



AGENDA

August 19, 2019

CHARTER REVIEW COMMISSION

5:30 p.m.

Council Chambers
311 Vernon Street
Roseville, California
www.roseville.ca.us

THE CITY OF ROSEVILLE WELCOMES YOUR PARTICIPATION

If an agenda item is open to public comment, such public comment shall be addressed to the chair of the meeting.

Public Comment - Speakers have three minutes under Public Comment to speak on issues that are not listed on the agenda and are within the City's jurisdiction. The Brown Act does not permit any action or discussion on items not listed on the agenda.

Consent Calendar - If applicable, the Consent Calendar consists of routine items that may be approved by one motion. Any person can remove an item from the Consent Calendar to be discussed separately.

Agenda Items - Speakers have five minutes to address items that are listed on the agenda.

Americans with Disabilities Act - Notify the City Clerk or Secretary at least 72 hours in advance if special assistance is required to participate in a meeting including the need of auxiliary aids or services.

Audio/Visual Presentations - If making a presentation regarding an agenda item, audio/visual materials must be submitted to the City Clerk or Secretary at least 72 hours in advance.

Roseville City Clerk 311 Vernon Street, Roseville, CA 916-774-5200 TDD 916-774-5220

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE OF ALLEGIANCE**
4. **PUBLIC COMMENTS**
5. **MINUTES**
 - 5.1. Minutes of Prior Meeting

Memo from Assistant City Clerk Audrey Byrnes and City Clerk Sonia Orozco recommending the Charter Review Commission members approve the minutes of the July 15, 2019 Charter Review meeting.

CONTACT: Sonia Orozco 916-774-5269 sorozco@roseville.ca.us

6. REQUESTS/PRESENTATIONS

6.1. Noticing of Bids

Memo from Assistant City Attorney Michelle Sheidenberger and City Clerk Sonia Orozco recommending the Charter Review Commission receive a presentation on research conducted regarding noticing of bids.

CONTACT: M. Sheidenberger 916-774-5325 msheidenberger@roseville.ca.us

6.2. Use of City Employees for Public Works

Memo from Assistant City Attorney Michelle Sheidenberger and City Clerk Sonia Orozco recommending the Charter Review Commission receive a presentation on research conducted regarding use of City employees for public works.

CONTACT: Michelle Sheidenberger 916-774-5325
msheidenberger@roseville.ca.us

6.3. General Powers Respecting Utilities

Memo from Environmental Utilities Director Rich Plecker recommending the Charter Review Commission receive a presentation regarding amendments to Section 10.01 of Article 10 regarding General powers respecting utilities.

CONTACT: Rich Plecker 916-774-5714 rplecker@roseville.ca.us

6.4. Franchise Fees

Memo from Chief Financial Officer Dennis Kauffman recommending the Charter Review Commission members receive a presentation on Franchise Fees.

CONTACT: Dennis Kauffman 916-774-5313 dkauffman@roseville.ca.us

6.5. Charter Review Commission Members and Resident Proposals on Sections of Articles 9, 10, 11 and 12

Review and discussion on any sections of Article 9 regarding Franchises, Article 10 regarding Municipally-Owned Utilities, Article 11 Reserved, and Article 12 regarding Miscellaneous sections by Charter Review Commission members or members of the public.

CONTACT: Sonia Orozco 916-774-5269 sorozco@roseville.ca.us

7. ADJOURNMENT



CHARTER REVIEW COMMISSION COMMUNICATION

Title: Minutes of Prior Meeting
Contact: Audrey Byrnes 916-774-5268 abyernes@roseville.ca.us
Sonia Orozco 916-774-5269 sorozco@roseville.ca.us

Meeting Date: 8/19/2019
Item #: 5.1.

RECOMMENDATION

Recommend the Charter Review Commission approve the July 15, 2019 Charter Review Commission minutes.

BACKGROUND

There is no background associated with this item. The request is to approve the minutes of the previous meeting. According to the Administrative Standards, the minutes may be approved by majority vote even if one or more of the voting members were not present at the meeting to which the minutes relate.

