

REPORT

**To the Honorable Mayor and City Council
From the City Manager**

August 10, 2009

SUBJECT

California Constitutional Convention

RECOMMENDATION

Adopt a resolution supporting a Constitutional Convention as proposed by "Repair California, Californians for a State Constitutional Convention."

BACKGROUND

While the economy has made it difficult for Redwood City to meet the needs of the community, the situation has been significantly worsened by decades of local revenue "takes" by the state legislature. Year after year, the legislature and governor address their own inability to balance the state budget by taking local funds: local property tax revenues, local gas tax money, and local redevelopment funds. Despite this massive reduction in local funds, the state still requires cities, counties, and school districts to provide the bulk of services like police and fire protection, schools, libraries, children's health programs, parks, senior care, mental health services, and other important programs. The broken state government is severely harming California's economy and its residents' quality of life for today and the future.

Clearly, the system is broken, and the latest "borrowing" of local property taxes by the state only illustrates that the time for change is now. The group "Repair California, Californians for a State Constitutional Convention," is part of the Bay Area Council, a business-sponsored, public-policy advocacy organization. Repair California is proposing a limited Constitutional Convention, to consider a number of constitutional changes to California's governance, elections, budget process, and revenue distribution.

Mayor Foust has asked staff to bring this resolution forward for Council consideration.

ALTERNATIVES

Council may elect to not support the Constitutional Convention.

FISCAL IMPACT

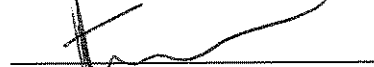
No fiscal impact related to this specific action, however, may have considerable impact depending on how State will attempt to balance its budget in the future.



Malcolm Smith
Public Communications Manager



Magda González
Deputy City Manager



Peter Ingram
City Manager

ATTACHMENTS

1. Draft Resolution in support of the Constitutional Convention
2. Frequently Asked Questions about a Constitutional Convention (Source: Repair California)

RELATED DOCUMENTS IN CITY CLERK'S OFFICE

1. None

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REDWOOD
CITY IN SUPPORT OF THE CITIZEN'S CONSTITUTIONAL
CONVENTION**

WHEREAS, the State of California has consistently been unable to enact a budget on time, and the Legislature and Governor continue to try to balance the budget by taking money from local jurisdictions yet require local government to provide the bulk of services such as police and fire protection, schools, libraries, children's health programs, parks, senior care, mental health services and other important programs; and

WHEREAS, to bridge this year's \$26.3 billion budget gap, the approved budget will take \$8.8 billion from our schools, \$8 million from state parks; \$2.2 billion from health care programs needed for the elderly and young people, \$1.2 billion dollars from the prison system, and over \$4 billion dollars from local governments and redevelopment agencies; and

WHEREAS, numerous articles shifting power and revenue away from local governments are locked into the current state Constitution which, if left unchecked, set the stage for future takeaways of local government funding; and

WHEREAS, due to mounting frustration and dissatisfaction with our state government, the organization "Repair California - Californians for a State Constitutional Convention," part of the business association the Bay Area Council, is proposing a Constitutional Convention to consider needed reforms to California's governance, elections, budget process, and revenue distribution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF REDWOOD CITY that the City hereby expresses its support for a Constitutional Convention as proposed by "Repair California - Californians for a State Constitutional Convention."

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Frequently Asked Questions

» What is a Constitutional Convention?

A Constitutional Convention is a gathering of delegates for the purpose of revising an existing constitution or writing a new constitution.

» Why should a Constitutional Convention be convened?

We think it is undeniable that California's government suffers from drastic dysfunction – our financing system is bankrupt, our prisons overflow, our water system teeters on collapse, our once proud schools are criminally poor, our democracy produces ideologically-extreme legislators that can pass neither budget nor reforms, and we have no recourse in the system to right these wrongs.

Most of these problems are a byproduct of the outdated system and rules of governance enshrined in our current constitution. California's constitution was always meant to be a living document that could adjust to the times, but it hasn't been systematically reformed since 1879. Our constitution needs serious structural reforms, chosen and authorized by the people, and a Constitutional Convention is the only politically viable means to achieve those reforms.

» What is the current process to call a California Constitutional Convention?

While we are creating a new method, there is currently only one route stipulated in the constitution and that route is controlled by the legislature. By a 2/3rds vote, the legislature places the question to call for a Convention on the next general election ballot, in this case November 2010. If passed by a majority of the voters, the legislature must "provide" for the Convention within 6 months. After the Convention, the new constitution or the packaged revision is placed on the ballot as one single measure for a majority vote. (While achieving a 2/3rds vote in the legislature is very difficult, it is worse if the legislature simply does not "provide" for the Convention after the people vote for one, as happened in 1933.)

