

M E M O R A N D U M

DATE: December 16, 2009

TO: Honorable Mayor and Councilmembers

FROM: Patricia Allison, City Manager's Office

SUBJECT: **REQUEST BY COUNCILMEMBER FELLER FOR DISCUSSION OF A PROPOSED CITY CHARTER FOR THE CITY OF OCEANSIDE AND ADOPTION OF ALL NECESSARY RESOLUTIONS TO CALL A SPECIAL ELECTION ON JUNE 8, 2010 FOR ADOPTION OF THE CITY CHARTER**

Backup material for this item, if any, will be distributed separately.

MEMORANDUM

DATE: December 10, 2009
TO: Mayor and Council Members
FROM: Council Member Jack Feller
SUBJECT: Back up material for Item 31

Attached please find the back-up material for my item 31 on the December 16, 2009 City Council agenda.

CHARTER OF THE CITY OF OCEANSIDE

PREAMBLE

WE THE PEOPLE of the City of Oceanside 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 Oceanside.

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 or concern, the performance of which is unique to the benefit of the citizens of the City of Oceanside.

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 Oceanside. The boundaries of the City of Oceanside 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 statues 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 public contracting.

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, prehire 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, redevelopment project, or other facility owned or to be owned or to be contracted for by the City of Oceanside or the Redevelopment Agency of the City of Oceanside, that is paid for in whole or in part with tax revenue paid by residents of the City of Oceanside; or (2) Any other construction service or nonconstruction service.

Section 305. Voluntary Employee Political Contributions

Unless otherwise required by law, neither the City, nor its agents, shall deduct from the wages, earnings or compensation of any City employee any political contributions unless the employee has first presented, and the City has received, a signed written authorization of such deductions, which authorization must be renewed annually and may be revoked by the employee at any time by giving written notice of such revocation to the City.

**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.

**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 Jim Wood and City Clerk Barbara Riegel Wayne.

Date of Municipal Election: June 8, 2010.

Jim Wood, Mayor

Barbara Riegel Wayne, City Clerk

1 RESOLUTION NO. _____

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 OCEANSIDE, CALIFORNIA, CALLING AND GIVING NOTICE
4 OF THE HOLDING OF THE SPECIAL MUNICIPAL ELECTION
5 TO BE HELD IN THE CITY ON TUESDAY, _____, 2010, AND
6 APPROPRIATING FUNDS FOR COMMUNICATION ACTIONS

7 WHEREAS, under the provisions of the laws relating to general law cities in the State
8 of California, a Special Municipal Election shall be held on _____, 2010, for the purpose
9 of submitting a proposed measure regarding a Charter City to the qualified voters of
10 Oceanside

11 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oceanside,
12 California, as follows:

13 1. That the above recitations are true and correct.

14 2. That pursuant to the requirements of the laws of the State of California relating
15 to general law cities, there is called and ordered to be held in the City of Oceanside,
16 California, on Tuesday, _____, 2010, a Special Municipal Election for the purpose of
17 submitting a proposed measure regarding a Charter City to the qualified voters of Oceanside.

18 3. That the City Council, pursuant to its right and authority, does order submitted to
19 the voters at the Special Municipal Election the following question:

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Shall the proposed City Charter of the City of Oceanside be adopted?	Yes No
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24 4. That the text of the proposed measure shall be submitted to the voters and is
25 attached as Exhibit A.

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27 5. That the ballots to be used at the election shall be in the form and content as
28 required by law.

1 6. That the City Clerk is authorized, instructed and directed to procure and furnish
2 any and all official ballots, notices printed matter, and all supplies and equipment that may be
3 necessary in order to properly and lawfully conduct the election.

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5 7. That the polls for the election shall be open at seven o'clock a.m. of the day of
6 the election and shall remain open continuously from that time until eight o'clock p.m. of the
7 same day when the polls shall be closed, except as provided in Section 14401 of the
8 Elections Code of the State of California.

9 8. That in all particulars not recited in this resolution, the election shall be held and
10 conducted as provided by law for holding municipal elections.

11
12 9. That notice of the time and place of holding the election is given and the City
13 Clerk is authorized, instructed and directed to give further or additional notice of this election,
14 in the time, form and manner as required by law.

15 10. That the City Clerk shall certify to the passage and adoption of this Resolution;
16 and shall enter the same in the file of Original Resolutions.

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18 11. That the City Council appropriates up to \$45,000 from the City Council General
19 Fund Balance for planned communication actions to educate citizens regarding the ballot
20 measure.