Respectfully Submitted,

Audrey Byrnes, Assistant City Clerk

Sonia Orozco, City Clerk

ATTACHMENTS:

Description

July 15, 2019 Charter Review Commission minutes



MINUTES
July 15, 2019

CHARTER REVIEW COMMISSION

5:30 p.m.

Council Chambers
311 Vernon Street
Roseville, California

1. CALL TO ORDER

Chair Susan Rohan called the July 15, 2019 Charter Review Commission meeting to order at 5:30 p.m.

2. ROLL CALL

Present: Frank, Viele, Cannon, Brohman, Dohner, Sanchez, Garret,
Rohan Absent: Constant

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Ben Frank.

4. PUBLIC COMMENTS

No public comment received.

5. MINUTES

5.1. Minutes of Prior Meeting

Memo from City Clerk Sonia Orozco recommending the Charter Review Commission members approve the minutes of the June 17, 2019 Charter Review meeting.

CONTACT: Sonia Orozco 916-774-5269 sorozco@roseville.ca.us

No public comment received.

Motion by Kristine Dohner, seconded by Robert Sanchez, to approve the June 17, 2019 Charter Review Commission Minutes. The Motion Passed.

Roll call vote: Ayes: Cannon, Dohner, Frank, Garrett, Rohan, Sanchez, Viele

Absent: Constant

Abstain: Brohman

6. REQUESTS/PRESENTATIONS

6.1. Local Bidding Preferences

Memo from Assistant City Attorney Michelle Sheidenberger and City Clerk Sonia Orozco recommending the Charter Review Commission receive a presentation on research conducted regarding Local Bidding Preferences.

CONTACT: M. Sheidenberger 916-774-5325 msheidenberger@roseville.ca.us

Assistant City Attorney Michelle Sheidenberger made the presentation to the Commission.

Public Comment:

Richard Roccucci - Spoke in opposition to local vendors having an advantage or preference.

Motion by Rita Brohman, seconded by Samuel Cannon, to remove item from future consideration. The Motion Passed.

Roll call vote: Ayes: Brohman, Cannon, Dohner, Frank, Garrett, Rohan, Sanchez, Viele

Absent: Constant

6.2. Competitive Bid Threshold - City Manager Signing Authority

Memo from Assistant City Attorney Michelle Sheidenberger and City Clerk Sonia Orozco recommending the Charter Review Commission receive a presentation on research conducted regarding the City of Roseville bid limit for contract amount.

CONTACT: Sonia Orozco 916-774-5269 sorozco@roseville.ca.us

City Clerk Sonia Orozco made the presentation to the Commission.

Chief Financial Officer Dennis Kauffman continued the presentation to the Commission.

Public Comment:

Richard Roccucci - Spoke in support of a bid amount of \$50,000.00 with an annual inflation adjustment.

Motion by Rita Brohman, seconded by Susan Rohan, to approve revisions to section 7.21 Bids for contracts; certified checks for bid bonds; performance bonds to reflect a \$75,000.00 sealed bid expenditure limit with no annual inflation or deflation adjustment, and to place competitive bid limit and City Manager signing authority on the consensus list. The Motion Passed.

Roll call vote: Ayes: Brohman, Cannon, Dohner, Frank, Garrett, Rohan, Sanchez, Viele

Absent: Constant

6.3. Compensation of Councilmembers and Mayor - Article 3 - Section 3.05 Follow-up Information

Memo from City Clerk Sonia Orozco and Assistant City Attorney Michelle Sheidenberger recommending the Charter Review members receive a presentation on Article 3 - Section 3.05 regarding Councilmember and Mayor compensation. The report and presentation are for information only and contains additional information as requested by the Commission.

CONTACT: Sonia Orozco 916-774-5269 sorozco@roseville.ca.us

City Clerk Sonia Orozco made the presentation to the Commission.

No public comment received.

Item for information only; no action required.