» What is your new process to call a California Constitutional Convention?

Our legal research indicates that by ballot initiative, a majority of the voters can approve an amendment to the current Constitution that would allow the voters to bypass the legislature and directly call a Constitutional Convention. This voter-driven Convention would have the same powers as one created by the legislature, and the product of the Convention would still be subject to majority approval by the voters in order to take effect. It is worth noting that one of the fundamental statements of the California Constitution is:

All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require.

» Could the amendment allowing voters to call a California Constitutional Convention and the actual call be on the same ballot?

Yes. According to our legal counsel, the amendment to allow the voters to directly call a Constitutional Convention and an immediate call for a constitutional convention can be on the same ballot. For example, "Proposition 1" would amend the Constitution to allow voters to call a Convention and "Proposition 2" would ask voters if the Convention should be called now. Article 2, section 10 (A) of the Constitution states "An initiative statute or referendum approved by a majority of votes thereon takes effect the day after the election, unless the measure provides otherwise."

» What is the timeline to a California Constitutional Convention in 2010?

September 25, 2009, is the target day to submit our proposed measures to the Attorney General and request title and summary. The Attorney General has until November 17 to issue titles and summaries for our measures. That starts the race to collect enough signatures to get the measures on the ballot. We have 150 days to get nearly 800,000 signatures!

» What revisions could be made during the Constitutional Convention?

We do not presume to have the answers at this point, but through our consultations consensus seems to be emerging on the need to address the following issues:

- **Governance**, including the structure of the legislative and executive branches of government, with the latter to include State agencies and commissions.
- **Elections**, including the initiative and referendum processes, campaign finance, and term limits.
- **The Budget**, including the budget process and related requirements, such as the 2/3ds legislative vote required to pass a budget, the term and balancing of a budget, and mandated spending.
- **Revenue distribution**, including the revenue relationship between local and state government

» What is the history of Constitutional Conventions in California?

California has had two previous Constitutional Conventions: in 1849 and in 1878, which produced our current system. In 1962, the constitution had grown to 75,000 words, which at that time was longer than any other state constitution but Louisiana. That year, the electorate approved the creation of a "California Constitution Revision Commission," which worked on the constitution from 1964 to 1976. The legislature placed revisions emanating from the Commission on the ballot. The electorate ratified the Commission's revisions in 1966, 1970, 1972, and 1974. In the end, the Commission managed to remove about 40,000 words from the constitution, but otherwise made only minor changes.

» What happens in other states?

Constitutional Conventions are fairly common in the United States. Indeed, in 14 other states, voters are automatically asked every 10-20 years whether to authorize a Constitutional Convention and 25 percent of the time the voters have said "yes" to a Convention. In seven other states a simple majority of the legislature may call a Constitutional Convention.

» Who are the delegates in a Constitutional Convention?

The makeup of the Convention in California is not stipulated, except that delegates geographically represent proportionate amounts of population. Delegates would likely come from Senate, Assembly, Board of Equalization or Congressional districts, or a combination of these districts, to meet "one-person, one-vote" standards and requirements under the Voting Rights Act. In other states the general practice is to have the Convention size be roughly comparable to the legislature, in California's case, 120 delegates. In the 1878 Convention, there were 152 delegates: 3 from each Senate district and 32 at-large delegates. Some argue that a Convention in California would need approximately 400 delegates to ensure proper representation of our diverse population.

Following the practice of other states, delegates would have to meet the same qualifications of voters generally, or be voters. Many states also bar current elected officials from serving in Constitutional Conventions.

Delegates can be selected by an election, by an application process, or through a random "jury pool" process. Courts across the U.S. have ruled that delegates do not necessarily need to be elected to Constitutional Conventions since a Convention is not a "governing body" but simply a "recommending body" whose only authority is to propose amendments to be submitted to a vote of the people.

» Where and when will the Constitutional Convention meet?

To ensure that a Convention is held in a timely fashion once it is authorized, the Convention call should specify a date on which and a place at which the Convention must first meet. The Convention of 1849 met in Colton Hall in Monterey, and the Convention of 1878 met in the Assembly Chambers in Sacramento. Some have proposed holding the Convention in the Assembly Chambers again, but that might interfere with the regular operation of the Assembly. Most likely a neutral location in Sacramento would be most appropriate, but other locations could be considered, or the Convention could move around the state.

» How long would the Constitutional Convention meet?

Other states typically specify an ending date as well as a beginning date in their enabling legislation. The deadline for conclusion of the Convention's work serves as a spur to action, reduces the cost of holding a Convention, and ensures sufficient time for public consideration of proposals before the ratification vote. One study of Conventions from 1938-1968 found that their average duration was 2.6 months. The 1878-1879 Convention, which rewrote the entire California Constitution met for five months and four days. The

