



RICHARD N. SLAWSON
Executive Secretary

Los Angeles / Orange Counties Building and Construction Trades Council

Affiliated with the Building & Construction Trades Dept., AFL-CIO

1626 Beverly Boulevard
Los Angeles, CA 90026-5784
Phone (213) 483-4222
(714) 827-6791
Fax (213) 483-4419

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Via Fax (11) Pages

TIME SENSITIVE MATERIAL

To: Business Managers/Representatives of
All Affiliated Local Unions/Councils

From: Jim Adams, Council Representative 

Re: Buena Park Charter City/Eliminating Prevailing Wages

Attached for your information and action is a copy of the agenda report just received from the Buena Park Charter City Exploratory Committee to be presented to the City Council on May 27, 2008 (Tuesday). As you review the information it will become very clear they are refusing to insert the prevailing wage language, because *"specific topics serves to restrict the power of the city, rather than broaden them."*

This information is being send to you in an effort to make sure you are informed and to assist you in preparing to speak to the City Council at the May 27th meeting. If you read the third bracketed paragraph on page 2 it refers to us as 500 Union members attending and 30 Union members speaking, *but not a word about those Union Members being residents of the City of Buena Park. That needs to be pointed out by the rank and file members living in Buena Park on Tuesday, that yes we are Union Members, but we are also Citizens of Buena Park.*

I will see all of you on Tuesday, May 27, 2008, 4:00 P.M.
Rally, 5:00 P.M. Council Meeting. Have a good week-in.

BUENA PARK CITY COUNCIL
 BUENA PARK REDEVELOPMENT AGENCY
 STUDY SESSION EXECUTIVE SESSION
 SUMMARY SHEET

MEETING DATE: May 27, 2008

TOPIC: Charter Exploratory Committee Report and Ballot Measure to Enact a City Charter

FROM: City Council *by Request*

EXECUTIVE SESSION: INFORMATION REQUIRED BY THE BROWN ACT:

<input type="checkbox"/> License Permit Determination	<input type="checkbox"/> Conference with Real Property Negotiator (54956.8)
<input type="checkbox"/> Conf w/Legal Counsel-Existing Litigation	<input type="checkbox"/> Conf w/Legal Counsel-Anticipated Litigation
<input type="checkbox"/> Liability Claims	<input type="checkbox"/> Threat to Public Services or Facilities
<input type="checkbox"/> Public Employee Appointment	<input type="checkbox"/> Public Employment
<input type="checkbox"/> Public Employee Performance Evaluation	<input type="checkbox"/> Public Employee Discipline/Dismissal/Release
<input type="checkbox"/> Conference with Labor Negotiator	<input type="checkbox"/> Report Involving Trade Secret
<input type="checkbox"/> Case Review/Planning	<input type="checkbox"/> Hearings

Pursuant to Government Code Section _____ (example: 54956.7, 54956.8)

Applicant: _____

Property: _____

Negotiating Parties: _____

Under Negotiation: _____

Name of Case: _____

Title (for employment items): _____

Employee Organization (labor items): _____

Subject Matter: _____

Other: _____

PACKET BACK-UP MATERIAL? YES NO ORAL PRESENTATION ONLY

REQUESTED OF COUNCIL/AGENCY BOARD:

No. _____

STUDY SESSION
AGENDA REPORT TO CITY COUNCIL

Meeting Date: May 27, 2008
To: The Mayor and City Council
Title: Charter Exploratory Committee Report and Ballot Measure to Enact a City Charter

Recommended Action: 1) Receive the recommendation of the Charter Exploratory Committee regarding a ballot measure to adopt a city charter; 2) If so determined, provide direction on the proposed charter language; and 3) If so determined, direct staff to prepare the necessary documents to place a ballot measure on the November 2008 ballot.

Community Outreach

The committee made presentations and held question and answer sessions with over twenty community and service organizations. In addition to these community presentations, the public outreach campaign also included development and distribution of an informational brochure, press releases, information on the City's website, a cable television show featuring the Charter Exploratory Committee's work plan, and announcements on cable television. The Committee reviewed the public input received and discussed specific questions and responses exchanged.

At its May 12 meeting, approximately 500 members of various building and construction unions attended and the Committee received public testimony from approximately 30 union members requesting that consideration be given to including the following language in the proposed charter:

The provisions of California Labor Code Section 1770 et. seq. regarding prevailing wages on public works and related regulations, as now existing and as may be amended, are accepted and made applicable to the City, its departments, boards, officers, agents and employees.

