

City of El Cajon Agenda Report

MEETING: Aug. 9, 2016

ITEM NO: 101



TO: Mayor Wells, Mayor Pro Tem Ambrose
Council Members Bales, Kendrick, McClellan

FROM: Morgan Foley, City Attorney

SUBJECT: Consider Proposed Ballot Measure to Amend the City Charter
to Provide for District Elections

RECOMMENDATION: That the City Council

- **Opens the Public Hearing and receives testimony;**
- **Closes the Public Hearing;**
- **Adopts the next RESOLUTIONS, in order, as follows:**

1. A Resolution of the City Council of the City of El Cajon, California ordering placement of a measure on the ballot for the November 8, 2016 General Municipal Election to submit an amendment to the Charter of the City of El Cajon to the qualified electorate relating to conducting elections of Council Members by districts;
2. A Resolution of the City Council of the City of El Cajon, California to establish priorities for filing a written argument(s) regarding a measure and authorizing any member or members of the City Council to file a written argument for or against the measure and directing the City Attorney to prepare an impartial analysis to a City measure; and
3. A Resolution of the City Council of the City of El Cajon, California allowing the submittal of rebuttal arguments to a measure.

BACKGROUND:

At its meeting of July 14, 2015, the City Council, based on a recommendation by Mayor Wells (see attached July 14, 2015 staff report), directed staff to investigate options for creating a Council sponsored ballot measure to be placed on the November 2016 ballot amending the Charter of the City of El Cajon (“Charter”) in order to establish district elections in the City of El Cajon.

On March 8, 2016, the City Council selected National Demographics Corporation to provide mapping and demographic services and on July 12, 2016, the Council selected the Institute for Local Government to provide public relations and outreach services.

At its July 26, 2016 meeting (see attached July 26, 2016 staff report), the City Council further directed that the City Attorney, in consultation with the City Manager and the City's consultant team to prepare a recommended title and language for the proposed measure for the City Council's consideration.

Prior to the City Council meeting of this date, City staff and the consultant team invited key community leaders and representatives of organizations who operate within the City of El Cajon to a series of information meetings on August 3rd and 4th. Further a general public information meeting was held on the evening of Thursday, August 4th. Input from these meetings is being provided at this meeting form the City Council's consideration.

DISCUSSION:

The City of El Cajon is a charter city. The Charter of the City of El Cajon, Article 8, Section 800 provides that the Charter may be amended by a majority vote of the electorate voting on a question. An amendment to the Charter may be proposed by the governing body of the City.

Accordingly, the City Council is sponsoring a measure, (see attached proposed resolutions) developed in consultation with the City Attorney, the City Manager and the City's consultant team and taking community feedback into account, to amend Section 201 of the Charter to provide for election of Council Members by the voters in each of four (4) districts to be established, and (if necessary) modified from time to time according to the federal decennial census, beginning with the census of 2010. (Other circumstances may warrant redistricting efforts in between each federal decennial census; for example, a significant annexation, changed circumstances, court order, etc.) The district elections would apply beginning the general municipal election in 2018.

The districts will be as nearly equal in population as may be according to the census, taking into consideration such matters including topography, geography, cohesiveness, contiguity, integrity and compactness of territories, as well as communities of interest. The stated purpose of this type of voting method is to offer improved opportunities for representation of minority voters in electing Council Members.

A General Municipal Election has been called and ordered to be held on November 8, 2016 by Resolution No. 046-16. If the language of the proposed amendment to the Charter is approved by the City Council, the measure will be placed on the ballot and submitted to the voters to approve or disapprove by majority vote at the November 8, 2016 General Municipal Election. Further, if the proposal to amend the Charter is approved by the City Council, it is required that the City Council take certain actions with respect to placing the amendment before the voters,

setting the priorities for filing written arguments, directing the City Attorney to prepare an impartial analysis, and providing for the filing of rebuttal arguments for the ballot measure.

Under consideration would be the following questions:

Does the City Council wish to allow its members to submit an argument in favor or against the measure?

The law allows the City Council to authorize Council Members to author arguments in favor of, or against, the measure. It is not necessary to identify which Council Members will make such arguments, and it is not necessary that Council Members should be limited to one side or the other of the measure.

Whether Council Members are authorized to file written arguments, the City Council must also consider if rebuttal arguments are to be allowed. If so, staff recommends the Council authorize the same individual or group writing the argument in favor of or against the measure, also be authorized to write the rebuttal.

Arguments in favor or against are not to exceed 300 words in length. (Elections Code section 9282.)

