

## STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL**  
**FROM: ROBERT PERRAULT, CITY MANAGER**  
**SUBJECT: PROPOSED CITY CHARTER BALLOT MEASURE**

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### BACKGROUND

In California there are two forms of municipal government, general law cities and charter cities. **General law cities** derive their powers from the general laws adopted by the State Legislature and from the police powers granted in the State Constitution. Collectively, these laws serve as the constitution for general law cities like Grover Beach.

**Charter cities** derive their powers from the State's constitution, subject to enactments of the State Legislature on matters of statewide concern. Charter cities tend to maintain greater authority than general law cities over matters determined to be a municipal or local affair.

A definition for the term "municipal affair" will not be found in state law, but is typically defined by the Courts. Activities determined by the Courts to be municipal affairs include, but are not limited to, the following:

- Municipal elections;
- Land use;
- Purchasing, construction, and contracting procedures for local projects, goods, and services;
- City finances; and
- City government structure

Charters are authored by the local city council or by a local citizens committee and then submitted to the voters for approval. Once approved by the electorate, the charter serves as the City's constitution. Locally-drafted charters often incorporate the municipal affairs considered to be the most important to the local city. Charters will also contain policy statements that reflect the City's desire to separate itself from the State and protect the City from unfunded State required programs and mandates. This type of local legislation is often referred to as being in line with the principles of "home rule and self-governance".

Based on recommendations the Council received from an independent citizens committee that urged the Council to move forward with a charter initiative, the Council directed staff to develop a draft charter. The draft was first reviewed by the Council in early April. The Council subsequently modified the initial draft and directed staff to initiate the formal public hearing process required to be completed by state law prior to placing the matter before the voters.

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### APPROVED FOR FORWARDING



**ROBERT PERRAULT**  
**CITY MANAGER**

### Please Review for the Possibility of a Potential Conflict of Interest:

- |  |                                   |
|--|-----------------------------------|
| <input checked="" type="checkbox"/> None Identified by Staff | <input type="checkbox"/> Bright   |
| <input type="checkbox"/> Peterson                            | <input type="checkbox"/> Marshall |
| <input type="checkbox"/> Lee                                 | <input type="checkbox"/> Nicolls  |

Meeting Date: June 16, 2014

Agenda Item No. 3

The first Public Hearing was held on May 5, 2014. During the City Council meeting, the Council received public testimony and, at the conclusion of the public testimony, gave direction to further refine the draft Charter and schedule the next Public Hearing.

During the Public Hearing scheduled for June 16<sup>th</sup>, the Council will have the opportunity to receive additional public testimony and then further refine the draft Charter. The Council will also be in position to schedule a final public review of the draft document. Staff would recommend setting this final public review of the draft Charter for the regular City Council meeting to be held on Monday, July 7<sup>th</sup>. Following the completion of the public process, the Council will be in position to make a decision regarding the placement of the Charter on the November 2014 ballot. It should be noted, however, that the Council always has the option to abandon further consideration of the Charter at any point in the process.

### **DISCUSSION**

Attached for your review, the Council will find the draft Charter. (*Please see Attachment 1.*) This draft contains all of the key elements enumerated in the staff report dated May 5, 2014; (*please see Attachment 2*) and the direction provided at that last meeting. In addition to minor word changes, the direction dealt with the issue of prevailing wage requirements and exemptions. In accordance with state law, charter cities can exempt themselves from prevailing wage requirements for locally-funded construction projects, but would lose state funding if charter cities choose to take advantage of the exemption. For Grover Beach, it would be impractical to utilize this exemption, given the current status of the law. It should be noted State Law is always subject to further change by legislation or Court action. The Council has had significant discussion on this issue and has considered a variety of language options for inclusion in the draft Charter. These options have ranged from expressly supporting prevailing wage requirements in all cases to eliminating any reference to prevailing wage altogether in the document.

Language contained in **Section 301 Purchasing and Public Works Contracts** is considered by staff and the majority of the Council to be sufficiently broad and would provide the Council the flexibility to implement rules and regulations relative to the issue of contract employee compensation that is in keeping with the law and in the best interest of the City. It was the consensus of the Council to maintain this language and to strike through **Section 302 Prevailing Wage**, but leave it in the document for further discussion. This language, if retained, would *require* the payment of prevailing wage as compensation to all contractor employees working on such public works projects in accordance with current prevailing wage rates.

### **ALTERNATIVES**

The Council has the following alternatives to consider:

1. The Council could make additional changes to the draft City Charter and set the next public review of the Charter for the meeting to be held on Monday, July 7, 2014; or
2. The Council could determine to discontinue further consideration of the City Charter at this time; or
3. The Council could provide staff with additional direction.