6.4. Charter Review Commission Members and Resident Proposals on Sections of Articles 7 and 8

Review and discussion on any sections of Articles 7 and 8 by Charter Review Commission members or members of the public.

CONTACT: Sonia Orozco 916-774-5269 sorozco@roseville.ca.us

Chair Susan Rohan introduced item 6.4 to the Commission and requested members consider directing staff to bring information forward on potential revenue sources regarding the possibility of raising the Transient Occupancy Tax.

Chief Financial Officer Dennis Kauffman provided information to the Commission.

There were no suggestions from the public on potential revisions.

No public comment received.

Motion by James Viele, seconded by Susan Rohan, to approve directing staff to return to Commission with further information regarding Transient Occupancy Tax. The Motion Passed.

Roll call vote: Ayes: Brohman, Cannon, Dohner, Frank, Garrett, Rohan, Sanchez, Viele

Absent: Constant

Commissioner Paul Frank requested discussion regarding Section 7.075 regarding the Utility reserve fund.

Chief Financial Officer Dennis Kauffman, Electric Utility Director Michelle Bertolino and Environmental Utilities Director Rich Plecker provided information to the Commission.

No public comment received.

Chair Susan Rohan requested discussion on Section 7.21 regarding Advertisement of bids.

Assistant City Attorney Michelle Sheidenberger provided information to the Commission.

No public comment received.

Motion by James Viele, seconded by Susan Rohan, to approve directing staff to return to Commission with alternative language for Section 7.21 regarding publishing requirements. The Motion Passed.

Roll call vote: Ayes: Brohman, Cannon, Dohner, Frank, Garrett, Rohan, Sanchez, Viele

Absent: Constant

Chair Susan Rohan requested discussion on Section 7.22 regarding Contracts with other public jurisdictions.

Electric Utility Director Michelle Bertolino and Environmental Utilities Director Rich Plecker provided information to the Commission.

Richard Roccucci - Questioned what amendments were made to Section 7.22 in 2010.

Motion by Paul Frank, seconded by LaMills Garrett, to approve directing staff to return with additional information and/or language for Article 10 regarding limitations for retail sale of water to outside jurisdictions. The Motion Passed.

Roll call vote: Ayes: Brohman, Cannon, Dohner, Frank, Garrett, Rohan, Sanchez, Viele

Absent: Constant

Chair Susan Rohan requested discussion on Section 7.23 regarding Determination as to which public works to be performed by City forces or contracts.

Assistant City Attorney Michelle Sheidenberger provided information to the Commission.

No public comment received.

No public or Commission recommendations for amendments to Article 8.

Motion by Rita Brohman, seconded by LaMills Garrett, to approve to remove /delete Section 7.23 from the Charter and place on the consensus list. The Motion Passed.

Roll call vote: Ayes: Brohman, Cannon, Dohner, Frank, Garrett, Rohan, Sanchez, Viele

Absent: Constant

6.5. Staff Proposed Amendments to Charter Article 7 - Section 7.19 Independent Audit

Memo from Chief Financial Officer Dennis Kauffman recommending the Charter Review Commission approve proposed amendments to Section 7.19 of Article 7 regarding Independent Audit provisions.

CONTACT: Dennis Kauffman 916-774-5313 dkauffman@roseville.ca.us

Chief Financial Officer Dennis Kauffman made the presentation to the Commission.

No public comment received.

Motion by Paul Frank, seconded by Rita Brohman, to approve revisions to Section 7.19 regarding independent audit as presented and place on the consensus list. The Motion Passed.

Roll call vote: Ayes: Brohman, Cannon, Dohner, Frank, Garrett, Rohan, Sanchez, Viele

Absent: Constant

6.6. Staff Proposed Amendments to Charter Article 8 - Sections 8.04 and 8.07 Personnel Rules and Classified and Unclassified Services

Memo from Human Resources Director Stacey Peterson recommending the Charter Review Commission approve proposed amendments to Section 8.04 of Article 8 regarding Personnel rules and Section 8.07 of Article 8 regarding Classified and unclassified services.

