



CITY COUNCIL STAFF REPORT



July 26, 2022

ITEM TITLE

Charter Update Proposal: Consider Charter Update Proposals from the Charter Review Commission and City Staff For Possible Placement of One or More Measures on the November 2022 Ballot

Report Number: 22-0225

Location: No specific geographic location.

Department: Charter Review Commission and City Attorney's Office

Environmental Notice: Environmental Notice: The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

Recommended Action

Hear the presentation by the Charter Review Commission and City Attorney and consider adoption of a resolution amending Resolution No. 2022-150 calling a special municipal election to be held on November 8, 2022, ordering submission to the qualified electors of the City a measure to comprehensively amend the City's charter, and appropriating funds for that purpose. **(4/5 Vote Required)**

SUMMARY

The Charter Review Commission ("CRC") and the City Attorney's Office, in consultation with City staff, have worked for over a year on a comprehensive review and update of the City's charter to address legal changes, to align with modern best practices, and most importantly, to make the Charter easier to understand and use. The comprehensive Charter update proposal was originally presented to City Council on July 12, 2022 for initial feedback, and is now returning to Council with supplemental information based on issues of interest raised by Councilmembers at the July 12, 2022 meeting and further consideration of the CRC at their July 13th meeting. This item again presents the Charter update for Council consideration. The language is substantially the same as what's been previously presented, but includes some additional "clean up" and consistency changes proposed and drafted by City staff. The most significant of these are proposed modifications to the various sections regarding what constitutes a "vacancy" for an elected or appointed

position in order to make the terms for such vacancies more consistent. The item also presents proposed resolutions for submitting one or more measures to the electorate on the November 8, 2022 ballot.

ENVIRONMENTAL REVIEW

The activity is not a “Project” as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Council consider adoption of a resolution submitting the Charter update measure to the qualified electors of the City on the November 8, 2022 ballot.

DISCUSSION

The City Charter was originally adopted in 1949. Since then, multiple individual amendments have been submitted to the voters. The last comprehensive Charter update took place in 1978. A summary of the Chula Vista Charter Amendments placed on the ballot from 2000 to the present is attached to this item for your information and review. As you are aware, the Charter Review Commission (“CRC”) and City Attorney’s Office, in consultation with most City departments, have committed to an extensive Charter review effort over the past year, with the goal of recommending a proposed comprehensive Charter update to Council prior to the November 2022 election. On July 1, 2022, the draft amended Charter was first sent to you with a cover memorandum from CRC Chair Scofield and a description of the proposed Charter changes. The draft amended Charter was provided to you in clean and underline/strikeout formats for review, and all materials were also posted in multiple locations on the City’s website. The materials were again provided to you and to the public as attachments to an agenda item for the July 12, 2022 Council meeting. Information about the proposed changes, including materials presented to Council, have remained available on multiple City websites along with a link to submit public comments regarding the item to the City Clerk’s office.

At the July 12, 2022 Council meeting, CRC Chair Scofield provided an overview of the CRC’s work to date and expressed the CRC’s enthusiastic support for the proposed Charter changes. City Attorney Glen Googins presented a detailed overview of the three types of changes made as part of the comprehensive proposed Charter update. The staff report from the July 12, 2022 item is attached for your reference.

The Mayor and two Councilmembers present at the July 12, 2022 meeting provided initial comments and asked questions of staff regarding the proposed changes. In particular, Councilmember Galvez asked staff to provide the CRC with the agenda materials and video related to the 2012 Charter amendment item that added section 305.1 titled “Legislative Council” to the City Charter. Such item was presented to the voters in 2012 as part of a measure that also placed term limits on the City Attorney and tied the City Attorney’s salary to that of a Superior Court Judge. Councilmember McCann asked the CRC to consider maintaining the qualified elector requirement for board and commission members who sit on boards and commissions that have decision making authority, and to consider mandating a certain period of residency when residency is required. Additionally, Councilmember McCann asked the CRC to consider a provision allowing the use of ranked choice voting at municipal elections.

Shortly after the July 12, 2022 meeting, staff provided the CRC with all agenda materials and video relating to the 2012 Charter measure as requested by Councilmember Galvez. The CRC was also made aware of a

presentation to Council in 2016 by a previous CRC regarding recommended changes to the Charter's Legislative Council provisions. The CRC determined that they remain comfortable with the proposed amended Legislative Council language provided to Council previously and, as a result, recommend that Council consider such amendment as drafted and presented.

The CRC likewise discussed the questions asked by Councilmember McCann. The CRC determined that the qualified elector versus residency requirement provisions for board and commission members were fully considered and discussed, and the CRC requests that the Council consider the proposed amended language as drafted and previously presented to Council, which retains the "qualified elector status" requirement only for the Redistricting Commission. Regarding a proposal for ranked choice voting, the consensus of the CRC was that adding such a proposal to the November 2022 ballot would not be feasible given the substantial amount of work required and the limited time available. The CRC did agree, however, that this was a worthy topic for further consideration, along with other possible voting methods. The CRC stands ready to commence such a project should the Council so desire.

