

RESOLUTION NO #07-54

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2 **A RESOLUTION OF THE ALBANY CITY COUNCIL CALLING AND GIVING**
3 **NOTICE OF HOLDING A SPECIAL ELECTION TO BE HELD FEBRUARY 5,**
4 **2008 AND REQUESTING THE BOARD OF SUPERVISORS OF ALAMEDA**
5 **COUNTY TO CONSOLIDATE SAID ELECTION WITH THE SPECIAL**
6 **STATEWIDE PRIMARY ELECTION; AND AUTHORIZE THE CITY CLERK**
7 **OR HER DULY AUTHORIZED OFFICERS TO CARRY OUT ALL THE**
8 **NECESSARY PROCEDURES FOR SAID ELECTION SUBMITTING TO THE**
9 **VOTERS AN AMENDMENT TO ALBANY CHARTER SECTION 2.01, AN**
10 **AMENDMENT TO ALBANY CHARTER SECTION 3.23, AND AN**
11 **AMENDMENT TO ALBANY CHARTER SECTION 4.03 TO THE QUALIFIED**
12 **VOTERS OF THE CITY AND SETTING THE BALLOT LANGUAGE.**

13 **WHEREAS,** the City of Albany is a charter city and through its charter is
14 empowered to exercise all powers necessary and appropriate to a municipal corporation
15 and the general welfare of its inhabitants, including such powers which shall not be held
16 to be exclusive or any limitation of this general grant of powers;

17 **WHEREAS,** the City Charter provides that the City of Albany shall have the
18 power to establish standards, procedures, rules and regulations related to any public
19 financing;

20 **WHEREAS,** the City Council desires to submit three ballot measures to the
21 voters of the City of Albany for their approval and adoption at the special election to be
22 held in the City on February 5, 2008;

23 **WHEREAS,** the three ballot measures are as follows:

- a. Amendment to Albany City Charter Section 2.01
- b. Amendment to Albany City Charter Section 3.23
- c. Amendment to Albany City Charter Section 4.03

1 **WHEREAS**, it is desirable that the Albany County Department of Elections
2 canvas the returns of the consolidated election and that the election be handled in all
3 respects as if it were only one election;

4 **WHEREAS**, the Charter Review Committee has recommended changes to the
5 Albany City Charter and changes to the City Charter have been discussed at duly noticed
6 City Council meetings;

7 **WHEREAS**, February 5, 2008 is the date of the special statewide election;

8 **WHEREAS**, Election Code §9282 sets forth procedures for how arguments in
9 favor or in opposition of any city measure shall be submitted;

10 **NOW, THEREFORE, THE ALBANY CITY COUNCIL DOES**
11 **HEREBY RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:**

12 **Section 1** Pursuant to the Charter powers of the City of Albany and the laws of the
13 State of California related to charter cities, there is called and ordered to be held in the
14 City of Albany, California on February 5, 2008, an election for the purposes of submitting
15 to the voters three measures that would (a) amend Section 2.01 of the Albany City
16 Charter; (b) amend Section 3.23 of the Albany City Charter; and (c) amend Section 4.03
17 of the Albany City Charter. Pursuant to Election Code §10400 et seq., the election for
18 these measures shall be consolidated with the special statewide election to be conducted
19 on February 5, 2008.

20 **Section 2** Pursuant to the requirements of Elections Code §10403, the Board
21 of Supervisors of the County of Alameda is hereby requested to consent and agree to the
22 consolidation of said election.

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1 **Section 3** The City Clerk is hereby directed to submit a certified copy of
2 these ballot measures to the City Attorney, who shall prepare an impartial analysis of each
3 measure in accordance with Election Code §9280. The analysis shall be submitted by the
4 City Attorney to the Registrar of Voters, or other appropriate election official of Alameda
5 County for printing by the date set by the City Clerk for the filing of arguments for and
6 against the Measure. The analysis shall not exceed 500 words in length and shall
7 otherwise comply in all substantial respects with the applicable provisions of the Election
8 Code of the State of California.