### **RECOMMENDED ACTION**

It is recommended that the City Council make additional changes to the draft City Charter and set the next public review of the Charter for the City Council meeting to be held on Monday, July 7, 2014.

### **FISCAL IMPACT**

There will be some additional costs associated with publishing the Public Hearing notice and the preparation of City Council meeting materials.

### **PUBLIC NOTIFICATION**

The agenda was posted in accordance with the Brown Act.

In accordance with state law regarding proposed charters, a Public Hearing Notice was published once a week for two consecutive weeks at least 21 days prior to the Public Hearing on Friday, May 23, 2014 and Thursday, May 29, 2014 in *The Tribune*.

### **Attachments**

1. Revised Draft of the City Charter
2. City Council Staff Report regarding the Proposed City Charter, dated May 5, 2014  
(without attachments)

**PROPOSED CHARTER  
OF THE  
CITY OF GROVER BEACH**

**PREAMBLE**

**WE THE PEOPLE** of the City of Grover Beach declare our intent to establish a municipal constitution for our City that recognizes the principles of self-governance inherent in the doctrine of home rule. In adopting this charter, we recognize the best form of government is local government; it is prudent and necessary for the City to have maximum flexibility over its own municipal affairs and to separate the City from the State where permissible by law. We are sincerely committed to the belief that local government has the closest affinity to the people, and we are firm in the conviction that the maximum economic, fiscal, and policy-making independence of local government will better serve and promote the health, safety, and welfare of all the citizens of this City, we do hereby exercise the express right granted by the Constitution of the State of California to adopt this Charter for the City of Grover Beach.

**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 common law of the State of California, is hereby declared to be a municipal affair or concern, the performance of which is uniquely to the benefit of the citizens of the City of Grover Beach.

**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 Grover Beach. The boundaries of the City of Grover Beach shall continue as now established until changed in the manner authorized by law. The City shall remain vested with and shall continue to own, possess, control, and enjoy all property rights and rights of action of every nature and description owned, had, possessed, controlled or enjoyed by it when this Charter takes effect. It shall be subject to all debts, obligations, and liabilities which exist against the City when this Charter takes effect. All lawful ordinances, resolutions, rules and regulations, or portions thereof, in force when 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 City shall continue to be governed under this Charter by a "Council-Manager" form of government. The City Council will establish the policies for the governance of the City and the City Manager will carry out those policies.

#### Section 201. Elected Officials

The City Council shall consist of four (4) members and an elected Mayor, each elected at-large, and who shall be the sole elected officials of the City. The minimum qualifications for these offices shall be as provided by state law for general law cities, except candidates for said offices shall be residents of the City for a period of at least six (6) months prior to the election and throughout his or her term. Any vacancy in office shall be filled in the manner provided by state law. Annually, the Mayor shall appoint a Council Member to serve as Vice Mayor, with all the duties and responsibilities of that position. The Council and the Mayor shall conduct themselves in accordance with a Code of Ethics for Public Officials that shall be adopted by the Council through ordinance or resolution.

#### Section 202. Council Member Compensation

The salary of the Mayor and Council Members shall continue to be set pursuant to the law applicable to general law cities provided, however, that neither the Mayor nor any Council Member may receive a pension or unemployment insurance.

#### Section 203. Elections

Elections shall be conducted in accordance with the law applicable to general law cities. The powers of initiative, referendum, and recall shall apply in the City as they do in general law cities under the applicable provisions of state and federal law.

#### Section 204. Appointive Officers

The City Council shall appoint the City Manager and City Attorney, members of all Boards and Commissions, and such other subordinate officers as in their judgment may be deemed necessary, and fix their compensation.

All appointive officers shall, before entering upon the duties of their office, take the oath as prescribed for elective officers.

No provisions of this Charter shall be construed to prohibit the adoption of an ordinance providing for personnel, merit, civil service, or other system for the employment, tenure, discharge or retirement of employees.

#### Section 205. City Clerk

The City Clerk shall be the custodian of the seal of the City, and shall safely keep all books, records, and other documents required by this Charter or the laws of the State to be kept and filed in his/her office. He/She shall be the Clerk of the Council. He/She shall have the power to administer oaths. It shall be his/her duty to perform all acts required of the Clerk by this Charter, by ordinance, or by the laws of the State.

