



Charter Review Commission

Agenda

SPECIAL MEETING OF THE CHARTER REVIEW COMMISSION OF THE CITY OF CHULA VISTA

October 23, 2019 6:00 p.m.

Building A, Room C-103 276 Fourth Avenue Chula Vista

CALL TO ORDER

ROLL CALL: Chair O'Donnell, Vice Chair Felber, Commissioners Buddingh, Hopida, McDonald, and Ross.

CITY STAFF: Maland, Aguayo.

PUBLIC COMMENTS

Persons speaking during Public Comments may address the Commission on any subject matter within the Commission's jurisdiction that is not listed as an item on the agenda. State law generally prohibits the Commission from discussing or taking action on any issue not included on the agenda, but, if appropriate, the Commission may schedule the topic for future discussion or refer the matter to staff. Comments are limited to three minutes.

ACTION ITEMS

The item(s) listed below will be considered individually by the Commission and are expected to elicit discussion, deliberation, and potential action. If you wish to speak on any item, please fill out a "Request to Speak" form and submit it to the Secretary prior to the meeting.

- 1. Approval of June 12, 2019 Meeting Minutes.
2. Selection of Chair and Vice Chair for 2019-20.
3. Consideration, Discussion and Potential Action on Draft Charter Amendment Language Regarding City Attorney Residency, Vote-By-Mail Balloting, and Suspension of Elected Officials Charged with Felonies.
4. Consideration, Discussion and Potential Action Regarding City Council Referral to the Commission to Analyze and Draft for City Council Consideration a Charter Amendment that would Allow Chula Vista "Residents" not just "Qualified Electors" to Serve on City Boards and Commissions.

I declare under penalty of perjury that I am employed by the City of Chula Vista in the Office of the City Attorney and that I posted this document on the bulletin board at the City Hall according to Brown Act requirements.

Dated: 10/18/19 Signed: Maria Aguayo Meeting Date: October 23, 2019

**OTHER BUSINESS**

1. STAFF COMMENTS
2. CHAIR'S COMMENTS
3. COMMISSIONERS' COMMENTS

**ADJOURNMENT**

***MATERIALS***

*Materials provided to the Charter Review Commission related to any item on this agenda are available for public review in the Chula Vista City Attorney's Office, during normal business hours.*

***AMERICANS WITH DISABILITIES ACT***

*The City of Chula Vista requests individuals who require special accommodations to access, attend, and/or participate in a City meeting, activity, or service, contact the Human Resources Department at (619) 691-5041 (California Relay Service is available for the hearing impaired by dialing 711) at least forty-eight hours in advance of the meeting.*

ATTACHMENT 1  
6/12 /19 MINUTES DRAFT

**DRAFT**  
MINUTES OF A REGULAR MEETING OF THE  
CHARTER REVIEW COMMISSION  
OF THE CITY OF CHULA VISTA

June 12, 2019

6:00 p.m.

A Regular Meeting of the Charter Review Commission of the City of Chula Vista was called to order by Chair O'Donnell at 6:01 p.m. in Conference Room C-103, located in Building A at 276 Fourth Avenue, Chula Vista, California.

**ROLL CALL**

PRESENT: Commissioners Buddingh, Hopida, McDonald, Ross, Vice Chair Felber and Chair O'Donnell

ABSENT: None.

CITY STAFF: Assistant City Attorney Jill Maland and Secretary Marisa Aguayo

**PUBLIC COMMENTS**

Chair O'Donnell called for public comments on matters not listed on the agenda. There being no members of the public who wished to speak, Chair O'Donnell closed public comments.

**ACTION ITEMS**

**1. Approval of May 8, 2019 Minutes.**

**ACTION:** Vice Chair Felber made a motion to approve the May 8, 2019 minutes. Commissioner Buddingh seconded and motion passed as follows:

**Yes:** 6 (Buddingh, Hopida, McDonald, Ross, VC Felber and Chair O'Donnell)

**No:** 0

**Abstain:** 0

**2. Report, Update, and Potential Action on Report and Presentation to Council Regarding Results and Recommendation.**

Chair O'Donnell presented and provided a PowerPoint draft. Commission discussed and agreed to minor changes to the PowerPoint. Maland presented and provided a Staff Report draft. Maland will work with subcommittee on Staff Report and PowerPoint. Commission agreed to present to Council on July 16, 2019. Chair O'Donnell to present.

