



STAFF REPORT

Office of the City Manager

DATE: March 18, 2022

TO: Honorable Mayor and City Council

FROM: Dominic Lazzaretto, City Manager
By: Michael Bruckner, Deputy City Manager
Michael Maurer, Assistant City Attorney

SUBJECT: REPORT, DISCUSSION, AND DIRECTION REGARDING PROPOSED CHARTER AMENDMENTS AND BALLOT MEASURES FOR THE NOVEMBER 8, 2022, GENERAL MUNICIPAL ELECTION

Recommendation: Adopt Committee Recommendations and Provide Direction

SUMMARY

The City of Arcadia Charter was adopted at a special election held on April 24, 1951, and became effective on May 15, 1951, upon being certified by the California Secretary of State. The City's Charter was last amended in 1998.

At the March 3, 2021, Study Session, the City Council voted to hold its next regularly scheduled election on November 8, 2022, to comply with the spirit and intent of SB 415 and Ordinance No. 2352, affirming the same. In order to avoid any potential legal challenges to future elections, the City Council requested that the City Manager prepare a Charter amendment for the November 8, 2022, general municipal election asking Arcadia voters to permanently ratify moving the City's municipal elections from April to November in even numbered years, beginning with the 2024 election cycle.

Since ballot measures can be a costly and time-consuming process, the City Council also directed the City Manager to provide additional amendments to the Charter to remove outdated provisions and provide the City Council more legislative flexibility for the administration of City services, in addition to streamlining municipal functions for 21st Century governance. For example, the Charter states that Council Members shall be elected at-large even though the City has transitioned to district-based elections.

In order to achieve the City Council's goals, at the July 6, 2021, City Council Meeting, the City Council adopted Resolution No. 7356 empaneling an Ad Hoc Charter Review Committee ("the Committee") consisting of Arcadia residents to review the City's Charter and make recommendations for amendments. The Committee held its first meeting on October 14, 2021, and met regularly during the ensuing months. On February 18, 2022,

the Committee concluded its review and voted to transmit the draft amended Charter and ballot measures to the City Council for further consideration.

It is recommended that the City Council adopt the recommendations of the Charter Review Committee, providing direction on outstanding Charter Amendment questions, and direct staff to bring forward the documents necessary to adopt the proposed Charter amendments and/or ballot measures for community ratification at the November 8, 2022, General Municipal Election.

BACKGROUND

At the March 3, 2021, Study Session, the City Council voted to hold its next regularly scheduled election on November 8, 2022, to comply with the spirit and intent of SB 415 and Ordinance No. 2352, affirming the same. In order to avoid any potential legal challenges to future elections, the City Council requested that the City Manager prepare a Charter amendment for the November 8, 2022, general municipal election asking Arcadia voters to ratify moving the City's municipal elections from April to November in even numbered years, beginning with the 2024 election cycle. In addition, the City Manager shared that the City's Charter has not been updated since 1998 and the City Council may wish to revisit several of the provisions that are outdated.

In order to assist the City Council with recommendations for updating and modernizing the City's Charter, at the July 6, 2021, City Council Meeting, the City Council adopted Resolution No. 7356 empaneling an Ad Hoc Charter Review Committee consisting of Arcadia residents to review the City's Charter and make recommendations for amendments. On September 7, 2021, the City Council conducted interviews for prospective members of the Committee. Seven candidates were selected; however, shortly after the Committee was empaneled a Committee Member resigned. As a result, the Committee continued its work with six members. The Committee currently consists of the following:

James Helms, Jr. – Chairperson
Dr. Sheng Chang – Vice Chairperson
Lee Kuo
Anthony Leung
Jagdeep Singh
Li Zhang

The Committee held its first meeting on October 14, 2021, and established a regular meeting schedule of twice per month, generally on Friday mornings at 10:00 a.m. in the City Council Chambers Conference Room. All meetings for the Committee were duly noticed in accordance with the Ralph M. Brown Act. All copies of the Committee's agendas and minutes can be found at ArcadiaCA.gov/Charterreview. On February 18, 2022, the Committee concluded its review and has made its formal recommendation on

Charter amendments to the City Council, which are attached to this report and summarized below.