Does the City Council wish to allow rebuttals to the arguments in favor of or against the measure?

Rebuttal arguments are only allowed if the City Council approves having them in the election materials. If rebuttal arguments are allowed they may not exceed 250 words in length (Elections Code section 9285). Arguments and rebuttals may not be signed by more than five persons.

Since the City will be consolidating the election with San Diego County Registrar of Voters for the statewide General Election, the deadlines for the submittal of arguments and rebuttals will be the same deadlines as set by the Registrar of Voters as follows:

August 24 Arguments in favor of OR against a ballot measure are due at the City Clerk's office. (Elections Code section 9286(b).)

August 25 City Clerk to "trade" direct arguments with author from each side for preparation of rebuttals.

September 1 Rebuttal arguments due at the City Clerk's office.

FINDINGS:

No special findings are required for the adoption of these resolutions.

FISCAL IMPACT: According to the San Diego County Registrar of Voters office, the estimated cost of placing a ballot measure on the November 8, 2016 General Municipal Election would be between \$20,000 and \$30,000. The appropriation of \$110,000 for this expenditure (as well as council member elections) is already included in the FY 2016-17 Budget (Account No. 107000-8535).

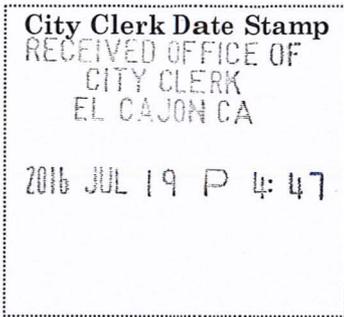
PREPARED BY:



Morgan L. Foley
CITY ATTORNEY

Attachments:

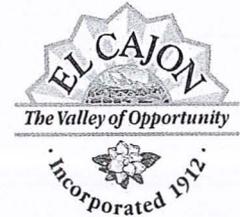
1. July 14, 2015 staff report.
2. July 26, 2016 staff report.
3. Resolution ordering submission of measure to voters.
4. Resolution setting priorities for arguments; requesting impartial analysis.
5. Resolution providing for the filing of rebuttal arguments.



City of El Cajon Agenda Report

MEETING: 7/26/16

ITEM NO: 4.1



TO: Mayor Wells, Mayor Pro Tem Ambrose
Councilmembers Bales, Kendrick, McClellan
FROM: Douglas Williford, City Manager *DW*

SUBJECT: Status Report on District Election Process

RECOMMENDATION: No Action required.

BACKGROUND:

At its meeting of July 14, 2015, the City Council, based on a recommendation by Mayor Wells (see attached staff report), directed staff to investigate the options involved with creating a City-sponsored ballot measure for the November 2016 general municipal election amending the charter in order to establish district elections within the City of El Cajon. On November 10, 2015, the City Council appointed Mayor Wells and Councilmember Kendrick to participate on an interview board for potential consultants to assist the City of El Cajon with the district election process. This interview board also included City Manager Douglas Williford, City Attorney Morgan Foley, and Assistant to the City Manager, Brett Channing.

On March 8, 2016, the City Council selected National Demographics Corporation (NDC) to provide mapping and demographic services and then on July 12, 2016, the Council selected the Institute for Local Government (ILG) to provide public relations and outreach services.

NEXT STEPS

If the proposed measure is to appear on this November's ballot, the City Council will need to approve specific language for the ballot at its next regularly scheduled meeting of August 9, 2016. The City Attorney, in consultation with the City Manager and the City's consultant team, will prepare a recommended title and language for the proposed measure for the City Council's consideration.

At this point, the direction that is being considered for the proposed language is that the measure should be as brief and clear as possible, so as to avoid voter confusion and to ensure that a clear choice is presented to voters. City staff has learned from other's experiences that overly complex or detailed ballot measures tend to create opposition over details and can unnecessarily confuse the public.

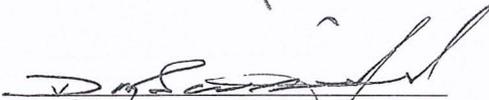
Beyond the basic question of whether the City Charter should be amended to provide for district elections or not, the proposed language is likely to include a limited number of provisions regarding the process and manner of how the public is to be engaged in the process and how the districts will be created for final City Council decision, in preparation for the first anticipated district election in November 2018.

Prior to August 9th, City staff and the consultant team will be inviting known key community leaders and representatives of organizations who operate within the City of El Cajon to a series of informational meetings on August 3rd and 4th. Further, a general public information meeting is planned for the evening of Thursday, August 4th and flyers and other forms of publicizing of this meeting are now being prepared. The input from these initial public meetings will be presented to the City Council at its meeting of August 9th.

