1. May 13, 2015 Agenda
   Documents:
   MAY 13, 2015 AGENDA.PDF

2. Previous Meeting Minutes
   Documents:
   MAY 13, 2015 PREVIOUS MEETING MINUTES.PDF

3. Item 2
   Documents:
   MAY 13, 2015 ITEM 2.PDF

4. Item 3
   Documents:
   MAY 13, 2015 ITEM 3.PDF

5. Item 4
   Documents:
   MAY 13, 2015 ITEM 4.PDF

6. Item 5
   Documents:
   MAY 13, 2015 ITEM 5.PDF
AGENDA

REGULAR MEETING
WEDNESDAY, MAY 13, 2015, 4:00 P.M.
CITY HALL, 501 POLI STREET, VENTURA
SANTA CRUZ CONFERENCE ROOM

ROLL CALL

INFORMATION ITEMS

None.

FORMAL ITEMS

1. **Consideration of the Minutes of the April 8, 2015 Meeting of the Charter Review Committee**

   RECOMMENDATION

   Approve the Minutes of April 8, 2015 as submitted by the City Clerk.

2. **Consideration of City Council Actions on Charter Review Committee Requests**

   RECOMMENDATION

   That the Charter Review Committee take action as it deems appropriate.
3. Committee Discussion of Potential Form and Format of Final Report and Recommendations; Authors

RECOMMENDATION

That the Charter Review Committee take action as it deems appropriate.

4. Consideration of Modifying Gender-Specific to Gender Neutral Language in the Charter

RECOMMENDATION

That the Charter Review Committee review the gender specific references in the Charter and direct staff to bring back at a future meeting suggestions for replacement language that is gender neutral.

5. Consideration of Durational Residency for Candidates for City Council, Section 503 of the City Charter

RECOMMENDATION

That the Charter Review Committee recommend revising Section 503, “Eligibility for Office,” of the San Buenaventura City Charter to require that candidates for elective office with the City be residents for a period not to exceed 30 days consistent with decisions of the California Supreme Court.

PUBLIC COMMUNICATIONS

COMMITTEE MEMBER COMMUNICATIONS

ADJOURNMENT

Administrative Reports relating to this agenda are available in the City Clerk’s Office, 501 Poli Street – Room 204, Ventura, during normal business hours. Materials related to an agenda item submitted after distribution of the agenda packet are available for public review in the City Clerk’s Office.

This agenda was posted on Thursday, May 7, 2015, at 4:00 p.m. in the City Clerk’s Office and on the City Hall Public Notices Board.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk’s Office at 658-4787 or the California Relay Service. Notification by Monday, May 11, 2015, by 12:00 p.m. will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Copies of this and all Agendas of the Charter Commission are available on the City’s website at:

F:\A-Users\Greg\Charter Review Committee\5.13.2015 - 6th Meeting - Follow Up On City Council Actions\Agenda 5.13.2015.Doc
http://www.cityofventura.net/page/public-meetings

To be added to the interested persons list for future announcements and information regarding the Charter Review Committee. Please email charterreviewcommittee@ci.ventura.ca.us with your contact information and you will be added to the list.
The Charter Review Committee met in regular session in the City Hall Santa Cruz Conference Room, 501 Poli Street, Ventura at 4:00 p.m.

ROLL CALL

Present: Members Baker, Collart, Evans, Montgomery, Alternate Morris, Olney, Prokopow, Squires, Vice Chair Jacobs, and Chair Orrock.

Absent: Members Goldenring and Stephens.

Chair Orrock presided.

FORMAL ITEMS

1. Consideration of the Minutes of the March 11, 2015 Meeting of the Charter Review Committee

RECOMMENDATION

Approve the Minutes of March 11, 2015 as submitted by the City Clerk.

Member Prokopow moved to approve the minutes of March 11, 2015. Vice Chair Jacobs seconded. The vote was as follows:

AYES: Members Baker, Collart, Evans, Montgomery, Olney, Prokopow, Squires, Vice Chair Jacobs, and Chair Orrock.
NOES: None.

ABSENT: Members Goldenring and Stephens.

Chair Orrock declared the motion carried.

Member Stephens arrived at 4:09 p.m.

2. **Consideration and Discussion of the Issue of Whether or Not to Recommend a Directly Elected Mayor or Retain a City Council Selected Mayor; the Term and Term-Limit (if any)**

**RECOMMENDATION**

That the Charter Review Committee take action as it deems appropriate.

**SPEAKERS**

Staff: City Attorney Gregory G. Diaz.

**DOCUMENTS**

PowerPoint.

Vice Chair Jacobs moved to recommend retaining the current arrangement in the Charter that the City retain a City Council selected Mayor. Member Baker seconded. The vote was as follows:

**AYES:** Members Baker, Collart, Evans, Montgomery, Squires, Stephens, Vice Chair Jacobs, and Chair Orrock.

**NOES:** Members Olney and Prokopow.

**ABSENT:** Member Goldenring.

Chair Orrock declared the motion carried.

Member Stephens moved to recommend that the Mayor's term remain a two-year term. Member Squires seconded. The vote was as follows:

**AYES:** Members Baker, Collart, Evans, Olney, Squires, Stephens, Vice Chair Jacobs, and Chair Orrock.

**NOES:** Members Montgomery and Prokopow.
ABSENT: Member Goldenring.

Chair Orrock declared the motion carried.

3. **Consideration of Charter Review Committee’s Calendar and Work Plan**

**RECOMMENDATION**

That the Charter Review Committee take action as it deems appropriate.

**SPEAKERS**

Staff: City Attorney Gregory G. Diaz.

By consensus, the Committee directed staff to maintain the Committee’s regular meeting schedule and hold the May 13, 2015, Charter Review Committee meeting as scheduled.

4. **Committee Requests for Information Relating to the City Council Districts and Options**

**RECOMMENDATION**

Members of the City Charter Review Committee may indicate the types of information that they would find useful and/or helpful in determining and preparing for the May 13 and June 10, 2015 Charter Review Committee Meetings where the topic is scheduled to be whether or not the City should change its current at-large method of electing Members of the City Council to City Council Districts where candidates run only in the district they live and are voted on only by voters in that District and what other options are available.

**SPEAKERS**

Staff: City Attorney Gregory G. Diaz.

By consensus, the Committee clarified their direction to staff to ask the City Council for clarification on the charge as it relates to district elections and as to whether the charge is to recommend whether districts should be considered and if so, if the City Council intends that the Committee return with the formation of districts.
PUBLIC COMMUNICATIONS

SPEAKERS

Member of the public: Mark Abbe.

ADJOURNMENT

Member Prokopow moved to adjourn the meeting at 5:09 p.m. Vice Chair Jacobs seconded. The vote was as follows:

AYES: Members Baker, Collart, Evans, Montgomery, Olney, Prokopow, Squires, Stephens, Vice Chair Jacobs, and Chair Orrock.

NOES: None.

ABSENT: Member Goldenring.

Chair Orrock declared the motion carried.
DATE: April 23, 2015
TO: Charter Review Committee
FROM: Gregory G. Diaz, City Attorney
SUBJECT: Consideration of City Council Actions on Charter Review Committee’s Requests

RECOMMENDATION:
That the Charter Review Committee take action as it deems appropriate.

DISCUSSION:
At the Charter Review Committee’s March 11, 2015 meeting discussion was held on whether or not to hold the May meeting in light of the Committee’s request pending before the City Council. The Committee decided to hold the May meeting in order to address and chart out the balance of your work based on whatever decision was made by the City Council. At the April 20, 2015 City Council meeting, the Committee made the following requests of the City Council:

1. Clarify the scope of the work pertaining to city council districts within the charge presented to the Charter Review Committee.
   a) If the City Council determines that the scope of work relating to city council districts is beyond recommending to go to city council districts or not to go to city council districts, then authorize and approve a supplemental appropriation not to exceed $7,500 from the general fund reserve for the purposes of the Charter Review Committee’s retention of an expert/consultant to present information on city council districts, voting rights, options other than districts, and legal consequences to each.
2. Authorize the addition of the following areas to the Charter Review Committee's charge:

   a. Making the Charter gender neutral;
   b. Truing up the term of the Mayor and Deputy Mayor to coincide with the even year elections for the City Council as recently approved by the voters;
   c. Evaluating the term "Deputy Mayor" as the appropriate title for the office of the Deputy Mayor;
   d. Review of Section 503 of the Charter to determine if the one year durational residency requirement meets the standards of existing law; and,
   e. Review of Section 800 of the Charter to determine if the City can require the City Manager to be a city resident under the current state of the law.

Chair Orrock presented the item and staff answered questions from the City Council. A copy of the Administrative Report to the City Council is found at Attachment “1” hereto.

**City Council Action on Charter Review Committee's Requests:**

The City Council took the following actions on the Charter Review Committee's recommendations:

1. Clarified that the scope of the work pertaining to city council districts within the charge presented to the Charter Review Committee is to answer the question of whether or not the City should go to geographic districts or remain with the at-large election system. As such, the City Council felt that the request for consulting assistance was premature and would be handled when and if a decision to go to districts was made.