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22 BE IT FURTHER RESOLVED that the City Clerk of the City of Oceanside is hereby
23 directed to deliver copies of this Resolution to the Clerk of the Board of Supervisors of the
24 County of San Diego and to the Registrar of Voters of the County of San Diego.

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1 PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council
2 of the City of Oceanside on the ___ day of _____, 20___, by the following vote to wit:

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4 AYES:

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6 NOES:

7 ABSENT:

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JIM WOOD, Mayor

ATTEST:

BARBARA RIEGEL WAYNE, City Clerk
(SEAL)

- 1 1. Furnish a tabulation of the number of registered voters in each precinct.
- 2 2. Establish voting precincts, secure locations for polling places, secure the
- 3 services of election officers for each precinct as required by law, and furnish a list of
- 4 precincts, polling places and election officers for filing in the Office of the City Clerk of
- 5 the City of Oceanside.
- 6 3. Prepare and furnish to the election officers, necessary election supplies for
- 7 the conduct of the election.
- 8 4. Cause to be printed the requisite number of sample ballots, official ballots,
- 9 polling place slips, rosters, tally sheets and other necessary forms.
- 10 5. Furnish and address the envelopes necessary to mail sample ballots to
- 11 the registered voters of the City of Oceanside.
- 12 6. Insert the sample ballots and other printed matter into envelopes for
- 13 mailing and cause the same to be mailed, as required by law.
- 14 7. Assemble the election material and supplies into ballot bags and make
- 15 necessary arrangements for their delivery to the various precincts.
- 16 8. Distribute absent voter ballots as required by law.
- 17 9. Receive the returns of the elections and supplies.
- 18 10. Sort and assemble the election material and supplies in preparation for
- 19 canvassing of the returns of the election.
- 20 11. Canvass the returns of the elections, including the vote by mail ballots.
- 21 12. Furnish a tabulation of the number of votes given in each precinct.
- 22 13. Make all arrangements and take the necessary steps to pay the members
- 23 of the precinct boards, the polling place rentals, the persons returning the ballot bags,
- 24 and to pay all other costs of the election incurred as the result of services performed for
- 25 the City of Oceanside for the election officials the amounts prescribed by the Board of
- 26 Supervisors of the County of San Diego.

27 BE IT FURTHER RESOLVED that pursuant to the requirements of the laws of

28 the State of California relating to General Law Cities within the State, the election of the

1 qualified electors of the City of Oceanside was called for the purpose of the election of
2 allowing the voters of Oceanside to ratify the City of Oceanside becoming a charter
3 city.

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5 BE IT FURTHER RESOLVED that the Board of Supervisors of the County of
6 San Diego is hereby requested to consolidate this election with the other elections to
7 be held on the same day, in the same territory, or in territory that is in part the same.

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9 BE IT FURTHER RESOLVED that if this consolidation is ordered, then pursuant
10 to Section 10402 of the Elections Code (a), the election shall be held in all respects as
11 if they were only one election; (b) only one form of ballot shall be used; and (c) the
12 Registrar of Voters of the County of San Diego shall canvass the returns of the subject
13 election as part of the canvass of the returns of the election or elections consolidated
14 hereby.

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16 BE IT FURTHER RESOLVED that if this consolidation is ordered, then pursuant
17 to Section 10403 of the Elections Code, within the territories affected by this order of
18 consolidation, the election precincts, polling places, voting booths and polling hours
19 shall, in every case be the same, and there shall be only one set of election officers in
20 each of the precincts.

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22 BE IT FURTHER RESOLVED that the County of San Diego shall be reimbursed
23 in full for the services performed by the Registrar of Voters for the City of Oceanside
24 upon presentation of a bill for them.

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26 BE IT FURTHER RESOLVED AND ORDERED that the City Clerk of the City of
27 Oceanside is hereby directed to deliver this Resolution to the Clerk of the Board of
28 Supervisors of the County of San Diego and to the Registrar of Voters of the County of
San Diego.

1 PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the
2 City of Oceanside on the ____ day of _____, 20__, by the following vote to wit:

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AYES:

NOES:

ABSENT:

JIM WOOD, Mayor

ATTEST:

BARBARA RIEGEL WAYNE, City Clerk
(SEAL)

1 RESOLUTION NO. _____

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 CARLSBAD, CALIFORNIA, AUTHORIZING CERTAIN MEMBERS
4 TO FILE A WRITTEN ARGUMENT REGARDING THE
5 PROPOSED CHARTER CITY QUESTION

6 WHEREAS, a Special Municipal Election is to be held in the City of Oceanside, California,
7 on _____, 2010, at which there will be submitted to the voters the following measure:

