

**CHARTER REVIEW COMMITTEE MEETING  
MUNICIPAL LIBRARY, COMMUNITY ROOM, 2<sup>nd</sup> FLOOR  
41 WEST THURMAN AVENUE  
PORTERVILLE, CA 93257  
NOVEMBER 13, 2013, 5:30 P.M.**

Call to Order  
Roll Call

**ORAL COMMUNICATIONS**

This is the opportunity to address the Charter Review Committee. Unless additional time is authorized by the Committee, all commentary shall be limited to three minutes.

**SCHEDULED MATTERS**

1. **Minutes of November 6, 2013**  
Re: Approving draft Minutes of the Charter Review Committee Meeting of November 6, 2013.
2. **Consideration of City Charter Section 16 – Vacancies in Office; When Offices Declared Vacant.**  
Re: Consideration of proposed language clarifying what “absenting” oneself means.
3. **Consideration of City Charter Sections 40 through 45 pertaining to Tax Provisions.**  
Re: Consideration of proposed language for Sections 40 and 45 to ensure compliance with applicable laws.
4. **Consideration of City Charter Section 48 – Payment of City Money; Expenditures and indebtedness; Presentation of Demands; Warrants on Treasury.**  
Re: Consideration of proposed amendments to section to provide clarity.
5. **Consideration of City Charter Section 61 – Competitive Bidding for Contract Work for Erection, Improvement and Repair of Public Buildings, Etc., Where the Amount of in Excess of Five Thousand Dollars.**  
Re: Consideration of proposed language and format for ballot measures.
6. **Consideration of City Charter Section 62 – Public Improvements**  
Re: Consideration of amendments for clarity and consistency.
7. **Consideration of City Charter Section 63 – Franchises; Limitation on Renewals.**  
Re: Consideration of amendments.
8. **Consideration of Committee Member Items of Interest**
9. **Scheduling of Future Meetings**

## **OTHER MATTERS**

### **ADJOURNMENT**

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the Office of City Clerk at (559) 782-7464. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.

Materials related to an item on this Agenda submitted to the Committee after distribution of the Agenda packets are available for public inspection during normal business hours at the Office of City Clerk, 291 North Main Street, Porterville, CA 93257, and on the City's website at [www.ci.porterville.ca.us](http://www.ci.porterville.ca.us).

**MCCORMICK KABOT JENNER & LEW  
MEMORANDUM**

TO: Porterville Charter Review Committee  
Cc: John Lollis, City Manager

FROM: Julia M. Lew, City Attorney

DATE: November 8, 2013

SUBJ: City Charter Section16 (City Council Member Vacancies)

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Per the direction by the Charter Review Committee at the last meeting, attached is the proposed revised language.

**Sec. 16. Vacancies in office; when offices declared vacant.**

A vacancy in any legislative office, from whatever cause arising excluding any vacancy created due to a successful recall election, shall be filled by appointment by the council, such appointee to hold office until the next general municipal election, when a successor shall be chosen by the electors for the unexpired term; provided, that if the council fails to agree or for any other reason does not fill such vacancy within thirty days after the same occurs, then such vacancy shall be filled by the mayor; provided, however, that if for any reason the seats of a majority of the council shall become vacant, then the city clerk shall call a special election at once to fill the vacancies for the unexpired terms, and the same shall be conducted substantially in the manner provided for general municipal elections. (3-4-03)

If any legislative officer of the city shall remove from the city or absent himself/herself therefrom for more than thirty (30) days consecutively without permission of the council, or for said period shall willfully fail or refuse to perform the duties of his office, though able so to do, *or shall fail to attend three (3) consecutive regular city council meetings unless prevented from attending by sickness (but in no case for a period exceeding 120/180 days)*, or shall fail to qualify, or shall resign, or be convicted of a felony or a crime of moral turpitude, or be adjudged mentally incompetent, his/her office shall thereupon become vacant.

**MCCORMICK KABOT JENNER & LEW**  
**MEMORANDUM**

TO: Porterville Charter Review Committee  
Cc: John Lollis, City Manager

FROM: Julia M. Lew, City Attorney

DATE: November 8, 2013

SUBJ: City Charter Section 40 and 45 (Taxes/Assessments)

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Per the direction by the Charter Review Committee at the last meeting, attached is the proposed revised language. The memo reviewed on November 6<sup>th</sup> incorrectly referred to the second sentence, rather than the second part of the first sentence. Below is the proposed revised language:

**Sec. 40. Taxation to conform to general laws of the state.**

Except as otherwise herein provided the council shall, by ordinance, provide a system for the assessment, equalization, levy, and collection of taxes, which, as nearly as may be, shall conform to the system provided by the general laws of the state; ~~provided, that all sales for delinquent taxes shall be made to the City of Porterville.~~ Should the council fail to fix the tax rate within the time prescribed, then the tax rate of the previous year shall constitute the rate for the current year.