### **Section 206. City Attorney**

The City Attorney shall be an attorney-at-law, duly admitted to practice in the courts of this State, and having practice therein at least five (5) years. The City Attorney or his/her designee shall represent the City in all litigation, including the prosecution of criminal cases arising out of the violations of City ordinances. He / She shall be the legal advisor of the City Council, the City Manager, and all other officers, boards, and departments of the City, and shall give his/her opinion in writing when requested in writing by any officer or board. He / She shall draft all proposed ordinances or resolutions, when requested to do so by the City Council, and perform such other duties as may be prescribed by ordinance.

### **Section 207. City Manager**

The City Council shall appoint a City Manager. His / Her powers and duties shall be identified and defined in a resolution or an ordinance adopted by the City Council.

## **Article 3 Operational Provisions**

### **Section 300. Economic and Community Development**

The City shall encourage, support, and promote economic and community development, and preserve and enhance the beach-town character of Grover Beach.

### **Section 301. Purchasing and Public Works Contracts**

The City as a Charter City may exempt itself from the provisions of the California Public Contract Code and the City shall have the power to establish standards or regulations related to the purchasing of goods, property, and services including, but not limited to, the establishment of local preferences. "Public Works Contract" as used in this section, means an agreement for the erection, construction, alteration, repair or improvement of any public structure, building, road or other public improvement, of any kind. The City Council may establish by ordinance or resolution, all standards, procedures, rules or regulations to regulate all aspects of the bidding, award, compensation and performance of any Public Works Contract.

### **Section 302. Prevailing Wage**

~~All City contracts for public works projects shall require payment of prevailing wage as compensation to all contractor employees working on such public works projects in accordance with current prevailing wage rates.~~

### **Section 303. The Think-Local-First Option**

It is in the best interest of the City to support local businesses that contribute to the City's economy and promote the employment of local residents. To the extent permitted by state and federal law, the City may establish by ordinance or resolution specified and limited bid advantages for firms based within a specified distance of the City. The City may enact such an ordinance in recognition of the fact that local firms and local employees help support the economy and quality of life of Grover Beach. The City shall establish all standards, procedures, rules or regulations to regulate all other aspects of public contracting. The City may by ordinance or resolution establish incentive programs for businesses that locate or expand within the City.

### **Section 304. Supporting Volunteers in Grover Beach**

The City seeks to support volunteers in creating a higher quality of life for Grover Beach citizens and, as such, may exempt itself from any state laws or regulations that would make it more

difficult or expensive for volunteers to participate in any community project, whether funded with City revenues or not.

**Section 305. Limitation on Taxing Authority**

This Charter shall not be interpreted as giving the City greater authority to raise the level of taxes or fees or to create new taxes or fees beyond the powers granted to general law cities nor to exempt the City from any procedures for raising the level of taxes or fees or for creating new taxes or fees required by the law applicable to general law cities.

**Article 4  
Revenue Retention**

**Section 400. Reductions Prohibited**

Revenues raised and collected by the City or on behalf of 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**

The City shall have the power to order the non-performance of any service or activity mandated on the City by any higher level of government until such time as a court of competent jurisdiction orders the City to perform such mandated service or activity or until such revenues adequate to perform such mandated service or activity is provided by the mandating government.

**Article 5  
General Laws**

**Section 500. General Law Powers**

In addition to the power and authority granted by 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 this Charter and the general laws of the State of California, this Charter shall control.

**Section 501. General Plan and Zoning Consistency**

All zoning ordinances adopted by the City shall be consistent with the City's General Plan as required by the law applicable to general law cities, except the City Council shall not be limited in the number of General Plan Amendments the City will process and the City Council will approve per year.

**Article 6  
Interpretation and Amendment**

**Section 600. Construction and Interpretation**

The language of 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 that is a municipal affair. Every reference in this Charter to state or federal law shall mean that law as it exists when this Charter takes effect or as it may thereafter be amended.

**Section 601. Title**

This Act shall be known as the "Home Rule for Grover Beach Charter of 2014".

**Section 602. 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.

**Section 603. Amendment to Charter, revised or repealed**

As provided by state law, 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 City Council.

I hereby affirm that the foregoing Home Rule for Grover Beach Charter of 2014 was submitted to a vote of, and ratified by, a majority of the voters of the City of Grover Beach at a regular general municipal election held for that purpose on November \_\_, 2014.

**DRAFT**

\_\_\_\_\_  
Mayor

ATTEST:

**DRAFT**

\_\_\_\_\_  
City Clerk

## STAFF REPORT

**TO: HONORABLE MAYOR AND CITY COUNCIL**  
**FROM: ROBERT PERRAULT, CITY MANAGER**  
**SUBJECT: PROPOSED CITY CHARTER BALLOT MEASURE**

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**BACKGROUND**

On April 7, 2014, the City Council received a report regarding a proposed City Charter to be placed before the voters for consideration. If successful, the ballot measure would convert the City's basic form of government from a general law form of government to a charter city form of government. The report provided to the Council included a draft Charter, based on recommendations made from an independent Citizens Committee, and the results of a public meeting held on March 5, 2014. The purpose of the public meeting was to introduce the draft Charter to the general public and receive comments.