2. Authorized the addition of the following areas to the Charter Review Committee's charge:

   a. Making the Charter gender neutral.
   b. Truing up the term of the Mayor and Deputy Mayor to coincide with the even year elections for the City Council as recently approved by the voters.
   c. Evaluating the term "Deputy Mayor" as the appropriate title for the office of the Deputy Mayor.
   d. Review of Section 503 of the Charter to determine if the one year durational residency requirement meets the standards of existing law.
e. Review of Section 800 of the Charter to determine if the City can require the City Manager to be a city resident under the current state of the law.

The City Council also added an additional item to the charge to the Committee. This is item “f” pertaining to the appropriate method to fill any vacancy that may occur in the Office of the Mayor and/or Deputy Mayor.

Given the additions to the Charter Review Committee’s charge and the clarification of the Committee’s scope on the issue of geographic districts for the City Council, it is appropriate to consider the work plan for the balance of the issues before the Committee. Staff’s recommendation is as follows:

- May 13, 2015 Meeting
  - Gender Neutral Provisions
  - Durational Residency Provisions
- June 10, 2015 Meeting
  - City Council Districts
- July 8, 2015 Meeting
  - City Council Districts (If Needed) If not, then
  - Mayor/Deputy Mayor – Term, Vacancy, Title, and Succession
  - City Manager Residency
- August 12, 2015
  - Mayor/Deputy Mayor – Term, Vacancy, Title, and Succession (If Not Covered in July)
  - City Manager Residency (If Not Covered in July); Discussion and Drafting of the Final Report
  - Otherwise
- September 9, 2015
  - Discussion and Drafting of the Final Report
- October 14, 2015
  - Discussion and Drafting of the Final Report
- November 4, 2015
  - Discussion and Drafting of the Final Report; Potential Adoption by Committee
- December 2015
  - Presentation to the City Council of Final Report

**ATTACHMENTS:**
Attachment “1” --- City Council Administrative Report on Requests from the Charter Review Committee, dated March 19, 2015
To: Honorable Mayor and City Council

From: The Charter Review Committee, Dennis Orrock, Chair via Gregory G. Diaz, City Attorney

Subject: Consideration of Charter Review Committee Requests for a Clarification of a Provision of its Charge with a Potential Supplemental Appropriation and for Additions to its Charge

RECOMMENDATION

The Charter Review Committee recommends that the City Council:

1. Clarify the scope of the work pertaining to city council districts within the charge presented to the Charter Review Committee.
   a) If the City Council determines that the scope of work relating to city council districts is beyond recommending to go to city council districts or not to go to city council districts, then authorize and approve a supplemental appropriation not to exceed $7,500 from the general fund reserve for the purposes of the Charter Review Committee’s retention of an expert/consultant to present information on city council districts, voting rights, options other than districts and legal consequences to each.

2. Authorize the addition of the following areas to the Charter Review Committee’s charge:
   a) Making the Charter gender neutral;
   b) Trueing up the term of the Mayor and Deputy Mayor to coincide with the even year elections for the City Council as recently approved by the voters;
   c) Evaluating the term “Deputy Mayor” as the appropriate title for the office of the Deputy Mayor;
   d) Review of Section 503 of the Charter to determine if the one year durational residency requirement meets the standards of existing law; and,
   e) Review of Section 800 of the Charter to determine if the City can require the City Manager to be a city resident under the current state of the law.

COUNCIL PRIORITIES

This request supports the following City Council priorities:
Administrative Report  
April 20, 2015  
Page 2

- Delivering Core Services  
- Enhancing Public Trust

PREVIOUS COUNCIL ACTION

September 29, 2014  
The Charter Review Committee was appointed by the City Council

November 19, 2014  
The Charter Review Committee held its first meeting.

SUMMARY

During the course of the Charter Review Committee’s discussion, there have been three issues that have arisen which the Committee wishes to seek either clarification from the City Council or authorization to proceed. The three issues are as follows

- Does the charge to the Committee in looking at whether or not the City should divide itself into city council districts include those items necessary to implement districts or is the charge simply to recommend to switch to districts or to retain the existing at-large representation?

- If the scope of work for the Committee includes making recommendations beyond the question of whether or not the City could be divided in to city council districts, the Committee requests a supplemental appropriation in the amount not to exceed $7,500 to retain an expert/consultant on the issue of the California Voting Rights Act and its implications for districting and other options.

- The Committee requests that the following additions be made to its scope of work within its charge:
  - Modifying the Charter to include gender neutral language;
  - The term for the Mayor and term and title of the Deputy Mayor and whether or not it should be trued up with the even year election cycle recently approved by the voters for the City Council;
  - The inclusion of two additional cleanup items including:
    - Revisions to Section 503 of the Charter pertaining to eligibility to run for office to ensure compliance with a California Supreme Court case on durational residency prior to running for elective office which was based on U.S. Supreme Court decisions; and,
    - Review of Section 800 of the Charter to determine if it is still legal to require the City Manager to be a resident of
DISCUSSION

The Charter Review Committee has several requests of the City Council. These requests are set forth below:

Clarification on Charge:

The charge to the Charter Review Committee relating to geographic districts for the City Council currently provides as follows:

“District Elections”

without any additional direction as to the scope of the City Council’s expectations of the Charter Review Committee for district elections. Staff is of the opinion that the City Council simply wants to know if the Charter Review Committee recommends switching from the current at-large election to geographic city council districts, with a charter amendment authorizing the same. Some Members of the Committee feel that the City Council’s charge includes drawing of district lines if the Committee recommends switching to districts. Others on the Committee believe the charge includes not only recommending on whether or not to switch to districts, but how the same would be implemented, i.e., how the lines should be determined and what, if any, citizen participation should be included. As such, the Charter Review Committee respectfully requests that the City Council provide further direction as to the scope of its request that the Charter Review Committee make a recommendation on District Elections.

Supplemental Appropriation:

The Charter Review Committee has discussed since its inception the potential need for experts and consultants to provide it with the information necessary to provide sound recommendations for consideration by the City Council. Having reviewed a number of issues, the Charter Review Committee has pared its request down to one consultant/expert in the area of City Council districts, voting rights, and options other than districts, should the City Council determine the Charter Review Committee’s scope includes making recommendations beyond simply recommending for/against city council districts. While staff has some experience in this area, a majority of the Charter Review Committee voted to support the request in order to obtain advice from a consultant that has been involved in a number of districting and voting rights issues. City staff has located at least three consultants with the type of experience that the Charter Review Committee believes would be helpful to it. The City Attorney can support this request given the current workload in his office and the staffing shortage he has at the moment. In light of this, the Committee respectfully requests that the City Council appropriate and authorize the expenditure of up to $7,500 for a consultant/expert to assist the Charter Review Committee in the area of City Council districting, voting rights, and options other than districts.
Addition to Charge:

At its first meeting, the Charter Review Committee discussed its charge from the City Council. Mayor Heitmann was there to welcome and thank the Charter Review Committee for their efforts and answered several questions. One question raised was if the Charter Review Committee was limited to reviewing only the issues within the charge or could it include other items or issues? Both the Mayor and the City Attorney indicated that any additional topics would require the consent of the City Council. As a result, the Charter Review Committee requests that the following additions be made to its scope of work within its charge:

- Modifying the Charter to include gender neutral language;
- The term for the Mayor and term and title of the Deputy Mayor and whether or not it should be trued up with the even year election cycle recently approved by the voters for the City Council;
- The inclusion of two additional cleanup items including:
  - Revisions to Section 503 of the Charter pertaining to eligibility to run for office to ensure compliance with a California Supreme Court decisions on durational residency prior to running for elective office which was based on U.S. Supreme Court decisions on similar issues; and,
  - Review of Section 800 of the Charter to determine if it is still legal to require the City Manager to be a resident of the City.

The City’s Charter is fairly up to date as to gender neutrality language in all but a few sections. The Charter Review Committee believes it is important to clean up the last few remaining sections to ensure that the City’s governing document is gender neutral. In addition, the Charter Review Committee sees an inconsistency between the term of the Mayor and Deputy Mayor not lining up with the newly adopted City Council election cycle. The Charter Review Committee believes this should be discussed and requests the addition of it to the Charter Review Committee’s charge. Furthermore, the title of Deputy Mayor is not one used generally in California and when it is, it generally refers to a staff member in “strong” mayor cities. Consequently, the Charter Review Committee requests the addition of the title of the Deputy Mayor’s office be added to the charge as well.

During the Charter Review Committee’s discussion of its potential requests for addition to the charge, a member asked staff if there were other sections of the Charter that caused legal concern. Staff indicated that Sections 503 and 800 should be discussed and researched to determine if they meet current legal requirements. Consequently, the Charter Review Committee requests the addition of these two sections as well to its charge. Staff indicates that none of the requested additions to the Charter Review
Committee's charge would pose a substantial workload burden on existing staffing resources.

