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City of Cypress, Amend City Charter to Update Noticing, Election Procedures, and Process for Filling a Council Vacancy

Shall the measure, amending Cypress’s City Charter to require Council vacancies be filled pursuant to State law; permit changing by ordinance Council composition, election, and terms to comply with State law changes; and, solely pertaining to Cypress’s municipal affairs, change publication completion requirements for ordinances, franchises, public works contracts, and legal notices or other matters to alternatively permit publication by posting at three or more Council-designated public places and Cypress’s online presence, be adopted?

What your vote means

YES	NO
A “Yes” vote means you support the above charter amendments for the City.	A “No” vote means you oppose the above charter amendments for the City.

For and against

FOR	AGAINST
Rob Johnson Mayor, City of Cypress	No argument against this measure was submitted.

Ballot Measures-PFull Text of Measure P
City of Cypress

AMENDMENT TO THE CHARTER OF THE CITY OF CYPRESS TO PROVIDE THAT VACANCIES ON THE CITY COUNCIL BE FILLED PURSUANT TO STATE LAW; PERMIT THE CITY COUNCIL TO ADOPT AN ORDINANCE MODIFYING ITS COMPOSITION, ELECTION, AND TERMS OF OFFICE TO COMPLY WITH CHANGES IN STATE LAW; AND, SOLELY PERTAINING TO CYPRESS'S MUNICIPAL AFFAIRS, CHANGE PUBLICATION COMPLETION REQUIREMENTS FOR ORDINANCES, FRANCHISES, PUBLIC WORKS CONTRACTS, AND LEGAL NOTICES OR OTHER MATTERS TO ALTERNATIVELY PERMIT PUBLICATION BY POSTING AT THREE OR MORE COUNCIL-DESIGNATED PUBLIC PLACES AND CYPRESS'S ONLINE PRESENCE.

SECTION 1. AMENDMENT TO SECTION 400 OF THE CITY CHARTER. The People of the City of Cypress do hereby amend Section 400 of the City Charter of the City of Cypress as follows (underline showing additions and ~~strikethrough~~ showing deletions):

Section 400. City Council. ~~The Except as provided by an ordinance that is consistent with the general laws of the State, the~~ City Council, hereinafter termed "Council", shall consist of five Councilmen elected to office from the City at large in the manner provided in this Charter. The term of office shall be four years. ~~Alternatively Except as provided by an ordinance that is consistent with the general laws of the State, alternatively,~~ and successively, three four-year terms shall be filled at one general municipal election and two four-year terms at the next such election, consistent with the sequence of terms of Councilmen existing on the effective date hereof. The term of a Councilman shall commence on the first Tuesday following his election and he shall serve until his successor qualifies. Any ties in voting shall be settled by the casting of lots. Each Councilman in office at the time this Charter takes effect shall continue in office until the end of the term for which he was elected or appointed. No person shall be eligible for election or appointment to the Council who, at the time he would take office, would have previously served on the Council for eight or more years; provided, however, that service on the Council prior to the effective date of this provision shall be disregarded in determining eligibility for office.

SECTION 2. AMENDMENT TO SECTION 403 OF THE CITY CHARTER. The People of the City of Cypress do hereby amend Section 403 of the City Charter of the City of Cypress as follows (underline showing additions and ~~strikethrough~~ showing deletions):

Section 403. Vacancies, Forfeiture of Office. Filling of Vacancies.

(a) A vacancy shall exist on the Council, and shall be declared by the Council, if a Councilman resigns, is legally removed, dies, or forfeits his office.

(b) A Councilman shall forfeit his office if he (1) lacks at any time while holding office any qualification for election prescribed by this Charter or by law, (2) violates any provision of this Charter, (3) is convicted of a designated crime as specified in the Constitution and laws of the State, (4) without consent of the Council is absent from all regular Council meetings for a period of sixty consecutive days and the first regular meeting thereafter, said period to be completed from the last regular Council meeting he attends. A declaration by the Council of a vacancy resulting from forfeiture of office shall be subject to judicial review, provided that within two weeks after such declaration an appropriate action, or proceeding, for review is filed in a court having jurisdiction of the action or proceeding. During the pendency of any such action or proceeding, anyone appointed by the Council to fill such vacancy shall have all the rights, duties, and powers of a Councilman, and shall continue in such office as provided herein unless and until said court rules the declaration of the Council invalid and such ruling has become final.

~~(c) Any vacancy on the Council shall be filled by a majority vote of the remaining Councilmen within thirty days after the vacancy occurs. If more than one vacancy exists, successive appointments shall be made, and each appointee shall participate in any succeeding appointment. If the Council fails, for any reason, to fill such vacancy within said thirty-day period, it shall forthwith call an election for the earliest possible date to fill such vacancy. A person appointed by the Council to fill a vacancy shall hold office until the next general municipal election and until his successor qualifies. A Councilman elected to fill a vacancy shall hold office for the remainder of the unexpired term.~~ (c) Any vacancy on the Council shall be filled in a manner consistent with the general laws of the State.