**ACTION:** Charter Review Commission to present Report and Recommendation to Council on July 16, 2019.

## **OTHER BUSINESS**

1. STAFF COMMENTS – Commission’s next regular meeting will in August 2019. Will add item to excuse Hopida and McDonald’s last absence to August agenda.
2. CHAIR’S COMMENTS – Chair O’Donnell asked about adding Mayor’s letter regarding absences to next agenda. Commission declined.
3. COMMISSIONERS’/BOARD MEMBERS’ COMMENTS – No comments.

**ADJOURNMENT:** Meeting adjourned at 6:17 p.m.

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Marisa Aguayo, Secretary

**ATTACHMENT 2**  
**Charter Section 303 and 303.5 DRAFT**

## Sec. 303.

### Vacancies.

#### (A) When a Vacancy Occurs; Granting Permission for Absences.

If a member of the City Council is absent from four (4) consecutive regular meetings of the City Council scheduled and held, unless by permission of the City Council expressed in its official minutes contemporaneously with such absences or sooner, or is convicted of a felony or crime involving moral turpitude, or submits a letter of resignation to the City Clerk, or because of the election of the current office holder to another seat on the City Council, or other office requiring the surrender of the City office seat, the office shall become vacant as of the date of the last absence (in the case of four unexcused, consecutive absences from regular City Council meetings), the date of such conviction (in the case of conviction of a felony or crime involving moral turpitude), the effective date of resignation as set forth in such letter of resignation, or the date on which the current office holder is sworn into another office (in the case of an election to another office), as applicable. The permission of the Council shall be granted for any temporary illness of the requesting Councilmember disabling him or her from attendance at such meeting. The City Council shall declare the existence of any vacancy or anticipated vacancy as soon as practicable.

#### (B) Anticipated Vacancies with Intervening Consolidated Elections; Duration of Elected Replacer's Term.

If (1) a vacancy is expected to occur in an office of any member of the City Council or Mayor because of either the election of the current office holder to another seat on the Council or other office requiring the surrender of the City office seat, and (2) if, between the time the expectation of vacancy occurs (by final election results for the other election contest having been announced) and the time the actual vacancy is expected to occur, any other federal, state or local (non-City) election involving all the electors of the City is scheduled to be held at such a time that permits a special election to be called and consolidated with such other federal, state or local election, then (A) the City Council shall call and request consolidation of such special election with such other election or elections, and (B) the vacancy so expected to be created shall be filled by such special election. A person elected in such special election to fill a vacancy shall serve for the remainder of the term of the office and until a successor qualifies.

#### (C) Filling Vacancies: Appointments and Special Elections.

Except under the circumstances hereinabove provided in paragraph B, the City Council shall fill such vacancy by election or appointment as set forth herein.

- (1) If a vacancy is declared by the Council with one (1) year or less remaining in the term from the date of declaration, the Council shall within 45 days appoint a person to fill the vacant seat on the City Council.
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In the event Council shall make such an appointment, such an appointee office holder shall be entitled to hold office until a successor subsequently qualifies at the expiration of the remaining Council or Mayoral term.

If the Council is unable to make an appointment, the Council's power to appoint within 45 days of declaration of vacancy is hereby terminated for the duration of such minimal remaining term and the seat will remain vacant. The Council shall use good faith and best efforts to reach agreement on such an appointment. If the Council is unable to make an appointment during the allotted time, the Council's power to appoint is terminated.

(2) If a vacancy declared by the Council occurs with 25 months or more remaining in the term from the date of said declaration, the Council shall call a special election to be held on the next established election date, as specified in the [Elections Code](#) of the State of California, or within 120 days from the declaration of vacancy, whichever is practical, unless there is a federal, state, or local election scheduled to be held within 180 days of the declaration of the vacancy. If there is a federal, state, or local election scheduled to be held within 180 days of the declaration of the vacancy, the Council may consolidate the special election with that election, as provided by the [Elections Code](#). Notwithstanding the foregoing, the City Council may authorize an election to be conducted wholly by mail ballot, pursuant to section 303(C)(6), below.

(a) In the special election, the voters in the district for which a vacancy shall be filled shall be entitled to vote for one (1) candidate from the district. If a candidate receives the majority of the votes cast in that candidate's district, that candidate shall be deemed and declared by the Council to be elected to the vacant office. Ties among candidates shall be resolved in the manner provided in Section [300.A.3](#).