As to the issue of mandating a certain period of residency when City residency is required, it should be noted that the Supreme Court has held that durational residency requirements imposed as a precondition to candidacy for public office implicate a fundamental constitutional right, including equal protection, the right to vote, and the right to travel and migrate. The California Supreme Court has explicitly stated that all durational residence requirements in excess of 30 days in California are prohibited. (*Young v. Gness* [1972] 7 Cal.3d 18, 27.)

Since providing the initial draft to you on July 1, 2022, additional minor changes have been made to the proposed amended Charter, including a clarification of the relationship between state law and local law enactments in Section 1205 and other amendments to incorporate changes requested by the Mid-Managers/Professional Bargaining Unit and by senior staff. Such changes include clarification with respect to section 704(A) regarding the temporary appointment of department heads; consistency between sections 303(A), 503(H), and 602(C) with regard to when a vacancy occurs for elected officials and board and commission members; deletion of the word "nominal" in sections 300(D) and 503(F); and a few clerical errors/corrections. Each of the additional changes is highlighted in yellow on the redline strikeout version of the proposed Charter changes provided to you today.

Should the Council wish to move forward with the proposed Charter update at this time, staff has provided two potential options in regard to placing the proposed amendments on the November ballot. The first and most cost-effective option would be to place all recommended Charter changes on the ballot in one omnibus measure. Resolution A attached to this agenda item contains proposed language for such a measure. The second potential option would be to place almost all recommended Charter Changes on one ballot measure, except for a particular change or changes that could be submitted to the voters on a second, stand-alone ballot measure. Resolution B attached to this agenda item contains proposed language for such a measure, using the City Attorney qualification changes as an example of a second stand-alone measure. The measure text has been drafted to comply with statutory requirements for ballot descriptions, including the requirement that the description include an enumeration of what might be considered "new city powers" as a result of adoption of the measure. **Note:** The substance the stand alone measure in Resolution B is for example purposes only. If Council proposes one or more "stand-alone" measures, their content can vary as Council deems appropriate. If City Council desires to move forward with any of the proposed amendments, the next step would be to direct staff to prepare all of the documentation required to place them on an

upcoming ballot. Necessary documents include a resolution, the City Attorney's Impartial Analysis, the formal Ballot Statement, and Ballot Question. Ultimately, in order for the item to qualify for the November 2022 ballot, this work would need to be completed, approved by the City Council, and submitted to the County Registrar by no later than August 12th. With Council direction, this could be accomplished, with the work being done and presented to Council for action, if necessary, at the next City Council meeting scheduled for August 9th.

If the Council decides to submit a measure or measures to the voters that at the November 2022 election that affects the "organization or salaries of the office of the city attorney" Elections Code Section 9280 provides Council with the option to direct the City Clerk instead of the City Attorney to prepare the impartial analysis for that measure. What it means to affect the "organization" of the city attorney's office is not entirely clear, nor is it clear if the changes proposed what have such impact. This would be for Council to determine and provide direction as it deems appropriate.

Additionally, per Chula Vista Municipal Code section 2.29.030(E), one of the functions and duties of the CRC shall be to prepare and submit proposed ballot arguments in favor of proposed Charter changes. In the event Council chooses to move forward with one or more ballot measures, the CRC meets next on August 10, 2022 and can work to prepare and submit the proposed ballot arguments for any such measures with the advice and assistance of the City Attorney's office.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, nor has staff been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

The cost for a measure providing for the comprehensive update of the City Charter, with a link to clean and underline/strikeout versions of the proposed Charter language itself on the City's website, is estimated to cost \$195,000. There are currently no funds identified in the City Clerk's budget for such a measure, so if Council were to proceed, additional funding would need to be identified out of available general fund revenues. The cost to present the entire revised Charter to the voters in the form of a separate pamphlet is estimated to cost approximately \$ 625,000. Any additional separate measures, depending upon length, are estimated to cost approximately \$ 165,000 per measure.

ONGOING FISCAL IMPACT

Staff has identified some potential future savings associated with certain proposed amendments. The Registrar of Voters ("ROV") has estimated that going from an "all polls" to an all vote-by-mail ("VBM") election could reduce an election cost by 15-20%. To provide context, the last estimates received from the ROV for a special, standalone district seat election were: \$350k-\$600k for a traditional polling place election and \$250k-\$500k for a VBM election.

In addition, it is estimated that there would be some savings for publishing online versus publishing in a newspaper. The City Clerk's office alone budgets about \$6,000 for legal publications each year, and other departments additionally fund their legal notice requirements. Final estimated savings numbers are currently being calculated.

Other savings from improved operational efficiencies, and benefit of less City Attorney staff time required to interpret the Charter, are hard to estimate, but are likely to be meaningful, estimated at a minimum to be in the high tens of thousands per year.

ATTACHMENTS

1. Chula Vista Charter Amendment Measures Since 2000
2. July 12, 2022 Staff Report to City Council
3. Proposed Amended Charter (clean July 21, 2022 version)
4. Proposed Amended Charter (redline strikeout July 21, 2022 version – updated revisions highlighted in yellow)
5. Option A Example: Resolution with One Omnibus Ballot Measure
6. Option B Example: Resolution with Two Ballot Measures

Staff Contact: Glen R. Googins, City Attorney