SUBJECT: IMPARTIAL ANALYSIS -- CHARTER MEASURES

SOURCE: CITY ATTORNEY

COMMENT: Pursuant to Elections Code Section 9280, the City Attorney is required to prepare impartial analysis of the Charter Measures to appear on the election ballot. At the last City Council meeting, the Council was informed that the impartial analysis would be completed and brought to its attention.

Attachment: 1) Impartial Analysis of the eight measures amending the Charter.
IMPARTIAL ANALYSIS BY CITY ATTORNEY OF CITY OF PORTERVILLE MEASURE “B”

This analysis of the City of Porterville Measure B, proposing and amendment to the Charter of the City of Porterville, is prepared and submitted to the voters as required by Section 9280 of the Elections Code.

If approved by the voters, Measure “B” will amend Sections 4, 5, 7, 10, 12, 13, 14, 17, 19, 21, 22, 23, 24, 41, 42, 43, 51, 53, 60, 65, 66, 67 and 73 of the Charter and will add Sections 4.1 and 4.2 to the Charter. The amendments and additions make certain technical, non-substantive revisions which do not materially alter, increase or decrease the home rule powers of the City of Porterville.

The proposed amendment to Section 4 would add a statement including specifically within the general powers of the city powers necessary and appropriate to promote the health, welfare and education of the City’s inhabitants.

The proposed new Section 4.1 would add provisions to the Charter setting forth the City’s ability to exercise and perform any of its functions jointly or in cooperation with one or more public entities or nonprofit corporations.

The proposed new Section 4.2 would add provisions to the Charter setting forth that the City’s powers will be construed liberally in favor of the City, and that the specific mention of particular powers will be interpreted as limiting the powers granted by the Charter.

The proposed amendment to Section 5 deletes the language concerning the first general election held in 1979.

The proposed amendment to Section 7 changes the sentence structure in order to simply clarify the provision.

The proposed amendment to Section 10 specifically provides for the holding of informational City Council meetings at other facilities aside from City Hall.

The proposed amendment to Section 12 sets forth an explicit exception to the requirement that all City Council members must vote, when such voting would be contrary to the law.

The proposed amendment to Section 13 clarifies that all members of commissions and legislative committees must be appointed by the City Council, and that administrative officers of the City may appoint members to temporary administrative committees.

The proposed amendment to Section 14 provides that the City may obtain blanket bonds with regard to the performance of its officers or employees.
The proposed amendment to Section 17 specifies that the grounds for removal of administrative officers for cause include refusal to perform the duties of office, being adjudged mentally incompetent, or being convicted of a felony or crime of moral turpitude.

The proposed amendment to Section 19 updates the duties of the mayor in conformity with the City’s disaster plan and provides that the Vice President of the Council will assume the mayor’s duties in the mayor’s absence.

The proposed amendment to Section 21 clarifies that the City Manager will establish residency within a reasonable period of time at the discretion of the City Council and repeals the subsection concerning the supervision of the preparation of an assessment roll.

The proposed amendment to Section 22 provides that the designated deputy city manager will serve as city manager pro tem when the city manager is ill or has taken a scheduled absence or vacation for a period of up to thirty (30) days. The city manager is to appoint one of the existing department directors as city manager pro tem in the event that there is no designated deputy city manager or the deputy city manager is unable to serve. The proposed amendment also provides that the city manager pro tem will have no authority to appoint or remove city department directors without unanimous formal approval of the members of the council.

The proposed amendment to Section 23 deletes all references in the Section to the assessor and board of equalization, as these duties are no longer undertaken by the City as a result of changes in State law.

The proposed amendment to Section 24 deletes the reference to the assessor due to changes in State law.

The proposed amendment to Section 39 changes the beginning of the fiscal year from January to July.

Section 41 is proposed to be repealed, as these responsibilities are no longer undertaken by the City as a result of changes in State law.

Section 42 is proposed to be amended to provide to the City Council the ability to fix rates of taxation to the extent allowed by State law.