(b) If no candidate receives a majority of votes cast in the special election, to fill a vacancy, a special run-off election shall be held in the district in which the vacancy exists, on the next established election date, as specified in the [Elections Code](#), or within 120 days following the certification of the special election results, whichever is practical, unless there is a federal, state, or local election scheduled to be held within 180 days following the certification of the special election results, at which time the Council may consolidate the special run-off election with that election, as provided by the [Elections Code](#). The two (2) candidates receiving the highest number of votes cast for the vacant seat in the first special election shall be the only candidates for the vacant Council seat and the name of only those two (2) candidates shall be printed on the ballot for that seat.

(c) A vacancy in the office of Mayor shall be filled in the same manner as provided in subparagraphs a., and b., above, except that the voters of the City at-large shall be entitled to vote.

(3) If a vacancy is declared by the Council with more than one year but less than 25 months remaining in the term from the date of declaration, the Council may either appoint a person to fill the vacant seat on the City Council, pursuant to subsection C.1., above, or call a special election to fill the vacancy, pursuant to

subsection C.2., above. The Council shall determine, by majority vote within fourteen days of the declaration of vacancy, whether to fill the vacancy by appointment or by special election.

If the Council determines to fill the vacancy by appointment and is unable to make an appointment within 45 days of the Council declaring a vacancy, the Council's power to appoint is terminated and the Council shall call a special election pursuant to section 303.C.2., above.

(4) Notwithstanding any other provision in this Section [303.C](#) to the contrary, if an appointment would result in a majority of the members serving on the City Council being appointed, the Council shall not fill the vacancy by appointment; rather: (a) where the vacancy is for a remaining term of one year or less, the office shall remain vacant; and (b) where the vacancy is for a remaining term of more than one year but less than 25 months, the Council shall call a special election to fill the office in accordance with section 303.C.2.

(5) As provided in Section [300.C](#), any person who is appointed by the Council to fill the office of Councilmember or Mayor may not seek nomination and election to said offices of Councilmember or Mayor until a period of one year from the termination of the appointed term has elapsed. Said appointee shall be eligible to seek nomination and election for two (2) full terms thereafter.

(6) If a vacancy in the office of an elective officer is to be filled utilizing a special election that is not consolidated with a scheduled federal, state or local polling place election, the City Council may authorize such election to be conducted wholly by mail ballot.

### Sec. 303.5.

#### Suspension from Elected Office.

Any elective officer is subject to suspension upon determination by the City Attorney (or by the City Council in the case of the City Attorney) that such officer has a felony criminal indictment, or felony criminal proceedings, pending against such officer ("Pending Charges"). If a determination of Pending Charges is made, the officer shall be suspended by the Mayor (or by the Deputy Mayor in the case of the Mayor) and the City Council shall appoint a qualified person to discharge the duties of the office during the period of suspension. The suspension shall remain in effect until the Pending Charges are resolved. If the Pending Charges result in a felony conviction against the officer, the office shall become vacant, in accordance with section 303.A., or 503(g), of this Charter. If a felony conviction does not result, the suspension shall be lifted and the officer shall be entitled to resume the duties of the office. Notwithstanding the foregoing, if the officer's term of office lapses during the suspension period, the officer shall not be reinstated into office.

**ATTACHMENT 3**  
**Charter Section 503 DRAFT**

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**Sec. 503.****City Attorney: Election, Powers and Duties.**

(a) *Designation as Officer.* The City Attorney shall be an officer of the City, in addition to any other officers designated pursuant to this Charter. Except as otherwise provided by this Charter, it is the intent of the voters that the City Attorney shall be sufficiently independent of the City Council and other city officials to advise the City while also acting in the best interests of the public.

(b) *Powers of the City Attorney.* The City Attorney shall:

- (1) Represent and advise the City Council and all city officers in all matters of law pertaining to their offices and advise all boards, commissions, and other agencies of the City on legal matters referred to him or her, and render written legal opinions when the same are requested in writing by the Mayor or a member of the Council or the City Manager or any other officer, board or commission of the City;
- (2) Represent and appear for the City and any city officer or employee, or former City officer or employee, in any or all actions and proceedings in which the City or any such officer or employee in or by reasons of his or her official capacity, is concerned or is a party;
- (3) Attend all regular meetings of the City Council and give his or her opinion in writing whenever requested to do so by the City Council or by any of the boards or officers of the City;
- (4) Approve the form of all contracts made by and all bonds given to the City, endorsing approval thereon in writing.
- (5) Prepare any and all proposed ordinances or resolutions for the City, and amendments thereto;
- (6) Prosecute, if so directed by ordinance of the City Council, all offenses against the ordinances of the City and for such offenses against the laws of the State as may be required by law, and shall have concurrent jurisdiction with the District Attorney of the County of San Diego to prosecute persons charged with or guilty of the violation of the State laws occurring within the City limits of the City of Chula Vista for offenses constituting misdemeanors;
- (7) Whenever a cause of action exists in favor of the City, exercise discretion as to when to commence or maintain legal proceedings, subject to the approval or ratification by the City Council, when the basis for such action is within the knowledge of the City Attorney, or, he or she shall commence or maintain legal proceedings as directed by the City Council; and
- (8) Surrender to his or her successor all books, papers, files and documents pertaining to the City's affairs.