**ALTERNATIVES**

The City Council could clarify the Charter Review Committee's charge on the scope of the task relating to districting, approve the supplemental appropriation, and decline to authorize the addition to the Charter Review Committee's charge. This would result in no additions to the Charter Review Committee's work or scope and assist with ensuring that the City Council's assigned tasks are completed.

The City Council could clarify the Charter Review Committee's charge on the scope of the task relating to districting, but decline to approve the supplemental appropriation, and approve the additions to the scope of the Charter Review Committee's charge. This would result in staff developing and presenting materials to the Charter Review Committee. This may limit the information and experience for the Charter Review Committee and may result in delaying some other projects for the City.

The City Council could clarify the Charter Review Committee's charge on the scope of the task relating to districting, decline to approve the supplemental appropriation, and authorize the additions to the Charter Review Committee's work as requested. The impacts would be similar to the alternative directly listed above, only to a slightly greater degree as additional tasks would be added.

Prepared by Gregory Diaz, City Attorney for:

*R. Dennis Orrock*

R. Dennis Orrock  
Chair, Charter Review Committee

Reviewed as to fiscal impacts

*Gilbert Garcia*  
Finance and Technology Director

FORWARDED TO THE CITY COUNCIL

*City Manager's Office*
TO: Charter Review Committee  
FROM: Gregory G. Diaz, City Attorney  
SUBJECT: Committee Discussion of Potential Form and Format of Final Report and Recommendations; Authors

RECOMMENDATION:  
That the Charter Review Committee take action as it deems appropriate.

DISCUSSION:  
The Charter Review Committee has been meeting since November 19, 2014 and has been making decisions, subject to further revision, since your second meeting of January 14, 2015. Even with the additional issues that the City Council authorized the Charter Review Committee to include within your charge, it may be time to consider how you would like your final report structured as well as the Committee’s preference for drafting it—sections by a member of the Committee, a subcommittee, or staff with the entire Committee involved in review and revisions. Staff is happy to assist under whatever option you desire.

Some Committee Members have requested that this item be added to your agenda for discussion. This is in response to those requests. In addition, Committee Member Cheryl Collart has provided a potential format that the Charter Review Committee may wish to use for the final report. The outline appears to be a good one that will assist you in ensuring that each issue is addressed. To the extent that during the drafting of a section /issue it appears that data is missing or incomplete, this can be gathered for the Committee and further discussion held so that you are confident that the report covers the issues as you feel it should. Committee Member Collart’s proposed outline is as follows:

1. Topic  
- Brief statement of task as set forth by city council resolution, related city council discussion and/or written documentation
2. Background
- What is current condition/statement of fact
- Materials provided by staff

3. Recommended Action
- Charter change
- Policy change/development of new policy
- Ordinance change/development of new ordinance
- No change in charter/policy/ordinance/practice

4. Criteria
- City Council task: did Charter Review Committee cover the topic? Elements discussed/not discussed
- Cost Benefit: cost of implementation; savings; long term financial commitment
- Community Benefit: expectations of implementation; conflicts; policy/law vs. practice/reason
- Comparison to 11 selected peer cities: relationship, build on others experience
- Pro; why this is a good recommendation; committee consensus comments
- Con; concerns; committee dissenting comments

Staffing is looking for whatever insight or direction the Charter Review Committee wants to provide on preparing its final report.
DATE: May 4/2015

TO: Charter Review Committee

FROM: Gregory G. Diaz, City Attorney

SUBJECT: Addendum to Committee Discussion of Potential Form and Format of Final Report and Recommendations; Authors

The attached cover memorandum and draft outline of a potential form and format for the Charter Review Committee's Final Report was forwarded to staff after the internal printing of the agenda and reports for the Committee's May 13, 2015 meeting. However, staff was able to add it as an "addendum" to your packet before it was distributed. Consequently, please consider this information along with the information relating to agenda item 3.

ATTACHMENTS:
Attachment "1" -- Transmittal Memorandum from Committee Members John Baker and Cheryl Collart
Attachment "2" -- Potential Form and Format for Committee's Final Report
Memorandum

Date: May 1, 2015

To: Dennis Orrock, Chair Charter Review Committee
    Greg Diaz, City Attorney

From: CRC Committee Members John Baker and Cheryl Collart

Subject: Agenda Item Requested for May 13, 2015

It is requested that the attached draft report be placed on the May 13, 2015 agenda of the Charter Review Committee. This draft report is presented for the purpose of drawing the CRC discussions into a framework and creating a final report format that will be useful to both the city council and general public.

ATTACHMENT "1"
Introduction

This report represents the outcome of monthly meetings of the Charter Review Committee (CRC) as formed by the Ventura City Council in October 2014. The CRC was formed for the purpose of reviewing the existing city charter and determining its timeliness to current trends and suggesting improvements for voter participation in local governance.

Following the 2013 election, the city council initiated discussions concerning voter turn-out and the effect of 'off year' city elections. The council took swift action to place a measure on the 2014 ballot to change the timing of city elections to coincide with even year national/state/county election cycles. Voters approved this charter change with the understanding that it was also cost effective in reducing 'stand-alone' election expenses.

The council determined there were specific charter updates that should be considered since the document was last updated in 1986. Therefore, the council formed a citizen review committee that would undertake in-depth discussion of the community election process and consider specific questions posed by council. This committee provides the City Council with a broader point of view on charter issues by utilizing the experience of informed citizens.

Charter Review Committee (CRC)

Formation of the CRC followed the city’s citizen appointment process in which interested members of the public are invited to submit applications to the city council for consideration. In this case, each member of the city council also had the opportunity to recruit members for the committee. The names and resumes of the applicants were submitted to the council. Committee appointments were made at the September 29, 2014 council meeting. The CRC held its first meeting November 19, 2014 to elect two officers and initiate its scope of work.

CRC Members

Dennis Orrock, Chair
Lynn Jacobs, Vice Chair
John Baker
Cheryl Collart
Barbara Evans
Peter A. Goldenring
Suz Montgomery
Ross R. Olney
Andrew Prokopow
Patrick Squires
Chris Stephens
Jerry Morris, Alternate
Staff Support

The city attorney’s office was primary staff to the CRC, with additional support provided by the city clerk’s office.

Staff provided an initial work plan to guide committee discussion in a timely manner and prepared monthly agenda packets of background information to assist the CRC in making informed opinions.

Staff worked with the committee chair to complete the monthly agenda and convene each meeting.

Pertinent staff reports, graphs and charts provided to the CRC are included in this report and may be useful to city council for further review.

Specific City Council Directed Tasks for CRC

Per the direction of city council, the CRC was initially tasked to discuss the following:

1. City council Compensation
2. City Council Term Limits
3. Removal of the Board Education from the City Charter
4. Direct Election of the Mayor, term of the Mayor and the relationship of the Deputy Mayor
5. City Council election process, including at large election and district elections

In April 2015, the CRC sought clarification from the city council on several issues that arose in the months of meetings. Based on city council action taken April 20, 2015, the CRC report includes the following additional tasks:

6. Gender neutral language
7. True-up of the term for the mayor and deputy mayor (based on switch to even year elections)
8. Evaluating the term ‘deputy mayor’ (as contrasted against other recognizable titles)
9. Review of Section 503 residency requirement (for City Council candidates)
10. Review of Section 800 residency requirement for the city manager
11. Filing of vacancies for Mayor and Deputy Mayor (occurring during the term of office)
Executive Summary of Recommendations

Based on the months of meetings, the CRC makes the following recommendations to City Council:

1. City Council Compensation: It is recommended that.....
2. City Council Term Limits: It is recommended that . . . .

Reporting the work of the CRC

The CRC began work using the work plan developed by staff, taking one topic each month for general discussion. The discussions yielded ‘straw votes’ and opened dialogue. As the discussion and review evolved, the committee determined that a criteria/framework could be useful in developing consensus and ultimately providing a final report.

The council directed the committee to focus on ‘policy’ issues, making known its ‘preference’ in the discussion as it may relate to any charter changes. While the committee recognized that simple yes/no responses are useful, it also felt it would be remiss in its efforts if additional commentary was not provided to the council and the community as background to the recommendations ultimately presented. CRC members have extensive local history and professional expertise, and as such, they felt a keen sensitivity to the community and recognize any change to the charter will have significant and long term consequences.

Each topic discussion was guided by a framework that included:

- Current conditions; historical view of what has transpired since 1975,
- Necessity or value to change the charter,
- Cost benefits and anticipated savings or expenses associated with changes,
- Community benefits that might be expected by implementing changes,
- Comparison of the Ventura charter to selected peer cities for trends,
- Charter consistency and true-up with current legislation including the Voting Rights Act,
- Consensus comments including recommendations for council consideration,
- Comments of concerns and minority opinions, including topics for further consideration.