8 Shall the proposed City Charter of the	Yes
9 City of Oceanside be adopted?	No

10 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oceanside,
11 California, as follows:

- 12
- 13 1. That the City Council authorizes the following Council Members:
- | | |
|-------------------------------------|---------------------------------------|
| 14 <u>Jim Wood, Mayor</u> | <u>Jack Feller, Councilmember</u> |
| 15 <u>Jerry Kern, Councilmember</u> | <u>Esther Sanchez, Council Member</u> |

16 to file a written argument, not to exceed 300 words, accompanied by the printed name(s) and
17 signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the
18 Elections Code of the State of California and to change the argument until 5:00 p.m. on
19 _____, 2010, as fixed by the City Clerk after which no arguments for or against the measure
20 may be submitted to the City Clerk.

- 21 2. That the City Clerk shall certify to the passage and adoption of the Resolution.

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1 PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council
2 of the City of Oceanside on the _____ day of _____, 2010 by the following vote to wit:

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5 AYES:

6 NOES:

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8 ABSENT:

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13 _____
14 JIM WOOD, Mayor

15 ATTEST:

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18 BARBARA RIEGEL WAYNE, City Clerk
19 (SEAL)
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1 RESOLUTION NO. _____

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 OCEANSIDE, CALIFORNIA, DIRECTING THE CITY ATTORNEY
4 TO PREPARE AN IMPARTIAL ANALYSIS OF A CITY MEASURE

5 WHEREAS, a Special Municipal Election is to be held in the City of Oceanside,
6 California on _____, 2010, at which there will be submitted to the qualified voters
7 the following measure, to wit:

8 Shall the proposed City Charter of the	Yes
9 City of Oceanside be adopted?	No

10 WHEREAS, the City Council desires to have an impartial analysis prepared
11 showing the effect of the measure on existing law and the operation of the measure;

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13 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
14 Oceanside, California, as follows:

- 15
- 16 1. That the City Council directs the City Clerk to transmit a copy of the
 - 17 measure to the City Attorney.
 - 18 2. Pursuant to the provision of Section 9280 of the Elections Code of the
 - 19 State of California, this City Council does direct the City Attorney to
 - 20 prepare an impartial analysis of the measure showing the effect of the
 - 21 measure on the existing law and operation of the measure.
 - 22 3. That the impartial analysis shall not exceed 500 words in length.
 - 23 4. That the impartial analysis shall be filed in the Office of the City Clerk by
 - 24 the date and time set by the City Clerk for the filing of rebuttal arguments.
 - 25 5. That the City Clerk shall certify to the passage and adoption of this
 - 26 Resolution; and shall enter the same in the file of Original Resolutions.

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1 PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council
2 of the City of Oceanside on the ____ day of _____, 2010 by the following vote to wit:

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AYES:

NOES:

ABSENT:

JIM WOOD, Mayor

ATTEST:

BARBARA RIEGEL WAYNE, City Clerk
(SEAL)

1 RESOLUTION NO. _____

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 OCEANSIDE, CALIFORNIA, PROVIDING FOR THE FILING
4 OF REBUTTAL ARGUMENTS FOR MEASURES
5 SUBMITTED AT MUNICIPAL ELECTIONS

6 WHEREAS, Section 9285 of the Elections Code of the State of California
7 authorizes the City Council, by majority vote, to adopt provisions to provide for the filing
8 of rebuttal arguments for measures submitted a municipal elections;

9 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of
10 Oceanside, California, as follows:

11 1. That the above recitations are true and correct.

12 2. That pursuant to Section 9220 of the Elections Code of the State of
13 California, rebuttal arguments, not to exceed 250 words, shall be filed with the City
14 Clerk, signed, with the printed name(s) and signature(s) of the person(s) submitting it,
15 or if submitted on behalf of an organization, the name of the organization, and the
16 printed name and signature of at least one of its principal officers, not more than 10
17 days after the final date for filing direct arguments. Rebuttal arguments are due by
18 5:00 p.m. on _____, 2010, as fixed by the City Clerk. Rebuttal arguments shall be
19 printed in the same manner as the direct arguments. Each rebuttal argument shall
20 immediately follow the direct argument which it seeks to rebut.

21 3. That the provisions listed above shall apply only to the election to be held
22 on _____, 2010.

23 4. That the City Clerk shall certify to the passage and adoption of this
24 Resolution.

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1 PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council
2 of the City of Oceanside on the ____ day of _____, 2010 by the following vote to wit:

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AYES:

NOES:

ABSENT:

ATTEST:

JIM WOOD, Mayor

ATTEST:

BARBARA RIEGEL WAYNE, City Clerk
(SEAL)