DISCUSSION

The organizing principle of the Charter Review Committee was to review and update the City's Municipal Charter for 21st Century governance standards. At its second meeting on October 29, 2021, the Committee requested copies of relevant Charter sections considered for amendment from the following cities to use as a comparison: Alhambra, Big Bear Lake, Cypress, Irvine, Mountain View, Newport Beach, Pasadena, Santa Monica, and Temple City. In addition, the Committee was provided with a copy of the National Civic League *Model Charter City, Ninth Edition*, which offers a contemporary view on modern City Charters. The Committee also requested additional information on Charter cities by population, their last Charter update, City election dates by Charter, and public works contract authorities.

At the direction of the Committee, staff prepared a series of recommendations for the Committee to review and consider. In addition, Committee Members also offered their own recommendations to improve the Charter and the functions of City government as each section was reviewed and discussed. The following is a detailed summary of the Committee's major recommendations for the City Council to consider. Not every amended section is included below; however, the items listed reflect the most significant changes the Committee recommended. A copy of the red-lined version (Attachment "A") and a clean edited version (Attachment "B") of the proposed Charter amendments are included with this report.

Gender Pronouns and General Language Clean-up

Throughout the current Charter, references to individual Council Members use the gender pronouns he/his/him. The language in the Charter was amended to be more gender neutral and was changed to they/their. Several dozen sections of the Charter were edited with this change. Further, position titles have changed over time and there are several edits throughout the document that make contemporary changes. The Committee unanimously approved these amendments where they exist throughout the Charter.

Section 400. City Council

The section was edited to reflect the change from at-large to by-district voting in Arcadia. The Committee unanimously approved this amendment.

Section 401. Eligibility

This section was edited to reflect that a Council Member must reside in the district for which they seek election or appointment.

The Committee also discussed the issue of term limits. The current Charter allows for two consecutive four-year terms, after which a Council Member must sit out at least one election cycle before running again. The Council Member could repeat this cycle indefinitely. The Committee has provided two recommendations for the City Council to consider.

1. Modify the limit to be a hard cap of three terms, which may be served consecutively; or,
2. Create a total limit of three terms; however, only two terms may be in consecutive order. Under this proposal a Council Member can serve a maximum of eight years and will be required to wait four years before they can run for their final term.

Under either scenario, the Committee recommends that no past or current Council Member duly elected or appointed can serve more than three terms. The Committee unanimously approved the first recommendation; however, the alternate recommendation was approved by a 4-1 vote.

Section 402. Compensation

City Council compensation was set at \$500 over 25 years ago. Staff proposed amending this section to set City Council compensation at a fixed amount that would then be indexed to annual inflation. The Committee was provided with a list of City Council compensation (Attachment "C") from the comparable group of cities selected by the Committee. The Committee recommended, on a 4-1 vote, that City Council compensation remain unchanged, and the proposed amendment was stricken. The dissenting vote was cast in support of increasing Council compensation to attract more working-class candidates.

Section 403. Vacancies, Forfeiture of Office. Filling of Vacancies.

Under the current Charter, the City Council has 30 days to fill a vacancy on the City Council. The Committee recommends that the amount of time be increased from 30 days to 60 days, which is consistent with the Government Code for General Law cities. This will allow more time for the City Council to advertise for applicants to fill the vacancy, conduct interviews, and deliberate.

This section was also edited to create a mechanism if the City Council fails to fill a vacancy or call for a Special Election to fill said vacancy. Under the Committee's recommendation, the City Clerk shall be charged with automatically calling for a Special Election if a vacancy is not filled after the 60-day period for appointment. The Committee unanimously approved these amendments.

Section 404. Mayor – Mayor Pro Tempore.

The Committee devoted significant time to reviewing procedures for the rotation of Mayor and Mayor Pro Tem. The Committee recommends that the Mayor and Mayor Pro Tem each serve a term of approximately 9.5 months so that each Council Member will have the opportunity serve in both positions during a 4-year term. The Committee also recommends that the City Council establish a procedure for implementing the rotation by ordinance or resolution. To that end, the Committee developed a draft procedure for the City Council to consider for formal adoption (Attachment "D"). The Committee also proposes an alternative amendment to include the language in Attachment "D" as the formal language to be included in this section of the Charter. The Committee approved this amendment and process by a 5-1-0 vote, with one abstention.

