



## REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:**

June 17, 2020

**DEPARTMENT:**

Administration

**DIVISION:**

- ☐ Motion
- ☐ Resolution
- ☐ Ordinance - Introduction
- ☒ Ordinance - Adoption
- ☐ Public Hearing

**TITLE:**

City of Yuma 2020 Special Election

**SUMMARY RECOMMENDATION:**

Call for a Special Election to be held November 3, 2020, for the purpose of allowing the qualified electors to determine whether to amend the Yuma City Charter Article IV (Sections 4 and 6), Article VI (Section 2) and Article XI (Section 3). (City Attorney) (Richard Files)

**REPORT:**

*CLERKS NOTE: Ordinance O2020-012 was initially Introduced at the May 20, 2020 City Council Meeting. When it was brought forward for Adoption at the June 3, 2020 Council Meeting a motion was approved to amend the recommended items that would move forward on the November 3, 2020 ballot. The attached ordinance reflects the following amendments made by that motion:*

- *Remove the recommendation of Article VI, Section 14a – City Council compensation*
- *Remove the recommendation Article VI, Section 3c – designating who the City Attorney serves*
- *Remove the recommendation Article VIII, Section 2 - regarding the City Administrators severance package.*

*The Charter Review Committee agendas, summaries and minutes can be found on the City of Yuma website at: <https://www.yumaaz.gov/mayor-and-council/charter-review-committee/charter-review-committee.html>*

On June 19, 2019, the Yuma City Council approved Resolution R2019-016 establishing a Charter Review Committee to be appointed by City Council. At the May 6, 2020 regular City Council meeting, Charter Review Committee Chairman Russ Clark presented seven (7) recommended City Charter changes for City Council's consideration. Four (4) of the recommendations stem from changes in state law consolidating City elections with state elections. This is explained below.

In 2012, the legislature passed legislation requiring all cities to hold their elections in even numbered years. The first such law was HB 2826 (Fiftieth Legislature) mandating even year elections through

changes to Arizona Revised Statutes (A.R.S.) § 16-204. The cities of Tucson and then Phoenix filed suit, and in 2014 the Arizona Supreme Court concluded “that state-mandated election alignment, when it conflicts with a city’s charter, improperly intrudes on the constitutional authority of charter cities.” In overturning the legislation as applied to charter cities, the Supreme Court found that A.R.S. § 16-204 did not apply to cities with charters calling for “odd-numbered year election dates.” The City of Yuma subsequently filed a similar suit in November 2015, and obtained a stipulated judgment that permitted odd year elections in accordance with Yuma’s City Charter.

After consideration of the Court’s opinion in *City of Tucson v. State*, the Arizona legislature returned to the issue in 2018 and amended A.R.S. § 16-204.01 and § 16-204.02 with an evidential provision mandating elections in even-numbered years unless it could be shown that there was less than a 25% drop in voter turnout on odd-year elections. The state legislature also prohibited County elections officials from administering elections for cities and towns not meeting the statutory 25% thresholds. On January 22, 2020, the City of Yuma was informed the November 2019 municipal election did not meet the required voter turnout when compared with the 2018 general state election.

Other Arizona cities have faced a similar dilemma, in that their charters also required odd year elections. In August 2018, more than seventy-two per cent (72.58%) of Phoenix voters approved a charter change to hold Phoenix elections in even numbered years. In November 2018, Tucson voters failed to approve a similar charter change, and on May 1, 2020, the City of Tucson filed a declaratory action lawsuit in Superior Court seeking a judicial ruling on the new law which currently conflicts with Tucson’s charter.

There are four (4) Charter Review Committee recommended changes attributable to state election law changes:

**Article IV, Sec. 4** - All primary and general elections held *in accordance with state law*. Currently, the Charter designates City elections to take place in odd numbered years.

**Article IV, Sec. 6** – Nomination petitions shall be presented to the City Clerk *in accordance with state law* rather than the existing City Charter window of “not earlier than one hundred twenty (120) days nor later than ninety (90) days” before the primary. Currently, A.R.S. § 16-311 requires such nomination petitions be turned in 30 days earlier than the City Charter would require.

**Article VI, Sec. 2** – Mayor and City Councilmembers elected *in accordance with state law* instead of odd numbered years.

**Article XI, Sec. 3** – Municipal Judge also to be elected *in accordance with state law*.

The Charter Review Committee also made the following three (3) recommendations:

~~**Article VI, Sec. 14a** – Changing the Mayor’s compensation to 60% of the compensation provided to the Yuma County Board of Supervisors and the Councilmember’s compensation equal to 30% of the compensation provided to the Yuma County Board of Supervisors.~~

~~**Article VI, Sec. 3c** – Designating the City Attorney to serve at the pleasure of the Mayor and City Council rather than the City Administrator.~~

~~**Article VIII, Sec. 2** – Providing City Council discretion to pay six (6) months salary as severance for a City Administrator. The current Charter provision limits this amount to two (2) months.~~

Attached is a proposed ordinance incorporating the Charter Review Committee’s recommendations. City Council may modify any or all of the recommendations prior to ordinance adoption and calling for an election. It is recommended that if City Council desires any changes to the ordinance, such

changes should be made prior to formal ordinance introduction, or the ordinance must be re-introduced with the amendment modification at least two weeks prior to adoption.

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$60,000.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$0.00 \$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP:	
	TOTAL:	\$0.00		
	FISCAL IMPACT STATEMENT:			
ADDITIONAL INFORMATION	SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK:			
	1. 2. 3. 4. 5.  IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?  <input type="radio"/> Department <input type="radio"/> City Clerk's Office <input type="checkbox"/> Document to be recorded			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Philip A. Rodriguez		5/13/2020	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files		5/13/2020	
RECOMMENDED BY (DEPT/DIV HEAD):		DATE:		
WRITTEN/SUBMITTED BY:		DATE:		