

ATTACHMENT 5

**COUNCIL POLICY
CITY OF CHULA VISTA**

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| SUBJECT: CITY COUNCIL INITIATIVES | POLICY NUMBER | EFFECTIVE DATE | PAGE |
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ADOPTED BY: Resolution No. 2014-046

DATED: 03/25/14

AMENDED BY:

I. BACKGROUND

A. Introduction

This Policy was prepared in response to a City Council request that the City Attorney prepare a policy for initiation of ballot measures, including a requirement for fiscal analysis and involvement of Charter Review Commission. This Policy sets forth the process that should be followed for initiation, review and analysis of initiatives. Initiatives can be initiated by City Council members, or by citizens' petition. California Elections Code and California Government Code govern initiatives. There are differing statutory schemes relative to: (i) City Council initiatives; (ii) citizens' initiatives that would amend a City Charter; and (iii) all other citizens' initiatives. Accordingly, this Policy addresses each of these types of initiatives.

B. Fiscal Analysis

The current City practice for general matters presented for City Council consideration is to include analysis of the fiscal impacts of the action, both for the fiscal year in which the matter is considered, and for subsequent fiscal years. City Council initiatives and citizens' initiatives to amend the charter, and other citizens' initiatives which the City Council determines not to adopt, require submission to the voters in either general or special elections. There are costs associated with placing an initiative on a ballot and significant additional costs for calling a special election, if necessary, to consider the initiative. In addition, there may be costs associated with implementing the initiative if it is adopted by the electorate. As a result, the City Council has determined that initiatives should be analyzed by City Finance staff to determine the potential fiscal impacts, and that analysis should be presented to the City Council, before the City Council determines whether to place an initiative on the ballot.

C. Charter Review Commission Review

The City's Charter Review Commission is an advisory body which serves as a resource to advise and make recommendations to the City Council and the City Manager on issues affecting the provisions of the City Charter. The Commission's responsibilities include: (i) identifying language to amend the City Charter to clarify or improve the workings of the City government; and (ii) recommending changes sufficiently in advance of elections to allow thoughtful City Council review and determination of whether to place the matter on the ballot. In addition, the Commission's functions and duties include:¹

- A. Constitute a forum for City-wide discussions, research and analysis of matters relating to current or proposed provisions of the City Charter, and amendments thereto.
- B. Help coordinate citizen and staff ideas with regard to potential Charter changes.

¹ Chula Vista Municipal Code, Chapter 2.29.

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- C. Formulate specific language for proposed Charter changes to be submitted to the City Council in a form appropriate for placement on the ballot at an election wherein the proposed Charter changes can be submitted to the electorate.
- D. Provide analyses and reports to the City Council in connection with said recommendations.
- E. Prepare and submit proposed ballot arguments in favor of or against proposed Charter changes.

Accordingly, the City Council has determined that initiatives which would amend the City Charter should be presented to the Charter Review Commission for consideration and recommendation, prior to City Council action to place an initiative on the ballot.

PURPOSE

The purpose of this Policy is to establish procedures to be followed to ensure that initiatives undergo a fiscal analysis and, when appropriate, Charter Review Commission review and recommendation to the City Council.

POLICY

It is the policy of the City of Chula Vista that each initiative proposed by the City Council, any member(s) of the City Council, or by citizens' initiative, be reviewed by the Director of Finance for a fiscal analysis. Furthermore, all initiatives which purport to amend the City Charter shall be reviewed by the Charter Review Commission for a recommendation to the City Council. Finally, the City Council shall review and consider the fiscal analysis and any Charter Review recommendation, prior to the City Council taking action to place an initiative on the ballot, pursuant to the procedures set forth below.

A. City Council Initiatives

California Elections Code section 9222 authorizes the City Council to submit a proposition to the voters for approval, on its own initiative, without a citizens' petition. City Council initiatives that propose to amend the Charter must be submitted to voters at an established statewide general election, primary, or regularly scheduled general municipal election, depending on the nature of the proposed amendment. There must be at least 88 days after the date the City Council orders the election on the initiative.²

If the City Council, or any of its members, desires to propose an initiative for potential ballot

² Cal. Elec. Code §§1415(a) and 9255(b)(1).

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placement, the City shall comply with the following procedures:

1. One or more members of the City Council shall, during a City Council meeting, introduce and describe the proposed initiative.