Section 413. Proceedings.

This amendment allows for the electronic casting of the ayes and noes in lieu of a roll call vote. This would allow for further technological improvements at City Council meetings. The Committee unanimously approved this amendment.

Section 415. Adoption of Ordinances and Resolutions.

At the start of each Council Meeting, a Council Member is asked to make a motion to read all ordinances and resolutions by title only and waive the reading in full. The proposed amendment removes the Charter requirement to provide a motion to waive the reading in full; however, a majority of the Council Members present may still request that an ordinance or resolution be read in full. The Committee unanimously approved this amendment.

Section 416. Ordinances. Publication.

The current City Charter requires an ordinance to be published in the City's newspaper of record after adoption. Print newspapers no longer enjoy the wide appeal they used to and are a somewhat outmoded form of communication. In addition, the publishing of ordinances can be costly as well. This amendment does not eliminate the publishing in newspapers but does create an alternative option that ordinances be posted in at least three public places and on the City's website in lieu of in the newspaper. Staff recommends that the City Council approve City Hall, the Community Center, and the Arcadia Public Library as the alternate sites. The Committee unanimously approved this amendment.

Section 417. Adoption of Codes by Reference.

This amendment eliminates the need to create three volumes of City Codes for inspection by the public. Instead, this Section would require a copy of the Code be available for

public review in the City Clerk's Office and also be available on the City's website. The Committee unanimously approved this amendment.

Section 420. Publishing of Legal Notices.

This amendment follows the framework outlined in Section 416 by removing the requirement to post in the City's newspaper of record and creating the alternative to post legal notices in at least three public places and on the City's website. The Committee unanimously approved this amendment.

Article V. City Clerk

The Committee recommends that the elected City Clerk position be eliminated upon the expiration of the current term in 2024 or upon any vacancy in the current office. The City Manager shall have the authority to appoint a City Clerk to perform the powers and duties outlined in the Charter. Due to changes to the role of the City Clerk over time, the position has become largely ceremonial, with the vast majority of traditional City Clerk duties being performed by professional staff in the City Manager's Office. The elimination of the elected City Clerk position will also save the City money over time as the position is the only seat still elected citywide. The Committee unanimously approved this amendment.

Section 807. General Plan.

At the direction of the City Attorney, this section adds language to the Charter to assert the City's right to home rule as it relates to land use policies. The California Legislature has become increasingly assertive in this area of municipal affairs. Should the City be required to defend its home rule authority, this additional Charter provision would strengthen the City's position. The Committee unanimously approved this amendment.

Section 808. Human Resources Commission. Powers and Duties.

Under the current Charter language, the Human Resources Commission must review all changes to job classifications and specifications and personnel rules and regulations, which are then sent to the City Council for adoption. This has significantly slowed down the City's ability to recruit for vacant positions and/or stagnated creativity from hiring managers who did not want to take the time to go through the lengthy process. Moreover, the Commission and City Council have typically had no comments on proposed amendments, so the steps have added little to no benefit to the organization. The Committee recommends that the Human Resources Commission role be redefined to serve as an independent, quasi-judicial hearing board solely related to appeals stemming from employee discipline and related matters, with job specifications and the like being the purview of the City Manager. The Committee unanimously approved this amendment.

Section 809. Library Board of Trustees. Powers and Duties.

From time to time, the Arcadia Public Library receives monetary gifts from the Arcadia Community to further its educational and service mission. Provisions in the current Charter require that the City Council accept all donations over \$1,000, which requires staff time to prepare reports for City Council consideration. The proposed amendment would allow the City Council to adopt a resolution or ordinance that would allow the City to accept donations administratively under threshold amounts as determined by the City Council. The Committee unanimously approved this amendment.