9 **Section 4** Arguments for and against the measures may be filed in accordance
10 with this resolution and applicable provisions of the law. The last date for the direct
11 submission of direct arguments for and against these measures shall be submitted to the
12 City Clerk's office by no later than 12:30 p.m. on Friday, November 16, 2007. Rebuttal
13 arguments shall be submitted to the City Clerk's office by no later than 12:30 p.m. on
14 Friday, November 23, 2007. Any argument shall not exceed 300 words in length and
15 shall not be signed by more than five persons. Any rebuttal shall not exceed 250 words in
16 length and shall not be signed by more than five persons; those persons may be different
17 persons who sign the direct arguments.

18 **Section 5** The Mayor and Vice Mayor are hereby authorized to prepare a
19 written argument in favor of these measures not to exceed 300 words each, on behalf of
20 the Albany City Council. At the subcommittee's discretion, the arguments may also be
21 signed by bonafide organizations or by individual voters.

22 **Section 6** Pursuant to Election Code §9285, when the City Clerk has selected
23 the arguments for and against the measures (Alameda County will issue the appropriate

1 Measure letter at a later time), which shall be printed and distributed to the voters, the City
2 Clerk shall send copies of the arguments in favor of the measures, to the authors of the
3 arguments against the measures, and copies of the arguments against the measures to the
4 authors of the arguments in favor of the measures.

5 **Section 7** The City Clerk is hereby directed to cause notice of the measures to
6 be published in a newspaper of general circulation, or any other newspaper designated as
7 an official newspaper of the City of Albany in accordance with Elections Code §12111
8 and Government Code §6061.

9 **Section 8** The City Administrator is authorized and directed to appropriate
10 the necessary funds to pay for the City's cost to place the measures on the election ballot.

11 **Section 9** All particulars not recited in this resolution regarding the conduct
12 of the holding of the election shall be as provided by law for the holding of municipal
13 elections.

14 **I. Amendment to Albany City Charter Section 2.01**

15 **Section 10** The Alameda County Registrar of Voters is hereby requested to
16 include the following ballot measure and the voter pamphlet on the ballot as set forth
17 hereinafter, and that the following ballot question, to be numbered and designated by the
18 County of Alameda as a City Council proposed ballot measure to appear as follows:

Do you approve the modification of Section 2.01 of the City Charter, as is fully set forth in the voter pamphlet, to provide compensation, benefits, and expense reimbursement for City Council members?	YES _____ NO _____
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1 **Section 11** The Voter Pamphlet shall include the ballot question wording to
2 the voters, the question as presented before the text, and the exact wording of the present
3 Charter section with language to be deleted shown in ~~strikeout~~ type and the language to
4 be added to be shown in underlined, *italicized*, or otherwise **highlighted** in Exhibit "A".

5 **Section 12** The text of the proposed Albany Charter amendment to Section
6 2.01 to be submitted to voters is attached hereto as Exhibit "A", and incorporated herein
7 by reference.

8 **II. Amendment to Albany City Charter Section 3.23**

9 **Section 13** The Alameda County Registrar of Voters is hereby requested to
10 include the following ballot measure and the voter pamphlet on the ballot as set forth
11 hereinafter, and that the following ballot question, to be numbered and designated by the
12 County of Alameda as a City Council proposed ballot measure to appear as follows:

Do you approve the modification of Section 3.23 of the City Charter, as is fully set forth in the voter pamphlet, to provide that members of commissions, boards, committees, task forces, or other similar bodies, appointed by the City Council, shall serve for an interim term of up to 45 days after certification of an election, or until they are reappointed or replaced?	YES _____ NO _____
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13 **Section 14** The Voter Pamphlet shall include the ballot question wording to
14 the voters, the question as presented before the text, and the exact wording of the present
15 Charter section with language to be deleted shown in ~~strikeout~~ type and the language to
16 be added to be shown in underlined, *italicized*, or otherwise **highlighted** in Exhibit "B".
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20 **Section 15** The text of the proposed Albany Charter amendment to Section
21 3.23 to be submitted to voters is attached hereto as Exhibit "B", and incorporated herein
22 by reference.
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III. Amendment to Albany City Charter Section 4.03

Section 16 The Alameda County Registrar of Voters is hereby requested to include the following ballot measure and the voter pamphlet on the ballot as set forth hereinafter, and that the following ballot question, to be numbered and designated by the County of Alameda as a City Council proposed ballot measure to appear as follows:

Do you approve the modification of Section 4.03 of the City Charter, as is fully set forth in the voter pamphlet, to provide that the City Council shall by ordinance set threshold limits for the requirements for formal competitive bidding and shall establish such other procedures as are necessary for undertaking the completion of any public projects?	YES _____ NO _____
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Section 17 The Voter Pamphlet shall include the ballot question wording to the voters, the question as presented before the text, and the exact wording of the present Charter section with language to be deleted shown in ~~strikeout~~ type and the language to be added to be shown in underlined, *italicized*, or otherwise **highlighted** in Exhibit "C".