CONTACT: Stacey Peterson 916-774-5374 speterson@roseville.ca.us

Human Resources Director Stacey Peterson made the presentation to the Commission on Section 8.04 regarding Personnel Rules.

No public comment received.

Motion by LaMills Garrett, seconded by Kristine Dohner, to approve revisions to Section 8.04 regarding personnel rules as presented and place on the consensus list. The Motion Passed.

Roll call vote: Ayes: Brohman, Cannon, Dohner, Frank, Garrett, Rohan, Sanchez, Viele

Absent: Constant

Human Resources Director Stacey Peterson made the presentation to the Commission on Section 8.07 regarding Classified and unclassified services.

No public comment received.

Motion by LaMills Garrett, seconded by Paul Frank, to approve revisions to Section 8.07 regarding classified and unclassified services as presented and place on the consensus list. The Motion Passed.

Roll call vote: Ayes: Brohman, Cannon, Dohner, Frank, Garrett, Rohan, Sanchez, Viele

Absent: Constant

7. ADJOURNMENT

Motion by Samuel Cannon, seconded by Rita Brohman, to adjourn the meeting at 8:07 p.m.. The Motion Passed.

Roll call vote: Ayes: Brohman, Cannon, Dohner, Frank, Garrett, Rohan, Sanchez, Viele

Absent: Constant



CHARTER REVIEW COMMISSION COMMUNICATION

Title: Noticing of Bids
Michelle Sheidenberger 916-774-5325 msheidenberger@roseville.ca.us
Contact: Sonia Orozco 916-774-5269 sorozco@roseville.ca.us

Meeting Date: 8/19/2019
Item #: 6.1.

RECOMMENDATION

Recommend the Charter Review Commission receive a presentation on Section 7.21 of Article 7 of the Charter regarding noticing of bids and direct staff to:

1. Return with additional information and/or further language suggestions for Section 7.21 regarding noticing of bids;
2. Approve the revisions related to noticing of bids and place the item on the consensus list;
3. Place the noticing of bids item on the outstanding items list for future discussion; or
4. Remove the item from future consideration.

BACKGROUND

At the last Charter Review Commission meeting, the Commission approved changes to Charter Section 7.21 regarding the bid limit and placed those changes on the consensus list. Section 7.21 also contains the noticing requirements for bids and currently requires the City to publish requests for sealed bids in a newspaper of general circulation of the City not less than five (5) days before the deadline for submission of bids. The Commission asked staff to research whether it was permissible to add to the Charter a provision that would allow the City as an alternative to also advertise bids on its website. The answer is "yes".

PUBLIC CONTRACT CODE

Under the California Public Contract Code, public agencies have a duty to publicly bid certain contracts, particularly construction contracts. Section 1100.7 of that code states that with regard to charter cities, the code applies unless there is an express exemption in that code or another code for charter cities or unless the charter city has a charter provision or ordinance that conflicts with the relevant provisions of the Public Contract Code. This means that a charter city can deviate from the requirements of the Public Contract Code via provisions in either its charter or its municipal code. If it fails to do so, however, the provisions of the Public Contract Code will apply.

The Public Contract Code requires bids to be published in a newspaper of general circulation. However, since the City is a charter city, it can insert an alternative web noticing option for the advertisement of bids in the charter.

Proposed Amendment

This proposal includes the amendments previously approved by the Commission at the last meeting regarding the bid amount and removal of the inflationary adjustment.

Sec. 7.21. Bids for contracts; certified checks for bid bonds; performance bonds.

