



City of Huntington Beach

Charter Review Commission

ACTION MINUTES

Thursday., Feb. 18 2010, 6:00 PM

- I. **Roll Call:** Jerry Bame, Ralph Bauer, Mark Bixby, Patrick Brenden, Shirley Dettloff, Dick Harlow, Gregory Hartnett, Marijo Johnson, Gary Kutscher, Joe Shaw, Ray Silver, Sharie Sneddon, Tim Stuart, Dave Sullivan, Shane Whiteside

All present except Brenden, Johnson, Kutscher – Sullivan arrived after taking of the roll.

II. Public Comments:

An opportunity for the public to comment on any item of interest, either in general or specific to this agenda, that is within the subject matter or jurisdiction of the Commission. Comments will be limited to no more than 3 minutes. Speakers are encouraged to submit their comments in writing. Each Commission Member will receive a copy of all the submitted comments.

Doug Mangione thank the Commission for considering the request to include a prevailing wage provision in the Charter. He asked that the Commission reconsider their decision as they make their final recommendations.

III. Approval of the Commission minutes from February 2 meeting.

On motion from Bixby, second by Dettloff the minutes were approved as submitted 12-0-3

IV. Charter Section 302 – Compensation

- **The Commission has not made a final determination on amending the Council Compensation section of the Charter. Additional information was requested.**

After a brief discussion, on a motion by Commissioner Sneddon seconded by Commissioner Dettloff, the Commission voted to keep Charter Section 302 as is. 12-0-3

V. Charter Section 313 – Conflict of Interest

- **A Commissioner request had been made and never resolved on adding language to prohibit elected officials from participating in labor negotiations.**

Commissioner Dettloff commented that the question of elected department heads taking part in labor negotiations had been discussed previously, but that the question had not been resolved. The concern she and others expressed was the potential conflict in the fact that the elected department heads receive campaign contributions from labor unions. Following a lengthy discussion and several suggestions, Commissioner Silver made a motion, seconded by Commission Sneddon to add to either Section 313, 307 (Non-Interference) or separately to sections 309, 310, & 311 the following provision: Elected Department Heads shall not directly participate as a member of the city's labor negotiating team. The motion carried 8-4-3 (Stuart, Harnett, Bixby. & Shaw – NO)

VI. Staff Presentation on Charter Section 612 – Measure C

VII. Charter Section 612 - The Commission has requested that staff return for the following on Measure C

* Material related to the Charter Sections to be discussed and submitted prior to the posting of the agenda will be included in the agenda packet. Items received after posting of the agenda will be distributed at the Commission meeting as late communications.

- **Optional language for including the City Council action taken on July 11, 1994 (currently at the end of the Charter index) into Section 612 of the Charter**

A motion was made by Commissioner Bauer, seconded by Commissioner Dettloff to add language to Section 612 of the Charter indicating when a Measure C vote should occur in the process as follows: A Measure C vote is required after the appropriate environmental assessment has been completed.

A substitute motion was made by Commissioner Sullivan, seconded by Commissioner Shaw to add to take a Measure C vote after the appropriate environmental assessment has been completed and that the a professionally prepared conceptional estimate of the cost for the project and a description of the project be completed prior to placing it on the ballot. The substitute motion carried 11-1-3 (Bixby – NO)

- **Optional language for exempting from a Measure C vote repair, replacement, and/or maintenance of sewer, water, water quality, and storm drain facilities**
- **Optional language and a rationale for exempting from a Measure C vote underground city structures**

Motion by Commissioner Bauer, second by Commissioner Silver to add the following exemptions to Charter Section 612 (c):

- to above ground city [public works] utility structures under 3,000 square feet, and
- to city [public works] underground structures if park or beach use is not impeded; and
- to any city [public works] construction, maintenance or repair mandated by state or federal law

The motion carried 9-3-3 (Sullivan, Shaw, & Bixby – NO)

- **Recommendations for an appropriate monetary minimum for a Measure C vote with options for indexing that amount**

A motion was made by Commissioner Bauer, seconded by Commissioner Dettloff to amend Section 612 (b) of the Charter to change the amount that triggers a Measure C vote from \$100,000 to \$161,000. The motion carried 10-2-3 (Shaw, Bixby – NO)

Commissioner Stuart made a motion, seconded by Commissioner Sullivan to add language to the Charter indexing the trigger for a Measure C to the Consumer Price Index.

- **Wording for a Commission recommendation to the City Council for requiring notification of residents in the surrounding area when a project below the Measure C threshold is planned for a city park or beach.**

A motion was made by Commissioner Shaw, second by Commissioner Dettloff that a non-Charter recommendation be forwarded to the City Council as follows:

The city adopt:

- A procedure for an independent cost estimate to determine if a public or private project would require a Measure C vote

- **A Public Notification processes for every city-owned or city-operated park or beach development project not requiring a Measure C vote, and with a cost of \$10,000 to \$161,000.**
- **A notification process similar to that currently used by Community Services and Planning Departments (mail public notice to property owners w/in 300' of site and public notice in newspaper)**

The motion carried 12-0-3.

