



TO: MEMBERS OF THE COMMITTEE OF THE PROPOSED CITY CHARTER

CC: KENNETH C. FARFSING, CITY MANAGER

**FROM: SUNNY K. SOLTANI, CITY ATTORNEY
LUM T. FOBI, DEPUTY CITY ATTORNEY**

DATE: May 14, 2018; May 21, 2018 - Ongoing

**RE: Responses to Questions Presented at the Meetings of the Committee
of the Proposed City Charter for the City of Carson**

I. INTRODUCTION

The State Constitution authorizes the City of Carson to adopt a city charter for the purpose of its own government, the provisions of which would have the force and effect of state law. Article XI, section 5, of the Constitution, commonly referred to as the “home rule” provision, generally vests charter cities with plenary authority over their municipal affairs while recognizing state law supremacy over matters of statewide concern. It authorizes cities that have voted to adopt a charter to exercise autonomous rule over their municipal affairs free from state law interference, subject only to the limitations and restrictions contained in the charter itself, and the State and Federal Constitutions.

Based on this constitutional grant of authority, an adopted city charter operates as an instrument of limitation and restriction on the broad power of a city over its municipal affairs. The charter provisions set the standards for a city’s exercise of its plenary authority. The City Council has appointed the Committee of the Proposed City Charter to provide recommendations for these standards to be submitted to the Council, and possibly to the Carson voters at the November 6, 2018 general election.

On May, 7, 2018, the Committee held its inaugural meeting at which number of questions were raised regarding the process and options for a proposed city charter, and it is anticipated that many more questions will be submitted as the Committee meetings progresses. The City Attorney’s Office has prepared responses to some of the questions and will continue to add to the Questions and Answers herein as others are submitted.

II. QUESTIONS & ANSWERS

May 7, 2018 – Committee Meeting

- 1. Q. Upon the date that an adopted city charter takes effect, what are the immediate impacts on the City’s present elected public officials?**

A. The impact on the City's current elected public officials will depend on the terms of the adopted city charter. A city charter may provide for the manner in which, the method by which, the times as which, and the terms for which the City Council shall be elected. The charter may dictate whether and the terms for which the present officers continue to perform the duties of their respective offices.

2. Q. Can a charter require the City Council act by a supermajority vote on issues where presently no super majority is required?

A. Yes. A charter may require a supermajority vote by the City Council on issues that presently require a majority vote of the Council. The provisions of the charter may establish the number of affirmative votes required for the enactment of ordinances, the approving of the payment of money, or for entering into contracts, etc. The provisions of the charter may also establish a higher number of affirmative votes required for Council action on specific issues. However, general law may require the City act by a supermajority vote of the Councilmembers, or possibly by a majority vote of the electorate, for certain issues that are matters of statewide concern, such as the passage of an urgency ordinance or the City's exercise of its taxing authority. In these instances the City would be preempted from acting by a manner in that is in conflict with or inimical to that required by the state law.

3. Q. Can a charter establish or authorize the City Council to establish standards that are less strict than state general law standards for certain issues?

A. The City may apply more lenient standards than those set by state law on matters in respect to municipal affairs, subject to any Constitutional requirements. However, with respect to other matters, the City must apply standards that match or are stricter than those set by general law, unless the field is completely preempted by State or Federal law, thereby prohibiting any regulation by the City.

4. Q. Are there current charter cities that are comparable to Carson?

A. The charter cities presently existing in the State vary in size, population, staffing, budget, policies, and procedures, etc. However, some comparability may be found in how the various cities choose to be governed under their charters. A List of Charter Cities, as well as samples of adopted and draft charters that that may be useful in developing recommendations for a proposed charter, have been provided to the Committee and posted on the City's website. The Committee's recommendations for the proposed charter are not limited to the options provided in these samples and the Committee may utilize the List of Charter Cities to seek out other charters for review.

