

# REQUEST FOR COUNCIL ACTION



CITY COUNCIL MEETING DATE:

JUNE 19, 2018

TITLE:

REVIEW AND PROVIDE DIRECTION ON PROPOSED CHARTER AMENDMENTS FROM THE COUNCIL AD HOC COMMITTEE {STRATEGIC PLAN NO. 5, 1}

CITY MANAGER

CLERK OF COUNCIL USE ONLY:

APPROVED

- As Recommended
- As Amended
- Ordinance on 1<sup>st</sup> Reading
- Ordinance on 2<sup>nd</sup> Reading
- Implementing Resolution
- Set Public Hearing For \_\_\_\_\_

CONTINUED TO \_\_\_\_\_

FILE NUMBER \_\_\_\_\_

## RECOMMENDED ACTION

1. Receive report from the Ad Hoc Committee.
2. Direct City Attorney and Clerk of the Council to prepare necessary documents to place any of the proposed Charter amendments on the ballot for November 2018 election.

## DISCUSSION

At the June 5, 2018 City Council Meeting, Mayor Pulido was asked to appoint an ad-hoc council committee to review possible Charter amendments based on the 2007 Charter Committee recommendations and additional items that have been raised since that time. The ad-hoc committee ("committee"), consisting of Mayor Pulido, Mayor Pro Tem Martinez and Councilmember Villegas, met and identified nine possible topic amendments, including the following:

1. Mayor's Signature Authority
2. Remove Boards and Commissions from the Charter
3. Campaign and Gift Provisions
4. Stabilization Fund
5. Investigations
6. Qualifications of Finance Director
7. Civil Services Position of Police Chief
8. General Plan to be Updated 2 years after each U.S. Census
9. Code of Ethics to Apply to all Officers and Department Heads

The Committee members, City Attorney, City Manager and Clerk of the Council were asked to rank the sections to assist in identifying priorities to present to the full City Council for consideration.

The chart below provides rankings received, in addition to reason for amendment and potential impacts for review and consideration by the City Council.

	<b>Proposed Charter Amendment</b>	<b>Purpose / Reason for Amendment</b>
1.	Section 413: Mayor's Signature Authority on Resolutions and Ordinances	Provides for mayor pro tem or council member who voted for yes to sign in absence of mayor or Mayor Pro Tem or when they refuse to sign.
2.	Article IX: Remove Boards and Commissions from Charter	Charter lists three boards/commissions and the balance are in the Municipal Code. Removal from Charter and placement in Muni Code creates consistency and flexibility for Council.
3.	Section 425 and Section 1107: Campaign and Gift Provisions	Moving these campaign and gift sections into the Municipal Code will allow for consistent provisions and flexibility to amend.
4.	Section 610: Stabilization Fund	Provision was in original 1950's charter and is not relevant.
5.	Section 1100: Investigations	Current regulations only permit City Manager and Council to initiate investigations so City Attorney must get permission to investigate when he or she has duty to investigate. Proposal is to amend and require check and balance by requiring at least two of three to approve of investigation.
6.	Section 704: Qualifications of Finance Director	Finance Director works for City Manager and qualifications should be in job description. Charter does not address other directors.
7.	Section 1002: Civil Service Positions Police Chief	All directors work for the City Manager and are at will with the exception of the Police Chief. Would add Chief to list of at-will employees, but would not impact the status of the current Chief.
8.	Article IV. Div. 3: Add Section 426: Mandates General Plan Update with 2 years of each U.S. Census	Ad Hoc Suggestion to ensure that City updates the General Plan every ten years.
9.	Section 401.05 Code of Ethics to Apply to All Officers and Department Heads	Council Ethics Committee mentioned desire that the Ethics Code be signed by all City elected and appointed officials and department heads.

Current Charter language:

**1. Mayor's Signature Authority on Resolutions and Ordinances**

Sec. 413. - Adoption (ordinances).

All ordinances and written resolutions shall be signed by the mayor or the mayor pro tem and attested by the Clerk of the Council. If the mayor or mayor pro tem are absent or refuse to sign, then a member of the Council who voted to approve the resolution or ordinance may sign.

**2. Remove Boards and Commissions from Charter**

Sec. 900. - Established

(a) The City Council shall establish appointive boards and commissions by ordinance and shall specify in such ordinances the powers and duties of each.

**3. Campaign and Gift Provisions**

Sec. 425. - Disqualification due to campaign contributions.

A councilmember shall not participate in, nor use his or her official position to influence, a decision of the City Council if it is reasonably foreseeable that the decision will have a material financial effect, apart from its effect on the public generally or a significant portion thereof, on a recent major campaign contributor. As used herein, "recent major campaign contributor" means a person who has made campaign contributions totaling two hundred fifty dollars (\$250.00) or more to the councilmember or to any campaign committee controlled by the councilmember in the twelve-month period immediately preceding the date of the decision. The mayor is a councilmember for purposes of this section.

Sec. 1107. - Gifts to officers and employees prohibited.

It shall be unlawful for any person or organization that is financially interested in any decision pending action by any agency, officer or employee of the City, or in any contract to which the City is a party to make any gifts aggregating in value more than twenty-five dollars (\$25.00) in any one calendar month to any officer, or employee of the City. No person or organization shall be deemed to have a financial interest in a decision or contract by reason of any interest which is shared by a significant portion of the general public. No gift is unlawful which is similarly made or offered to a significant portion of the general public. Any person who makes, acts as the agent or intermediary in the making of, or arranges for the making of, any gift which is unlawful hereunder is guilty of a misdemeanor. Any officer or employee who receives any gift which he knows, or reasonably should know, is unlawful hereunder is guilty of a misdemeanor.