The Council may empower the City Attorney, at his or her request, to employ special legal counsel, and he or she shall have the power to appoint appraisers, engineers and other technical and expert services necessary for

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the handling of any pending or proposed litigation, proceeding or other legal matter. Upon the City Attorney's recommendation and the approval of the Council, when he or she has a conflict of interest in litigation involving another office of the City in his official capacity, such other officer may retain special legal counsel at City expense. Nothing in this Section [503](#) shall be construed to prevent the City Attorney from giving confidential advice to the City when otherwise allowed by law.

(c) *Election; Compensation of City Attorney.* The City Attorney shall be nominated and elected in the same manner and at the same election as the Mayor, except as otherwise provided in this section. The annual salary of the elected City Attorney shall be equivalent to the salary of a Judge of the Superior Court of the State of California. The City Attorney shall also receive reimbursement on the order of the Council for Council-authorized travel and other expenses when on official duty out of the City. The City Council may also provide, by resolution, for the payment of an allowance of a sum certain per month, as reimbursement for additional demands and expenses made upon and incurred by the City Attorney. The City Attorney's salary may not be reduced during the City Attorney's term of office, except as part of a general reduction of salaries of all City officers and employees in the same amount or proportion. In addition, the City Attorney shall be entitled to such benefits as are granted to other management employees of the City, as established by the City Council from time to time. The City Attorney shall be in the Unclassified Service.

(d) *Qualifications of City Attorney.* No person shall be eligible for or continue to hold the Office of City Attorney, either by election or appointment, unless he or she is a resident and registered voter of the City, ~~citizen of the United States, a qualified elector, and a California resident~~, licensed to practice law in all courts of the State of California and so licensed for at least seven years preceding his or her assumption of office following election under this charter.

(e) *Term of Office of the City Attorney.* The City Attorney shall be elected to a nominal term of four years and shall commence on the first Tuesday of December of the year of the election, and shall continue until a successor qualifies. The City Attorney shall be subject to the same limits on terms of service as are applicable to the Mayor and City Council under Section 300(C).

(f) *Vacancy, Filling of.* Upon the declaration of vacancy in the Office of the City Attorney, the Office of the City Attorney shall be filled by appointment by the majority vote of the members of the Council; provided, that if the Council shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, or if the unexpired term of the City Attorney shall exceed 24 months at the time of the appointment, the City Council shall cause a special election to be held to fill such vacancy, as provided in Section [303.C.2](#). An appointee or the person elected to the Office of City Attorney for the balance of an unexpired term shall hold office until the next general election for the Office of the City Attorney.

(g) *Vacancy, What Constitutes.* The Office of City Attorney shall be declared vacant by the Council when the person elected or appointed thereto fails to qualify within ten days after his or her term is to begin, dies, resigns, ceases to be a resident or registered voter of the City-State or absents himself or herself continuously from the CityState for a period of more than thirty days without permission from the Council, absents himself or herself from any seven consecutive regular meetings except on account of own illness or when absent from

the City by permission of the Council, is convicted of a felony, is judicially determined to be an incompetent, is permanently so disabled as to be unable to perform the duties of his or her office, forfeits his or her office under any provision of this Charter, or is removed from office by judicial procedure. A finding of disability shall require the affirmative vote of at least two-thirds of the members of the Council after considering competent medical evidence bearing on the physical or mental capability of the City Attorney.

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**ATTACHMENT 4**  
**Charter Section 902 DRAFT**

Sec. 902.

Procedure for Holding Elections.

Unless otherwise provided by ordinance hereafter enacted, all elections shall be held in accordance with the provisions of the [Elections Code](#) of the State of California, as the same now exists or may hereafter be amended, for the holding of elections in general law cities so far as the same are not in conflict with this Charter. Said elections ~~except for Councilmembers and Mayor~~ may, at the discretion of the City Council, be conducted by means of a mailed ballot ~~eliminating customary polling place operations.~~

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