Section 18 The text of the proposed Albany Charter amendment to Section 4.03 to be submitted to voters is attached hereto as Exhibit "C", and incorporated herein by reference.

The undersigned hereby certifies that the foregoing is a full, true, and complete copy of the Resolution duly passed and adopted by the City Council of the City of Albany at a regular meeting thereof on the ____ day of _____, 2008 by the following vote:

ROBERT LIEBER
MAYOR

1 **EXHIBIT "A"**

2 **PROPOSED MODIFICATIONS TO SECTION 2.01 OF THE CITY CHARTER**

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Do you approve the modification of Section 2.01 of the City Charter, as is 4 fully set forth in the voter pamphlet, to provide compensation, benefits, and 5 expense reimbursement for City Council members?	YES _____
	NO _____

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7 The people of the City of Albany modify Section 2.01 of the City Charter to read
8 as follows:

9 Section 2.01 LEGISLATIVE DEPARTMENT. THE COUNCIL.

10 The legislative body of said City shall consist of five (5) persons, elected at large,
11 which body shall be known as the Council.

12 The members of the Council shall be elected by the qualified voters of said City at
13 a general Municipal Election to be held therein every even-numbered year as hereinafter
14 provided. At the meeting when the election results of a general Municipal election are
15 presented to the Council as being duly canvassed and certified by the county, the qualified
16 persons shall then be inducted into office. A person elected to the City Council shall hold
17 office for a period of four (4) years from the day of their induction and until their
18 successors are elected and qualified. A person elected, unless otherwise removed from
19 office, is entitled to serve a four-year term from the date of induction.

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21 The Council as thus newly constituted shall then elect one of its members as its
22 presiding officer, who shall have the title of Mayor. The Council shall also designate one
23 of its members as Vice-Mayor. The Vice-Mayor shall perform the duties of the Mayor

1 during his or her absence or disability. The officials so chosen shall hold their respective
2 offices subject to the pleasure of the Council.

3 Effective January 1, 2008 each member of the City Council shall receive
4 compensation and benefits to the maximum amount allowed pursuant to Government
5 Code Section 36516, or such other section if modified. Members of the City Council
6 shall not be eligible to any other office or employment with the City, other than as in this
7 Charter expressly provides.

8 ~~Each member of the Council shall receive a compensation of Five Dollars (\$5.00)~~
9 ~~for each meeting attended, provided, however, that a councilmember shall not receive~~
10 ~~more than Twenty Five Dollars (\$25.00) in any one month, except as otherwise provided~~
11 ~~by Section 46 of this Charter. Members of the Council shall not be eligible to any other~~
12 ~~office or employment with the City, other than as in this Charter expressly provides.~~

14 No person not an elector of the City shall be eligible to hold office as a member of
15 the City Council, and no person shall be eligible for nomination for such office without
16 having been a resident of the city for thirty (30) days immediately preceding nomination.

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EXHIBIT "B"

PROPOSED MODIFICATIONS TO SECTION 3.23 OF THE CITY CHARTER

Do you approve the modification of Section 3.23 of the City Charter, as is fully set forth in the voter pamphlet, to provide that members of commissions, boards, committees, task forces, or other similar bodies, appointed by the City Council, shall serve for an interim term of up to 45 days after certification of an election, or until they are reappointed or replaced?	YES _____
	NO _____

The people of the City of Albany modify Section 2.01 of the City Charter to read as follows:

Section 3.23 APPOINTEE PROCEDURES.

