

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: 03/17/08

Reviewed by: JRL

SUBJECT: Charter Amendments for the November 2008 Ballot: Council Compensation, Transition of Committee Members, and Bid Procedures

REPORT BY: Jacqueline L. Bucholz, City Clerk

STAFF RECOMMENDATION

Staff recommendation: Review the proposed ballot language, discuss placing before voters and if Council wishes the measures to be on the November 4, 2008 ballot, direct the City Attorney to prepare ballot measures on Section 2.01 – Council Compensation; Section 3.23 – Transition of Committee Members; Section 4.03 – Bid Procedures.

BACKGROUND

The City Council referred to the Charter Review Committee for review and recommendation the following three Sections of the City Charter: 1) Council Compensation, 2) Transition of Committee Members and 3) Bid Procedures.

DISCUSSION

The Charter Review Committee discussed the Charter language in October, 2007 and approved ballot language regarding Section 2.01, 3.23 & 4.03. Resolution #07-54 was submitted to the City Council on October 15, 2007 to approve the ballot language; however, at that time it was the consensus of the City Council not to hold a special election for these items, therefore the Resolution was not adopted. The October 15, 2007, minutes are attached.

The language of the three measures is as follows:

1) Section 2.01, as follows: *Effective January, 2008 each member of the City Council shall receive compensation and benefits to the maximum amount allowed pursuant to the Government Code Section 36516, or such other section if modified. Members of the City Council shall not be eligible to any other office or employment with the City, other than as in this Charter.*

2) Section 3.23, as follows: *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.*

3) Section 4.03, as follows: *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.*

FINANCIAL IMPACT

The cost of the election has already been budgeted but there will be incremental expenses for printing, typesetting, translating and publication for each measure.

Attachment:

1. Resolution #07-54
2. October 15, 2007 minutes

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

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

19 In its discretion, the Council may reject any bids presented and readvertise. If two
20 (2) or more bids are the same and the lowest, the Council may accept the one it chooses.
21 If no bids are received the Council may have the project done without further complying
22 with this section.
23

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.

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: 10/01/2007

Reviewed by: ____

SUBJECT: Referral of Proposed Change in Formal Contract Bid Limit to Charter Review Committee

REPORT BY: Rich Cunningham, Public Works Manager

RECOMMENDATION

That Council refer consideration of a change in the bid limit of formal contracts to the Charter Review Committee for recommendation.

BACKGROUND

Currently, the City Charter provisions for public works construction projects essentially requires the City to use formal bid procedures for projects estimated at \$5,000 or more. This limit has been in place for many years and is without a mechanism for adjustment to allow for increases in the cost of business due to inflation or other factors.

DISCUSSION

The purchasing power of \$5,000 is very limited in today's construction world. Small projects that would otherwise require nothing more than a purchase order and informal instruction to the contractor instead require the staff to spend time and labor hours to design, bid, and administer at a cost that is often equal to the construction cost itself. The result is a greater cost and staff time burden on the City to complete even relatively small capital projects.

Raising the formal bid limit can be accomplished by one of two methods, a change in the Charter or the adoption of the "Uniform Public Construction Cost Accounting" that requires a council resolution.

ANALYSIS

The bid requirement threshold currently in the Charter refers to the requirements for general law cities. As a charter city, Albany can amend its charter to differ the threshold from what is set for general law cities.

Many general law cities have adopted uniform public construction cost accounting regulations, which in state law allows a mechanism for raising the threshold to an amount

higher than \$5,000. The City could consider this approach in addressing the low limit. However, the City Attorney advises that a charter amendment to allow the threshold to be set by ordinance adopted by the City Council would be clearer and less ambiguous, due to the reference in the charter to the applicable limits for general law cities (Sect. 4.03)

Staff recommends that the matter be referred to the Charter Review Committee for a recommendation on a possible charter amendment.

FINANCIAL IMPACT

None for referral to Charter Review Committee.