The following is the proposed language for Section 45:

**Sec. 45. Taxes and assessments to constitute a lien; foreclosure.**

All taxes and assessments levied, together with any percentages imposed for delinquency and cost of collection, shall constitute liens on the property assessed; every tax upon the personal property shall be a lien upon the real property of the owner thereof. The liens provided for in this section shall attach as of the first Monday in March each year and may be enforced by actions to foreclose such liens in any court of competent jurisdiction, or by a sale of the property affected and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance; provided that when real estate is offered for sale for city taxes due thereon the same shall be sold to the city in like case and manner, and with like effect and right of redemption as it may be struck off and sold to the state when offered for sale for county taxes; and the council shall have power to provide by ordinance for the procedure to be followed in such sales to the city and redemption thereafter. *This section is cumulative to any rights and remedies the City may have under the general laws relating to the enforcement and collection of taxes and assessments.*

**MCCORMICK KABOT JENNER & LEW**  
**MEMORANDUM**

TO: Porterville Charter Review Committee  
Cc: John Lollis, City Manager

FROM: Julia M. Lew, City Attorney

DATE: November 8, 2013

SUBJ: City Charter Section 48 (Expenditures and Indebtedness)

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I have discussed this section with the City Manager and gone back over my files from the 2002 Charter Review Committee Meetings. We believe that the intent of this section was to prevent the City staff from expending funds or incurring debt without the approval of an ordinance and a 4/5 vote of the Council, unless the council adopted (by 4/5 majority vote) a limit amount for such expenditures (or indebtedness) that would be allowed without additional prior authorization. In other words, this was to be a special stand alone process (separate and apart from the adoption of the budget). Once a limit was established, it would be in effect, unless and until the council made an adjustment, which could only be done once after each council election. Also, if an expenditure or loan exceeded the adopted limit, it would need to be approved by an ordinance with 4/5 vote.

At the very least, staff recommends that the language be clarified so that the intent is clear. Furthermore, staff would prefer to remove the ordinance and 4/5 vote requirements (but would recommend keeping the requirement for prior Council action and the ability to set/adjust and expenditure "limit.")

With regard to indebtedness, staff believes a 4/5 vote requirement for *general bond* indebtedness should be set forth in the Section; however it would be preferable to remove the ordinance and 4/5 vote requirements for other types of loans. Staff would also recommend keeping the process for establishing an indebtedness "limit" as a check and balance.

This office and staff will provide additional information concerning when the last limits were established by the Council, as well as potential Section revisions, at or before the meeting.

**MCCORMICK KABOT JENNER & LEW  
MEMORANDUM**

TO: Porterville Charter Review Committee  
Cc: John Lollis, City Manager

FROM: Julia M. Lew, City Attorney

DATE: November 8, 2013

SUBJ: City Charter Section 61 options (Public Bidding)

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Per the direction by the Charter Review Committee at the last meeting, attached are the proposed revised language options for Section 61. The Committee directed that this office bring back two potential measures (one that includes an increase in the bid amount and one that doesn't, but includes the proposed changes previously discussed.

**Language for Measure with change to bid amount (to be included as a special stand alone measure):**

**Sec. 61. Competitive bidding for contract work for erection, improvement and repair of public buildings, etc., where the estimated contract cost is in excess of fifty thousand dollars.**

When the City determines to contract for work for a public project, and the cost estimate for said work exceeds fifty thousand dollars, it shall be contracted for and let to the lowest responsible bidder after notice.

As used in this section public project means a project for the erection, improvement and repair of public buildings and works; work in or about streams, embankments, or other work for protection against overflow; street sewer work except maintenance or repair; furnishing supplies or materials for any such project, including maintenance or repair of streets, sewers or water lines.

The council may reject any or all bids presented and may, at its discretion, readvertise for other bids, or, the council may, after rejecting bids, determine and declare by a four-fifths (4/5) vote of all of its members that the work in question may be more economically or satisfactorily performed by day labor, or the labor or materials purchased at a lower price in the open market and after the adoption of a resolution to this effect it may proceed to have the same done in the manner stated without further observance of the foregoing provisions of this section.

The notice inviting sealed bids shall set a date for the opening of bids; the first publication shall be at least ten (10) days before the date of the opening of the bids; shall be published at least twice not less than five (5) days apart in the official newspaper selected by the council.

In case of a great public calamity, such as an extraordinary fire, flood, storm, epidemic or other disaster, or in the case of circumstances resulting in a serious threat to public health and/or safety, the council may, by resolution passed by a vote of four-fifths (4/5) of its members, determine and declare that the public interest or necessity demands the immediate expenditure of public money to safeguard life, health, or property, and thereupon they may proceed without advertising for bids or receiving the same, to expend, or enter into a contract involving the expenditure of any money required in such emergency, on hand in the city treasury and available for such purpose.

The City reserves the right to perform any public project or make or repair any public property or improvement using its own forces, regardless of cost.

**Alternative Language (no bid increase – to be included with the general measure):**

**Sec. 61. Competitive bidding for contract work for erection, improvement and repair of public buildings, etc., where the estimated contract cost is in excess of five thousand dollars.**

When the City determines to contract for work for a public project, and the cost estimate for said work exceeds five thousand dollars, it shall be contracted for and let to the lowest responsible bidder after notice.

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