



CHARTER COMMITTEE AGENDA REPORT

MEETING DATE: FEBRUARY 12, 2014

ITEM NUMBER: 8-D

SUBJECT: TIMELINE FOR PROPOSED EMPLOYEE PENSION VOTER APPROVAL
REQUIREMENT

DATE: FEBRUARY 6, 2014

FROM: SPECIAL COUNSEL'S OFFICE

PRESENTATION BY: KIMBERLY HALL BARLOW

FOR FURTHER INFORMATION CONTACT: BRENDA GREEN @ 714-754-5221

INTRODUCTION

The Charter committee requested our office to draft a timeline of how the meet and confer process with an employee organization would proceed if the proposed charter includes a provision concerning voter approval requirements for increases in employee pensions. The relevant charter provision is as follows:

On or after the effective date of this Charter, except for any increase previously authorized in a valid and binding memorandum of understanding or contract, no employee or officer of the City shall receive an increase in employee retirement benefits, other post-employment benefits, employer contributions for post-retirement benefits, including post-retirement health benefits, to be paid for by the City or for which the City is liable without approval by a majority of the voters at a general election.

DISCUSSION

Because of the mechanics of the meet and confer process and the requirements to place an item on the ballot for voter approval, the start and end points for final approval and implementation of a pension increase is potentially long. There would be several phases:

- Phase 1. Meet & Confer with Employee Organization – This process can take anywhere from 6 to 12 months, but the exact amount of time is uncertain due to the vagaries of the Meet & Confer process. Any offers made to or by the City's negotiator(s) relating to pension increases made here would be contingent upon approval of the City Council to submit such a matter to the voters, and then contingent upon ultimate voter approval.
- Phase 2. Approvals by City Council of certain terms of the pension increase – In addition to the negotiation time discussed above, the City Council will then have to approve the terms of any pension increase. This will likely take approximately one month depending upon the timing of the negotiations.
- Phase 3. City Council must call an Election and Submit the Matter to the Voters – The City Council may combine this phase with Phase 2. Regardless, the City Council's vote to submit the matter of pension increases to the voters must occur at least 88 days prior to the date of a particular election in order to consolidate with a

statewide election.¹ This would mean that there needs to be approximately 2-3 months, perhaps more depending on the timing, for this phase so that the impartial analysis, arguments and rebuttals, and administrative preparation (e.g. drafting of resolutions and staff reports) may be prepared and submitted.² Additionally, for the arguments, there must be some time allotted for the purpose of drafting and submitting rebuttals by those for or against such a measure. Finally, each of these documents (i.e., the impartial analysis, arguments, and rebuttals) is subject to a 10-day viewing period to permit potential challenges as to their compliance with state law.³

Phase 4. Election Day The process from beginning to end will likely take over a year to complete, because of the requirements of the Elections Code. Note that all the timing estimates above are contingent upon the timing of events since the City Council has two regular meetings a month.

CONCLUSION

Because of the potentially long time period between initiation of negotiations which might involve a proposed pension increase and an election, requiring a vote for approval of any pension increases could significantly increase the amount of time for completion of the negotiation process and may result in some periods of time where employees are working under the terms and conditions of expired MOUs. This may also result in negotiations for new time periods commencing significantly in advance of MOU expiration when less will be known about the City's financial condition at the time of the actual start date of an MOU.

¹ See Cal Elec. Code § 10403.

² See Cal. Elec. Code §§ 9281, 9285, and 9286.

³ See Cal. Elec. Code § 9295.