



City of Las Cruces®

PEOPLE HELPING PEOPLE

COUNCIL WORK SESSION SUMMARY ROUTING SLIP

Meeting Date February 22, 2016

TITLE: 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		ext 2019	02.16.16
Department Director		EXT 2128	16 Feb 2016
Other			
Assistant City Manager/CAO (if applicable)			
Assistant City Manager/COO (if applicable)			
City Manager			



City of Las Cruces[®]

PEOPLE HELPING PEOPLE

Council Work Session Summary

Meeting Date February 22, 2016

TITLE: CITY - CHARTER CHANGES.

PURPOSE(S) OF DISCUSSION:

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

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

As a result of the litigation regarding the city petition and election processes, the City Attorney's Office provided City Council with a presentation with proposed charter changes on December 14, 2015. The City Council provided the City Attorney's Office with guidance, and expressed interest in the following proposed charter amendments: 1.) petitioners citing grounds for recall; 2.) increasing the number of signatures for a recall petition; 3.) requiring petition circulators to live in the district of the councillor subject to recall; 4.) adding five more days for the city clerk to certify a petition; 5.) providing petition signatories up until seven days before final action by City Council; 6.) starting the time for a petition on the day the petitions are picked up from the city clerk; and 7.) eliminating the supplemental petition process. To eliminate potential litigation and save taxpayer money the below changes to the City Charter are proposed.

Currently the sixty day clock for petitions starts when the first signature is obtained, which can happen months after a petition paper work was picked from the city clerk. To fix this problem Article VIII Section 8.02 should be changed to start the petition clock when the petition paper work is picked up from the city clerk. Attachment "A" is the current charter language with proposed edits and redactions, and Attachment "B" is the same charter section incorporating the changes.

The number of signatures from registered voters required for a recall petition should be increased from ten percent to fifteen percent. To fix this this problem Article VIII Section 8.03 should be changed to reflect such an increase. Attachment "C" is the current charter language with proposed edits and redactions, and Attachment "D" is the same charter section incorporating the changes.

In an effort to conserve staff resources in the City Clerk's Office, the supplemental petition process should be eliminated. To fix this this problem Article VIII Section 8.04 should be changed to increase the number of days the city clerk has to certify a petition from twenty to twenty-five, and all language regarding supplemental or amended petitions should be eliminated. Similarly, providing a more certain date for petition signatories to remove their signatures should

Continue on additional sheets as required)

save resources and expense from the City's Clerk's Office. To fix this problem Article VIII Section 8.04 should be changed to enumerate that a signatory can remove their signature until seven days before final action of the City Council. Attachment "E" is the current charter language with proposed edits and redactions, and Attachment "F" is the same charter section incorporating the changes.

The petitioner of recall petition should cite the grounds for removal regarding the councillor or mayor they seek to recall. This problem can be resolved by changing Article VIII Section 8.07 to that requires recall petitioners the grounds for removal of a councillor or the mayor. Attachment "G" is the current charter language with proposed edits and redactions, and Attachment "H" is the same charter section incorporating the changes.

SUPPORT INFORMATION:

Attachment "A", *Proposed Revisions* Article VIII Sec. 8.02.
Attachment "B", *Final with Proposed Revisions* Article VIII Sec. 8.02.
Attachment "C", *Proposed Revisions* Article VIII Sec. 8.03.
Attachment "D", *Final with Proposed Revisions* Article VIII Sec. 8.03.
Attachment "E", *Proposed Revisions* Article VIII Sec. 8.04.
Attachment "F", *Final with Proposed Revisions* Article VIII Sec. 8.04.
Attachment "G", *Proposed Revisions* Article VIII Sec. 8.07.
Attachment "H", *Final with Proposed Revisions* Article VIII Sec. 8.07.

Sec. 8.02. - Commencement of proceedings; petitioners' committee; affidavit.

Any qualified registered voter of the city may commence initiative, referendum or recall proceedings by filing with the city clerk an affidavit stating that the voter will be the petitioner. The petitioner shall be responsible for circulating and filing the petition in proper form. The affidavit must state the petitioner's name and address and specify the address to which all notices to the petitioner are to be sent. The affidavit shall state (1) the proposed initiative ordinance or (2) the ordinance sought to be reconsidered or (3) the name of the councillor to be recalled. A petitioner for recall of a councillor must reside in the district from which the councillor was elected. All persons soliciting signatures for a recall petition must reside within the council district of the councillor being recalled.

Promptly after the affidavit of the petitioner is filed, the city clerk shall issue the appropriate petition forms to the petitioner. **^Petitioners shall have sixty (60) days to collect sufficient signatures for their petitions. The time shall commence on the day after the petitioners pick up their petitions from the City Clerk's Office.**

(Ord. No. 1074, 7-3-89)

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Promptly after the affidavit of the petitioner is filed, the city clerk shall issue the appropriate petition forms to the petitioner. Petitioners shall have sixty (60) days to collect sufficient signatures for their petitions. The time shall commence on the day after the petitioners pick up their petitions from the City Clerk's Office.

(Ord. No. 1074, 7-3-89)

Sec. 8.03. - Petitions.