A motion was made by Commissioner Shaw, seconded by Commissioner Bixby that a non-Charter recommendation be forwarded to the City Council as follows:

There be a process to verify the cost of improvements covered under Measure C by:

- **The Public Works Dept. retaining an as-needed professional estimating consultant**
- **Requiring project applicants to submit their construction cost estimates to Public Works for review and pay an associated fee**

The motion carried 12-0-3.

A motion was made by Commissioner Bauer, seconded by Commissioner Dettloff provide an exemption to a Measure C vote for recreation amenity that replaces existing recreation amenity provided it say within the same square footage and as long as it is consistent with the existing use and does not change a passive use to an active use.

The motion carried 12-0-3.

Commissioner Bixby to bring back his recommendation on Charter Section 612 at the next meeting.

VIII. Charter Section 614 – Contracts – The City Attorney is to provide feedback on potential issues with requiring a local preference on city contracts.

The City Attorney reported that a local preference would not be permissible based on current case law. No action was taken.

IX. Charter Section 703 – The Commission has requested that staff return with optional language for changing the number of signatures required to place a citizen initiative on the ballot

Commissioner Shaw made a motion, seconded by Commissioner Bixby to approve an amendment to Charter Section 703 to change the number of signatures to place an initiative on the ballot to require the number of signatures be set by using the average number of ballots case in the two preceding general municipal elections (one presidential and one non-presidential). The motion failed 3-9-3 (Bixby, Shaw, – NO; Dettloff abstained)

X. Commissioner Requests: Questions, comments, or suggestions for discussion at a subsequent meeting of the Commission

XI. Adjourn to the next regular meeting scheduled for Tuesday Mar 2 at 6 PM in City Hall Room, B 8



City of Huntington Beach *Charter Review Commission*

LATE COMMUNICATIONS 02/18/2010:

1. Revised Powerpoint Presentation on Charter Section 612 – Measure C

City of Huntington Beach City Charter



Charter Review Section 612

Measure C

February 18, 2010

**Staff/City Attorney Recommendations
Based Upon
Charter Review Committee
Meeting of 12/15/09**

Section 612 (b)

No golf course, driving range, road, building over three thousand square feet in floor area nor structure costing more than **\$100,000** may be built on or in any park or beach or portion thereof now or hereafter owned or operated by the City unless authorized by the affirmative votes of at least a majority of the total membership of the City Council and by the affirmative vote of at least a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted.

ISSUE #1: Updating the \$100,000 threshold

Options to Update 1990 Cost Threshold include the following 2009 figures:

Consumer Price Index (CPI)	\$161,000
Building Cost Index (BCI) 20-City Average	\$175,000
Building Cost Index (BCI) Los Angeles Area	\$168,000
Construction Cost Index (BCI) 20-City Average	\$179,000

Construction Cost Index (CCI)	\$163,000
Los Angeles Area - recommended	

ISSUE #2: Charter Review Commission directed City Attorney to insert appropriate language relative to 1994 Minute Action:

Measure C language doesn't indicate **WHEN** a vote of the people is required. 1994 City Council minute action indicated the EIR, CUP, construction plans & engineer's cost estimate should be prepared before the vote.

The city would have spent more than \$1.5 million for the above work for the senior center before the vote.

RECOMMEND ADDING: *“after the appropriate environmental assessment has been completed”*

ISSUE #3: Charter Review Commission directed City Attorney and Staff to come back with appropriate language to add inflation factor for dollar limit of projects:

RECOMMEND ADDING: *“Effective January 1, 2011, and each year thereafter, the maximum cost will be adjusted by the Construction Cost Index for the Los Angeles area.”*

Section 612 (b)

- Recommended Language

No golf course, driving range, road, building over three thousand square feet in floor area nor structure costing more than ~~\$100,000.00~~ **\$163,000.00** may be built on or in any park or beach or portion thereof now or hereafter owned or operated by the City unless authorized by the affirmative votes of at least a majority of the total membership of the City Council and by the affirmative vote of at least a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted **after the appropriate environmental assessment has been completed.** **Effective January 1, 2011, and each year thereafter, the maximum cost will be adjusted by the Construction Cost Index for the Los Angeles area.**

Section 612(c): Section 612(a) and 612(b) shall not apply (exemptions).....