At the conclusion of Council discussion on the matter, the Council directed staff to:

- Incorporate two options for additional consideration regarding the prevailing wage issue;
- Complete a review of draft language in the proposed Arroyo Grande City Charter regarding **Public Works Contracts and Prevailing Wage**; and
- Initiate the formal review process as required by state law.

In keeping with Council direction, the draft Charter has been revised to incorporate the two options regarding prevailing wage. (*Please see Attachment 1.*) Staff has completed an analysis of the Public Works Contracts and Prevailing Wage sections of the proposed City of Arroyo Grande Charter. With this public hearing, the formal review process for consideration of a Charter measure as required by state law has been initiated.

Staff is recommending that the Council review the information presented in this report and the draft Charter, conduct the public hearing to receive additional public comments on the proposed Charter, provide staff with direction regarding additional changes to the draft language, and then direct staff to continue with the formal review process.

**DISCUSSION**

In California there are two forms of municipal government, general law cities and charter cities. General law cities derive their powers from the general laws adopted by the State Legislature and from the police powers granted in the State Constitution. Collectively, these laws serve as the constitution for general law cities like Grover Beach.

**APPROVED FOR FORWARDING**


**ROBERT PERRAULT**  
**CITY MANAGER**

**Please Review for the Possibility of a Potential Conflict of Interest:**

- |  |                                   |
|--|-----------------------------------|
| <input checked="" type="checkbox"/> None Identified by Staff | <input type="checkbox"/> Bright   |
| <input type="checkbox"/> Peterson                            | <input type="checkbox"/> Marshall |
| <input type="checkbox"/> Lee                                 | <input type="checkbox"/> Nicolls  |

Meeting Date: May 5, 2014

Agenda/Item No. 15

Charter cities derive their powers from the State's constitution, subject to enactments of the State Legislature, on matters of statewide concern. Charter cities tend to maintain greater authority than a general law city over matters determined to be a municipal or local affair. City charters are authored by the local city council or by a local citizens committee and then submitted to the voters. Once approved by the electorate, the charter serves as the municipal constitution. Locally drafted charters often incorporate the municipal affairs considered to be most important to the local city. This type of local legislation is often referred to as being in line with the principles of "home rule" and self-governance.

### **Key Provisions of the Revised Charter**

Based on the Council's direction to incorporate the recommendations of the Citizens Committee, the revised draft measure contains these key provisions:

**Section 200. Form of Government** – The local governmental structure is proposed to remain a "Council-Manager" form of government.

**Section 201. Elected Officials** – The City Council will continue to consist of four (4) members and an elected Mayor, each elected at-large. A residency requirement would be established requiring office seekers to live within the corporate limits of the City for (6) six months prior to the election. The Council and the Mayor would be required to conduct themselves in accordance with a Code of Ethics for Public Officials that would be adopted by the Council.

**Section 202. Council Member Compensation** – Mayor and Council Member compensation would continue to be set pursuant to state law as it applies to general law cities.

**Section 203. Elections** – Elections will continue to be conducted in accordance with state law and current term limits would remain unchanged.

**Section 300. Economic and Community Development** – "The City shall encourage, support, and promote economic and community development, and preserve and encourage the beach-town character of Grover Beach". The inclusion of this policy statement is to guide the City in the development of legislation, programs, and services that are supportive of economic development.

**Section 301. Purchasing and Public Works Contracts** – This provision would provide the City with the discretion to exempt itself from the provisions of the public contracting code. This provision would allow the City to set its own standards or regulations for purchasing and contracting, if it is in the best interest of the City to do so.

**Section 303. The Think-Local-First Option** – This section is a policy statement to encourage the adoption of legislation and programs that will support local businesses and promote the employment of local residents.

**Section 304. Supporting Volunteers in Grover Beach** – This section supports the use of volunteers for City and community projects without interference from state laws.

**Section 305. Limitation on Taxing Authority** – This section limits the ability of the City to impose or raise taxes or fees or create new taxes or fees beyond what is already provided for in state law.

**Section 400. Reductions Prohibited** – Prohibits other agencies from reducing City revenues. In recent years, the City of Grover Beach has lost millions of dollars of local revenues to the State. This section is an effort to build a “firewall” against future reductions of local revenues.