(a)

Number of signatures. Initiative and referendum petitions must be signed by qualified resident voters of the city equal in number to at least fifteen percent (15%) of the total number of ballots cast for candidates for council at the two (2) most recent regular city elections. Petitions for recall of a councillor must be signed by qualified voters of the district which the councillor subject to recall represents. The number of signatures required for recall shall be equal in number to at least ~~ten percent (10%)~~ ^{^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 ~~ten percent (10%)~~ ^{^fifteen percent (15%)} of the registered voters residing within the city limits of the City of Las Cruces.

(b)

Form and content. All papers of a petition shall be on forms supplied by the city clerk and shall be assembled as one instrument for filing. The council shall prescribe the form and style of the petition. Throughout their circulation, petitions shall contain the full text of the ordinance proposed or sought to be reconsidered or name of the councillor to be recalled.

(c)

Affidavit of circulator. The council shall require petitions to be accompanied by the circulator's affidavit, on forms provided by the city clerk.

^{^(d)}

Recall Petition Circulator. All petition circulators seeking recall of a councillor shall reside in the district of that councillor and be qualified registered voters. All petition circulators seeking recall of the mayor shall reside within the city limits and shall be qualified registered voters.

(Ord. No. 1081, 7-3-89; Ord. No. 2221, § I, 8-1-05)

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(Ord. No. 1081, 7-3-89; Ord. No. 2221, § I, 8-1-05)

Sec. 8.04. - Procedure after filing.

(a)

Certification by city clerk; amendment. Within twenty[^]-five ~~(20)~~ ^{^(25)} working days after the petition is filed, the city clerk shall complete a certificate as to its sufficiency. If it is insufficient, the city clerk shall send to the petitioner by certified mail at the address specified by the petitioner in the initial affidavit a statement of the reasons for its insufficiency [^]with no further opportunity to amend. ~~A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioner files a notice of intention to amend within fifteen (15) days of the date on which the city clerk's letter was mailed to the petitioner. The petitioner must then file a supplementary petition within fifteen (15) days from the date of the submission of intent to amend. Such supplementary petition shall comply with the requirements of Section 8.03. Within five (5) working days after the supplementary petition is filed, the~~ [^]The city clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioner by certified mail [;] as in the time found insufficient, it shall be certified insufficient with no further opportunity to amend.

(b)

Council review. After a petition ~~or amended petition~~ ^{or amended petition} is certified sufficient, or after a petition ~~or amended petition~~ is certified insufficient, the city clerk shall promptly present the certificate to the council. The council shall review the certificate at its next meeting following the filing of the certificate and approve or disapprove it. The council's determination shall then be final.

[^](c)

Withdrawal of signatures. Signatories on a petition may withdrawal their signatures after the petition has been submitted to the city clerk for up to seven (7) working days before the City Council reviews the certificate provided by the city clerk as described in paragraph (b) of this Section.

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(b)

Council review. After a petition is certified sufficient, or after a petition is certified insufficient, the city clerk shall promptly present the certificate to the council. The council shall review the certificate at its next meeting following the filing of the certificate and approve or disapprove it. The council's determination shall then be final.

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Withdrawal of signatures. Signatories on a petition may withdraw their signatures after the petition has been submitted to the city clerk for up to seven (7) working days before the City Council reviews the certificate provided by the city clerk as described in paragraph (b) of this Section.

Sec. 8.07. - Recall petitions.

^(a)

All recall petitions of a councillor or the mayor must cite the grounds for removal on the petition on behalf of the councillor or mayor subject to the recall.

^(b)

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 regular election.

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City Charter Proposed Changes



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 (d) Subject Matter**

No proposed amendment shall address more than one subject



Time Starts at Picking Up Petition from the City Clerk

- **Sec. 8.02. - Commencement of proceedings... (See Attachments A&B)**

^Petitioners shall have sixty (60) days to collect sufficient signatures for their petitions. The time shall commence on the day after the petitioners pick up their petitions from the City Clerk's Office.

Increase to 15% of Voters Required for a Recall Petition

- **Sec. 8.03. - Petitions. (See Attachments C&D)**

(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.

Recall Petition Circulators

- **Sec. 8.03. - Petitions. (See Attachments C&D)**
^(d)

Recall petition circulator. All petition circulators seeking recall of a councillor shall reside in the district of that councillor and be qualified registered voters. All petition circulators seeking recall of the mayor shall reside within the city limits and be qualified registered voters.

Add 5 Days for the City Clerk to Certify the Petitions

- **Sec. 8.04. - Procedure after filing.**

(See Attachments E&F)

(a) Certification by city clerk; amendment. Within twenty[^]-five ~~(20)~~ ^{^(25)} working days after the petition is filed, the city clerk shall complete a certificate as to its sufficiency.

Removing Supplemental Recall Petitions

- **Sec. 8.04. - Procedure after filing.**

(See Attachments E&F)

(a) Certification by city clerk; amendment.

Remove all mention of supplemental or amended petitions

(b) Council review.

Remove all mention of supplemental or amended petitions



Withdrawal of Signatures

- **Sec. 8.04. - Procedure after filing.**

^(c) *(See Attachments E&F)*

Withdrawal of signatures. Signatories on a petition may withdrawal their signatures after the petition has been submitted to the city clerk for up to seven (7) working days before the City Council reviews the certificate provided by the city clerk as described in paragraph (b) of this Section.

Petitions for Recall to Grounds for Removal

- **Sec. 8.07. - Recall petitions.**

^(a) (See Attachments G&H)

All recall petitions of a councillor or the mayor must cite the grounds for removal on the petition on behalf of the councillor or mayor subject to the recall.

Questions