SECTION 3. AMENDMENT TO SECTION 416 OF THE CITY CHARTER. The People of the City of Cypress do hereby amend Section 416 of the City Charter of the City of Cypress as follows (underline showing additions and ~~strikethrough~~ showing deletions):

Section 416. Ordinances. Publication. The City Clerk shall cause each ordinance to be published at least once in the official newspaper within fifteen days after its adoption; provided, however, that when ~~the publication of an ordinance would not otherwise be required solely~~ solely pertains to the municipal affairs of the City, ~~except as otherwise provided by the general laws this Charter or by ordinance of the State Council,~~ the Clerk ~~shall may~~ post the ordinance in at least three public places in the City as designated by the Council and posted on the City's online presence in lieu of such publication.

SECTION 4. AMENDMENT TO SECTION 420 OF THE CITY CHARTER. The People of the City of Cypress do hereby amend Section 420 of the City Charter of the City of Cypress as follows (underline showing additions and ~~strikethrough~~ showing deletions):

Section 420. Publishing of Legal Notices.

~~Prior to the beginning of each fiscal year, the Council shall solicit bids and contract for the publication of all~~ The publication of legal notices or other matter required to be published in a newspaper of general circulation, during the ensuing fiscal year. ~~If there is only one newspaper of general circulation printed and published in matters solely pertaining to the municipal affairs of the City, then the Council shall have the power to contract with such newspaper for the publishing of such legal notices and other matter without soliciting bids therefor. The newspaper with which the Council so contracts shall be deemed to be the official newspaper.~~

~~If there is no newspaper of general circulation in the City, except as provided otherwise in this Charter or if such a newspaper will not contract with the City at rates which do not exceed those charged private persons, and the Council has not designated an official newspaper, then such notices and other matter, and notices required to be published in the official newspaper by ordinance of~~

Ballot Measures-P

~~the Council, may be published~~ accomplished by (1) posting copies thereof at three or more public places in the City as designated by the Council; ~~and posted on the City's website;~~ (2) publishing thereof in the official newspaper; or (3) a combination of (1) and (2).

The publication of legal notices or other matters that do not solely pertain to the municipal affairs of the City shall be published in a manner consistent with applicable law.

The newspaper with which the Council contracts for the publication of legal notices shall be deemed to be the official newspaper.

No defect or irregularity in proceedings taken under this section, ~~or failure to designate an official newspaper,~~ shall invalidate any publication where the same is otherwise in conformity with this Charter or law.

SECTION 5. AMENDMENT TO SECTION 1103 OF THE CITY CHARTER. The People of the City of Cypress do hereby amend Section 1103 of the City Charter of the City of Cypress as follows (underline showing additions and ~~strikethrough~~ showing deletions):

Section 1103. Procedure for Granting Franchises. Before granting any franchise, the City Council shall adopt a resolution declaring its intention to grant same and stating the name of the proposed grantee, the character of the proposed franchise, and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour, and place when and where any person having an interest in or objecting to the granting of such franchise may appear before the Council and be heard thereon. Said resolution shall be published in a manner consistent with Section 420 at least once, not less than ten days prior to said hearing, ~~in the official newspaper.~~ After hearing all persons desiring to be heard, the Council may by ordinance deny or grant the franchise on the terms and conditions specified in the resolution, subject to the referendum of the people. No ordinance granting a franchise shall be adopted as an emergency ordinance.

SECTION 6. AMENDMENT TO SECTION 1012 OF THE CITY CHARTER. The People of the City of Cypress do hereby amend Section 1012 of the City Charter of the City of Cypress as follows (underline showing additions and ~~strikethrough~~ showing deletions):

Section 1012. Contracts on Public Works. Unless subject to an exception set forth in another subparagraph of Section 1012, every project involving an expenditure of more than Three Thousand Five Hundred Dollars (or such other amount as may be prescribed by ordinance) for the construction, improvement, repair or maintenance of public works shall be let by the Council by contract to the lowest responsible bidder after notice by publication occurs at least once and in the official newspaper by one or a manner consistent with Section 420. If publication under this Section 1012 occurs more insertions, than once, then the first of which publication shall ~~be occur~~ at least ten days before the time for opening bids.

Projects for the maintenance or repair of public works are excepted from the requirements of this paragraph if the Council determines that such work can be performed more economically by a City department than by contracting for the doing of such work.

The Council may reject any and all bids presented and may readvertise in its discretion.

The Council, after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the City Manager, the work in question may be performed better or more economically by the City with its own employees and after the adoption of a resolution to this effect by at least four affirmative votes of the Council may proceed to have said work done, without further observance of the provisions of this section.

Such contracts may be let and such purchases made without advertising for bids, if such work shall be deemed by the Council to be of urgent necessity for the preservation of life, health, or property, and shall be authorized by resolution passed by at least four affirmative votes of the Council and containing a declaration of the facts constituting such urgency.

At its election, the Council may authorize the use of a design-build construction procurement process for capital improvement projects.

