



# *CITY COUNCIL AGENDA REPORT*

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MEETING DATE: DECEMBER 6, 2011

ITEM NUMBER:

**SUBJECT: INFORMATION REGARDING PROPOSED CHARTER****DATE: DECEMBER 1, 2011****FROM: BILL LOBDELL, INTERIM COMMUNICATIONS DIRECTOR  
THOMAS R. HATCH, CHIEF EXECUTIVE OFFICER****PRESENTATION BY: BILL LOBDELL****FOR FURTHER INFORMATION CONTACT: Bill Lobdell at (714) 754-5288****RECOMMENDATION:**

Direct staff and the City Attorney to begin the process of drafting a Proposed Charter and required supplemental documents.

**BACKGROUND:**

In the fall of 2011, City Council asked the City Attorney to investigate the benefits and variations of the Charter form of city government. This report and the attached documents outline the differences between a general law city (Costa Mesa's current form of government), and a charter law city; the advantages of the Charter form of city government; and various other relevant issues regarding the decision to use the Charter form of city government. Any proposed charter would need to be placed on the ballot and approved by the voters.

**ANALYSIS:**

The City of Costa Mesa is currently a general law city. The general law form allows cities to act only based upon the authority given by the California Constitution and the California Legislature. The alternative type of city government used by approximately 120 California cities is the charter form. A charter city is one that has adopted a set of bylaws, called the charter, which acts as a local constitution for the city. Similarly to the federal and State constitutions, a charter may only be adopted, amended, or repealed by a majority vote of a city's residents.

**General Law vs. Charter**

Charter cities have more authority over their municipal affairs, strengthening the City's home rule.<sup>1</sup> By adopting a charter, the City will have greater flexibility in the operations of its municipal government, which, if properly utilized, can translate to greater efficiency, effectiveness, and innovation.

A charter city has more options when considering how to handle a number of municipal affairs. This includes, but is not limited to, the following:

1. Construction and maintenance contracting.
2. Land use.
3. City finances.
4. State mandates.
5. City government structure.

Notwithstanding these advantages, there are several limitations and safeguards upon a charter city's powers. In particular, a charter city's decision-making authority is specifically limited to only municipal affairs and does not extend to matters of "state-wide concern." Generally speaking, a matter of statewide concern is something that is determined, by the courts, to be of an importance to the entire state. In those cases, state law preempts local regulations. For example, many traffic regulations are matters of state-wide concern. A charter city would not be able to adopt local traffic regulations that would conflict with those enacted by the Legislature.

Also, recent charters passed by California cities have included "anti-City of Bell measures" that limit council member and city employee compensation to what's allowed under state law.

It's important to note that an adoption of a charter does not change the way the City operates. Like the state and federal constitutions, a charter would only provide the City a general set of guidelines and an opportunity to make community-specific decisions. Any changes to existing ordinances and regulations may be made so long as they are within the parameters found in the charter.

#### Adoption

The state Legislature recently approved a bill (AB1344) that provided for more public input on proposed city charters, both before and after the measures are placed on the ballot. The City's proposed timeline of events (see attached) adds significantly more meetings than the required two public hearings over a two-month period and allows for the proposed charter to be submitted 95 days prior to the June 5, 2012 election (previously, the minimum had been 88 days).

It's important to note that during the process of creating a proposed charter, language and items can be edited and deleted, ~~but after the first public hearing, no new measures can be added.~~ Therefore, the first drafts of city charters are usually broadly written and then refined through public input during the process.

#### **ALTERNATIVES CONSIDERED:**

<sup>1</sup> "Home rule" refers to the relative degree of decision-making authority a city has regarding its local or municipal affairs.

Council can choose to not direct staff and the City Attorney to begin the process of drafting a Proposed Charter and required supplemental documents.

**FISCAL REVIEW:**

If the proposed charter is placed on the June 2012 ballot, then the Registrar of Voters estimates the cost to consolidate to be in the range of \$97,500 to \$123,500. If placed on the November 2012 ballot, the Registrar of Voters estimates the cost to consolidate to be in the range of \$78,500 to \$97,500.

**LEGAL REVIEW:**

The City Attorney's office has reviewed this report and attachments and approves as to the form found therein.

**CONCLUSION:**

Council is requested to provide staff and the City Attorney's office direction whether it wants to move forward in drafting a proposed charter and the required supplemental documents for voter consideration.

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THOMAS R. HATCH  
CHIEF EXECUTIVE OFFICER

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THOMAS P. DUARTE  
CITY ATTORNEY

- ATTACHMENTS:
- 1 Sample Charter for Costa Mesa
  - 2 A charter primer from the League of California Cities  
<http://www.cacities.org/index.jsp?displaytype=11&story=26279>
  - 3 Timeline of events for creating a city charter  
AB1344.pdf ([http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1301-1350/ab\\_1344\\_bill\\_20110920\\_enrolled.pdf](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1301-1350/ab_1344_bill_20110920_enrolled.pdf))