Based on the discussion and consensus reached, the CRC will make recommendations to:

- Change the charter, including specific language prepared by the city attorney,
- Consider changes in city policy or practices,
- Consider changes to ordinances, if appropriate,
- Retain the charter language as currently stated; no changes recommended.
Task 1: City Council Compensation

Current Charter Conditions
City council compensation is governed by charter
Members are paid $600 monthly
Mayor is paid $700 monthly

Staff Reports Pertinent to Informed Opinions
Peer city compensation report/graph attached; see Attachment #1.
(Working note: Summary comments of staff exhibits here)

Discussion Points
a) Defined the meaning of “compensation” as cash only.
b) Defined “benefits” as non-cash and recognizing that the city provides an option for council members if the council member pays all costs associated with the benefit, i.e., health care or retirement benefit.
c) Per city policy, the city covers the additional and/or specific costs of council members to attend conferences and meetings that have been approved by the full council; council members may be reimbursed for expenses based on existing city policies.
d) Council members may receive additional compensation for participation on some boards and commissions, i.e., Ventura County Transportation Commission. This is not a significant source of income and rotates among the council members as assigned to the boards.
e) Compensation is too small to recruit candidates that do not have another source of income.
f) The small amount of compensation keeps the position of city council member from becoming a ‘fulltime’ job equivalent.
g) Compensation helps the council member recover personal expenses (i.e., phones, car, computer, dry cleaning, etc.) associated with undertaking the duties of public office.
h) Automatic increases based on the consumer price index (CPI) would provide for periodic and controlled increases that can be included in the annual budget process rather than require charter changes.
i) Some increase is warranted because the position of city council should not ‘cost’ the council member to participate.
j) The last increase in council compensation was 30 years ago.
k) Compensation for city councils across the state is governed and guided by state legislation and disclosure requirements.
Consensus and Minority Opinion

a) CRC determined that city council members are under compensated.
b) CRC informed opinion determined that city council members are eligible for an increase based on state law
c) CRC determined increase would be aligned with practices of peer cities.
d) CRC opinion confirms that city council position is not intended to be paid as a ‘fulltime’ professional position
e) CRC discussion suggests that a regular increase pegged to the regional CPI should be an adopted policy that can be handled through normal budget process rather than require a charter amendment. The compensation change should take place on January 1 each year with the change being based on the CPI for the preceding June and included in the adopted budget
f) The initial monthly compensation for each council member is recommended to be $1000.
g) The initial monthly compensation for the mayor is recommended to be $1200.

Recommendations for City Council Consideration

Charter change should be made to increase the city council monthly compensation.

Recommended charter language: Section/ ....”...

Task 2: City Council Term Limits

Current Charter Conditions
Council members serve unlimited terms.

Staff Reports Pertinent to Informed Opinion
Ventura City council terms average 7.9 years from 1975 – 2013. Detailed information can be found in Attachment XX.

Discussion Points

a) Based on the average term, Ventura City Council members have limited their own terms of office.
b) Current council reflects the most individual members serving 4 or more terms than at any prior time.
c) Competition has been part of every election; the average number of candidates has been 12 per election cycle from 1975 - 2013.
d) The City has not experienced any ‘uncontested’ city council races.
e) Voters have rejected sitting council members – from 1975 to present.
f) Longer terms have supported regional connections to advance local initiatives and interests.
g) Voters have the ultimate right to retain or remove an elected official every four year term.
h) Trends to limit terms of office have resulted in some adverse effects by removing good candidates that still have desire to serve.
i) Lack of term limits has not been detrimental in providing good government.
j) The city has a multitude of boards, committees and commissions that provide an avenue to public leadership and help build a pool of potential candidates for city council.
k) Community councils could be used to educate the public on the operation of city government as a means of fostering a pool of qualified potential candidates.

Consensus and Minority Opinion
Term limits are not necessary.

Comments for City Council Consideration
No change to charter
Suggest the city council make it a policy and practice to regularly engage with its appointed community commissions to build long term commitment to common goals and promote community leadership.

**Task 3: Removal of the Board of Education from the Charter**

**Current Condition**

Specific reference is made to the school district; section 1100

**Staff Reports Pertinent to Informed Opinion**

Representatives of the Ventura Unified School Board of Trustees and Staff joined the discussion

**Discussion Points**

a) The school district is not governed by the city.

b) The school district has a separately elected board of trustees.

c) The elected officials of the city and school district occasionally hold public meetings for mutual benefit.

d) The city council has a policy to appoint one member as liaison with a school trustee.

e) The school district is not contiguous to the city boundaries; the school district is larger than the city.

f) The charter connects the two public bodies in a manner that could have detrimental effects in terms of potential litigation.

g) The school district had shared off year election costs; however, the district has a history of uncontested elections and therefore does not consistently share election expenses with the city.

h) The school board took action similar to the city council to place a measure on the 2014 public ballot to change their charter and voting cycle to even-year; the measure was approved by the voters.

i) The school district Board of Trustees has stated . . . . .

**Consensus and Minority Opinion**

All charter references to the school district (Ventura Unified School District) should be removed.

**Comments for City Council Consideration**

Charter changes should be made to remove the school board and all related references.

Recommended charter language “.....
It should be matter of policy and practice that the city and school district should continue work toward common projects because most of the constituents are the same.

**Task 4: Consideration of a Direct Election of the Mayor or Retain Current City Council Selection process; consider the term or term limits for the Mayor**

**Current Charter Conditions**

The mayor and deputy mayor are elected by the city council members every two years.

The terms of office are two years

Mayor may not succeed the term without at least one additional two-year term having lapsed

**Staff Report Pertinent to Informed Opinion**

Survey of peer cities mayoral selection process, including term and term limit. See Attachment XX for more details.

**Discussion Points**

a) The mayor has the duty of presiding over the city council and is the ‘face of the city’ for regular and special council meetings, as well as special occasions/meetings such as the annual state of the city.

b) The mayor’s position requires an individual with good communication skills and collegial demeanor.

c) City council members, including the mayor have equal standing in their votes on city issues.

d) City council members have a sense and feel for who among them can provide the best leadership in a given term.

e) Each two year term provides an opportunity to select a new mayor.

f) Selection as deputy mayor does not insure a council member will rise to mayor in the subsequent term.

g) Mayors cannot commit the city to actions not approved by the full city council.

h) Direct election can have the result of the incumbent feeling he/she has greater status than ultimately being part of a policy making body of seven.

**Consensus and Minority Opinion**

Retain the current charter language allowing the city council to select the mayor.
Recommendations for City Council Consideration

No change to the charter

Task 5: City Council election process, including at large election and district elections

Current Charter Conditions

Staff Report Pertinent to Informed Opinion

Discussion Points

Consensus and Minority Opinion

Recommendations for City Council Consideration
Task 6: Gender neutral language

Current Charter Conditions

Staff Report Pertinent to Informed Opinion

Discussion Points

Consensus and Minority Opinion

Recommendations for City Council Consideration
Task 7: True-up of the term for the mayor and deputy mayor

Current Charter Conditions

Staff Report Pertinent to Informed Opinion

Discussion Points

Consensus and Minority Opinion

Recommendations for City Council Consideration
Task 8: Evaluating the term ‘deputy mayor’

Current Charter Conditions

Staff Report Pertinent to Informed Opinion

Discussion Points

Consensus and Minority Opinion

Recommendations for City Council Consideration
Task 9: Review of Section 503 residency requirement

Current Charter Conditions

Staff Report Pertinent to Informed Opinion

Discussion Points

Consensus and Minority Opinion

Recommendations for City Council Consideration
Task 10: Review of Section 800 residency requirement for the city manager

Current Charter Conditions

Staff Report Pertinent to Informed Opinion

Discussion Points

Consensus and Minority Opinion

Recommendations for City Council Consideration

Filing of vacancies for Mayor and Deputy Mayor
Attachments

1.
2.
3.
4.
5.

Document Available from City Attorney’s Office but not included in this report

1. City Charter
2. Brown Act
3. Administrative Report to City Council, September 29, 2014 Re: CRC Appointments
4. Memorandum from Greg Diaz, February 11, 2015 Re: Background Information
5. CRC Agenda Packets:
   a. November 19, 2014
   b. January 14, 2015
   c. February 11, 2015
   d. March 11, 2015
   e. April 8, 2015
   f. May 13, 2015
6. Memorandum from CRC and Greg Diaz, April 20, 2015 City Council Clarification
7.
DATE: April 30, 2015

TO: Charter Review Committee

FROM: Gregory G. Diaz, City Attorney

SUBJECT: Consideration of Modifying Gender-Specific to Gender Neutral Language in the Charter

RECOMMENDATION:
That the Charter Review Committee review the gender specific references in the Charter and direct staff to bring back at a future meeting suggestions for replacement language that is gender neutral.

DISCUSSION:

At the City Council’s meeting of March 20, 2015, the City Council granted the Charter Review Committee’s request to modify the City Charter to change gender specific language to gender neutral language. To assist the Committee with this task, staff has reviewed the existing City Charter and highlighted instances where gender specific references are made using the following gender specific terms:

- He
- His
- Him
- Man
- Men

These specific terms are highlighted in Attachment “1” which is the existing City Charter.