For capital improvement project maintenance contracts, the Council may award the contract to the most qualified bidder instead of to the lowest responsible bidder

SECTION 7. BALLOT DESCRIPTION. As provided in Government Code Section 34458.5, the following ballot description is included in this Charter Amendment measure:

Charter Amendment (Sections 400, 403, 415, 420, 1103, and 1012):

Section 400 of the City Charter currently sets for the City Council's composition, election, and terms of office. This Charter Amendment measure amends Section 400 by permitting the City Council to adopt an ordinance modifying its composition, election, and terms of office to comply with changes in State law.

Section 403 of the City Charter requires that City Council vacancies to be filled within 30 days. This Charter Amendment measure amends Section 403 to provide that City Council vacancies are to be filled pursuant to State law, which also provides that vacancies are to be filled within 60 days.

Sections 415, 420, 1103, and 2012 currently requires the publication of City ordinances, franchise, public works contracts, and legal notices or other matters by publication in the City's official newspaper and in the manner currently specified therein. This Charter amendment measure amends these sections to allow publication, for matters solely pertaining to the City's municipal affairs, to be accomplished by posting at three or more City Council designated public places and on the City's online presence.

SECTION 8. SEVERABILITY. It is the intent of the people that the provisions of this Charter Amendment measure are severable and that if any provision of this Charter Amendment measure, or the application thereof to any person or circumstance, is held invalid such invalidity shall not affect any other provision or application of this Charter Amendment measure which can be given effect without the invalid provision or application.



Ballot Measures-P

SECTION 9. EFFECTIVE DATE. This charter amendment shall be deemed ratified 10 days after certification of the election, and will take effect upon filing and acceptance by the California Secretary of State.

Impartial Analysis City of Cypress Measure P

The Cypress City Council placed Measure P on the November, 3, 2020, ballot.

The Cypress City Charter ("Charter") includes procedures for filling vacancies on the City Council, establishing election rules, and publishing notices, among other provisions. If adopted, Measure P amends the Charter as follows:

If a vacancy occurs on the City Council, the Charter provides 30 days to fill the council vacancy through a City Council appointment process (Charter Section 403(c)).

Typically, filling vacancies on the City Council, which may involve providing residents time to apply and public meetings to interview/select a new councilmember, takes more than 30 days. If a vacancy is not filled through appointment by the 30 day deadline, an election must be held and could cost more than \$220,000.

Recognizing the need for careful deliberation when filling council vacancies, State law provides 60 days to make an appointment. The proposed amendment to Charter Section 403(c) would provide the amount of time allowed by State law (60 days) to fill council vacancies rather than 30 days and would adjust with changes in State law.

Charter Section 400 sets rules for City Council elections and was last updated in 1977. Over the last 43 years there have been numerous changes in California's election laws. The proposed changes to Charter Section 400 would allow the City to adjust to changes in California's election laws, including setting its election procedures by ordinance following a public hearing process.

The proposed charter amendments related to filling council vacancies and elections do not change term limits for councilmembers.

The Charter requires publication of notices relating to ordinances, franchises, public works contracts, legal notices and other matters in the City's official newspaper. The proposed amendment would permit the City to post notices on the City's online presence (e.g., website) and in at least three public places designated by the City Council; except as provided otherwise by ordinance. Publications not pertaining to the City's municipal affairs continue to occur pursuant to applicable law.

A **"Yes"** vote means you support the above charter amendments for the City. A **"No"** vote means you oppose the above charter amendments for the City. Measure P will take effect if a majority of those voting on the measure cast a "Yes" vote at the November 3, 2020, election.

The above statement is an impartial analysis of Measure P. If you desire a copy of the measure, please call the elections official's office/city clerk at (714) 229-6714 and a copy will be mailed at no cost to you.

s/ Anthony R. Taylor
City Attorney

Ballot Measures-P

Argument in Favor of Measure P

Vote "YES" on Measure P to update the Cypress City Charter to be consistent with State law, modernize the way we share notices and information with the community, and save taxpayer dollars.

Specifically, Measure P:

- Updates provisions of the City Charter that have not changed in over 43 years and have become inconsistent with State laws.
- Increases the number of days provided to fill a vacancy on the City Council from 30 days to 60 days in accordance with State law. This allows more time for residents to apply to fill the vacated seat and City Council to evaluate prospective appointees.
- Saves taxpayer dollars by providing sufficient time to fill a City Council vacancy and avoid exorbitant stand-alone election costs three times as high as the City's regular general election costs.
- Provides the City flexibility to comply with changes in California's election laws by ordinance and a public hearing process.
- Modernizes the way the City shares legal notices with the community by utilizing technology, including the City's website, social media, and the City's mobile app. Also maintains the requirement to post notices in three public places.
- Saves taxpayer dollars spent on costly and ineffective newspaper advertising.

Measure P is an essential amendment to the City Charter that addresses inconsistencies with State law and enables the City to meet our community's modern needs. Measure P saves taxpayer dollars today by replacing costly newspaper advertising, as well as election costs should a City Council vacancy occur. Measure P has unanimous City Council support and its approval continues Cypress' success in the future. Vote "YES" on Measure P.

s/ Rob Johnson
Mayor, City of Cypress

No argument against this measure was submitted.