Competitive prices or bids for all purchases and public works and improvements shall be obtained where practicable and the purchase made from, or the contract awarded to, the lowest responsible bidder; provided, that the council may waive the bidding requirements prescribed in this section in the purchase of noncompetitive items or in case of an emergency. Sealed bids shall be asked for in all transactions involving the expenditure of ~~nineteen thousand five hundred~~ ~~seventy-five thousand~~ dollars (\$~~19,500.00~~ \$75,000.00) or more, and in the case of public works, the transaction evidenced by a written contract submitted to and approved by the council. ~~Annually, at the same time the budget ordinance is adopted, the council may in that ordinance establish an inflation or deflation adjustment to the base of \$19,500.00 to take economic changes into account. Such adjustment shall be determined utilizing reliable indicators or indices of price increases or decreases. Once adopted, the adjustment shall be added to or subtracted from the base of \$19,500.00 so that sealed bids shall be asked for in all transactions involving the expenditure of the adjusted base.~~ The council may reject any and all bids. In all transactions where sealed bids are required, the council may demand a deposit by each bidder in the form of a certified check or bid bond in an amount which shall be specified in the call for bids. The council may require a faithful performance or surety bond of the successful bidder. Calls for sealed bids shall be published in a newspaper of general circulation of the City and/or on the City's website, not less than five (5) days before the deadline for submission of bids, unless the council declares by resolution that an emergency exists. Detailed purchasing and contract award procedures shall be prescribed by ordinance.

Although not legally required to, the City currently advertises its bids both in a local newspaper and on the City's website. By adding in the "and/or" language, this gives the City flexibility and allows the City either to advertise in a newspaper alone, the website alone (in case newspapers cease to exist or the costs become prohibitive), or to advertise in both places. Currently, it costs the City approximately \$600 to advertise bids in the Roseville Press Tribune and triple that amount in the Sacramento Bee. For Fiscal Year 2018/19, the City published 14 Notice to Contractors.

Alternatively, the Commission could choose to use the word "and" alone (to require both noticing methods) or "or" alone (to allow for the use of one method or the other) in place of the "and/or".

Respectfully Submitted,

Michelle Sheidenberger, Assistant City Attorney

Sonia Orozco, City Clerk



CHARTER REVIEW COMMISSION COMMUNICATION

Title: Use of City Employees for Public Works
Michelle Sheidenberger 916-774-5325 msheidenberger@roseville.ca.us
Contact: Sonia Orozco 916-774-5269 sorozco@roseville.ca.us

Meeting Date: 8/19/2019
Item #: 6.2.

RECOMMENDATION

Recommend the Charter Review Commission receive a presentation on Section 7.23 of Article 7 of the Charter regarding use of City employees to perform public works and direct staff to:

1. Return with additional information and/or further language suggestions for use of City employees to perform public works;
2. Approve the municipal code revisions related to use of City employees to perform public works and place the item on the list of municipal code amendments to recommend to the City Council;
3. Place the use of City employees to perform public works on the outstanding items list for future discussion; or
4. Remove the item from future consideration.

BACKGROUND

At the last Charter Review Commission meeting, the Commission voted to remove Section 7.23 of the Charter. Section 7.23 of the Charter provides as follows:

Sec. 7.23. Determination as to which public works to be performed by City forces or contracts.

The council shall determine which public works or improvement projects are to be performed by City forces and which are to be let by contract in the manner prescribed in this article.

The Commission felt that the determination of when to use City employees for public works projects should rest with the City Manager as part of his administrative duties, not with the City Council. Furthermore, delays could occur due to the time it takes for the City Council to approve the use of City employees for these types of projects.

Under California Public Contract Code Section 20162, when the expenditure required for a public

works project exceeds \$5,000, it shall be contracted for and let to the lowest responsible bidder after notice. This precludes the use of City forces. However, Section 1100.7 of that code states that with regard to charter cities, the code applies unless there is an express exemption in that code or another code for charter cities or unless the charter city has a charter provision or ordinance that conflicts with the relevant provisions of the Public Contract Code. This means that a charter city can deviate from the requirements of the Public Contract Code via provisions in either its charter or its municipal code. If it fails to do so, however, the provisions of the Public Contract Code apply.

While it is entirely permissible to remove Section 7.23 from the Charter, the unintended consequences of doing so means that the City is silent on the use of City employees for public works projects and accordingly we would have to follow Section 20162 for all projects exceeding \$5,000. This is easily preventable by either keeping Section 7.23 in the Charter (either “as is” or with an amendment allowing the city manager to make such decisions) or adding in language to the City’s Municipal Code to address this issue.