Upon further administrative review, staff is recommending that the amended donation provision in this section of the Charter be moved to a new section, Section 1218, where it can be more broadly applied to all donations received by the City and not just those for Library purposes. The City has traditionally applied the donation approval process citywide, although the current regulation only speaks to the Library specifically. Moving it to Section 1218 would memorialize past practice and provide better clarity. Staff recommends that a resolution be presented creating an administrative limit of \$10,000. Anything above that amount would require formal City Council approval.

Section 1100. General Municipal Elections.

Commencing with the November 8, 2022, general municipal election, all future City elections will be held on the first Tuesday after the first Monday in November, to coincide with statewide general elections. The Committee approved this change on a 3-1 vote. The dissenting vote was principled on the notion of home rule and that the state should not be dictating to the City about when our elections should occur.

Section 1203. Capital Program.

The current Charter defines a capital expenditure as an improvement in excess of \$30,000. While this limit was likely very practical 20 years ago, the cost of public improvements has increased exponentially over time and the limit does not create the same purchasing power it once did. The artificially low threshold amount results in substantial staff time to prepare corresponding procurement documents, and formally conduct the bidding process. Final procurement is further impeded by City Council approval of a purchase order of nominal value. The current threshold is also anti-competitive as contractors tend to withdraw bids or refuse to bid because of the time of procurement on low-value projects.

The Committee reviewed the definition of a capital expenditure for various cities and recommends that definition of a capital expenditure in Section 1203 be set by Council resolution or ordinance. This would allow the City Council to review and set a threshold amount which can be amended over time by additional City Council action instead of

requiring a future Charter amendment. The Committee unanimously approved this amendment.

Staff recommends that the definition of a capital project be established by resolution to \$60,000. A further explanation and corresponding amendment is detailed in the next section below.

Section 1212. Contracts on Public Works Projects.

The Committee also reviewed the Public Works contract authority for various cities as well as requirements for General Law cities under the Government Code. Under the California Uniform Public Construction Cost Accounting Act, signatory cities receive an increase to their force accounts limits to \$60,000. If that value of the project is under \$60,000 the City can contract without bidding; between \$60,000 and \$200,000, they are required to use informal bidding; and above \$200,000 formal bidding is required.

While the City has its own procurement rules, regulations, and threshold amounts, aligning the City's definition of a capital project with its contract authority creates administrative efficiencies, economies of scale, and would generate significant cost savings over time. Like the previous section, the Committee recommends that the contract authority limit be set by Council resolution or ordinance to create capacity for adjustments over time. The Committee unanimously approved this amendment.

Additional Ballot Measures for Consideration

Sports Wagering Tax.

The Committee discussed the utility of imposing a sports wagering tax and including the tax as a new Charter provision. At least one ballot measure has already qualified for the November 2022 ballot that would legalize sports wagering statewide and would allow Native American tribes and horse track operators to host a sports wager facility where betting can occur. Additional measures relating to sports wagering are also being proposed; however, it is unclear at this time which measures will qualify for the ballot or even whether they would be successful.

Should the qualified measure be approved by California voters, California Law would allow Santa Anita Park ("SAP") to host a sports wagering facility on their premises. If SAP were to establish a facility that offered similar amenities to other sports wagering facilities around the country, the impacts to Arcadia could be significant in terms of traffic, medical responses, and policing efforts. While the qualified measure does create a tax scheme for the state, the proposed measure provides no local revenue offset for the costs of providing these services.

The Committee deliberated on the idea of imposing a sports wagering tax and agreed by 4-1-1 vote that, “for the privilege of operating a sports wagering business, each business that receives wagers on sporting events, shall pay a tax of in the amount of up to three percent (3%) of the daily total of all sports wagers placed at the business inclusive of any fee or charge to place the wager. This tax would not apply to horse racing but would apply to all other sports wagers at the site. The Committee member casting the dissenting vote believed the subject of adding an additional tax for sports wagering was outside the scope of the Committee and the abstaining vote was undecided about the issue.

Because a tax on sports wagering will be new, it is difficult to estimate what the annual revenue will be. It is not inconceivable that the City could generate upwards of \$1 million from this tax annually to help offset the impacts to Arcadia’s infrastructure and services.

