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City of El Cajon



MEETING: 3/8/11

ITEM NO: 10.2

Agenda Report

DATE: March 3, 2011

TO: Mayor Lewis, Mayor Pro Tem Kendrick,
Councilmembers Hanson-Cox and McClellan

FROM: Councilmember Wells

SUBJECT: Draft Proposed Charter

RECOMMENDATION: That the City Council review the draft proposed Charter and refer same to the Special Election to be held in June 2011.

BACKGROUND:

The California Constitution gives cities the power to become a Charter City to have "supreme authority over municipal affairs". The attached draft Charter sets forth language that establishes the city's power separate from the Government Code, strives to protect revenues and exempts the city from certain provisions of California statute regulating public contracting and purchasing.

FISCAL IMPACT:

Once adopted, a savings will be realized through future contracts where city General Fund money is being used to pay contracts that do not include prevailing wages.

PREPARED BY:

Bill Wells

Bill Wells
Councilmember

DRAFT

CHARTER OF THE CITY OF EL CAJON

PREAMBLE

WE THE PEOPLE of the City of El Cajon declare our intent to restore to our community the historic principles of self-governance inherent in the doctrine of home-rule. Sincerely committed to the belief that local government has the closest affinity to the people governed and firm in the conviction that the economic and fiscal independence of our local government will better serve and promote the health, safety and welfare of all of the citizens of this City, we do hereby exercise the express right granted by the Constitution of the State of California to enact and adopt this Charter for the City of El Cajon.

CHARTER

Article I Municipal Affairs

Section 100. Municipal Affairs

Each of the responsibilities of governance set forth and described in this Charter, and as established by the Constitutional, statutory and judicially defined law of the State of California, is hereby declared to be a municipal affair of concern, the performance of which is unique to the benefit of the citizens of the City of El Cajon.

Section 101. Powers

The City shall have all powers that a City can have under the Constitution and laws of the State of California as fully and completely as though they were specifically enumerated in this Charter. The enumeration in this Charter of any particular power, duty or procedure shall not be held to be exclusive of, or any limitation or restriction upon, this general grant of power.

Section 102. Incorporation and Succession

The City shall continue to be a municipal corporation known as the City of El Cajon. The boundaries of the City of El Cajon shall continue as now established until changed in the manner authorized by law. The City shall remain vested with and shall continue to own, have, possess, control and enjoy all property rights and rights of action of every nature and description owned, had, possessed, controlled or enjoyed by it at the time this Charter takes effect, and is hereby declared to be the

successor of same. It shall be subject to all debts, obligations and liabilities, which exist against the City at the time this Charter takes effect. All lawful ordinances, resolutions, rules and regulations, or portions thereof, in force at the time this Charter takes effect and not in conflict with or inconsistent herewith, are hereby continued in force until the same have been duly repealed, amended, changed or superseded by proper authority.

Article 2 Form of Government

Section 200. Form of Government

The municipal government established by this Charter shall be known as the "Council-Manager" form of government. The City Council will establish the policy of the City and the City Manager will carry out that policy.

Article 3 Fiscal Matters

Section 300. Economic and Community Development

The City shall encourage, support, and promote economic development and community development in the City.

Section 301. Public Works Contracts

The City is exempt from the provisions of all California statutes regulating public contracting and purchasing except as provided by ordinance or by agreement approved by the City Council. The City shall establish all standards, procedures, rules or regulations to regulate all aspects of the bidding, award and performance of any public works contract, including but not limited to, the compensation rates to be paid for the performance of such work.

Section 302. Prevailing Wage

No City contract shall require payment of the prevailing wage schedule unless: the prevailing wage is legally required, and constitutionally permitted to be imposed, by federal or state grants pursuant to federal or state law; or the project is considered by the City Council not to be a municipal affair of the City; or payment of the prevailing wage schedule is authorized by resolution of the City Council. Payment of the prevailing wage schedule, if authorized hereunder, shall use the pertinent rates published by the State of California.

Section 303. Fair and Open Competition

The City shall not, in any contract for the construction, maintenance, repair, or improvement of public works, require that a contractor, subcontractor, material supplier, or carrier engaged in the construction, maintenance, repair or improvement of public works, execute or otherwise become party to any project

labor agreement, collective bargaining agreement, pre-hire agreement, or other agreement with employees, their representatives, or any labor organization as a condition of bidding, negotiating, being awarded, or performing work on a public works contract. Nothing in this section shall be construed as prohibiting private parties from entering into individual collective bargaining relationships, or otherwise as regulating or interfering with activity protected by applicable law, including but not limited to the National Labor Relations Act.

Section 304. Definition of Public Works

For purposes of this Article, the term "public works" means: (1) A building, road, street, sewer, storm drain, water system, irrigation system, reclamation project, or other facility owned or to be owned or to be contracted for by the City of El Cajon, that is paid for in whole with tax revenue paid by residents of the City of El Cajon; or (2) Any other construction service or non-construction service.

Article 4 Revenue Retention

Section 400. Reductions Prohibited

Revenues raised and collected by the City shall not be subject to subtraction, retention, attachment, withdrawal or any other form of involuntary reduction by any other level of government.

Section 401. Mandates Limited

No person whether elected or appointed, acting on behalf of the City, shall be required to perform any function which is mandated by any other level of government, unless and until funds sufficient for the performance of such function are provided by said mandating authority.

Article 5 General Laws

Section 500. General Law Powers

In addition to the power and authority granted by the terms of this Charter and the Constitution of the State of California, the City shall have the power and authority to adopt, make exercise and enforce all legislation, laws, and regulations and to take all actions and to exercise any and all rights, powers, and privileges heretofore or hereafter established, granted or prescribed by any law of the State of California or by any other lawful authority. In the event of any conflict between the provisions of this Charter and the provisions of the general laws of the State of California, the provisions of this Charter shall control.

Section 501. Council Member Compensation

Notwithstanding the previous paragraph, salary of the Mayor and Council Members will continue to be set by California Government Code §36516, where the formula considers city population and state law.

Article 6 Interpretation

Section 600. Construction and Interpretation

The language contained in this Charter is intended to be permissive rather than exclusive or limiting and shall be liberally and broadly construed in favor of the exercise by the City of its power to govern with respect to any matter which is a municipal affair.

Section 601. Severability

If any provision of this Charter should be held by a court of competent jurisdiction to be invalid, void or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law.

Article 7 Amendment

Section 700. Amendment to Charter, Revised or Repealed

This Charter, and any of its provisions, may be amended by a majority vote of the electors voting on the question. Amendment or repeal may be proposed by initiative or by the governing body.

AUTHENTICATION AND CERTIFICATION

Authenticated and certified to be a true copy by Mayor Mark Lewis and City Clerk Kathie Rutledge.

Date of Municipal Election:

ATTEST:

Mark Lewis, Mayor

Kathie Rutledge, City Clerk