

RESOLUTION NO. 2016- 001

RESOLUTION OF THE CHARTER REVIEW COMMISSION
APPROVING THE SUBCOMMITTEE REPORT
RECOMMENDING A CHARTER AMENDMENT TO
REQUIRE CITY RESIDENCY FOR THE ELECTED CITY
ATTORNEY

WHEREAS, the Chula Vista Charter Review Commission (the "Commission") was established pursuant to Article VI of the City Charter and Chula Vista Municipal Code Chapter 2.29 ; and

WHEREAS, Chapter 2.29 provides that the Commission shall advise and make recommendations to the City Council on issues affecting the provisions of the City Charter; and

WHEREAS, the Commission met and discussed a potential Charter amendment to require that the City Attorney be a resident of the City; and

WHEREAS, the Commission formed a subcommittee, consisting of Commission members Carra Rhamy and Tom O'Donnell, to conduct research on the matter and prepare proposed amendment language; and

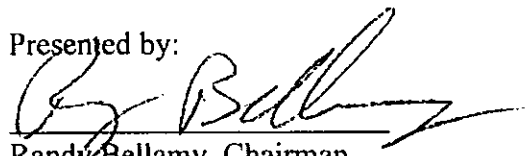
WHEREAS, the Commission has reviewed the information provided by the subcommittee and approved the subcommittee recommendation and proposed Charter amendment language, as reflected on Exhibit A to this resolution; and

WHEREAS, the Commission recommends that the City Council consider the proposed amendment for placement on the November 2016 ballot.

NOW, THEREFORE, BE IT RESOLVED by the Charter Review Commission of the City of Chula Vista, that it:

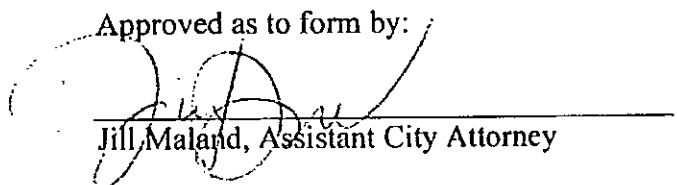
- (i) Recommends that the City Charter be amended to require that the City Attorney be a City resident; and
- (ii) Approves the letter report to the City Council and the proposed Charter amendment language, attached to this Resolution as Exhibit A; and
- (iii) Recommends that the City Council place the proposed amendment on the November 2016 ballot.

Presented by:



Randy Bellamy, Chairman
Charter Review Commission

Approved as to form by:



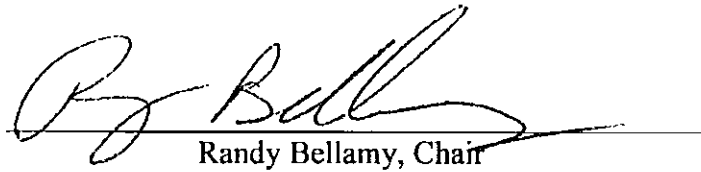
Jill Maland, Assistant City Attorney

PASSED, APPROVED and ADOPTED by the Charter Review Commission of the City of Chula Vista, California, this 13th day of April, 2016 by the following vote:

AYES: 6 - Commissioners: Bellamy, O'Donnell, Rhamy, Spethman, Felber and De La Rosa

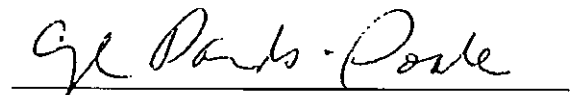
NAYES: 1 - Commissioner Ross

ABSENT: None



Randy Bellamy, Chair

ATTEST:



Cheryl Ponds-Poole, Commission Secretary
STATE OF CALIFORNIA

May 11, 2016

To: Mayor Salas and members of the City Council

From: Chula Vista Charter Review Commission

Dear Mayor Salas and members of the City Council

The City of Chula Vista Charter section 503 provides for the election, powers, and duties for the office of City Attorney. Qualifications for the City Attorney position are listed in 503 subsection (d) and currently do not require the individual to be a City of Chula Vista resident. The Chula Vista Charter Review Commission recommends a ballot proposition be prepared to amend 503 subsection (d) to require residency requirements for the City Attorney. We recommend this amendment be put before the citizens in the November 2016 election to allow (if approved by voters) its establishment prior to the next election for City Attorney.

We, the Charter Review Commission, strongly believe it is essential that all elected City of Chula Vista officials be required to be residents of our City in order to be vested in the community for which they serve. Article III of the Chula Vista Charter provides residency requirements for our elected Mayor and City Council Members. Our research determined Chula Vista is the only California Charter City (currently 11 cities) without a residency requirement for elected City Attorneys. (The majority of California Charter cities state the elected official residency requirements in their respective charters.)

We have reviewed the remaining qualifications for the office of Chula Vista City Attorney, contained in Charter section 503(d), and find them appropriate. We recommend our City Charter be amended to include City Attorney residency requirements. Our proposed amendment is attached.

Respectfully,

City of Chula Vista Charter Review Commission

Randy Bellamy - Chair

Tom O'Donnell - Vice Chair

Carra Rhamy

1 The City of Huntington Beach has the requirement in a municipal code section as the Charter is silent on the issue.

Sec. 503. City Attorney: Election, Powers and Duties.

