

Escondido City Council Public Comment and Workshop

Charter City Proposal

September 28, 2011



What is the Difference Between a Charter City and a General Law City?

- * Escondido is currently a general law city and derives its powers from general laws enacted by the State legislature, i.e. must follow state law.
- * Charter cities operate under the provisions of a Charter, (a written document approved by the local voters) which operates as the “constitution” for the city. Charter cities derive their corporate powers from the state constitution, and can apply own local laws but not on “matters of statewide concern.”

```
graph TD; A[Constitution] --> B[Legislature]; B --> C[General Law Cities]; A --> D[Charter Cities]; B -.- D;
```

Constitution

Legislature

General Law
Cities

Charter Cities

In California – 120 of 477 are charter cities.
In San Diego County – 7 of 18 are charter cities.

CHARTER CITIES

- * Vista
- * Carlsbad
- * Oceanside
- * Del Mar
- * Chula Vista
- * San Marcos
- * San Diego

A Charter is a Written Document that:

- * Must be approved by the voters
- * Operates as a “constitution” for the City
- * Gives City the power to make and enforce all ordinances and regulations with respect to municipal affairs

Cal. Const. Art. XI, Section 5(a)

- * The “home rule” provision gives a charter city supremacy over “municipal affairs”
- * Municipal Affairs (Charter City governs) v. matter of “statewide concern” (State Law governs)
- * Whether a “municipal affair” or “matter of statewide concern” is ultimately decision for the courts to resolve on a case by case basis

Matters Considered “Municipal Affairs” Include:

- Compensation of City officers and employees
- Processes associated with City contracts, including payment of prevailing wages for public works projects
- Financing public improvements
- Term limits for Councilmembers
- Land use and zoning decisions (with a few exceptions)
- Municipal elections
- Initiative, referendum and recall procedures
- Procedures for adopting Ordinances
- Taxation

“Matters of Statewide Concern” Include:

- * School systems
- * Traffic and vehicle regulation
- * Licensing of members of a trade or profession
- * Tort claims against a governmental entity
- * Open and public meetings
- * Exercise of power of eminent domain
- * Meyers-Milias-Brown Act, Peace Officers Procedural Bill of Rights, Firefighters Procedural Bill of Rights

The Prevailing Wage Issue:

- Historically, charter cities can avoid paying prevailing wages in local public works contracts that do not receive state or federal funds
- Growing trend for courts and State legislature to expand applicability of prevailing wages to charter cities
- California Supreme Court will resolve this issue in case involving City of Vista

The Vista Litigation

- * City of Vista became a charter city on June 13, 2007 and adopted an ordinance exempting the City from prevailing wage on City projects
- * After, City began construction on several capital projects and did not pay prevailing wage
- * Litigation ensued and Vista prevailed in the lower courts
- * California Supreme Court granted review of the lower court's ruling on August 20, 2009
- * Matter has yet to be decided.....

Cost Savings to City if Charter Eliminates State Prevailing Wage Requirements

- * Total construction projects currently projected at \$163 million for next 5 years
- * Estimated savings of 5% to 10% which could be as much as \$16 million total
- * Note: Receipt of state or federal grant funds may require prevailing wage

Status of Project Labor Agreements (PLA) Pending Legislation SB 922

- * SB 922 prohibits public agencies from having an ordinance that bans consideration of a PLA and withholds state funding for projects in charter cities that ban PLA's
- * League of California Cities opposes
- * Governor will likely sign
- * Litigation challenging legality of SB 922 likely

Process Used to Adopt Charter

- * City Council may draft Charter or Charter Commission elected by the voters to draft Charter
- * Must submit to voters for adoption at regular or special election (AB 1344)
- * Majority of voters must vote in favor of proposed charter
- * Cost for Public Education (Community Mailer \$13,200)
- * Estimated Cost of Primary Election 2012
 - (\$56,000-\$83,000)
- * Estimated Cost of General Election 2012
 - (\$26,000-\$31,000)

Trend with North San Diego County Cities

North County cities have used a short, simplified charter document

- * Carlsbad
- * Del Mar
- * Oceanside
- * San Marcos
- * Vista

Consistent with Other Local Charters, City Draft Charter Can Include:

- * Restate doctrine of *Municipal Affairs*
- * Council-Manager form of government
- * Fiscal matters:
 - * No prevailing wage or project labor agreements
 - * Fair and open competition
 - * Voluntary employee political contributions
 - * Revenue retention/state mandates limited
 - * Councilmember compensation governed by state law limits

Next Steps

- * Consider public comments
- * Prepare a Charter
- * Place Charter on the ballot
- * Election