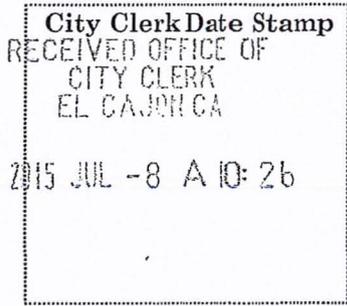
Assuming the City Council votes to approve language for the ballot measure at that meeting, then additional public meetings and informational strategies, including use of the City website and the September issue of the City Newsletter, will be utilized to inform the public of the ballot measure.

It is important to note that, based on State law; the City can use public funds to factually inform the public of the upcoming measure, but cannot use such funds to advocate for the measure.

PREPARED BY:



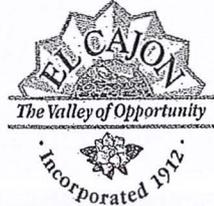
Douglas Williford
CITY MANAGER



City of El Cajon Agenda Report

MEETING: 7/14/15

ITEM NO: 6.3



TO: Mayor Pro Tem McClellan
Councilmembers Ambrose, Bales, Kendrick
FROM: Mayor Wells

SUBJECT: Proposal for a Ballot Initiative to Amend the El Cajon City Charter to Establish District Elections

RECOMMENDATION: That the City Council direct the City Manager and City Attorney to investigate the options involved in creating a City-sponsored measure for the November 2016 general municipal election amending the charter in order to establish district elections within the City of El Cajon and report back to the City Council in a timely manner.

BACKGROUND:

Since the California Voting Rights Act of 2001 was adopted, there has been a growing movement among cities and other governmental jurisdictions toward district elections throughout the State, particularly in communities with large diverse populations such as El Cajon. At present, El Cajon has "at large" elections, wherein the voters of the entire City elect the Mayor and all Councilmembers. With district elections, while the Mayor continues to be elected by all the City's voters, the four Councilmembers are each elected from four separate districts in the City. Typically only the voters in each particular district may vote for candidates who live in and seek to represent that district. The stated purpose of this type of voting method is to offer improved opportunities for representation of minority voters in electing Councilmembers.

For many communities, this has become a controversial and expensive issue, with much litigation and legal fees. Understandably, given that district elections represent a significant change in the traditional method of voting for Councilmembers, there has been opposition from many cities in moving to this form of voting. However, it must be recognized that virtually all cases that have been litigated have resulted in the city or special district in question being required by a court to move to district elections. Along with such an order comes an award of attorneys' fees, which must be paid by the governmental agency, and are normally in the \$500,000 to \$1,500,000 range. There are some cases that have resulted in much higher fees. There are no known exceptions to this result anywhere in the State.

This legislative year, the City has been closely monitoring multiple proposed bills (AB 277, AB 278 and SB 493) that all deal with various proposals to more specifically require more and more cities to establish district elections. While El Cajon's status as a charter

city may technically exempt our City from the provisions of some of these bills, it is nevertheless clear that despite our charter city status, El Cajon will soon need to move to district elections in order to be in the best position to defend against any claims that the City's method of selecting members of the City Council violates the Voting Rights Act. Evidence of this is the litigation involving the City of Palmdale, also a charter city, which was recently required by a court to establish district elections.

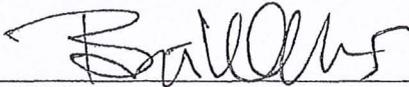
In examining the experience of other cities from around the State, we have two choices. Either wait until the City is legally challenged on this issue or proactively pursue district elections ourselves. To wait until we are legally challenged will likely result in significant legal fees, an uncertain process and community confusion. Rather than accept this path, I am recommending that the City Council take control of our City's future and consider placing the matter of district elections before the voters in 2016, with a goal of establishing such elections beginning in 2018. The City Council does not have the authority to establish district elections itself. It must be accomplished through a vote of the people.

I am, therefore, recommending that the City Council direct the City Manager and City Attorney to investigate the options involved with creating a City-sponsored measure for the November 2016 general municipal election amending the charter in order to establish district elections within the City of El Cajon and report back to the City Council in a timely manner.

FISCAL IMPACT:

There will be costs to the City in placing a voter initiative on the ballot. In addition, the creation of district elections will incur costs to the City due to the process to create the districts and the full implementation of district elections themselves. Staff will present these cost estimates as part of their report back to the City Council.

PREPARED BY:



Bill Wells
Mayor