Proposed Municipal Code Amendment

If the Commission desires to reaffirm the recommendation to remove Section 7.23, staff recommends that it also recommend to the City Council that they adopt the following municipal code amendment adding in new subsection I to RMC Section 4.12.095 in the event the voters approve the removal:

4.12.095 Public works and services—Formal bidding and contract procedure.

A. Contracts for public works or services estimated to have a value equal to or greater than, or to cost equal to or greater than, the bid amount established by ordinance, adopted by the city council, and amended yearly in conjunction with the annual budget, shall be awarded to the lowest responsible bidder after receipt of sealed formal bids in accordance with this section.

B. Notice to Bidders. The using department shall prepare and send to prospective bidders a notice inviting bids and detailed plans and specifications of the public works or service being bid. The plans and specifications shall be approved by the city council prior to requesting bids.

1. Published Notice. The notice to bidders shall be published at least five working days before the date of bid opening. The notice shall be published at least once in a newspaper of general circulation in the city, and shall include a general description of the public work or services. The notice shall state where bid specifications may be secured, and the time and place for bid opening.

2. Bidders List. The using department shall also solicit bids from all responsible persons whose names are on a bidders list or who have requested their names to be added thereto.

C. Bids for public works shall require a bidder’s bond or security in the amount of 10 percent of the amount of the bid. The security of the successful bidder shall be held to secure the capacity, readiness, and willingness of the successful bidder to execute the contract. The successful bidder shall forfeit the security upon refusal or failure to execute the contract within 15 calendar days after the notice of award of contract has been mailed, unless the city is responsible for the delay. The city council may, on refusal or failure of the successful bidder to execute the contract, award the contract to the next lowest responsible bidder. If the city council awards the contract to the next lowest responsible bidder, the amount of the successful bidder’s security shall be applied by the city to the difference between the successful bid and the next lowest responsible bid, and the surplus, if any, shall be returned to the successful bidder that refused or

failed to execute the contract. The deposits shall be returned to the unsuccessful bidders following the execution of the contract by the successful bidder.

D. Bid Opening. All bids shall be submitted to the city clerk, and shall be opened by the person and at the time and place stated in the published notice. Bids shall be identified as bids on the envelope. Bids shall be reviewed by the using department, and a recommendation submitted to the city council for award. A tabulation of all bids received shall be made available for public inspection.

E. Rejection of Bids. At its discretion, the city council may reject any and all bids presented or may request that bids be readvertised.

F. Award of Contracts. Contracts shall be awarded by the city council to the lowest responsible bidder except as otherwise provided herein.

G. Tie Bids. If two or more bids received are for the same total amount or unit price, quality and service being equal, if the public interest will not permit the delay of readvertising for the bids, the city council may accept the one it chooses or accept the lowest bid made by negotiation with the tie bidders.

H. Bid Irregularity. Relief from bidder's errors may be granted in the sole discretion of the city council as provided in the specifications of a particular bid.

I. Use of City Employees. In lieu of the bidding and contract procedures set forth in this section, public works and services may be performed by city employees at the discretion of the City manager.

Respectfully Submitted,

Michelle Sheidenberger, Assistant City Attorney

Sonia Orozco, City Clerk



CHARTER REVIEW COMMISSION COMMUNICATION

Title: General Powers Respecting Utilities
Contact: Rich Plecker 916-774-5714 rplecker@roseville.ca.us

Meeting Date: 8/19/2019
Item #: 6.3.

RECOMMENDATION

Recommend the Charter Review Commission receive a presentation on Section 10.01 of Article 10 of the Charter regarding General powers respecting utilities and direct staff to:

1. Return with additional information and/or further language suggestions for Section 10.01 of Article 10 of the Charter regarding General powers respecting utilities;
2. Approve revisions and place Section 10.01 of Article 10 of the Charter regarding General powers respecting utilities on the consensus list;
3. Place Section 10.01 of Article 10 of the Charter regarding General powers respecting utilities on the outstanding items list for future discussion; or
4. Remove item from future consideration.