Recommendation Regarding City Charter

Following its review and discussion, the Committee made the determination that it is in the best interest of the City to operate under a city charter and formulated a recommendation that the City Council place a ballot measure on the ballot for the November 2008 general municipal election. Based on input received from residents, the committee supported a simplified-form charter document which reserves for the city the broadest power it has under the California state constitution to implement home rule. Attached is a copy of the proposed charter language.

Prepared by:

City Clerk

Approved:

Rick Warsinski, City Manager

Attachments: Draft City Charter
Listing of Public Outreach and Action Taken
Listing of Community Outreach Questions and Responses

CHARTER OF THE CITY OF BUENA PARK

PREAMBLE

We the people of the City of Buena Park declare our intent to restore to our community the historic principles of self governance inherent in the doctrine of home-rule. Sincerely committed to the belief that local government has the closest affinity to the people governed, and firm in the conviction that the economic and fiscal independence of our local government will 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 enact and adopt this Charter for the City of Buena Park.

Article I – Municipal Affairs: Generally

Section 100. Municipal Affairs. The City shall have full power and authority to adopt, make, exercise and enforce all legislation, laws, and regulations and to take all actions relating to municipal affairs, without limitation, which may be lawfully adopted, made, exercised, taken or enforced under the Constitution of the State of California.

Article II – General Laws

Section 100. General Law Powers. In addition to the power and authority granted by the terms of 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 the provisions of this Charter and the provisions of the general laws of the State of California, the provisions of this Charter shall control.

Article III – Interpretation

Section 100. Construction and Interpretation. The language contained in 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 which is a municipal affair.

Section 200. 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.

**PUBLIC OUTREACH AND ACTION TAKEN
CHARTER EXPLORATORY COMMITTEE
CITY OF BUENA PARK**

12-May-2008	Public Meeting to Formulate a Recommendation	
01-May-2008	Presentation to Traffic and Transportation Commission with Q & A Session	
30-Apr-2008	Presentation at the Chamber Networking Breakfast with Q & A Session	
16-Apr-2008	Presentation to Elks Lodge with Q & A Session	
09-Apr-2008	Presentation to Planning Commission with Q & A Session	
01-Apr-2008	Presentation to Optimist Club of Buena Park with Q & A Session	
01-Apr-2008	Presentation to CAPs Buena Park Police Volunteers with Q & A Session	
01-Apr-2008	Presentation to Buena Park Foundation with Q & A Session	
27-Mar-2008	Presentation to Beautification Commission with Q & A Session	
27-Mar-2008	Presentation to Buena Park Police Association with Q & A Session	
27-Mar-2008	Presentation to Senior Commission with Q & A Session	
26-Mar-2008	Presentation to Soroptimist with Q & A Session	
20-Mar-2008	Presentation to Park and Recreation Commission with Q & A Session	
20-Mar-2008	Presentation to Buena Park Woman's Club with Q & A Session	
19-Mar-2008	Presentation to Fine Arts Commission with Q & A Session	
19-Mar-2008	Presentation to Rotary Club of Buena Park with Q & A Session	
18-Mar-2008	Presentation to Senior Club with Q & A Session	
10-Mar-2008	Presentation to BP Historical Society with Q & A Session	
07-Mar-2008	Presentation to American Legion with Q & A Session	
06-Mar-2008	Presentation to Chamber Legislative Network with Q & A Session	
04-Mar-2008	Presentation to Noon Lions Club with Q & A Session	
28-Feb-2008	Presentation to Citizens Advisory Committee with Q & A Session	

**PUBLIC OUTREACH AND ACTION TAKEN
CHARTER EXPLORATORY COMMITTEE
CITY OF BUENA PARK**

25-Feb-2008	Public Meeting to Review Charter Function & Develop Outreach Strategy
28-Jan-2008	Announcement on City of Buena Park Website
28-Jan-2008	Press Release sent to LA Times, OC Register, BP Independent
24-Jan-2008	Article Submitted for Buena Park Today Re: Formation of Committee
22-Jan-2008	Public Meeting to Establish Committee and Officially Appoint Committee
08-Jan-2008	Public Meeting to Discuss Committee Structure and Appointments to Committee
13-Nov-2007	Public Meeting to Appoint Council Members to Committee & Discuss Structure
06-May-2007	Public Meeting to Review Statistics, Election, and Legal Costs
23-Jan-2007	Public Meeting to Review Advantages and Disadvantages of Charter City

5

**CITY OF BUENA PARK
CHARTER EXPLORATORY COMMITTEE**

SUMMARY OF COMMUNITY OUTREACH AND CITIZEN INPUT

QUESTIONS AND RESPONSES

- 1. Why not include a provision regarding prevailing wage in the charter language?

After review and discussion, the Charter Exploratory Committee at its Feb. 25 meeting supported a simplified-form charter document which reserves for the city the broadest power it has under the California Constitution to implement home rule. Custom-tailoring the language to address specific topics serves to restrict the powers of a city, rather than broaden them.

