



CITY COUNCIL AGENDA REPORT

MEETING DATE: FEBRUARY 13, 2012

ITEM NUMBER:

SUBJECT: SECOND COMMUNITY PUBLIC HEARING ON PROPOSED CITY CHARTER

DATE: FEBRUARY 9, 2012

**FROM: BILL LOBDELL, COMMUNICATIONS DIRECTOR
THOMAS R. HATCH, CEO**

**PRESENTATION THOMAS R. HATCH, CEO
BY:**

FOR FURTHER INFORMATION CONTACT: Bill Lobdell @ (714) 754-5288

RECOMMENDATION:

Hold a second public hearing on the proposed City charter for Costa Mesa and receive community comments/suggestions and provide direction on any changes to the second draft of the proposed charter (Attachment 1).

BACKGROUND:

In the fall of 2011, City Council requested the City Attorney to investigate the benefits and variations of the Charter form of city government that would shift control over strictly municipal affairs from Sacramento to Costa Mesa. On December 6, 2011 (staff report included as Attachment 2), the City Council voted to move forward the process to consider placing a charter on the June 5, 2012 ballot. Using an initial first draft of the proposed charter as a starting point, the City has sought comments on the charter through various media; the City's website, social media and media outlets; through public comments at the December 6, 2011 and January 3, 2012 City Council meetings; and at a charter informational meeting held at the Costa Mesa Neighborhood Community Center on January 5, 2012 (suggested additions and/or deletions to the charter and a summary of the comments are included in Attachments 3 and 4). On January 10, 2012, the first public hearing was held on the proposed City charter. After taking testimony and reviewing public comments, the City Council voted to approve a second draft of the proposed charter (staff report included as Attachment 5). The City Council also requested to include two provisions—on City Council candidate qualifications and an Ethic and Conduct Code—that were already addressed by state law, municipal law, or both (charter provision memo from City Attorney's Office included as Attachment 6).

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 120 California cities is the charter form (see Attachment 7 for the League of California Cities' primer on charter cities). 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.

Charter cities have more authority over their municipal affairs, strengthening the City's home rule. 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; and
5. City government structure.

For example, the current draft of the Costa Mesa charter states that the City would not be required to pay prevailing, or union, wage for projects that are locally funded. To give the City Council and residents an idea of the potential savings, City staff has looked at several past and future construction projects and calculated the potential savings (see Attachment 8).

Limitations and Safeguards:

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 state-wide 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.

Recent charters passed by California cities have included "anti-City of Bell measures" that limit council member and city employee compensation to what is allowed under state law. The proposed Costa Mesa charter also includes this provision.

It is 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.

What's Different in Costa Mesa's Draft Charter?

Charters for California cities, especially those adopted within the past decade are remarkably similar because the primary goal is the same—local control—and the

charter language used by other cities has been legally tested. Costa Mesa's proposed charter is what could be termed as generic, except in the following three areas.

1. **Section 301. Purchasing and Contracts.** This section allows the City to decide whether or not to pay prevailing, or union, wage on public works projects that use only local funds;
2. **Section 602. Employee Retirement Benefits.** This section requires increases in employee retirement pensions to be approved by the majority of Costa Mesa voters; and
3. **Section 603. Voluntary Municipal Employee Political Contributions.** This section ensures that city employee association dues collected directly from city paychecks will not be used for political activities.

Adoption Process:

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 timeline of events (see Attachment 9) provides for public meetings on the proposed charter on January 10; February 13; and March 6, 2012.

On March 6, 2012, the City Council can vote on whether to put the proposed charter on the June 5, 2012 ballot. The charter can be adopted by a simply majority of Costa Mesa voters.

ALTERNATIVES CONSIDERED:

1. City Council can choose to direct staff and the City Attorney to discontinue the process of putting a Proposed Charter on the June 5, 2012.
2. City Council can choose to hold a second public hearing on the proposed City charter for Costa Mesa, receive community comments/suggestions, provide direction on any changes to the second draft of the proposed charter and direct staff to prepare informational mailers to Costa Mesa residents to better educate them on the proposed charter and the adoption process.

FISCAL REVIEW:

If the proposed charter is placed on the June 2012 ballot, 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:

City Council requested to hold its second public hearing on the proposed City charter for Costa Mesa and receive community comments and suggestions and provide direction on any changes to the second draft of the proposed charter.

THOMAS R. HATCH
Chief Executive Officer

THOMAS P. DUARTE
City Attorney

- ATTACHMENTS:
- 1 [Second Draft of Proposed Charter for Costa Mesa](#)
 - 2 [Dec. 6, 2011 Staff Report on Proposed Charter](#)
 - 3 [Comments and Suggestions Submitted to the City Council on Proposed Charter through January 5, 2012](#)
 - 4 [Comments and Suggestions Submitted to the City Council on Proposed Charter from January 6 to February 10, 2012](#)
 - 5 [January 10, 2012 Staff Report on Proposed Charter](#)
 - 6 [Charter provision memo from City Attorney's Office](#)
 - 7 [A Charter Primer from the League of California Cities](#)
 - 8 [Potential Savings as a Charter City](#)
 - 9 [Charter Timeline of Events](#)