



City of Chula Vista

Staff Report

File#: 14-0462, **Item#:** 8.

CONSIDERATION OF PROPOSED BALLOT MEASURE TO AMEND CITY CHARTER SECTIONS 300 AND 303 TO ELIMINATE THE CURRENT MANDATORY RUN-OFF REQUIREMENT AND EXPAND CITY COUNCIL AUTHORITY TO FILL VACANCIES BY APPOINTMENT

RESOLUTION NO. 2014-158 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA (1) WAIVING CITY COUNCIL POLICY NO. 103-02; (2) AMENDING RESOLUTION 2014-120 CALLING AND GIVING NOTICE OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 4, 2014 TO ORDER SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A MEASURE TO AMEND CHULA VISTA CITY CHARTER SECTIONS 300 AND 303 TO: (A) ELIMINATE THE MANDATORY RUN-OFF REQUIREMENT FOR GENERAL MUNICIPAL ELECTIONS, AND FOR SPECIAL ELECTIONS TO FILL A VACANCY, IN WHICH ONE CANDIDATE RECEIVES MORE THAN FIFTY PERCENT OF THE VOTE; AND (B) ALLOW THE COUNCIL TO FILL A CITY COUNCIL VACANCY BY APPOINTMENT, OR BY CALLING A SPECIAL ELECTION, IF THE REMAINING TERM IS MORE THAN ONE YEAR BUT LESS THAN TWENTY FIVE MONTHS; AND (3) APPROPRIATING FUNDS THEREFOR

RECOMMENDED ACTION

Staff recommends that the Council consider the Charter Review Commission recommendation and the draft Charter amendment language, and take action as the Council deems appropriate.

SUMMARY

On July 22, 2014, Mayor Cox requested that the City Council agendize for discussion a proposed ballot measure to: (i) amend the City's Charter to eliminate the mandatory run-off requirement for elections in which one candidate receives more than fifty percent of the votes cast in a primary election; and (ii) revise the procedures for filling City Council vacancies, such that, the City Council would be able to fill a vacancy by either appointment or by special election, if more than one year, but less than 25 months, remain in the term. The City Council directed staff to agendize the item for the meeting of August 5, 2014, and to seek input from the Charter Review Commission regarding the proposed Charter amendment. Accordingly, staff has brought this item forward tonight for the Council's consideration.

ENVIRONMENTAL REVIEW

The Development Services Director has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378(b)(5) of the State CEQA Guidelines because it involves only consideration of a report regarding a ballot measure to amend the City Charter with respect to elections procedures and therefore is an organizational or administrative activity of government that will not result in a direct or indirect physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no

environmental review is necessary.

DISCUSSION

I. Background

A. Mandatory Run-off Elections

In November 2012, the City submitted a ballot measure for voter consideration as to whether the City Charter should be amended to provide for a district election system. The measure passed and the Charter was amended ("2012 Amendment"). That amendment included a change to the City's system for handling run-off elections. Prior to the 2012 amendment, the Charter provided that a candidate for Mayor or Council would be deemed elected upon receiving a majority of the votes cast in the general municipal election (the City's June election). The majority vote provision also applied to special municipal elections held to fill a vacancy on the City Council. The 2012 Amendment instituted a mandatory run-off for the top two candidates in all City election contests, irrespective of whether a candidate received more than fifty percent of the votes cast. As a result, if more than two candidates run for one office, in either a general election in June or in a special election to fill a vacancy, the Charter mandates a run-off election, even if one candidate receives more than fifty percent of the votes cast.

B. Vacancies

City Council vacancies are governed by Charter Section 303. Subsection C. sets forth procedures to be followed for filling a vacancy on the City Council. Subsection C.1. provides that a vacancy shall be filled by appointment of the Council if there is one year or less remaining in the term, from the date of declaration of vacancy. The appointment must be made within 45 days; if an appointment is not made within that time, the Council's power to appoint is terminated and the seat remains vacant.

Subsection C.2. provides that the Council shall call a special election to fill the vacancy if more than one year remains in the term. The election is to be held on the next established election date, or within 120 days of the declaration of vacancy, whichever is practical; if there is an election scheduled to be held within 180 days, the special election may be consolidated with that election. The 2012 Amendment did not modify the provisions regarding when a vacancy would be filled by appointment, or by special election; however, it did specifically modify Subsection 303.C.2., to require the mandatory run-off election.

II. Proposed Charter Amendments

During the July 22nd meeting, the Mayor proposed that the Council consider placing a measure on the November 2014 ballot to amend the City Charter to: (i) eliminate the mandatory run-off requirement, for elections in which a candidate receives more than fifty percent of the vote (either in a general election or in a special election to fill a vacancy); and (ii) allow the Council to fill a Council vacancy by either appointment or special election, if more than one year but less than 25 months remain in the term. The Council directed staff to place the item on the agenda for the August 5th City Council meeting. Accordingly, City staff has drafted amendments to the Charter to reflect the proposed revisions. Those draft amendments are to sections 300.A. and E., and 303.C., and are reflected in redline/strikeout format in Attachment 4 to this Agenda Statement.