(1) to libraries or piers;

(2) to any lease, franchise, concession agreement or other contract where;

- the contract is to perform an act or provide a service in a public park or beach AND**
- such act was being performed or service provided at the same location prior to January 1, 1989**

and

- the proposed lease, franchise, concession agreement or other contract would not increase the amount of parkland or beach dedicated to or used by the party performing such act or providing such service.**

City requesting additional language to address Public Works utilities exceptions.....

Public Works

Infrastructure Exemptions

Possible Future Project Types:

- Improvements to storm drains, water pipelines, and sewers,
- Sewer lift station replacements,
 - Ellis Station near Baca Park
 - McFadden Station near Greer Park
 - Trinidad Station near Conrad Park
- Storm drain pump stations,
- Park irrigation pump stations,
- Storm water treatment, retention, detention, etc...,
- State or Federally mandated projects, i.e. soil clean-up, methane mitigation, etc...

Infrastructure Exemptions (Cont.)

Examples:



Sewer Lift Station @ Bolsa View Park

Infrastructure Exemptions (Cont.)

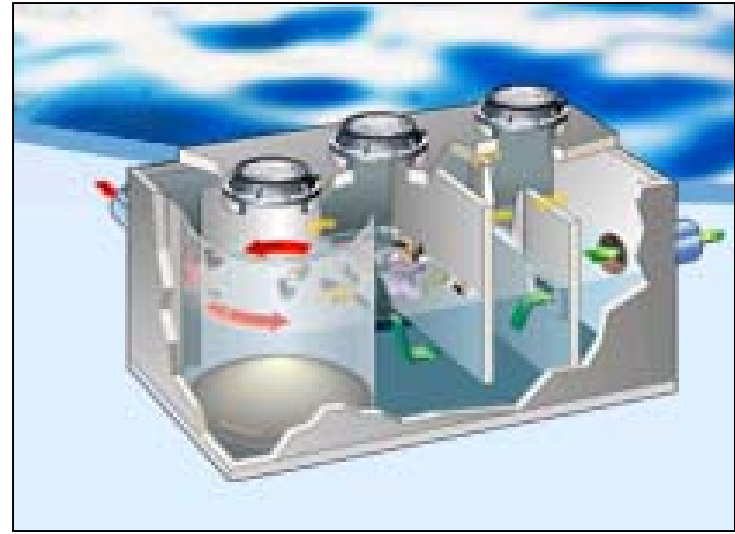
Examples:



Talbert Lake Project @ Central Park

Infrastructure Exemptions (Cont.)

Examples:



Stormwater On-Site Detention
& Treatment Structures

Section 612 (c)

To address Public Works concerns, add **exemptions** for:

- **(3) to above ground utility structures under 3,000 square feet, but may cost more than \$100,000 to construct;**
- **(4) to underground structures if park or beach use is not impeded;**
- **(5) to any construction, maintenance or repair mandated by state or federal law.**

(c) Section 612(a) and 612(b) shall not apply....

(1) to libraries or piers;

(2) to any lease, franchise, concession agreement or other contract where;

- the contract is to perform an act or provide a service in a public park or beach AND**
- such act was being performed or service provided at the same location prior to January 1, 1989;**
- the proposed lease, franchise, concession agreement or other contract would not increase the amount of parkland or beach dedicated to or used by the party performing such act or providing such service;**

(3) to above ground utility structures under 3,000 square feet, but may cost more than \$163,000 to construct;

(4) to underground structures if park or beach use is not impeded;

and

(5) to any construction, maintenance or repair mandated by state or federal law

Charter Commission Request: Notification Process

Recommendation: City Administration will provide
Administration Regulation to specify:

- Procedure for independent cost estimate to determine if a public or private project would require a Measure C vote
- Public Notification processes for every city-owned or city-operated park or beach development project not requiring a Measure C vote, and with a cost of \$10,000 to \$99,999
- Notification process similar to what is currently used by Community Services and Planning Departments (mail public notice to property owners w/in 300' of site and public notice in newspaper)

Charter Commission Request: Cost Estimate Verification

Proposed Process to Verify Cost of Improvements
thru an **Administrative Regulation**:

- Public Works shall retain an as-needed professional estimating consultant
- Project applicant shall submit their construction cost estimate to Public Works for review and pay associated fee

City Attorney Assessment of Need for Measure C Vote--
Assumption based on 1990 “PRO” Ballot Arguments:

Normal park/recreation improvements and amenities will continue to not require a Measure C vote. Such amenities include, but are not limited to, ball fields, bike paths, sports fields, equestrian trails, nature centers, basketball courts, small restaurants, restrooms, showers, picnic tables, and landscaping.

Additional Assumption for consideration:

One recreation amenity can replace another of the same size (example: Worthy Park replacement of racquetball building with a skate park)

CHARTER SECTION 612

Measure C

Discussion and Questions