If the Charter Review Committee identifies additional terms or references, staff will be happy to search for them and add them to the list. At the Committee’s direction, Staff can either propose revisions or take suggestions from the Committee. A revised Charter with replacement language can then be presented for the Charter Review Committee’s recommendation at a future meeting.

ATTACHMENTS:
Attachment “1” -- Highlighted Version of Existing Charter Noting Gender Specific References.
The City of San Buenaventura is one of the oldest settlements on the Pacific Coast. It is the site of the San Buenaventura Mission founded in 1782, and incorporated as a town by the California Legislature on March 10, 1866.

The first Charter of the City was prepared and proposed by a Board of Freeholders elected October 13, 1931. The Charter was approved by the voters on January 7, 1932, certified by the City Council on January 11, 1932, and approved by the State Legislature on January 22, 1932.

Since approval of the original Charter, the electorate approved amendments which were certified by City Council on April 19, 1937; December 27, 1938; April 16, 1945; April 14, 1947; April 16, 1951; April 21, 1959; April 20, 1961; April 15, 1963; April 19, 1965; April 17, 1967; and June 17, 1968.

Early in 1970, a Charter Review Committee was formed to evaluate the Charter as it existed at that time. A new Charter was prepared and subsequently approved by the voters on November 3, 1970, certified by the City Council on November 23, 1970, and approved by the State Legislature on January 26, 1971. Then, on November 4, 1973, the voters approved and the City Council certified amendments to the Charter on December 3, 1973. Those amendments were approved by the State Legislature on January 21, 1974.

Early in 1986, a Charter Review Committee was formed to again review the Charter as it existed at that time. A new Charter was prepared and subsequently approved by the voters on November 4, 1986, certified by the City Council on November 24, 1986, and accepted by the Secretary of State on December 4, 1986, the formal effective date of the CHARTER OF THE CITY OF SAN BUENAVENTURA. The voters approved an amendment to the Charter on November 7, 1995, and it was certified by the City Council on November 27, 1995. On November 4, 2014, the voters approved an amendment to the Charter and it was certified by the City Council on December 15, 2014.
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CHARTER OF THE CITY OF SAN BUENAVENTURA

We, the people of the City of San Buenaventura, State of California, do ordain and establish this Charter as the organic law of said City under the Constitution of the State of California.

ARTICLE I
NAME OF CITY

SECTION 100. NAME.

The municipal corporation now existing and known as the City of San Buenaventura shall continue to be a municipal corporation under its present name.

ARTICLE II
BOUNDARIES

SECTION 200. BOUNDARIES.

The boundaries of the City shall be the boundaries as established at the time this Charter takes effect, and as such boundaries may be changed thereafter from time to time in the manner authorized by law.

ARTICLE III
SUCCESSION

SECTION 300. RIGHTS AND LIABILITIES.

The City of San Buenaventura shall continue to own, possess and control all rights and property of every kind and nature owned, possessed or controlled at the time this Charter takes effect and shall continue to be subject to all its debts, obligations, liabilities and contracts.

SECTION 301. ORDINANCES CONTINUED IN EFFECT.

All lawful ordinances, resolutions, rules and regulations, and portions thereof, in force at the time this Charter takes effect and not in conflict or inconsistent with it, are hereby continued in force until they shall have been duly repealed, amended, changed or superseded by proper authority.

SECTION 302. RIGHTS OF OFFICERS AND EMPLOYEES RESERVED.

Nothing contained in this Charter, unless otherwise specifically provided herein, shall effect or impair the personnel, pension or retirement rights or privileges of officers or employees of the City, or of any office, department or agency thereof, existing at the time this Charter takes effect.

SECTION 303. CONTINUANCE OF PRESENT OFFICERS AND EMPLOYEES.

The present officers and employees of the City shall continue without interruption to perform the duties of their respective offices and positions upon the same terms and conditions and for the compensation provided by the existing ordinances, resolutions, rules or laws, but subject to such removal, amendment and control as is provided or permitted in this Charter. Those whose offices are changed, abolished or superseded by this Charter shall serve until the election or appointment and qualification of their
respective successors under this Charter.

SECTION 304. CONTINUANCE OF CONTRACTS AND PUBLIC IMPROVEMENTS.

All contracts entered into by the City or for its benefit prior to the effective date of this Charter and then in effect, shall continue in full force and effect according to their terms. Public improvements for which proceedings have been instituted under laws existing at the time this Charter takes effect, in the discretion of the Council, may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws as may be continued or perfected under this Charter.

SECTION 305. PENDING ACTIONS AND PROCEEDINGS.

No action or proceeding, civil or criminal, pending at the time this Charter takes effect, brought by or against the City or any officer, office, department or agency thereof, shall be affected or abated by the adoption of this Charter or by anything contained herein. However, all such actions or proceedings may be continued even though functions, powers, and duties of any officer, office, department, or agency a party thereto, may be assigned or transferred by or under this Charter to another officer, office, department or agency. In that event, such actions may be prosecuted or defended by the head of the office, department or agency to which such functions, powers and duties have been assigned or transferred by or under this Charter.

SECTION 306. EFFECTIVE DATE OF CHARTER.

This Charter shall take effect upon its approval by the Legislature.

ARTICLE IV
POWERS OF CITY

SECTION 400. POWERS OF CITY.

The City of San Buenaventura shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter and in the Constitution of the State of California. It shall also have the power to exercise any and all rights, powers and privileges heretofore and hereafter established, granted or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation may exercise under the Constitution of the State of California. The enumeration in this Charter of any particular powers is not to be held to be exclusive of or any limitation upon this general grant of power.

ARTICLE V
ELECTIONS

SECTION 500. GENERAL MUNICIPAL ELECTIONS.

General municipal elections for the election of officers and for such other purposes as the Council may prescribe shall be held biennially on the first Tuesday after the first Monday in
November in each even-numbered year, or to coincide with any general state-wide election held in November of each even-numbered year.

SECTION 501. SPECIAL MUNICIPAL ELECTIONS.

All other municipal elections that may be held by authority of this Charter, or of general law or by ordinance, shall be known as special municipal elections.

SECTION 502. PROCEDURE FOR HOLDING ELECTIONS.

Except as otherwise provided by this Charter or by ordinance, all elections shall be held in accordance with the election laws of the State of California, as the same now exists or hereafter may be amended, for the holding of municipal elections.

SECTION 503. ELIGIBILITY FOR OFFICE.

No person shall hold, or be eligible for nomination to office as a member of the City Council unless at the time his nomination papers are filed or his appointment made, he is a registered voter of this City and he has been continuously, for at least one year next preceding his election or appointment, a resident of this City or of territory annexed thereto.

If any provision of this section should be invalid, such invalidity shall not affect the validity of the remaining portions of this section, and the law applicable to general law cities of the State of California shall apply in the place of any invalid provision.

SECTION 504. NOMINATIONS.

Except as otherwise provided in this Charter, the procedures and requirements for nominating candidates for municipal office shall be as provided in the election laws of the State of California, as they now exist or may be amended, for the holding of municipal elections.

SECTION 505. NAMES ON BALLOTS.

The names of all candidates nominated for elective office in the City shall be printed on the official ballots in the manner provided by state law.

SECTION 506. ELECTION OF CITY COUNCIL.

The election of members of the Council shall be from the City at large. Candidates receiving the highest number of votes shall be declared elected until the number declared elected equals the number of Council offices to be filled at the election. All ties shall be decided by lot in the presence of the candidates concerned and under the direction of the election authorities.

SECTION 507. TERMS FOR CITY COUNCILMEMBERS.

Members of the Council shall hold office for a period of four years from and after eight p.m. of the day of the first regular meeting in December following the election, and until their successors are elected and qualified, provided that any person elected to fill a vacancy shall serve for the remainder of the unexpired term. In the election of members of the Council where full terms and one or more unexpired terms are to be filled, no
distinction shall be made in nomination or voting between the full terms and the unexpired terms, but the full term offices shall be filled first and the unexpired term offices last on the basis that those receiving the highest number of votes in the election at which they are elected shall successively fill the first available offices.

SECTION 508. CANVASSING OF THE VOTE.

On the first Monday after any election and at the usual hour and place of meeting, the Council shall meet and canvass the returns and declare the result.

SECTION 509. THE INITIATIVE, REFERENDUM AND RECALL.

Except as otherwise provided by this Charter or by ordinance, the provisions of the election laws of the State of California, as they now exist or may hereafter be amended, governing the initiative, the referendum and the recall of municipal officers, shall apply in the City.

ARTICLE VI
OFFICERS, DEPUTIES AND EMPLOYEES AND THEIR COMPENSATION

SECTION 600. OFFICERS.

The officers of the City of San Buenaventura are the seven members of the Council, the City Manager, the City Attorney and such other officers as are established elsewhere in this Charter or as the Council may establish by ordinance. Where the appointment of any officer is vested in the Council, appointment or removal must be made by the affirmative vote of at least four members of the Council.

SECTION 601. COMPENSATION.