To the extent alternatives are proposed and are approved by a majority at the August 5, 2014, Council Meeting, staff will work with the Council to incorporate those changes into the Ballot Question and Charter Amendment proposal.

III. Referral to and Recommendation from the Charter Review Commission

The City Council also requested that the Charter Review Commission provide its recommendation to the Council regarding the proposed ballot measure. Accordingly, the Commission staff presented the item to the Charter Review Commission at its meeting on July 29, 2014. The Commission discussed the item during that meeting, and asked Staff to bring back to them at their meeting on the 30th, additional information regarding other cities' election rules and previous City Charter changes regarding appointment. On the 30th, Staff presented additional information and the Commission continued its discussion of the item. Ultimately, on a 5-2 vote the Commission resolved to support the charter amendments on the following conditions: (i) that the amendments be presented to the voters as three separate measures (elimination of the mandatory run-off requirement for general elections; elimination of the mandatory run-off requirement for special elections to fill vacancies; and revision of the City Council process for filling a vacancy); and (ii) that the City include its fiscal analysis in the ballot materials.

IV. Council Policy Waiver

In March 2014, the City Council adopted Council Policy No. 103-02. That Policy governs the process for handling City Council initiatives. The Policy sets forth procedures to be followed when the Council, or any Council member, proposes an initiative for placement on the ballot. The Policy provides that a proposed initiative shall be submitted to the City Manager for preparation of a fiscal analysis of the measure. It also requires referral to the City Attorney for presentation to, and recommendation of, the Charter Review Commission, if the initiative proposes to amend the Charter. The Policy states that a proposed initiative should be presented for Council consideration at least 180 days prior to the election for which it is proposed to be placed on the ballot, and contemplates that City staff would have 45 days to complete the fiscal analysis and obtain the Charter Review Commission's recommendation.

In this case, the proposed ballot measure was presented at the July 22, 2014, for potential placement on the November 2, 2014 ballot. Staff was requested to complete the fiscal analysis and present the item to the Charter Review Commission, and present the item for Council consideration on August 5, 2014. As discussed above, the matter was presented to the Charter Review Commission over the course of two meetings. City Finance staff prepared the fiscal analysis contained in this report. However, neither staff nor the Charter Review Commission had 45 days, as contemplated in the Policy, to complete these tasks. In addition, the matter was proposed to Council less than 180 days prior to the November election. As a result, if the City Council desires to move forward with placing this on the November 2014 ballot, staff recommends that it waive the requirements of Council Policy No. 103-02.

V. Next Steps

In order to place a measure on the November 2014 ballot, the language of the measure and

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the ballot question must be provided to the County Registrar of Voters by August 8, 2014. The City Attorney's Impartial Analysis would need to be prepared and submitted by August 18, 2014.

The City Council might also consider designating one or two of its members to work with staff to draft a City Council sponsored Ballot Argument in favor of the proposed amendments. One or more City Council members could also indicate their support by signing the argument. This process would need to be completed by August, 20, 2014.

If the Council desires that the measure be presented with a fiscal analysis per the recommendation of the Charter Review Commission a City Council Ballot Argument in favor would be an appropriate mechanism.

VI. Conclusion

Staff is prepared to move forward, as the City Council may direct.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site specific and consequently, the 500-foot rule found in California Code of Regulations section 18704.2(a)(1), is not applicable to this decision.

CURRENT YEAR FISCAL IMPACT

The placing of this measure on the ballot will result in a \$47,000 current fiscal year cost. As presented this allocation would be made by appropriating the full amount of the available balance out of the General Fund reserve and into the supplies and services expenditure category of current fiscal year City Clerk's budget. As an alternative, some or all of the cost of this item could be funded using a carry forward of savings from the June 2014 election. This amount is projected to be approximately \$110,000.

If a vacancy occurs after the November 2014 election, the proposed measure, if approved, would give the City Council the option to fill that vacancy by appointment. If appointment is made, the cost of one and maybe two special elections would be saved. If an appointment is not made, and a special election is therefore required, eliminating the mandatory run-off election may result in saving the cost of a second special election if there is a majority plus one vote getter in the first special election. Current estimates for the cost of each required special election are \$500,000 to \$600,000.

ONGOING FISCAL IMPACT

As discussed on more detail, above, a reduction in future election costs may result as future fewer special elections may be required if the ballot measure is approved.

ATTACHMENTS

Attachment 1: City Charter, as of June 5, 2012, section 300

Attachment 2: Text of November 2012 Charter Amendment

Attachment 3: City Charter, as of November 12, 2012, section 303

Attachment 4: Draft Amendments to Charter Sections 300.A. and E., and 303.C.

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Attachment 5: City Council Policy No. 103-02.

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