- 2. Why not include provisions regarding topics such as term limits, rent control, and elections-by-mail in the charter language?

(see Response No. 1)

- 3. Does this give more power to the City?

Yes. The state legislature passes certain laws for general law cities, which charter cities do not need to follow, in areas such as construction contracts, elections, and spending public funds. Charter cities can pass their own laws in those areas. This is often referred to as "Home Rule" which is based on the principle that a city, rather than state legislature, knows what it needs and how to best satisfy those needs. This brings the power closer to the residents of the City rather than leaving those decisions at the state level.

- 4. Will the City's public contracts process automatically change?

No. Any changes to the city's public contract procedures would need to be made by subsequent council action in the form of an ordinance.

See Public Contract Code Section 1100.7.

1100.7. This code is the basis of contracts between most public entities in this state and their contractors and subcontractors. With regard to charter cities, this code applies in the absence of an express exemption or a city charter provision or ordinance that conflicts with the relevant provision of this code.

5. Has the city taken a position on prevailing wage?

No, and there has been no discussion regarding the merits of prevailing wage.

6. Has the charter city issue been studied by the Orange County Grand Jury?

No. However, in 2001/2002 the San Diego Grand Jury studied the issue for the purpose of investigating methods to improve the organization and efficiency of city government operations. The Grand Jury concluded that the cost of chartering a city can be minimal compared to the potential benefits and recommended that the 14 non-chartered cities within San Diego County study chartering their cities.

7. Will this cost the City money?

Yes. There is minimal cost for attorney's fees to draft the charter and a minimal cost to add the ballot measure to the November 2008 general municipal election. It is anticipated that the total costs for enacting the charter will not exceed \$10,000. It should be noted that San Diego Grand Jury findings state that the cost of chartering a city using a simplified charter is minimal compared to the benefits.

8. What changes to city operations and procedures will happen automatically if the charter is approved at the election?

None. Any changes would need to be made by subsequent City Council action in the form of an ordinance which would require at least two public meetings with the opportunity for members of the public to provide comment and participate in the decision-making process. In addition, such ordinances are subject to referendum.

Adopting a simplified-form charter establishes the environment for future decisions to be made regarding municipal affairs.

9. What changes does the City anticipate making if a charter is adopted?

It is yet to be determined. Becoming a charter city creates a foundation upon which further decisions can be made.

It is likely that staff would look into the merits of revising the public contract process as well as certain aspects of the election process.

10. Would a charter status have any effect on school board, library district or other elections?

No. All district, county, state, and federal elections will remain unchanged. The only election procedures which could be revised would be for city council seats and city ballot measures.

11. Would this change the City's council/manager form of government?

No. The city manager would retain power to administer the day to day affairs of the city (e.g. operations and services, hiring and firing of employees, financial transactions, contracts and similar matters).

12. Would this change our structure to a directly-elected mayor?

No. The directly-elected mayor form of government is available to both general law cities and charter cities, and, as such, must be approved by the voters.

13. Would this create a strong-mayor form of government?

No. The strong mayor form of government is available to charter cities and, as such, must be approved by the voters. In a strong mayor form of government the mayor has

8

the authority to hire and fire the city manager and department heads, and present a budget. Strong mayors are typically involved in the day-to-day management of the city and it is often a full-time job.

14. Why don't more cities enact charters?

The differences between charter cities and general law cities are disappearing as the laws defining a general law city become more liberalized. Chartering can be divisive in a community and some cities believe that the effort is not worth the benefit.

The San Diego Grand Jury interviewed city managers of non-chartered cities and they cite that chartering only gains the support of the voters if it addresses a particular problem, such as rent control, that is presently occurring in the community. There is also a concern that charter amendments (which would need to be voted upon by the people) can be used by reformers to limit the role of the city.

15. How many cities have enacted City charters?

110 Charter Cities

368 General Law Cities

Orange County and LA County Charter Cities

Orange County

Anaheim
Cypress
Huntington Beach
Irvine
Los Alamitos
Newport Beach
Placentia
Santa Ana
Seal Beach

LA County

Alhambra
Arcadia
Burbank
Cerritos
Compton
Culver City
Downey
Glendale
Industry
Inglewood
Irwindale

Long Beach
Los Angeles
Pasadena
Pomona
Redondo Beach
Santa Monica
Signal Hill
Temple City
Vernon
Whittier

16. Will adoption of a charter affect the City's labor agreements or personnel system?

No. The proposed charter would not affect any existing or future labor agreements, memorandums of understanding, or compensation plans. The proposed charter would not affect the existing civil service system of personnel administration in any manner.