Transient Occupancy Tax.

The Committee also discussed increasing the City’s Transient Occupancy Tax (“TOT”) from its current rate of 10%. The Committee reviewed TOT rates for all Los Angeles County cities (Attachment “E”). TOT rates in Los Angeles County cities range from 5% to 15%, with the vast majority of cities in the 10% - 12% range. By a 4-2 vote, the Committee agreed that the TOT should be raised to 12%. By increasing the rate to 12%, Arcadia will have a TOT rate similar to San Gabriel Valley cities like Alhambra, Monrovia, Monterey Park, Pasadena, San Dimas, and San Gabriel. The Committee members casting dissenting votes believed the subject of increasing the tax was outside the scope of the Committee and would have negative economic consequences on hotel operators and the tourism economy in Arcadia.

An increase in the TOT rate from 10% to 12% would generate an estimated additional \$730,000 in annual revenue.

November 2022 Ballot Questions & Outreach

The Committee was also asked to recommend how many items and in what manner should the various proposals be placed before voters. Given the significance of the changes to the Charter, the Committee recommends that a single question be placed before the voters to adopt the Charter as proposed. The City Council also has the ability to place several questions on the ballot relating to the amendments if they believe that Arcadia voters should decide on specific matters separately. While this is an option, it is not without its drawbacks as voter fatigue and confusion may be mitigating factors for voter participation. Regarding the tax measures, the Committee recommends placing the sports wagering tax on the ballot in November 2022 and deferring the TOT increase to a later date.

The City cannot advocate for or against any particular initiative but does have an obligation to present facts and impartial analysis about the pros and cons of each

measure to Arcadia voters. In that regard, the City would conduct outreach similar to the effort for the Measure A sales tax increase adopted by Arcadia voters in June 2019 for any initiatives the City Council decides to move forward with.

Next Steps

The City Council is requested to amend or approve the recommendations provided by the Charter Review Committee. Additional study sessions can be scheduled if the City Council requires more time or information to deliberate on these items.

Once a final series of Charter amendments has been agreed to, two public hearings must be held to receive public input on the proposed amendments. The public hearings require posting notices for 21 days and publishing notices 14 days prior to the hearings. There is sufficient time before the mid-August deadline to place a measure on the ballot to conduct the City Council review and required public hearings. Below is a proposed summary of events:

March 18, 2022 – City Council Study Session
April 2022 (TBD) – City Council Study Session (if necessary)
May 3, 2022 – First Public Hearing
June 7, 2022 – Second Public Hearing, Call for Election/Ballot Measures
July 16, 2022 – Last Day to Call for an Election (E-114)
August 11, 2022 – Last Day to Place Measure on Ballot (E-88)

ENVIRONMENTAL ANALYSIS

The proposed action does not constitute a project under the California Environmental Quality Act (“CEQA”), and it can be seen with certainty that it will have no impact on the environment. Thus, this matter is exempt under CEQA under Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines.

FISCAL IMPACT

The costs of placing the Charter amendment on the November 8, 2022, ballot is estimated at \$119,600. For two measures, the estimated cost is \$136,000 or \$68,000 per measure. For three measures, estimated cost is \$144,000 or \$48,000 per measure. Staff is also researching election consultant costs to assist with communication and outreach for any measures approved by the City Council for placement on the ballot. The costs for the November 8, 2022, election will be included in the Fiscal Year 2022-23 budget.

RECOMMENDATION

It is recommended that the City Council determine that this action is exempt under CEQA; adopt the recommendations of the Charter Review Committee, providing direction on

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outstanding Charter Amendment questions; and direct staff to bring forward the documents necessary to adopt the proposed Charter amendments and/or ballot measures for community ratification at the November 8, 2022, General Municipal Election.

Attachments: Attachment "A" – Amended Charter (red-lined)

Attachment "B" – Amended Charter (clean)

Attachment "C" – City Council Compensation Matrix

Attachment "D" – Section 404. Mayor – Mayor Pro Tem Procedure

Attachment "E" – Transient Occupancy Tax ("TOT") Rates