BACKGROUND

Current Charter Language

Sec. 10.01 General powers respecting utilities.

The City shall possess all the powers granted to cities by state law to construct, condemn and purchase, purchase, acquire, add to, maintain, and operate, either within or outside its corporate limits, including, but not by way of limitation, public utilities for supplying water, light, heat, power, gas, transportation, sewage and refuse collections, treatment and disposal services, or any of them, to the municipality and the inhabitants thereof; and also to sell and deliver any of the utility services above mentioned outside its corporate limits, to the extent permitted by state law. Each City-owned utility shall be financially self-sufficient, and shall fully compensate the City general fund for all goods, services, real property and rights to use or operate on or in City-owned real property.

Rationale for Proposed Amendment

Current Charter language allows City-owned utilities to provide a broad range of utility services within and outside corporate limits. With increasing competition for limited water resources and the desire to maintain reliability at current City service levels, staff recommends limiting the City's ability to provide retail potable water service to new development areas outside its corporate limits after January 1, 2021.

This Amendment protects current service levels, but does not limit the City's ability to:

1. recognize (grandfather) existing customer services outside its corporate limits
2. engage in current or future wholesale water agreements and operations for interagency water transfers and exchanges
3. engage in partnerships and cooperative actions to enhance regional water supply reliability or to more efficiently and effectively use available water supplies and/or infrastructure investments

Proposed Amendment

Sec. 10.01. General powers respecting utilities.

The City shall possess all the powers granted to cities by state law to construct, condemn ~~and purchase~~, purchase, acquire, add to, maintain, and operate, either within or outside its corporate limits, including, but not by way of limitation, public utilities for supplying water, light, heat, power, gas, transportation, sewage and refuse collections, treatment and disposal services, or any of them, to the municipality and the inhabitants thereof; and also to sell and deliver any of the utility services above mentioned outside its corporate limits, to the extent permitted by state law. Notwithstanding the foregoing, after January 1, 2021 the City shall not provide retail potable water service to new service areas outside its corporate limits. Each City-owned utility shall be financially self-sufficient, and shall fully compensate the City general fund for all goods, services, real property and rights to use or operate on or in City-owned real property.

Respectfully Submitted,

Rich Plecker, Environmental Utilities Director



CHARTER REVIEW COMMISSION COMMUNICATION

Title: Franchise Fees
Contact: Dennis Kauffman 916-774-5313 dkauffman@roseville.ca.us

Meeting Date: 8/19/2019
Item #: 6.4.

RECOMMENDATION

Recommend the Charter Review Commission receive a presentation on Article 9 of the Charter related to franchises and direct staff to:

1. Return with additional information and/or further language suggestions for the in-lieu franchise fee;
2. Approve the proposed in-lieu franchise fee language and place the item on the consensus list;
3. Place the in-lieu franchise fee item on the outstanding items list for future discussion; or
4. Remove the item from future consideration.

BACKGROUND

The City of Roseville Charter includes provisions that detail the City's requirements for utilities to operate within Roseville. A municipal franchise fee is the "rent" that a utility company or video service provider pays to the City's General Fund to use the public rights-of-way (e.g. streets) for its lines, pipes, poles, etc. Franchise fees are currently collected from Pacific Gas & Electric, Kinder Morgan, Consolidated Communications, AT&T and Comcast. In addition, an in-lieu franchise fee is collected from the Roseville Electric Department based on Charter Section 9.01.

Increase the In-lieu Franchise Fee

One of the components of the City's focus on fiscal responsibility is to increase existing revenue sources and identify new sources of revenue and cost recovery in order to maintain current General Fund service levels. A diversified General Fund revenue portfolio, which is less dependent on sales tax revenue, will allow the City to weather future economic cycles in better financial condition and with smaller service level reductions. Recent feedback from the EngageRoseville effort also supported the City's focus on identifying new cost recovery and increasing revenue in order to maintain existing service levels.