**4. Stabilization Fund**

Sec. 610. - Funds—General fund; stabilization fund.

All money paid into the City treasury shall be credited to and kept in separate funds in accordance with the provisions of this charter, state law, or ordinance. For the purpose of this charter, the "General Fund" is established as a medium of control and accounting for City activities other than activities authorized or contemplated by special funds. All revenues and receipts which are not by this charter, state law, or ordinance pledged for special purposes shall be credited to the general fund.

The City Council shall maintain a revolving fund to be known as the "Stabilization Fund", for the purpose of placing the payment of running expenses of the City during the fiscal year on a cash basis. A reserve shall be built up in this fund from any available sources in an amount which the City Council deems sufficient with which to meet all lawful demands against the City for the first five (5) months, or other necessary period, of the succeeding fiscal year prior to the receipt of ad valorem tax revenues. Transfers may be made by the City Council from such fund to any other fund or funds of such sum or sums as may be required for the purpose of placing such funds, as nearly as possible on a cash basis. All moneys so transferred from the stabilization fund shall be returned thereto before the end of the fiscal year.

## **5. Investigations**

Sec. 1100. - Investigations by the city council or city manager. The City Council, the City Manager, or any person or committee authorized by either of them, shall have power to inquire into the conduct of any office, department, agency, or officer of the City and to make investigation as to City affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence.

## **6. Qualifications of Finance Director**

Sec. 704. - Director of finance; qualifications, powers and duties.

To become eligible for the position of director of finance, the person appointed by the City Manager shall be qualified to administer and direct an integrated department of finance. The director of finance shall have power and be required to:

(a) Have charge of the administration of the financial affairs of the City under the direction of the City Manager; (b) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to insure that budget appropriations are not exceeded; (c) Supervise a system of financial internal control including the auditing of all purchase orders before issuance, the auditing and approving before payment of all invoices, bills, payrolls, claims, demands, or other charges against the City, and, with the advice of the City Attorney, when necessary, determine the regularity, legality, and correctness of such charges; (d) Settle claims, demands, or other charges, including the issuing of warrants therefor; (e) Maintain general and cost accounting systems for the City government and each of its offices, departments, and other agencies; keep separate accounts for the items of appropriation contained in the City budget, each of which accounts shall show the amount of appropriations, the amounts paid therefrom, the unpaid obligations against it, and the unencumbered balance; and require reports of the receipts and disbursements from each receiving and expending agency of the City government; to be made daily or at such intervals as he may deem expedient; (f) Submit to the City Council through the City Manager a monthly statement of all receipts and disbursements and other financial data in sufficient detail to show the exact financial condition of the City, and, as of the end of each fiscal year, submit a complete financial statement and report; (g) Administer the license and business tax program of the City; (h) Direct treasury administration for the City, including the receiving and collecting of revenues and receipts from whatever source; have custody of all public funds belonging to or under the control of the City or any office, department, or other agency of the City government; and deposit all funds coming into his hands in such depository as may be designated by resolution of the City Council, or, if no such resolution be adopted, by the City Manager, in compliance with all of the provisions of the state constitution and laws of the state governing the handling, depositing, and securing of public funds; (i) Direct centralized

purchasing and a property control system for the City government under rules and regulations to be prescribed by ordinance.

#### **7. Civil Service Positions Police Chief**

Sec. 1002. - Civil service and excepted service.

The civil service system of the City shall cover all employees of the City not excepted by this section.

(a) The excepted service shall comprise the following offices and positions [ADD (16) Chief of Police.]

#### **8. Mandates General Plan Update with 2 years of each U.S. Census**

Article IV. Div. 3:

Add Section 426. – General Plan Update Every Ten Years

Within three months after the publication of each federal decennial census, the City shall initiate a review of its General Plan and adopt amendments if necessary. The City may initiate a review or adopt General Plan amendments more frequently as it deems necessary.

#### **9. Code of Ethics to Apply to All Officers and Department Heads**

Sec. 401.05. - Code of ethics and conduct.

The City of Santa Ana shall adopt a Code of Ethics and Conduct for elected officials, officers appointed by the City Council, department heads or agency directors, appointed and members of appointed boards, commissions, and committees to assure public confidence in the integrity of local government elected and appointed officials. The City Council shall adopt the Code of Ethics and Conduct by ordinance or resolution within six months of the effective date of this Charter section.

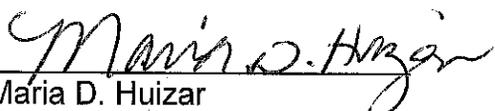
In the event that the Council decides to submit one or more proposed charter amendments to the voters in November, 2018, the Special Election would be consolidated with the General Municipal Election for the offices of Mayor and Councilmember Wards 2, 4, and 6. The Request for the County Registrar of Voters to conduct the elections must be filed with the Board of Supervisors no later than August 10, 2018. To ensure sufficient time to prepare all the necessary documents and provide for a ballot argument process, it is recommended that the Council make the decision relative to submitting ballot measures no later than the first Council meeting in July 2018.

#### **STRATEGIC PLAN ALIGNMENT**

Approval of this item supports the City's efforts to meet Goal #5 Community Health, Livability, Engagement & Sustainability, Objective #1 (Establish a comprehensive community engagement initiative to expand access to information and create opportunities for stakeholders to play an active role in discussing public policy and setting priorities).

**FISCAL IMPACT**

There is no fiscal impact at this time. An estimate of any additional costs for calling a Special election for the purpose of submitting Charter Amendments to the voters will be requested from the Registrar of Voters once the Council determines how many ballot measures will be placed on the November ballot.

  
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Maria D. Huizar  
Clerk of the Council

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Sonia R. Carvalho  
City Attorney