



CHARTER COMMITTEE AGENDA REPORT

MEETING DATE: SEPTEMBER 11, 2013

ITEM NUMBER:

SUBJECT: PROPOSED PREAMBLE CHARTER PROVISION

DATE: SEPTEMBER 5, 2013

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BACKGROUND

At the August 28th, 2013 Charter Committee meeting, the following language was proposed as a preamble to the proposed Costa Mesa Charter. The following is an analysis of the provision proposed.

DISCUSSION

The proposed language is the following:

The City shall have the power to make and enforce all laws, rules and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter or in the Constitution of the State of California. It shall also have the power to exercise, or act pursuant to any and all rights, powers, privileges or procedures, heretofore or hereafter established, granted or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise, or act pursuant to, under the Constitution of the State of California. The enumeration in this Charter of any particular power shall not be held to be exclusive of, or any limitation upon, the generality of the foregoing provisions.

A preamble is a brief statement in the introduction to, in this case, a city charter that articulates the fundamental purpose and guiding principle on the authors' intentions. In the case of the United States Constitution, the preamble has been interpreted to determine the Founding Fathers' intentions regarding the Constitution's meaning and purpose over the last approximately 250 years.

The proposed provision has a similar intent. The first sentence gives the city power over all municipal affairs unless the charter itself or the California Constitution prohibits governance over a particular area. Furthermore, the second sentence extends the city's authority over any *future* matter that is or becomes within its authority to govern. And finally, the last sentence makes

clear that the city will not be limited to act or only act according to the language set forth in the charter.

If included in the proposed charter for the City of Costa Mesa, the preamble sets forth the basic principle that the charter is intended to govern to the furthest extent possible except as limited by the charter itself or state law. As an alternative, the City of Huntington Beach Charter provides, “[t]he City shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter or in the Constitution of the State of California.” This provision is a simpler version of the language proposed, while at the same time, reflecting the same intent.

With either of these provisions, the Costa Mesa Charter will reflect the City’s intention to govern to the fullest extent possible as authorized by any present or future laws.