(a) Designation as Officer. The City Attorney shall be an officer of the City, in addition to any other officers designated pursuant to this Charter. Except as otherwise provided by this Charter, it is the intent of the voters that the City Attorney shall be sufficiently independent of the City Council and other city officials to advise the City while also acting in the best interests of the public.

(b) Powers of the City Attorney. The City Attorney shall:

- (1) Represent and advise the City Council and all city officers in all matters of law pertaining to their offices and advise all boards, commissions, and other agencies of the City on legal matters referred to him or her, and render written legal opinions when the same are requested in writing by the Mayor or a member of the Council or the City Manager or any other officer, board or commission of the City;
- (2) Represent and appear for the City and any city officer or employee, or former City officer or employee, in any or all actions and proceedings in which the City or any such officer or employee in or by reasons of his or her official capacity, is concerned or is a party;
- (3) Attend all regular meetings of the City Council and give his or her opinion in writing whenever requested to do so by the City Council or by any of the boards or officers of the City;
- (4) Approve the form of all contracts made by and all bonds given to the City, endorsing approval thereon in writing.
- (5) Prepare any and all proposed ordinances or resolutions for the City, and amendments thereto;
- (6) Prosecute, if so directed by ordinance of the City Council, all offenses against the ordinances of the City and for such offenses against the laws of the State as may be required by law, and shall have concurrent jurisdiction with the District Attorney of the County of San Diego to prosecute persons charged with or guilty of the violation of the State laws occurring within the City limits of the City of Chula Vista for offenses constituting misdemeanors;
- (7) Whenever a cause of action exists in favor of the City, exercise discretion as to when to commence or maintain legal proceedings, subject to the approval or ratification by the City Council, when the basis for such action is within the knowledge of the City Attorney, or, he or she shall commence or maintain legal proceedings as directed by the City Council; and
- (8) Surrender to his or her successor all books, papers, files and documents pertaining to the City's affairs.

The Council may empower the City Attorney, at his or her request, to employ special legal counsel, and he or she shall have the power to appoint appraisers, engineers and other technical and expert services necessary for the handling of any pending or proposed litigation, proceeding or other legal matter. Upon the City Attorney's recommendation and the approval of the Council, when he or she has a conflict of interest in litigation involving another office of the City in his official capacity, such other officer may retain special legal counsel at City expense. Nothing in this Section 503 shall be construed to prevent the City Attorney from giving confidential advice to the City when otherwise allowed by law.

(c) Election; Compensation of City Attorney. The City Attorney shall be nominated and elected in the same manner and at the same election as the Mayor, except as otherwise provided in this section. The annual salary of the elected City Attorney shall be equivalent to the salary of a Judge of the Superior Court of the State of California. The City Attorney shall also receive reimbursement on the order of the Council for Council-authorized travel and other expenses when on official duty out of the City. The City Council may also provide, by resolution, for the payment of an allowance of a sum certain per month, as reimbursement for additional demands and expenses made upon and incurred by the City Attorney. The City Attorney's salary may not be reduced during the City Attorney's term of office, except as part of a general reduction of salaries of all City officers and employees in the same amount or proportion. In addition, the City Attorney shall be entitled to such benefits as are granted to other management employees of the City, as established by the City Council from time to time. The City Attorney shall be in the Unclassified Service.

(d) Qualifications of City Attorney. No person shall be eligible for or continue to hold the Office of City Attorney, either by election or appointment, unless he or she is a citizen of the United States, a qualified elector, and a [California resident and registered voter of the City or territory annexed to the City](#), licensed to practice law in all courts of the State of California and so licensed for at least seven years preceding his or her assumption of office following election under this charter. To be eligible to seek election to the office of City Attorney, a person must be a resident and registered voter of the City or territory annexed to the City at the time of filing the nomination papers for such office.

(e) Term of Office of the City Attorney. The City Attorney shall be elected to a nominal term of four years and shall commence on the first Tuesday of December of the year of the election, and shall continue until a successor qualifies. The City Attorney shall be subject to the same limits on terms of service as are applicable to the Mayor and City Council under Section 300(C).

(f) Vacancy, Filling of. Upon the declaration of vacancy in the Office of the City Attorney, the Office of the City Attorney shall be filled by appointment by the majority vote of the members of the Council; provided, that if the Council shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, or if the unexpired term of the City Attorney shall exceed 24 months at the time of the appointment, the City Council shall cause a special election to be held to fill such vacancy, as provided in Section 303.C.2. An appointee or the person elected to the Office of City Attorney for the balance of an unexpired term shall hold office until the next general election for the Office of the City Attorney.

(g) Vacancy, What Constitutes. The Office of City Attorney shall be declared vacant by the Council when the person elected or appointed thereto fails to qualify within ten days after his or her term is to begin, dies, resigns, ceases to be a resident of the [City or territory annexed to the City, State](#) or absents himself or herself continuously from the State for a period of more than thirty days without permission from the Council, absents himself or herself from any seven consecutive regular meetings except on account of own illness or when absent from the City by permission of the Council, is convicted of a felony, is judicially determined to be an incompetent, is permanently so disabled as to be unable to perform the duties of his or her office, forfeits his or her office under any provision of this Charter, or is removed from office by judicial procedure. A finding of disability shall require the affirmative vote of at least two-thirds of the members of the Council after considering competent medical evidence bearing on the physical or mental capability of the City Attorney.