



# City of Las Cruces®

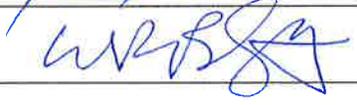
PEOPLE HELPING PEOPLE

## COUNCIL WORK SESSION SUMMARY ROUTING SLIP

Meeting Date December 14, 2015

TITLE: ELECTION PROCESSES-CITY CHARTER PROPOSED CHANGES

- Are there attachments to the Council Work Session Summary? Yes  No
- Will there be a Video Presentation for this item? Yes  No
- Will there be a PowerPoint Presentation for this item? Yes  No
- If "yes", will a copy of the PowerPoint Presentation be included on the Council Work Session Agenda? Yes  No

DEPARTMENT / ORGANIZATION	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact		541-2019	12.09.15
Department Director		EXT 2012	9 DEC 2015
Other			
Assistant City Manager/CAO (if applicable)			
Assistant City Manager/COO (if applicable)			
City Manager			12-9



# City of Las Cruces<sup>®</sup>

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## Council Work Session Summary

Meeting Date December 14, 2015

**TITLE:** ELECTION PROCESSES-CITY CHARTER PROPOSED CHANGES

**PURPOSE(S) OF DISCUSSION:**

- Inform/Update
- Direction/Guidance
- Legislative Development/Policy

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

The recall petitions and the related litigation earlier in the year identified the potential need for changes in the process to make it more efficient for the staff of City of Las Cruces (hereinafter "City"), to save the taxpayer money and prevent litigation. During the July 13, 2015 Work Session, City Council provided the City Attorney's Office with guidance in regard to possible changes to the Charter for the City of Las Cruces to make the recall petition process more efficient and cost effective.

Las Cruces is a home rule city, and its authority for the recall petition process is found in the Charter for the City. Therefore, changes to the recall petition process requires amendments to the Charter. Article X. Sec. 10.08 of the Charter provides City Council and the people with the authority and the process to amend the Charter.

The first proposed change would be to amend Article VIII, Section 8.01(c) to include a provision which would require a petitioner seeking recall of the mayor or a councillor to cite malfeasance, misfeasance or nonfeasance. This proposed amendment would provide an additional requirement for petition seekers before the City engages in a costly recall process.

The second proposed change would be to amend Article VIII, Section 8.03(a) to include a provision that increases the number of signatures for the recall of a councillor to 15% of the registered voter of the councillor's district, and increases the number of signatures for the recall of the mayor to 15% of the registered voters of the city. This proposed amendment would clear up some ambiguity and could prevent litigation.

The third proposed change would be to amend Article VIII, Section 8.03(c) to include provisions that require petition circulators who seek recall of a councillor be qualified resident voters for the district of that councillor, and that all petition circulators who seek recall of the mayor shall be qualified resident voters of the city. This proposed amendment would clear up some ambiguity and could prevent litigation.

Continue on additional sheets as required)

The next proposed change would be to amend Article VIII, Section 8.04(a) to include a provision, which provides the city clerk five additional working days to certify the sufficiency of the petition. This proposed amendment would provide City staff more time and could reduce the number of overtime hours needed to certify the sufficiency of the petition.

The next proposed change would be to amend Article VIII, Section 8.04(c) to include a provision that provides a date certain for signatories to withdrawal their signatures from a petition. This proposed amendment would clear up some ambiguity and could prevent litigation.

The final proposed change would be to amend Article VIII, Section 8.07 to include a provision, which would set the recall election to the City's next regular election and would eliminate the special election. This proposed amendment would save the taxpayer money for a costly special election process.

**SUPPORT INFORMATION:**

1. Attachment "A". City Charter, Articles VIII & X.

# Charter Amendments for the Recall Petition Process



# Amendment of Charter

- Article X Sec. 10.08 (a) Amendments Proposed  
(Option 1)

By ordinance containing the full text of the amendment and adopted by at least 2/3 of the council

(Option 2)

By petition containing the full text of the amendment and signed by at least 20% of qualified voters who voted for candidates for council in the two most recent regular city elections.

# Amendment of Charter

- Article X Sec. 10.08 (b) Elections

The city clerk will submit an ordinance or petition for amendment to the voters in a city election.

- Article X Sec. 10.08 (c) Majority

If a majority of qualified voters vote in favor of charter amendment it shall go into effect in 30 days after adoption or as indicated in the amendment.

- Article X Sec. 10.08 (c) Subject Matter

No proposed amendment shall address more than one subject



# Recall Petition Circulators

## Article VIII

### Sec. 8.03(c) Affidavit of Circulator.

^All petition circulators seeking recall of a councillor shall be qualified resident voters for the district of that councillor. All petition circulators seeking recall of the mayor shall be qualified resident voters of the city.

# A Date Certain for Withdrawal of Signatures

- Article VIII Sec. 8.04. Procedure after filing.

^(c) Withdrawal of signatures. Signatories on a petition may withdrawal their signatures up until seven (7) working days before the City Council reviews the certificate provided by the city clerk as described in paragraph (b) of this Section.

# Add 5 Days for the City Clerk to Certify the Petitions

- Article VIII Sec. 8.04. Procedure after filing.

(a) Certification by city clerk; amendment. Within twenty<sup>-five</sup> ~~(20)~~ <sup>(25)</sup> working days after the petition is filed, the city clerk shall complete a certificate as to its sufficiency.

# Increase to 15% of Voters Required for a Recall Petition

- Article VIII Sec. 8.03. Petitions.

(a) Number of signatures. ...^The number of signatures required for recall shall be equal in number to at least fifteen percent (15%) of the registered voters in the district which the councillor subject to recall represents. Recall petitions attempting to recall the mayor must be signed by at least fifteen percent (15%) of the registered voters residing within the city limits of the City of Las Cruces.

# Petition for Recall Require Malfeasance...

- Article VIII Sec. 8.01. General Authority.

(c) Recall. ... ^All petitioners seeking recall of a councilor or the mayor must cite malfeasance, misfeasance or nonfeasance on behalf of the mayor or councilor subject to the recall.



# Adding a Recall Election to the Next Regular Election.

- Article VIII Sec. 8.07. Recall petitions.

When a recall petition has finally been determined sufficient, ~~the council shall promptly call a special election, unless the regular municipal election occurs within sixty (60) days, in which case~~ the qualified voters shall vote on the recall at the <sup>next</sup> regular election.

# Questions