Section 43 is proposed to be repealed, as these responsibilities are no longer undertaken by the City as a result of changes in State law.

Section 51 is proposed to be amended to tie the annual budget to the end of the City’s fiscal year, rather than the fixing of an annual tax levy, due to changes in State law.

Section 53, previously repealed, is proposed to be amended to clarify that a written investment policy is required to be adopted by the City.
Section 60 is proposed to be amended, eliminating the specific enumerated illegal contracts and other acts and providing that city officers and employees are prohibited from having a financial interest in contracts, sales, or purchases in accordance with State law.

Section 65 is proposed to be amended to clarify that the City Council will advertise annually for the submission of sealed proposals or bids from newspapers of general circulation in the city for publication of all ordinances and other legal notices. As currently written, the city is required to advertise for proposals from all newspapers of general circulation (which would include regional and national newspapers of broad circulation).

Section 66 is proposed to be amended to provide that the public will have access to public records kept and maintained by the City in accordance with the law, as the Public Records Act preempts any stricter standards for inspection of records.

Section 67 is proposed to be amended to eliminate any language in conflict with the law concerning any attempts by council members to influence or coerce the city manager in making appointments or purchasing supplies. The proposed amendments also specify that the council will only have direct contact with the directors of the city departments for the purpose of asking questions. Finally, this section is proposed to be amended to provide that political activities and campaign contributions by the city’s officers and employees will be governed in accordance with and restricted to the extent allowed by applicable State and federal law.

Section 73, previously repealed, is amended to require that the City maintain a disaster plan consistent with County, State and federal policies.

In addition to the specific changes to the Sections noted above, the entire Charter and all of its provisions are proposed to be amended to provide gender neutral language wherever masculine pronouns appear in the Charter.

There will be little or no financial impact resulting from these amendments.

JULIA M. LEW
City Attorney
City of Porterville

THE ABOVE STATEMENT IS AN IMPARTIAL ANALYSIS OF MEASURE “B”. IF YOU DESIRE A COPY OF THE MEASURE, PLEASE CALL THE CITY CLERK’S OFFICE AT (559)782-7442 AND A COPY WILL BE MAILED AT NO COST TO YOU.
IMPARTIAL ANALYSIS BY CITY ATTORNEY OF
CITY OF PORTERVILLE MEASURE “C”

This analysis of the City of Porterville Measure “C”, proposing and amendment to the Charter of the City of Porterville, is prepared and submitted to the voters as required by Section 9280 of the Elections Code.

If approved by the voters, Measure “C” will amend Section 5 and the second paragraph of Section 9 of the Charter. The effect of these changes is to provide that General Municipal elections will be held at the same time as the Primary election for State offices for the State of California, instead of the first Tuesday after the first Monday in March of each odd-numbered year. If this Measure is approved, it is anticipated that there will be a financial savings to the City in the form of a reduction in election costs.

JULIA M. LEW
City Attorney
City of Porterville

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IMPARTIAL ANALYSIS BY CITY ATTORNEY OF
CITY OF PORTERVILLE MEASURE “D”

This analysis of the City of Porterville Measure “D”, proposing and amendment to the Charter of the City of Porterville, is prepared and submitted to the voters as required by Section 9280 of the Elections Code.

If approved by the voters, Measure “D” will amend Section 6 and Section 16 of the Charter. The effect of these changes is to provide for a simultaneous special election to take place at the time of the recall election to fill any vacancies created by a successful recall. Under the current provisions, vacancies created by a successful recall are filled by appointment by the City Council. The existing Section 16 also provides that a council member’s office becomes vacant if he/she is convicted of a felony or is adjudged insane. Proposed amendments to this Section would update this language to include crimes of moral turpitude and would change the “adjudged insane” language to “adjudged mentally incompetent.” There will be no financial impact resulting from this amendment.