2. During the meeting at which the initiative is introduced, the City Council shall refer the proposed initiative to the City Manager for preparation of a fiscal analysis of the measure. If the proposed initiative proposes to amend, or otherwise relates to, the Charter, the City Council shall also refer the proposed initiative to the City Attorney for presentation to, and recommendation of, the Charter Review Commission.

a. Fiscal Analysis.

- i. The City Manager shall be responsible for ensuring that the City's Finance Director reviews the proposed initiative for fiscal impacts. The Finance Director shall prepare a written analysis, detailing the potential fiscal impacts of the measure.

- ii. The Finance Director shall utilize the information and resources available to conduct the fiscal analysis, within fourteen days of the date the initiative is referred to the City Manager. In addition to reporting back to the City Council, the Finance Director shall provide the fiscal analysis to the City Manager and City Attorney.

b. Charter Review Commission Recommendation

- i. If the initiative was referred for the recommendation of the Charter Review Commission, the City Attorney shall ensure that the proposed initiative, along with the fiscal analysis, is reviewed by the Charter Review Commission. The City Attorney shall present the proposed initiative to the Charter Review Commission within ten days of receiving the Finance Director's fiscal analysis.

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ii. After consideration of the proposed initiative and fiscal analysis, the Charter Review Commission shall provide a report to the City Council, detailing its recommendations as to how the City Council should proceed with respect to the initiative. The report may be provided to the City Council in writing, orally during a City Council meeting, or via the City Attorney, along with the minutes of the Charter Review Commission meeting. The Commission's report shall be advisory only, and shall not be binding on the City Council.

3. The fiscal analysis and the Charter Review Commission's recommendation shall be presented to the City Council within forty-five days of the date the proposed initiative was referred to the City Manager and City Attorney.

4. If the fiscal analysis or report is not presented within forty-five days, the City Manager and City Attorney shall report back to the City Council regarding the status of the fiscal analysis or the recommendation, and the reasons it has not been presented to the City Council. The City Council shall then determine how it will proceed with respect to the proposed initiative.

5. In order to comply with the above procedures, an initiative proposed by the City Council, or any City Council member, should be presented for Council consideration no later than 180 days prior to the election for which it is proposed to be placed on the ballot.

B. Citizens' Initiatives – Non- Charter Amendments

If an initiative petition is submitted, the City shall comply with the following procedures:

1. If the City Clerk determines that a proposed citizens' initiative has met the publication and/or posting requirements of California Elections Code section 9205, the City Clerk shall notify the City Council of the proposed measure at the next City Council meeting at which

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the item can be sufficiently noticed.

2. The City Council shall then refer the proposed initiative to the City Manager and the City Attorney, pursuant to section A.2.-4., above. The City Council may expand the scope of the report and/or the time allotted, in accordance with applicable law.
3. Notwithstanding the above, the City shall comply with applicable law, including California Elections Code sections 9200, *et seq.*, in processing citizens' initiatives.

C. Citizens' Initiatives – Charter Amendments

An initiative petition that proposes to amend or repeal a charter and is proposed by a petition signed by 15 percent of the registered voters of a city, must be submitted to the voters at the next regularly scheduled general municipal election, or at any established statewide general or statewide primary election, occurring not less than 88 days after the date of the order of election.³ Accordingly, unlike other initiatives, the City Council does not have the discretion to adopt the initiative, rather than submit it to the voters.⁴

Notwithstanding the above, if an initiative petition proposing to amend the City's Charter is submitted, the City shall comply with the following procedures:

1. If the City Clerk determines that a proposed citizens' initiative to amend the City's Charter has met the requirements of California Elections Code sections 9256, *et seq.*, the City Clerk shall notify the City Council of the proposed measure at the next City Council meeting at which the item can be sufficiently noticed.
2. If time permits, the City Council shall then refer the proposed initiative to the City Manager and the City Attorney for preparation of a report, pursuant to section A.2.-4., above.
3. Notwithstanding the above, the City shall comply in all respects with California law, including Elections Code sections 1415, and 9255, *et seq.*, in processing initiative petitions

³ Cal. Elec. Code §§1415(b) and 9255(c)(1).

⁴ Cal. Elec. Code §9214.

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to amend or repeal the Charter.