The scope of impact on projects from implementation of a charter amendment (and subsequent enabling Council legislation) will depend on what new bid limit determined by the Council. However, any increase in the limit will improve the cost and time efficiency of constructing the City's smaller projects.

Assistant City Administrator Lieberman reported that work continued on the Sustainability, Environment and Economic Development program. The focus this evening would be on the Economic Development Specialist position. While it would be possible to create and fund a permanent staff position, staff felt that the long-term commitment of the funds might not be the best plan. In addition, if a temporary consultant were contracted with, it would be more likely that the level of skill and expertise required for the position would be more easily obtained.

Council Member Wile opined this was well thought out, and recommended having applicants submit an example of their work, with "before" and "after" information. Council Member Javandel agreed it was a good idea to get a sense of direction before making a permanent hire. Council Member Atkinson noted this was a relatively new field, and part of the consultant's job would be surveying what is available to cities. Mayor Lieber asked which option would save staff time. The consultant option should provide a more independent (less dependent on staff) option.

Mayor Lieber wanted to hear from the sustainability committee regarding this. Mara Duncan, 848 Solano, wanted to be sure the process would be open and transparent.

6. NEW BUSINESS

6-1. Appointment of Dan Lieberman to the Sustainability Committee, as the Council At-Large member.

Staff recommendation: Appoint Dan Lieberman to the Sustainability Committee.

Mayor Lieber noted the new process had been approved that evening, but there was only one candidate.

MOTION:

Moved by Council Member Javandel and seconded by Council Member Wile to approve Dan Lieberman to be the Council At-Large member of the Sustainability Committee.

AYES: Council Members Atkinson, Javandel, Okawachi, Wile, & Mayor Lieber

NOES: None

ABSENT: None

Motion carried and so ordered.

6-2. Charter Amendments

Staff recommendation: Adopt Resolution No. 07-54 – A resolution of the Albany City Council Calling and Giving Notice of holding a special election to be held February 5, 2008, and

Request the Board of Supervisors of Alameda County to Consolidate said election with the special statewide Primary Election; and

Authorize the City Clerk or her duly authorized officers to carry out all the necessary procedures for said election submitting to the voters An Amendment to Albany

Charter Section 3.23, and an amendment to the Albany Charter Section 4.03 to the Qualified Voters of the City and Setting the Ballot Language.

Mayor Lieber opined that with only these two items it would not be worth it to hold a special election. City Administrator Pollard reported that the two items had to do with the transition between committee and commission members after elections are certified and before new appointments have been made, and about raising the threshold for requiring a competitive bidding process.

Carol O'Keefe, Albany resident, supported not spending the funds to have the special election for these two items alone. Michael Wallace, chair of the Charter Review Committee, agreed, and indicated he expected a third item to be ready before June. Mayor Lieber thanked the Charter Committee for the work they had been doing. There was consensus not to hold the February election. City Administrator Pollard stated that staff would look at what the cost impacts for the contract threshold amendment might be if the items were held until the November election.

7. OTHER BUSINESS, REPORTS ON MEETINGS ATTENDED, ANNOUNCEMENT OF EVENTS/FUTURE AGENDA ITEMS.

- 7-1. Potential change of regularly scheduled Council meeting on November 5, 2007 to November 6, 2007, related to City's appeal to El Cerrito City Council.

Council Members Atkinson and Okawachi and Mayor Lieber had attended the pancake breakfast at the fire station. Council Member Okawachi reported on the bicycle rodeo and the reopening of Terrace Park.

Council Member Wile asked how the Council's statements could be coordinated without violation of the Brown Act. City Administrator Pollard indicated staff could provide talking points for each member of the Council.

MOTION:

It was moved by Council Member Javandel and seconded by Council Member Wile to reschedule the November 5 meeting to November 6.

AYES: Council Members Atkinson, Javandel, Okawachi, Wile, & Mayor Lieber

NOES: None

ABSENT: None

Motion carried and so ordered.

8. ADJOURNMENT

9:47 p.m. – There being no further business before the City Council it was moved and seconded to adjourn the meeting.