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JULIA M. LEW
City Attorney
City of Porterville

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IMPARTIAL ANALYSIS BY CITY ATTORNEY OF
CITY OF PORTERVILLE MEASURE “E”

This analysis of the City of Porterville Measure “E”, proposing and amendment to the Charter of the City of Porterville, is prepared and submitted to the voters as required by Section 9280 of the Elections Code.

If approved by the voters, Measure “E” will amend Paragraph three (3) of Section 9 of the Charter. The effect of this change is to increase the amount of compensation paid to City Council members from $25.00 to $60.00 per meeting for the Mayor and from $20.00 to $50.00 for the other members of the council, for meetings actually attended.

JULIA M. LEW
City Attorney
City of Porterville

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IMPARTIAL ANALYSIS BY CITY ATTORNEY OF
CITY OF PORTERVILLE MEASURE “F”

This analysis of the City of Porterville Measure “F”, proposing and amendment to the Charter of the City of Porterville, is prepared and submitted to the voters as required by Section 9280 of the Elections Code.

If approved by the voters, Measure “F” will amend Paragraph 5 of Section 9 of the Charter. The effect of this change is to provide that the Council will reorganize and select its Mayor and Mayor Pro Tem at its next meeting after each General Municipal election. This proposed amendment also provides that the Mayor or Mayor Pro Tem may be removed by the Council at any other time by a 4/5 majority vote. There will be no financial impact resulting from this amendment.

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JULIA M. LEW
City Attorney
City of Porterville

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IMPARTIAL ANALYSIS BY CITY ATTORNEY OF
CITY OF PORTERVILLE MEASURE “G”

This analysis of the City of Porterville Measure “G”, proposing and amendment to the Charter of the City of Porterville, is prepared and submitted to the voters as required by Section 9280 of the Elections Code.

If approved by the voters, Measure “G” will add Section 9.1 to the Charter, providing that the City Council will continue to encourage public participation of representative neighborhood groups throughout the City, will seek public advice and input, and will provide information to the public concerning the City’s affairs. There will be no financial impact resulting from this amendment.

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JULIA M. LEW
City Attorney
City of Porterville

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IMPARTIAL ANALYSIS BY CITY ATTORNEY OF CITY OF PORTERVILLE MEASURE “H”

This analysis of the City of Porterville Measure “H”, proposing and amendment to the Charter of the City of Porterville, is prepared and submitted to the voters as required by Section 9280 of the Elections Code.

If approved by the voters, Measure “H” will amend Section 48 of the Charter. The effect of these changes is to allow the current City Council to set, by ordinance approved by a 4/5 vote, the maximum amount that may be expended, or the indebtedness that may be incurred, without prior Council approval. The proposed changes also allow this amount to be changed after each general municipal election starting in January 2004. Additionally, these changes allow for a revolving cash fund, provided that the amount in the fund can only be increased after each future general municipal election. The current provisions set forth a limit of $500.00 with regard to the amount of money that can be expended and the debt that can be incurred without prior council approval, and a limit of $300.00 with regard to the revolving cash fund. There will be no financial impact resulting from this amendment.

JULIA M. LEW
City Attorney
City of Porterville

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This analysis of the City of Porterville Measure “I”, proposing and amendment to the Charter of the City of Porterville, is prepared and submitted to the voters as required by Section 9280 of the Elections Code.

If approved by the voters, Measure “I” will amend Section 61 of the Charter. The effect of this change is to increase the minimum cost of public works projects which are required to be subject to competitive bidding requirements, from $5,000.00 to $15,000.00. The proposed amendment also provides for automatically adjusting this amount every two years in conformity with percentage change in the San Francisco Construction Price Index. There will be no financial impact resulting from this amendment.

JULIA M. LEW
City Attorney
City of Porterville

THE ABOVE STATEMENT IS AN IMPARTIAL ANALYSIS OF MEASURE “I”. IF YOU DESIRE A COPY OF THE MEASURE, PLEASE CALL THE CITY CLERK’S OFFICE AT (559)782-7442 AND A COPY WILL BE MAILED AT NO COST TO YOU.