City Councilmembers shall receive a maximum of $600.00 per month. In addition thereto, the Mayor or other Councilmember acting as Mayor for 30 days or more shall receive a maximum of $100.00 additional per month. The Council may provide in the Administrative Code for reductions to such amounts by reason of absences from meetings. Each member of the Council shall receive reimbursement for Council authorized traveling and other expenses when on official duty. Upon the recommendation of the Manager, the compensation for all appointive officers and employees of the City, except officials and members of the boards, commissions and committees serving gratuitously, shall be fixed or changed by ordinance. The compensation of the City Manager and the City Attorney shall be decided by the Council. No officer or employee shall be allowed any fee, perquisite, emolument or stipend in addition to, or save as embraced in, the salary or compensation fixed for such office by the Council, and all fees received by such officer or employee in connection with official City duties shall be paid forthwith into the City Treasury.

SECTION 602. INELIGIBILITY OF COUNCILMEMBERS.

No Councilmember shall be eligible during the term for which he was appointed or elected or within six months...
thereafter, to hold any other office or employment with the City, except as a member of any board, commission or committee, of which he is a member pursuant to general law or by this Charter.

SECTION 603. CONFLICT OF INTEREST AND FINANCIAL INTEREST PROHIBITED.

The laws of the State of California, as they exist or hereafter may be amended, relating to conflict of interest and financial interest of City officers, appointees or employees, are hereby adopted by reference and shall apply to the City of San Buenaventura. The penalty for violation of this Section shall be as prescribed by State law and shall also work the forfeiture of office or employment on order of the Council or court of competent jurisdiction.

SECTION 604. NEPOTISM.

The Council shall not appoint to a salaried position under the City government any person who is a relative by blood or marriage within the third degree of any member of the Council, nor shall the City Manager or any department head or other officer having appointive power appoint any relative of his or of any Councilmember within such degree to any such position.

SECTION 605. OATH OF OFFICE.

Every officer of the City before entering upon the duties of office, shall take and file with the City the constitutional oath of office.

SECTION 606. OFFICIAL BONDS.

The Council shall fix by ordinance the amounts and terms of the official bonds of all officials and employees who are required by this Charter or by ordinance to give such bonds. All bonds shall be executed by responsible corporate sureties, shall be approved as to form by the City Attorney, and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City.

ARTICLE VII
CITY COUNCIL

SECTION 700. POWERS VESTED IN CITY COUNCIL.

All powers of the City shall be vested in the City Council except as otherwise provided in this Charter and the Constitution of the State of California. The legislative power of the City shall be vested in the people through the initiative and referendum and in the City Council.

SECTION 701. EMERGENCY POWERS.

Notwithstanding any general or special provision of this Charter, the Council, in order to ensure continuity of governmental operations in periods of emergency resulting from disasters of whatever nature, shall have the power and immediate duty:

(a) To provide for prompt and temporary succession to the powers and duties of all City officers, of whatever nature and whether filled by election or appointment, the incumbents of which become unavailable for carrying on the powers or duties of such officers, and
(b) To adopt such other measures as may be necessary and proper for ensuring the continuity of City operations, including but not limited to, the financing thereof. In the exercise of the powers hereby conferred, the Council in all respects shall conform to the requirements of this Charter except to the extent that in the judgment of the Council to do so would be impractical or would permit an undue delay.

SECTION 702. DUTIES AND PROCEDURES.

The Council shall:

(a) Judge the qualifications of its members and of election returns.

(b) Organize as herein required at the first regular meeting in December following the election.

(c) Establish rules for its proceedings.

(d) Cause a correct record of its proceedings to be kept. The ayes and the noes shall on demand of any member be taken and entered therein, and they shall be recorded on all votes passing any ordinance or appointing or dismissing or confirming the appointment or dismissal of any officer, or authorizing the execution of contracts, or the appropriation or payment of money.

(e) Appoint a City Manager and a City Attorney.

(f) Appoint such standing and other committees, boards, or commissions as it deems necessary.

SECTION 703. MAYOR.

The Council shall elect from among its members, officers of the City who shall have the titles of Mayor and Deputy Mayor, each of whom shall serve a two-year term. In no event may a Council member elected Mayor for a two-year term, succeed himself as Mayor without at least one additional two-year term having lapsed.

The Mayor shall preside over the sessions of the Council, shall sign official documents when the signature of the Council or Mayor is required by law and shall act as the official head of the City on public and ceremonial occasions. He shall have the power to administer oaths and affirmations, but shall have no power of veto. He shall have authority to preserve order at all Council meetings and to remove any person from any meeting of the Council for disorderly conduct, to enforce the rules of the Council and to determine the order of business under the rules of the Council. The Deputy Mayor shall act as Mayor in the absence or disability of the Mayor.

When the Mayor and the Deputy Mayor are absent from any meeting of the Council, the members of the Council may choose another member to act as Mayor pro tem, who shall, for the time being, have the powers of the Mayor.

SECTION 704. MEETINGS.

(a) Regular Meetings. The Council shall meet at such times as have been or may be prescribed by ordinance or resolution, except that it shall meet regularly at least once each month. All of the meetings of the Council shall be held in the City Hall unless by reason of
emergency, said City Hall cannot be used for that purpose; or the Council from time to time may elect to meet at other locations within the City and upon such in such instances shall make public notice of the change of location according to provisions of the Government Code of the State of California. All meetings of the Council and all its records shall be open to the public, except as provided for by State law, and no citizen shall be denied the right personally or through counsel, to present grievances, or offer suggestions for the betterment of municipal affairs.

(b) Special Meetings. A special meeting may be called at any time by the Mayor or by three members of the Council by written notice to each member of the Council and to the Manager and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally or by mail at least 24 hours before the time of each meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting. Such written notice may be dispensed with as to any person entitled thereto who, at or prior to the time the meeting convenes, files with the City Clerk a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any person who is actually present at the meeting at the time it convenes.

(c) Closed Sessions. The Council may hold a closed session to consider any matter permitted to be considered in Closed Session by State law. The general subject matter for consideration shall be expressed in open meeting before such session is held.

(d) Quorum. Four members of the Council shall constitute a quorum, but fewer may adjourn from time to time. No franchise shall be granted, ordinance passed, budget adopted, supplemented or amended, appropriation made or payment of money ordered, unless four members of the Council concur in such action.

SECTION 705. VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES.

(a) Vacancies. The office of the Councilmember shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.

(b) Forfeiture of Office. A Councilmember shall forfeit office if he (1) lacks at any time during his term of office any qualification for the office prescribed by this Charter or by law, (2) accepts or retains any other elective public office, except as provided in this Charter, or (3) fails to attend four consecutive regular meetings of the Council without being excused by the Council provided, however, that he shall not be so excused for more than three consecutive months.

(c) Filling of Vacancies. If a vacancy occurs on the Council, the date upon which such vacancy occurred shall be determined as soon as possible by the Mayor in accordance with the provisions of this Charter relating to vacancies. Within 30 days after such determination, or within 60 days after
the vacancy occurred, whichever is first, the Council by majority vote of the remaining members, shall appoint a person to the vacant office to serve until his successor is elected at the next succeeding municipal election and qualifies. If the Council fails to fill the vacancy by appointment as provided herein, it shall forthwith order a special election to be held to fill the vacancy for the remainder of the unexpired term. However, no such special election need be ordered if the vacancy occurs less than eight months before a municipal election.

SECTION 706. ORDINANCES.

(a) Form. The enacting clause of every ordinance passed by the Council shall be: "The Council of the City of San Buenaventura does ordain as follows:" The enacting clause of every ordinance initiated by the people shall be: "Be it ordained by the People of the City of San Buenaventura."

(b) Procedure. At least five days must elapse between the introduction and the final passage of any ordinance; provided, that if amendments germane to the subject of any proposed ordinance are made when it is brought up for final passage, an additional elapse of five days shall be required before final passage. With the exception of emergency ordinances, no ordinance shall be adopted at any time other than at a regular or reconvened regular meeting. Every ordinance must be signed by the Mayor, attested to by the City Clerk, and published in whole or in summary form once in the official newspaper in a manner allowed by law.

(c) Emergency Ordinances. Any ordinance declared by the Council to be necessary as an emergency measure for preserving the public peace, health or safety, and containing the reasons for its urgency, may be introduced and passed at one and the same meeting, regular or special.

(d) Effective Date. Except as otherwise provided in this Charter, every ordinance and every measure passed by the Council granting any franchise or privilege, shall go into effect thirty (30) days after its final passage, unless otherwise provided in the ordinance or measure; provided, however, that no such ordinance or measure shall go into effect in less than thirty (30) days after its final passage. But ordinances declared by the Council to be necessary as emergency measures as provided for in this Article, ordinances ordering or otherwise relating to elections, and ordinances relating to public improvements, the cost of which is to be borne wholly or in part by special assessments, may go into effect at the will of the Council.

(e) Amending Ordinances. No ordinance shall be amended by reference to its title only, but the full text of the sections to be amended shall be re-enacted at length as amended. Any amendment passed contrary to the provisions of this section shall be void.

SECTION 707. CONTRACTS. EXECUTION.