**Section 401. Mandates Limited** – Frequently the State legislates requirements or mandates on local government and these requirements are often expensive to implement. The State rarely provides the City with the means for implementation. This section would provide the City the ability to reject requirements or mandates imposed by the State or any other agency without adequate compensation.

### **Prevailing Wage**

By way of background, all cities with construction projects that are funded with state or grant funds are required to ensure construction employees working on those projects are paid prevailing wages. Charter cities are permitted to exempt themselves from requiring contractors to pay prevailing wage for locally-funded construction projects. Last year, the State enacted legislation that eliminated state funding of any kind for charter cities that make use of this exemption. This law is currently being challenged in the Court system, but it may take some time before a final decision is rendered.

During the previous Council meeting, the Council extensively discussed the prevailing wage issue and directed staff to incorporate two options into the existing draft charter. The two options are summarized below and are further identified in the draft charter in **Section 302. Prevailing Wage**:

*Option 1* - Provides the City the ability to exempt itself from the prevailing wage.

*Option 2* - Indicates the City will require all public works project contractors to pay prevailing wage for all contractor employees working on public works projects regardless of funding source.

Staff suggests the Council may want to consider the additional option of eliminating any direct reference to prevailing wage in the draft Charter. The language of **Section 301 Purchasing and Public Works Contracts** is fairly broad and indicates: “The City Council may establish by, ordinance or resolution, all standards, procedures, rules or regulations to regulate all aspects of the bidding award, and performance of any Public Works Contract” From staff’s point of view the current language as stated is sufficient to cover compensation. With this language in place the City Council would have the flexibility to implement rules and regulations relative to the issue of compensation that is in keeping with the law and in the best interests of the City.

### **Analysis of Proposed Language Contained in the City of Arroyo Grande Draft Charter**

The Council directed staff review Section 301 Public Works Contracts and Section 302 Prevailing Wage of the Arroyo Grande draft Charter. (*Please see Attachment 2.*) Both sections are intended to be very specific in their application. Section 301 covers four areas of public works contracting and Section 302 provides very specific guidelines for addressing the prevailing wage issue. Its level of specificity is very close to the Option 1 included in the current draft of the Grover Beach Charter.

The difference between the language proposed in the City's current draft language and Arroyo Grande's language as it relates to Public Works Contracts is the level of specificity. Our language has been developed so as to retain as much flexibility as possible for the City Council to adopt rules and requirements for public contracts when it is in the City's best interest to do so. This approach was based on recommendations from the Citizens Committee who reviewed the issue last fall. The recommendations indicated the language of the Charter should be kept simple and straight forward. The advantage of the Arroyo Grande approach is that the language supplies guidance as to certain areas of the contracting process. The disadvantage to the use of specific language is that it can limit the Council's ability to develop requirements addressing aspects of the bidding process which are not included in the specifics. Staff would recommend the Council continue with the language as stated in the City's current draft.

### **Formal Consideration**

State law requires a formal public review process be completed prior to a city placing a charter measure on the ballot. This process takes approximately 90 days to complete. Two public hearings must take place following an initial 21-day notice period. This is the first public hearing. The second public hearing is required to take place at least 30 days after this hearing and is tentatively scheduled for the Council meeting of June 16, 2014. Following the second public hearing, the matter can be set for final deliberation after another 21-day waiting period. The target deadline for placing measures on the November 2014 ballot is July 21<sup>st</sup>.

### **ALTERNATIVES**

The Council has several alternatives to consider:

1. The Council could choose to direct staff to make additional language changes to the draft charter and provide staff direction to continue with the public review process.
2. The Council could choose not to move forward with further consideration of the charter measure at this time.
3. Provide staff with additional direction.

### **RECOMMENDED ACTION**

It is recommended the Council conduct the public hearing, provide direction to staff regarding additional changes to the draft charter and to continue with the formal review process.

### **FISCAL IMPACT**

Costs associated with placing the matter on the ballot are estimated at approximately \$15,000. An initial \$5,000 would likely be spent on the special noticing provisions and staff time associated with the preparation of reports and informational materials as a part of the public review process. The remaining \$10,000 is the estimated County cost for placing a measure on the November 2014 ballot. All of these costs would need to be paid from the General Fund.

**PUBLIC NOTIFICATION**

The agenda was posted in accordance with the Brown Act.

The Public Hearing Notice was posted on Friday, April 11, 2014 at City Hall, the Grover Beach Post Office, and the City's bulletin board at 180 West Grand Avenue and published in *The Tribune* on April 11, 2014 and April 17, 2014.

**Attachments**

1. Draft Charter Measure
2. Copy of Section 301 Public Works Contracts and Section 302 Prevailing Wage from the City of Arroyo Grande's proposed City Charter.