charter cities and 13 counties are charter counties. Roughly 54% of the state's population falls under charter status rather than general law status. The larger the city, the more likely it is to be a charter city (the 10 largest cities in the state are charter cities), although smaller cities and towns are the ones that have been passing charters over the past 20 years. Over the past decade, 17 general law cities have placed charters on the ballot. Of those, 14 have passed.

A charter is equivalent to a constitution for the city. Although the city must still follow the state and federal constitutions, a charter allows a city to make its own rules about matters that are considered municipal affairs. Municipal affairs are issues that affect that municipality only. Although the California Constitution does not specifically define "municipal affairs," it does lay out four areas that are considered to be municipal affairs:

- Regulation of the city police force
- Sub-government in all or part of a city
- Conduct of city elections
- Manner in which municipal officers are elected

The courts further define and determine other areas considered to be municipal affairs or, on the contrary, matters of statewide concern, meaning that the definition of municipal affairs is constantly evolving. Other municipal affairs include most land use and zoning decisions, spending of tax dollars, public works contracts (if strictly local), and assessment district and bond financing.

The ability to have control over municipal affairs is also known as home rule. Utilizing home rule, whether for a singular issue or for multiple, is the reason that cities today convert from general law to charter.

While charter cities may choose to have authority over municipal affairs, enacting different rules than those required of general law cities, both charter and general law cities must abide by the same rules for matters of statewide concern. Again, the courts determine matters of statewide concern v. municipal affairs. When there are conflicts between a local charter and a state law, the courts decide whether the issue is a statewide or municipal one. If it is determined to be the latter, then the law of the charter community is allowed to remain (provided, of course, that it is not in conflict with the state or federal constitution). If it is the former, then state law preempts the charter on that matter. Examples of issues of statewide concern include traffic and vehicle regulation, regulation of school systems, eminent domain, open/public meetings, and voter or property-owner approval requirements for taxes/assessments/property-related fees.

A good example of how the definition of municipal affairs changes over time is seen in California in the area of local taxation. Up until the early 90s, local taxation was considered primarily a municipal affair. However, the courts decided that certain taxes were better to regulate at the state level (e.g. a gas tax), meaning that a charter city has no authority to impose that type of tax. This area is no longer considered a municipal affair.

When a popular idea comes along, the state legislature may also enact new laws that allow general law cities powers they previously did not enjoy. This can make the differences between charter cities and general law cities less apparent.

Both the subcommittee and staff looked at charters from many other California cities. Charters range from very long and detailed (Berkeley or San Francisco) to brief and broad (Sand City or Carlsbad). In general, the longer, more detailed charters belong to the cities that have had a charter in place the longest; in fact, some cities incorporated as charter cities. Charters that have come to the ballot within the past 20 years tend to be brief, often because that community wants to implement a charter only for one purpose. For example, the city of Carlsbad is one of the most recent cities to become a charter city (June 2008). Their primary interest was to be able to maximize local control, and they were also very interested in maximizing their flexibility related to public works contracts. The ability to do this is included in their charter.

The proposed charter is broad and allows for maximum flexibility. Since Davis was incorporated as a general law city in 1917, City Councils have passed many ordinances and resolutions to govern the city. The proposed charter simply adopts all of the existing rules, regulations and laws already in existence while still allowing for the City Council to adopt ordinances specific to municipal affairs in the future. If voters were to pass the proposed charter today, the business of the city would remain unchanged until and unless the City Council decided to spell out a different rule via a specific ordinance. Such changes would still follow an open, public process and passage would require a majority of the City Council. Any proposals that currently fall under Proposition 218 would still need to go to the voters for approval.

The charter is also brief. The charter does not try to spell out details of every activity in which the city participates. Such brevity minimizes both the need to amend the charter (which must be done by a popular vote) and the possibility of unintended consequences arising from (mis)interpretation of the charter. Each word has been chosen carefully and with purpose.

#### Pros/Cons to a Charter

The major advantage to implementing a city charter is for a community to have greater control over municipal affairs. Most communities that have successfully implemented charters within the past 10 to 15 years have had a specific issue that caused them to want to implement a charter. Reasons vary from community to community but have included such issues as increasing city's ability to enact rules and regulations related to public works projects and contracts, changing the number of Council members and/or the way that Council members are elected and simply increasing the ability of home rule. Recent charters seem to have high success rates if there is a specific reason articulated about why a charter is necessary or desired.

As has been stated earlier, the specific benefits to a charter are dependent upon what is included in charter. Neither charter proposed here immediately changes the way Davis does business. Both attached charters provide the first step in enabling Davis to implement choice voting and develop a solar financing program, two issues that Council members have indicated some degree of interest in. A charter would also enable the Council to place a real estate transfer tax on a future ballot, if it so chose.

There are also potential downsides to a charter:

- Cost to hold an election for the citizens to vote on whether to implement a charter and future costs associated with any amendments to the charter. (All amendments must go out to a vote of the people.)
- Exposure to legal challenges to define municipal v. statewide affairs and from people/organizations who might be concerned about the increased authority of the City Council.
- Increased ability of citizens to vote on and adopt a variety of amendments, some of which could have effects on city business (e.g. personnel matters, etc.).
- Restrictive charters can impose limitations on a community rather than empower it.
- Could be divisive issue among citizen groups who may oppose stronger local government