The City shall not be bound by any contract except as hereinafter provided unless the contract shall be made in writing, approved by the City Attorney as to form, approved by the City Council.
and signed on behalf of the City by an officer or officers as shall be designated by the Council. Any of said such officers shall sign a contract on behalf of the City when directed to do so by the Council.

By ordinance or resolution the Council may authorize the City Manager to bind the City, with or without a written contract, for the acquisition of equipment, materials, supplies, labor, services or other items included within the budget approved by the Council and shall impose a monetary limit on such authority. The Council may by ordinance or resolution provide a method for the sale or exchange of personal property not needed or not fit for the purpose for which intended.

Contracts for the sale or lease of real property owned by the City shall be authorized by the affirmative vote of five members of the Council.

Contracts for the sale of products, commodities or services of any public utility owned, controlled or operated by the City may be made by the Manager of such utility or by the City Manager or his designee upon forms approved by the City Manager and at rates fixed by the Council.

The provisions of this Section shall not apply to the employment of any person by the City at a regular salary.

**SECTION 708. PUBLISHING LEGAL NOTICES.**

The Council shall contract with a newspaper of general circulation in the City for the publication of all legal notices, ordinances and other matter required to be published. Each such contract shall cover a period of not less than one nor more than three years. In the event there is more than one newspaper of general circulation published within the City, the contract shall be made only after the publication of a notice inviting bids. If there is only one newspaper of general circulation published in the City, then the Council shall have the power to contract with such newspaper for the print and publishing of such legal notices or matter without being required to advertise for bids. The newspaper with which any such contract is made shall be the official newspaper for the publication of such notices and other matter for the period of such contract.

In no case shall the contract prices for such publication exceed the customary rates charged by such newspaper for the publication of legal notices of a private character.

In the event there is no newspaper of general circulation published in the City, or in the event no such newspaper will accept such notices or other matter at the rates permitted herein, then all legal notices or other matter may be published by posting copies thereof at least five days before the action contemplated by the publication is to be taken, in at least three public places in the City to be designated by ordinance.

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

**SECTION 709. INTERFERENCE IN ADMINISTRATION.**
Except as otherwise provided in this Charter, no individual member of the Council shall interfere with the execution by the City Manager of his powers and duties; or, directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the City Manager or any of his subordinates in the making of any appointment or removal, or the purchase of supplies, or attempt to exact any promise relative to any appointment from any candidate for City Manager, or discuss directly or indirectly with any such candidate the matter of appointments to any City office or employments, provided however, that the above shall not be construed as prohibiting the Council, while in session, discussing with or suggesting to the City Manager, fully and freely, anything pertaining to the aforementioned matters.

Except for the purpose of inquiries, investigations or independent management audits as such may be authorized from time to time by the Council, the Council and its members shall deal with the City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Council nor any Councilmember shall give orders to any such officer or employee, either publicly or privately.

Any violation of this section may work a forfeiture of the office of the offending member of the Council, who may be removed therefrom by the Council or by any court of competent jurisdiction.

**ARTICLE VIII**

**CITY MANAGER**

**SECTION 800. QUALIFICATIONS.**

The City Manager shall be the administrative head of the City government. He shall be chosen by the Council without regard to political consideration and solely with reference to his executive and administration qualification, with the special reference to his actual experience in, and his knowledge of, accepted practice in respect to the duties of his office as herein set forth. He need not be a resident of the State of California at the time of his appointment, but promptly thereafter he shall become and thereafter remain during his incumbency an actual resident of the City.

**SECTION 801. TERM.**

The Manager shall be appointed for an indefinite term, but shall be removed at the pleasure of the Council by a vote of four or more Councilmembers; provided, however, that he shall not be removed from office during or within a period of 90 days after the seating of newly elected Councilmembers, except upon unanimous vote of all seven members of the Council.

**SECTION 802. POWERS AND DUTIES.**

The powers and duties of the City Manager shall be:

(a) To be responsible to the City Council for the administration of all City affairs placed in his charge by or under this Charter.

(b) To appoint, and when he deems it necessary for the good of the City, to suspend or discharge all department heads and all other employees exempted...
from the personnel merit system of the City, except those appointed by the City Council; subject to the personnel rules adopted pursuant to the Charter, to appoint, transfer, promote, demote, suspend, or discharge the other officers or employees of the City. The City Manager may delegate in writing to the head of any department, office or agency, who is under his direction and supervision, his power to appoint, transfer, promote, demote, suspend or discharge subordinates employed in that department, office or agency.

(c) To direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(d) To attend all regular and special meetings of the City Council unless at his request he is excused by the Mayor or three members of the Council and he shall have the right to take part in discussions but may not vote. The absence of the Manager shall not prevent the Council from holding any meeting.

(e) To see that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(f) To prepare and submit to the City Council the proposed annual budget and capital improvement program and to be responsible for the administration of the annual budget and capital improvement program after adoption.

(g) To submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(h) To keep the City Council fully advised as to the financial condition and future needs of the City and make such recommendations to the City Council concerning the affairs of the City as he deems desirable.

(i) To make such other reports as the City Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

(j) To perform such other duties as are specified in this Charter or may be required by the City Council.

SECTION 803. MANAGER PRO TEM.

In case of the absence or temporary disability of the Manager, the Council shall appoint a Manager pro tem who shall possess the powers and discharge the duties of the Manager during such absence or disability only; provided however, that a Manager pro tem shall have no authority to appoint or remove any City officer or employee except with the vote of at least five members of the Council approving such action.

ARTICLE IX
CITY ATTORNEY

SECTION 900. QUALIFICATIONS AND DUTIES.

The City Attorney shall be appointed or removed by the Council. He shall have been admitted and qualified to practice before the Supreme Court of the State of
California and shall have been in actual practice in California for at least three years next preceding his appointment. The City Attorney shall:

(a) Be legal advisor of the Council and all other City officials, boards and departments and, when requested in writing for legal opinion by any City official or head of any department (excepting the Board of Education) concerning City business, his opinion must be given in writing.

(b) Prosecute all violations of the provisions of this Charter, City ordinances and such state misdemeanors as the City may elect to prosecute.

(c) Draft all ordinances, resolutions, contracts and legal documents and instruments required by the Council or by the Manager.

(d) Approve as to form all official and other bonds given to or for the benefit of said City and all contracts with said City and no contract shall become enforceable against said City without the endorsement thereon of such approval.

(e) Perform such other legal services as the Council may direct and shall attend all meetings of the Council unless excused therefrom by the Mayor or three members thereof.

SECTION 901. INABILITY TO ACT.

When from any cause the City Attorney is unable to perform the duties of his office, he may, with the consent of the Council, appoint some other qualified attorney temporarily to act in his place. The Council may, when necessary, employ assistant counsel upon the recommendation of the City Manager.

SECTION 902. RECORDS.

The City Attorney shall deliver all books, records, papers, documents, and personal property of every description, owned by the City, to his successor in office and the City shall provide a means of safeguarding the same.

SECTION 903. ADDITIONAL POWERS AND DUTIES.

He shall possess such other powers, and perform such additional duties not in conflict with this Charter, as may be prescribed by ordinance, or imposed upon the chief legal officer of municipalities by law.

ARTICLE X
ADMINISTRATIVE DEPARTMENTS

SECTION 1000. ADMINISTRATIVE CODE.

Within one year following the effective date of this section or such additional time as extended by Council, but not to exceed one additional year, the Council shall adopt by ordinance an Administrative Code providing for:

(a) The organization, conduct and operation of the several offices and departments as established by this Charter and as authorized by general laws of the State of California.

(b) The creation of additional departments, divisions, offices and agencies and for their consolidation, alteration or abolition, after recommendations by the Manager.

(c) The assignment or reassignment of functions, duties, offices and
agencies to other offices and departments, after recommendations by the Manager.

(d) The creation or abolition of such advisory boards and commissions as are authorized by the general laws of the State of California or as in its judgment are required and the Council may specify the number of members, their terms and manner of appointment, and may grant to them such powers and duties as are consistent with the provisions of this Charter or the general laws of the State of California.

(e) In addition, the Administrative Code shall contain policy statements of the Council concerning personnel administration, salary and wage administration, hours of work, conditions of employment, employee benefits, centralized purchasing and other administrative procedures.

SECTION 1001. CONTINUANCE OF PRESENT FUNCTIONS.

All departments, offices, agencies, advisory boards and commissions existing on the effective date of this Charter shall continue to perform their present functions and duties and to render their present services until or unless changed after the effective date of the Administrative Code.

SECTION 1002. OFFICERS AND EMPLOYEES.

The Council shall also provide by ordinance or resolution for the number, titles, qualifications, powers, duties and compensation of all officers and employees, consistent with this Charter. When the positions are not incompatible, the City Council may combine in one person the powers and duties of two or more officers.

SECTION 1003. ADMINISTRATION OF DEPARTMENTS.

All departments, offices and agencies under the direction and supervision of the Manager shall be administered by officers appointed by and subject to the direction and supervision of the Manager.