a. Except as otherwise provided in this Charter, all members of commissions, boards, committees, task forces, or any other similar bodies, who are appointed by the Mayor or by individual Council members, shall serve for a term lasting until the next general municipal election, unless re-appointed except that appointees shall serve for an interim term of up to 45 days after certification of the election until reappointed or replaced, whichever is sooner. This requirement includes those ratified by the City Council as a whole. In the case of appointments made by the Council as a whole, and where the Mayor or individual Council members do not make nominations, the terms shall extend until the next general municipal election, unless otherwise established by ordinance or resolution. In the event a Council member ceases to serve a full term for any reason, the appointees of that Council member may be replaced or re-appointed by the successor Council member and the new appointee shall serve until the next general municipal election. The City Council may establish by ordinance or resolution provisions

1 for the orderly transition between terms of appointees after the election or appointment of
2 Council members. The City Council may establish a committee, commission, board, task
3 force, or other advisory body with a time frame of less than two years. In such case, the
4 term of the appointees shall coincide with the time frame established by the City Council.

5 Procedures and policies for appointment, renewal, terms and qualifications of
6 appointees, not inconsistent with this Charter, may be established by ordinance or
7 resolution of the Council.

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9 b. The City Council shall establish by ordinance or resolution a policy, to be
10 applied equally to all appointees, for automatic removal due to excessive absenteeism,
11 conviction for a felony, or for failure to maintain a residence in Albany unless Council
12 specifically provides for non-resident members.

13 c. Any other removal shall be only for cause and then only by a majority vote
14 of the City Council. Appointees shall be notified of such cause, in writing, at least
15 twenty-one (21) days prior to the vote of the City Council.

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EXHIBIT "C"

PROPOSED MODIFICATIONS TO SECTION 4.03 OF THE CITY CHARTER

Do you approve the modification of Section 4.03 of the City Charter, as is fully set forth in the voter pamphlet, to provide that the City Council shall by ordinance set threshold limits for the requirements for formal competitive bidding and shall establish such other procedures as are necessary for undertaking the completion of any public projects?

YES _____

NO _____

The people of the City of Albany modify Section 2.01 of the City Charter to read as follows:

Section 4.03 CONTRACT WORK

As used in this section, 'public project' means:

- (a) A project for the erection, improvement, and repair of public buildings and works.
- (b) Work in or about streams, bays, waterfronts, embankments, or other work for protection against overflow.
- (c) Street or sewer work, except maintenance or repair.
- (d) Furnishing supplies or materials for any such project, including maintenance or repair of streets or sewers.

1 The City Council shall by ordinance set threshold limits for the requirements for
2 formal competitive bidding and shall establish such other procedures as are necessary for
3 undertaking the completion of any public projects.

4 ~~When the expenditure required for a public project exceeds the applicable limit~~
5 ~~under the general laws of the State of California, or such lower limit as established by~~
6 ~~ordinance of the City Council, it shall be contracted for and let to the lowest responsible~~
7 ~~bidder after notice.~~

8 It shall be unlawful to split or separate into smaller work orders or projects any
9 public work project for the purpose of evading the provisions of this section requiring
10 public work to be done by contract after competitive bidding.

11 The notice inviting bids shall set a date for the opening of bids. The first
12 publication or posting of the notice shall be at least ten (10) days before the date of the
13 opening of bids. Notice shall be published at least twice, not less than five (5) days apart,
14 in a newspaper of general circulation published in the City, or if there is none, it shall be
15 posted in at least three (3) public places in the City that have been designated by
16 ordinance as the places for posting public notices. The notice shall distinctly state the
17 project to be done.

18 In its discretion, the Council may reject any bids presented and readvertise. If two
19 (2) or more bids are the same and the lowest, the Council may accept the one it chooses.
20 If no bids are received the Council may have the project done without further complying
21 with this section.
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1 After rejecting bids, the Council may pass a resolution by a four-fifths vote of its
2 members declaring that the project can be performed more economically by day labor, or
3 the materials or supplies furnished at a lower price in the open market. Upon adoption of
4 the resolution, it may have the project done in this manner stated without further
5 complying with this section.

6 If there is a great public calamity, as an extraordinary fire, flood, storm, epidemic,
7 or other disaster, or if it is necessary to do emergency work to prepare for a national or
8 local defense, the Council may pass a resolution by a four-fifths vote of its members
9 declaring that the public interest and necessity demand the immediate expenditure of
10 public money to safeguard life, health, or property. Upon adoption of the resolution, it
11 may expend any sum required in the emergency without complying with this section.