The maximum in-lieu franchise fee allowed to be charged to City-owned utilities in the current Charter is four percent (4%) of total operating and capital expenditures. The City's Municipal Code

provisions applicable to state video franchises set the franchise fee equal to five percent (5%) of the franchise holder's gross revenue for video service providers, the amount established by State law. The City's negotiated franchise agreement with Pacific Gas & Electric for transmitting and distributing natural gas dates back to 1960 and is set at two percent (2%) of gross revenue. A recent article by the International City/County Management Association, Franchise Fees: An Important and Sometimes Untapped Source of Local Government Revenue (June 2018), indicates that franchise fees are typically five percent (5%) of annual gross revenue of a utility. Based on the City's goals of increasing and diversifying its General Fund revenue, staff recommends increasing the in-lieu franchise fee maximum from four percent (4%) to five percent (5%). A higher in-lieu franchise fee will also bring in additional General Fund revenue in the event the City provides utility services outside of the City limits in the future.

Clarify Calculation

Section 9.01 is unclear whether the in-lieu franchise fee charged to the City-owned utilities is based on budgeted or actual expenditures. In order for there to be certainty for the utilities and the General Fund when the budget is adopted, the in-lieu fee has been based on budgeted expenditures in practice. Budgeted transfers between City funds have also been included in the calculation of the in-lieu fee. Staff recommends clarifying these calculation attributes in the Charter language at the same time as other amendments are recommended.

Remove Restrictions on Use of the Revenue

Section 9.01 limits use of the in-lieu franchise fee revenue collected from City utilities to three departments: Police, Fire, and Parks, Recreation and Libraries. However, franchise fees, by definition, are intended to provide compensation to the City's General Fund for the utility's occupation (or rent) of the public right of way. Since other City departments are involved in maintaining and administering the public rights of way (e.g. streets, easements, etc.), including the Public Works and Development Services departments, staff recommends eliminating the restriction to the three operating departments. Eliminating the restriction would allow the City Council discretion over budgeting the in-lieu franchise fee revenue.

Based on the foregoing, staff recommends the following amendments to Article 9:

Sec. 9.01. When franchises are required.

No person, firm or corporation shall exercise any franchise right or privilege in the City for furnishing its inhabitants with transportation, communication, terminal facilities, water, light, heat, gas, power, video or any other public utility or service, except insofar as it may be entitled to do so, pursuant to state or federal law, unless it shall have obtained a grant therefore in accordance with the provisions of this article of this charter and in accordance with the procedure prescribed by ordinance. Nothing contained in this article shall be construed to invalidate any lawful franchise heretofore granted or to necessitate the obtaining of a new franchise for a use which a franchise holder shall have in a valid unexpired franchise. Nothing contained in this article shall be construed to apply to the City, or any department thereof, when furnishing any public utility or service, except that for purposes of accounting for the value of the occupation of public right of way, City-owned utilities may pay an in-lieu of franchise fee not to exceed ~~four percent (4%)~~ five percent (5%) of total budgeted operating and capital expenditures and transfers to the City's general fund. ~~All in lieu of franchise fee revenue received shall be budgeted and appropriated solely for police, fire, parks and recreation or library services.~~

Respectfully Submitted,

Dennis Kauffman, Chief Financial Officer



CHARTER REVIEW COMMISSION COMMUNICATION

Title: Charter Review Commission Members and Resident Proposals on Sections of Articles 9, 10, 11 and 12
Contact: Sonia Orozco 916-774-5269 sorozco@roseville.ca.us

Meeting Date: 8/19/2019
Item #: 6.5.

RECOMMENDATION

This portion of the agenda is for Charter Review Commission members or members of the public to suggest proposals for potential changes to Charter Articles as follows:

- Article 9 - Franchises
- Article 10 - Municipally-Owned Utilities
- Article 11 - Reserved
- Article 12 - Miscellaneous

BACKGROUND

There is no background associated with this item.

Respectfully Submitted,

Sonia Orozco, City Clerk