

Proposition D: City of Carlsbad Charter

Board Recommendation:

SUPPORT

Rationale:

The ability to gain Charter status will allow the City of Carlsbad to hold greater control and flexibility in their decision-making while holding those officials accountable for those decisions. This includes negotiating contracts for goods and infrastructure in a manner that reduces both time and cost, allowing for savings that may be used for other essential services and reduce the burden on taxpayers. While SDCTA supports the general concept of home-rule, the inclusion of the description of the municipal governance structure within the language of the Charter is recommended.

Background:

In 2007, Council directed staff to investigate the benefits of the Charter form of city government. Council received the findings of the “Charter City Evaluation and Analysis Report” during a Council Workshop on October 17, 2007. On February 5, 2008, Council unanimously voted to place this measure on the June 3, 2008 ballot, as well as allocate funding for education efforts to educate citizens of the charter ballot measure.

Ballot Measure:

The question before voters will read:

“Shall the proposed City Charter of the City of Carlsbad be adopted?”

General Law Cities vs. Charter Cities

The City of Carlsbad currently has a General Law form of government. The General Law form of government gives cities the power to act on matters based on the authority given to them by the state legislature and constitution. A Charter form of government has a set of bylaws, a “charter”, which acts as a local constitution for the city. This Charter can only be adopted, amended or repealed by a majority vote of the residents within the city.

The State Constitution and the State Legislature govern General Law cities, while only the State Constitution governs Charter cities. Currently 109 of the 478 cities in California have adopted this Charter form of government. Of the 18 cities within San Diego County, currently five (Chula Vista, San Diego, San Marcos, Del Mar and Vista) have charter status.

A primary reason cities adopt a Charter is to expand and strengthen “Home Rule”. Home Rule refers to the relative degree of decision-making authority on local or municipal affairs.¹

¹ City of Carlsbad Staff Report. February 5, 2008.

However, the California Constitution does not define “municipal affairs”. The court system has determined the powers of a Charter city do not extend to areas of “state-wide” concern. These areas include traffic regulation, regulation of school systems and environmental regulations. Examples of municipal affairs include construction and maintenance contracting, land use, city finances, state mandates and city government structure.

Table 1 below outlines key differences between a General Law city and a Charter city.

Table 1
General Law City v. Charter City

Characteristic	General Law City	Charter City
Form of Government	State law authorizes cities be governed by a city council of five members, a city clerk, a city treasurer, a police chief, a fire chief and any subordinate officers or employees as required by law	Any form of government including the "strong mayor" and "city manager" forms
City Council Member Qualifications	Minimum qualifications are: 1. US citizen 2. 18 years old 3. Registered voter 4. Resident of city at least 15 days prior to election and throughout term 5. Resident of district if elected to serve district	Can establish own criteria for city office provided it does not violate US Constitution
Public Contracts	Competitive bidding required for public works contracts over \$5,000. Such contracts must be awarded to the lowest responsible bidder	Not required to comply with bidding statutes provided the city charter or a city ordinance exempts the city from such statutes. Example: A Charter city may tailor the selection methodology to best suit the needs of the project, or utilize "design-build" for constructing public works
Payment of Prevailing Wages	Prevailing wages must be paid on public works projects over \$1,000. Higher thresholds apply if the public entity adopted a special labor compliance program	Not bound to apply prevailing wage so long as the project is a municipal affair, and not funded by state or federal grants
Zoning	Zoning ordinances must be consistent with general plan	Zoning ordinances are not required to be consistent with general plan unless the city has adopted a consistency requirement by charter or ordinance

Charter and City of Carlsbad

The “Charter City Evaluation and Analysis Report” outlined areas that are of special interest in the city’s attempt to achieve Charter status. These areas include:

- Construction and Maintenance Contracting
- Housing and Land Use
- Municipal Finance Affairs

Construction and Maintenance Contracting

Municipalities such as the City of Vista have placed within their Charter a provision exempting the city from all California statutes regulating public contracting and purchasing.² The City of Carlsbad has decided to analyze projects on a case-by-case basis to determine the necessity of providing a prevailing wage on such projects. The adoption of a Charter will also allow the city to determine the methodology for awarding contracts, as well as the opportunity to utilize the “design-build” process.

Housing and Land Use

In 1986, Carlsbad voters passed Proposition E, limiting growth and restricting the development of projects that will put a burden on public facilities. Under this ordinance, a limit was placed on the number of residential building permits that could be approved in each of the four quadrants of the city. The measure also established the principle that “no project could exceed the “growth management control point” for a site unless another site had first underutilized development and the excess units could be transferred to the first site.”

Under a General Law city, the State Legislature may adopt certain land use regulations that could override measures passed by voters. Conversely, if a Charter city adopts a regulation which conflicts with these State laws, then a court must determine whether the regulation is a municipal affair or a matter of statewide concern.³ Essentially, this provision of the Charter will make it more difficult for the courts to overturn Proposition E if a lawsuit is filed.

Municipal Finance Affairs

Though state law regulates many areas of municipal finance, four areas remain as municipal affairs and allow Charter cities greater flexibility in financial matters: (1) assessment district financing; (2) issuance of debt; (3) penalties for the violation of local ordinances; and (4) how the city chooses to spend tax dollars. Despite state statutes authorizing assessment district financing for public works projects, a Charter city may adopt or increase special benefit assessments of property not covered by state assessment statutes for public improvements not allowed by state law. Any creation or increase of a district requires a Proposition 218 notice.

Through these assessment districts, a Charter city is not restricted to the state statutes that provide for the issuance of municipal bonds. However, the debt limit outlined in the Constitution does apply to Charter cities. State law does not apply to the maximum amount enforceable for criminal violations. The maximum penalty a Charter city may impose is only restricted by the Constitutional requirement that it not be excessive. Finally, the expenditure of general fund monies has generally been interpreted as a municipal affair, allowing Charter

² City of Vista Charter. Section 300.

³ “Charter City Evaluation and Analysis Report”. pg. 8. October 17, 2007.

cities flexibility in funding programs such as the public financing of local election campaigns. General law cities are limited to the types of expenditures allowed.⁴

Fiscal Analysis:

The attempt to garner Charter status does not derive from the ability to save dollars on the building of infrastructure, but rather gain control of municipal affairs. Currently two public works projects are expected to be constructed between 2009 and 2010, the Alga Norte Swim complex and the Joint First Responders Training Complex. The Alga Norte Swim Complex has an estimated cost of approximately \$40 million while the Training Complex has an estimated cost of approximately \$24 million. As was the case in the City of Vista, city staff began the process of constructing numerous projects due to the passage of a sales tax increase. The ability to gain Charter status allowed millions of dollars in cost savings due in part to the ability to forego paying prevailing wages on public works projects. The City of Carlsbad will not experience this level of cost savings for these two projects.

The cost to place the measure on the June ballot is estimated at \$65,000. An additional \$45,000 was allocated for City education efforts to educate citizens of the Charter measure.

Proponents:

- Mayor Bud Lewis
- Carlsbad City Council

Opponents:

- There are no opponents for this measure

⁴ Ibid. pg. 10.