	Carson	Inglewood	Torrance	RPV
Population	94,000	116, 000	147,000	43,000
Size	19.2 mi ²	9.09 mi ²	21 mi ²	13.6 mi ²
Form	Council- Manager	Council- Administrator	Council- Manager	Council- Manager
Staffing	297 FT	652 Ft	1,480 FT	70 FT (68 PT - 31 FTE)
Budget	\$ 76.1 Rev \$79.1 Exp	\$210.8 Rev \$242 Exp	\$203.5 Rev \$203.5 Exp	\$43 Rev 47.8 Exp.

May 14, 2018 – Committee Meeting

5. Q. To what extent can a charter affect matters of statewide concern?

A. In the case of a specific matter of statewide concern, a city charter may govern the City’s exercise of its authority in a manner that does not conflict with general law. A genuine conflict between the local law of a charter city and state law exists where the local law is inimical or cannot be reconciled with state law, and thus the conflict is unresolvable short of choosing between one enactment and the other. However, where it is possible to comply with both the local law and state law, no conflict exists. For example, the Ralph M. Brown Act, which sets the standards for the open and public nature of public agency meetings - a matter of statewide concern, requires agenda posting at least 72 hours prior to a regular city council meeting. Should a charter provision, or a local ordinance adopted pursuant to a charter provision, establish a posting requirement, it may not allow posting for less than 72 hours prior to the meeting, but may require posting for more than 72 hours prior to the meeting. In this context, the general law is the floor, and the city may act in promotion and not in derogation of the intent of the state legislature.

6. Q. What happens if the charter is silent on an issue?

A. Where the charter is silent or contains no special procedure concerning a municipal subject, the applicable state and local laws govern.

7. Q. How will adopting a charter affect negotiated utility contracts, unions contracts, and other agreements in which the City is a party?

A. An adopted charter may provide for succession or continuance of the City's name, rights and liabilities, contracts, officers, pending actions and proceedings, and operative ordinances, resolutions, and other regulations. The charter may provide that all contracts entered into by the City or for its benefit, prior to the effective date of the charter, shall continue in full force and effect according to their terms.

Samples: RPV Draft Charter, §§ 100-106, p. 7-8

Torrance Charter, §§ 100, 200, 300-320, p. 7-9

8. Q. Can the City provide for a fire department and/or police department under the terms of a charter?

A. The establishment of city fire and police departments is a municipal affair, subject to the provisions of a charter. A charter may provide for the establishment of a fire and/or police department and the transferring of the current responsibilities of the LA County fire and sheriff's departments contract by the City to such established city departments. This would be a significant undertaking by the City.

Samples: Inglewood Charter, Articles XVII and XXII, p. 37-38

9. Q. What affect does adoption/rejection of the proposed charter by the voters have on the officials seeking election on the November 6, 2018 ballot?

A. The terms for the elected officials are a municipal affair subject to the provisions of the charter. If the proposed charter does not receive a majority vote of the electors approving the proposed measure, the City will continue to operate as a general law city under the same state and local standards and restrictions as currently exists. However, if the proposed charter is adopted, the chart provisions may provide the terms by which newly or incumbent elected officials shall serve their terms under the charter. The charter may provide that the officials simultaneously elected with the adoption of the charter will serve the term provide by the existing local law or the term provided by the charter. The charter may provide the manner in which, the method by which, the times at which, and the terms for which the several municipal officers and employees whose compensation is paid by the city shall be elected.

Samples: RPV Draft Charter, § 103, p. 7

Torrance Charter, § 602(c), p. 13

10. Q. How will adopting a charter affect the association between appointed commission and boards, the city manager, and the city council?

A. The manner and method by which the various boards and commissions shall operate is a municipal affair that may be provided for in or by the charter. Currently,

pursuant to chapter 7 of the Carson Municipal Code, the various city departments, boards, and commission are responsible to either the city council, city manager, or both. The proposed charter may stay silent on these issues or provide for the continuation of the current manner of association, whereby the departments, boards, and commissions may continue to operate as they have done. The charter may also provide different terms for association, or may authorize the council to establish the manner and methods by which the boards and commissions operate.

11. Q. Can we change the number of council meetings to more than two meetings per month?

A. Yes. The holding of regular city council meetings is a municipal affair, subject to the charter and preemptive state general law. The city must establish a time and place for holding regular meetings of the city council, which is a municipal affair that may be provided for in the charter. The charter may establish a minimum number of regular meetings of the council, or it may authorize the council to take formal action to establish such standards.

Samples: RPV Draft Charter, § 308(b), p. 19

Torrance Charter, § 711, p. 18

Inglewood Charter, Art. VI, §6, p. 26

12. Q. How will adopting a city charter affect council compensation? Can such compensation be changed absent the adoption of a charter?

A. The method of determining council compensation is a municipal affair, subject only to the restrictions provided in the charter. A city charter may provide the manner, method, and timing by which the councilmembers may be compensated or may adjust their compensation. The plenary grant of authority over compensation extends not just to council members, but to all municipal officers and employees, and may be vested in the council itself or simply included in the charter. Alternatively, the charter may require that council compensation be set and adjusted in the manner provided by state law, be set at a rate that does not exceed that permitted by state law, and may or may not provide for a departure from state law should the council determine that such departure is in the best interest of the city.

Samples: RPV Draft Charter, § 304, p. 16

Torrance Charter, § 604, p. 14

Inglewood Charter, Art. V, §4, p. 25

Pursuant to state law, the City is authorized to incrementally increase, or otherwise adjust, the salaries of its city councilmembers. State law allows for an annual adjustment

to a councilmember's base salary by 5% each year, which cannot be compounded, and which is based upon the date the last salary adjustment became effective.

13. Q. Can a charter provide for an elected city attorney and election controller?

A. Yes. The manner and method for selection the city attorney and/or an elections controller are municipal affairs, subject to the charter provisions, the state and federal Constitutions, and preemptive general state law. A charter may provide for the election of the city attorney and/or an election controller, or may authorize the city council to establish standards for the selection of these officials.

Samples: RPV Draft Charter, § 406, p. 30

Torrance Charter, § 1000, p. 28

14. Q. Can a charter provide for an appointed city clerk and city treasurer? Can the selection of such officers change from elected to appointed positions absent the adoption of a charter?

A. Yes. The manner and method for selection the city clerk and city treasurer are municipal affairs, subject to the terms of the charter. A charter may provide for the appointment of these municipal officers. A charter may vest in the city manager the power to appoint the city clerk and/or city treasurer, or it may provide for appointment by the council or some other entity. Absent a charter, state law requires a majority vote of the electorate approving the change to the selection process for the city clerk and city treasurer.

Samples: RPV Draft Charter, §§ 501-502, p. 33-34

Torrance Charter, §§ 600, 620, 630, 640, p. 13, 15-17

Inglewood Charter, Art. IV, §§ 6-7, p. 23

15. Q. If an adopted charter provides for the election of council members by districts in the city, will there be field offices and representatives? If so, how will they be compensated?

A. The election of city officers by districts in the city is a municipal affair, subject to the terms of the charter and the Constitution. The terms of the charter may or may not provide for field offices and/or representatives, and for how such offices may be operated and such representatives compensated. The charter may establish the districts and authorize the city council to establish standards for administration of the city within and among the districts, the city at large, and the community.

Samples: Inglewood Charter, Art. IV, § 4, p. 20

Public questions.

- C/P - What is the cost of becoming a charter city/legal fees ?
- P - What are the timeline, cost analysis, risk exposure to liability of becoming a charter city?
- P - Will FPCC commission still oversee elections/campaigns?
- P - Will the city's name change?
- P - Can a resident group file suit to stop the charter process or to require the inclusion of certain provisions in the charter?
- P - Land banking in carson, who get fund???
- P – what happens to our current city ordinances
- P – will issue of becoming a charter city come to a full vote by the carson voters?

Public Officials

- P - Can charter provide for elected city manager?
- P - Can charter prohibit incompatible positions?

Taxation

- P – property taxes currently 0, will they change under charter?

Election

- P – will election dates conform to state elections?
- P - How will district boundaries be established