SECTION 1004. PERSONNEL SYSTEM.

The Council shall by ordinance or resolution establish as an integral part of the Administrative Code, a personnel merit system for the selection, employment, tenure, classification, advancement, suspension and discharge of those appointive officers and employees who may be included in the system. The system may consist of the establishment of minimum standards of employment and qualifications for the various classes of employment, or it may consist of a comprehensive system, as the Council shall determine to be for the best interests of the public service. The ordinance or resolution shall designate the departments and the appointive officers and employees who shall be included within the system. By subsequent ordinances or resolutions, the Council may amend the system or the list of departments and appointive officers and employees included within the system. The system shall comply with all other provisions of this Charter.

SECTION 1005. RETIREMENT SYSTEM.
Authority and power are hereby vested in the City, its Council and its several officers, agents, and employees to perform any act, and to exercise any authority, granted, permitted or required under the provisions of the State Employees Retirement Act, as it now exists or may hereafter be amended to enable the City to continue as a contracting City under the State Employees Retirement System.

SECTION 1006. CONTRACTS ON PUBLIC WORKS.

In the construction improvements and repair of all public buildings and public works, excluding maintenance, and in furnishing any supplies or materials for them, when the expenditure required exceeds the sum theretofore established by ordinance, the same shall be done by contract. The contract shall be let to the lowest responsible bidder after notice by publication in the official newspaper by two or more insertions, the first of which shall be at least ten (10) days before the time for opening bids. The Council may reject any and all bids presented and may readvertise in its discretion. After rejecting bids, or if no bids are received, the Council may determine and declare that in its opinion, the work in question may be performed better or more economically by the City with its own employees, or that the materials or supplies may be purchased at a lower price in the open market. After the adoption of the resolution to this effect by the affirmative vote of at least four Council members, the Council may proceed to have the work done or such materials or supplies purchased in the manner stated without further observance of the provisions of this Section.

Contracts may be let and purchases made without advertising for bids if such work or the purchase of materials shall be deemed by the Council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by the affirmative votes of at least four members of the Council.

SECTION 1007. PUBLIC WORKS, MINIMUM WAGES.

The minimum wage of any laborer, worker, or mechanic employed directly for the City by contractor or subcontractor, or by any other person or persons upon any public work, excluding maintenance, shall be the scale of wages then generally prevailing in the City for like work. This section does not apply to employees of the City.

ARTICLE XI
BOARD OF EDUCATION

SECTION 1100. BOARD OF EDUCATION.

The control of the Public School District of the City shall be vested in a Board of Education which shall consist of five members elected from the District at-large, provided however, that all qualified electors of the Ventura Unified School District shall have the right to vote for members of the Board of Education.

SECTION 1101. POWERS AND DUTIES.

The powers and duties of the Board of Education shall be such as are prescribed by the Constitution and laws of the State of California.
SECTION 1102. ELIGIBILITY.

Only qualified electors of the Ventura Unified School District shall be eligible for election to, or to hold office on the Board of Education.

SECTION 1103. NOMINATION.

The mode of nomination of candidates for the Board of Education shall be as prescribed in Section 504 hereof except that each candidate shall be proposed by not less than five nor more than ten qualified electors of the District.

SECTION 1104. ELECTION AND TERM.

Each member of the Board of Education shall serve for four years from and after the first regular meeting in December following election and until a successor is elected and qualified.

At each General Municipal Election, as defined in Section 500 of this Charter members of the Board of Education shall be elected to take the places of members whose terms are about to expire, to fill a vacancy and also to fill the place of any members appointed to fill a vacancy. In the election of members of the Board of Education where full terms and one or more unexpired terms are to be filled, no distinction shall be made in nomination or voting between the full terms and the unexpired terms, but the person or persons elected by the highest number of votes shall be elected for the full term or terms and the person receiving the next highest vote shall be elected for the unexpired term or terms, as the case may be.

SECTION 1105. VACANCIES.

All vacancies on the Board of Education shall be filled by a majority vote of the remaining members and the person so appointed shall serve until his successor is elected at the next succeeding General Municipal Election and qualified. In the event that three or more vacancies exist in the Board at one time, the Council shall appoint enough members to give the Board of Education three members qualified to act. Such appointees shall hold office until the next succeeding General Municipal Election and until their successors are elected and qualified.

SECTION 1106. SECRETARY OF THE BOARD.

The Superintendent of the District shall be ex-officio Secretary and Clerk of the Board of Education.

ARTICLE XII
FISCAL ADMINISTRATION

SECTION 1200. FISCAL YEAR.

The fiscal year of the City government shall begin on the first day of July of each year and end on the thirtieth day of June of the following year.

SECTION 1201. EXPENDITURES AND INDEBTEDNESS.

No money shall be expended and no indebtedness shall be incurred on behalf of the City, for any purpose, unless and until the same shall have been authorized by ordinance, resolution or order of the Council, or in case of bonds, by vote of the people.
SECTION 1202. FINANCIAL ADMINISTRATION.

The Council shall by ordinance establish as an integral part of the Administrative Code a department to have charge of the administration of the financial affairs of the City. This department shall establish and maintain a system of financial procedures, accounts and controls for the City government and each of the City's offices, departments and agencies. It shall follow generally accepted municipal accounts procedures for cities of comparable size. This department shall also perform such other duties as are assigned to it by the City Manager or by the Council by ordinance.

SECTION 1203. CLAIMS AND DEMANDS.

Procedures prescribed from time to time by the State Legislature governing the presentation, consideration and enforcement of claims against cities or against officers, agents and employees thereof shall apply to the presentation, consideration and enforcement of claims against the City.

In the absence of applicable procedures prescribed by the State Legislature, the procedures for presentation, consideration and enforcement of claims against the City shall be as prescribed by ordinance adopted by the Council.

SECTION 1204. ANNUAL BUDGET PREPARATION BY THE MANAGER.

At such date as the Manager shall determine, each department head, board or commission shall furnish to the Manager estimates of revenues and expenditures for his department or for such board or commission for the next fiscal year, detailed in such a manner as may be prescribed by the Manager. In preparing the proposed annual budget, the Manager shall review the estimates, hold conferences thereon with the respective department heads, boards or commissions as necessary and may revise the estimates as he may deem advisable.

SECTION 1205. SUBMISSION OF PROPOSED BUDGET.

On or before the first day of May of each year, the Manager shall submit to the Council a proposed budget for the next fiscal year.

SECTION 1206. BUDGET.

The budget shall provide a complete financial plan of all City funds and activities for the next fiscal year and the total of proposed expenditures shall not exceed the total of estimated revenue. Except as required by law or this Charter, the budget shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated revenue, indicating the proposed property tax levy and all proposed expenditures, including debt service, for the next fiscal year; and shall be so arranged as to show comparative figures for actual and estimated revenue and expenditures of the current fiscal year and actual revenue and expenditures of the preceding fiscal year. It shall show in a separate section:
(a) Proposed expenditures for current operations during the next fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures.

(b) Proposed capital improvement expenditures during the next fiscal year, detailed by offices, departments and agencies when practicable and the proposed method of financing each such capital improvement expenditure.

(c) Anticipated net surplus or deficit for the next fiscal year of each utility owned or operated by the City and the proposed method of its disposition.

SECTION 1207. BUDGET. CONSIDERATION BY CITY COUNCIL.

After reviewing the proposed budget and making such revisions as it may deem advisable, the Council shall determine the time for the holding of a public hearing thereon and shall cause notice of it to be published not less than ten (10) days prior to the hearing in at least one insertion in the official newspaper. Copies of the proposed budget shall be available for inspection by the public at least ten (10) days prior to the hearing.

SECTION 1208. BUDGET. PUBLIC HEARING.

At the time so advertised or at any time to which such public hearing shall from time to time be adjourned, the Council shall hold a public hearing on the proposed budget, at which interested persons desiring to speak shall be heard.

SECTION 1209. BUDGET. FURTHER CONSIDERATION AND ADOPTION.

At the conclusion of the public hearing the Council shall further consider the proposed budget and make any revisions that it may deem advisable. On or before June 30 it shall adopt by resolution the budget with revisions, if any, by the affirmative vote of at least four members of the Council. Upon final adoption, the budget, certified by the City Clerk, shall be reproduced and copies made available for the use of the public and of departments, offices and agencies of the City.

SECTION 1210. CAPITAL IMPROVEMENT PROGRAM.

The Manager shall prepare and submit to the Council a five-year capital improvement program at least three months prior to the final date for submission of the budget. The contents of the program shall include:

(a) A clear general summary of its contents.

(b) A list of all capital improvements which are proposed to be made during the next five fiscal years, with appropriate supporting information as to the necessity for such improvements.

(c) Cost estimates, method of financing and recommended time schedules for each such improvement.

(d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to
capital improvements still pending or in process of construction or acquisition.

On or before the first day of April of each year, the Council shall hold a public hearing and adopt by resolution a capital improvement program, with or without amendments.

SECTION 1211. BUDGET. APPROPRIATIONS.

From the effective date of the budget, its proposed expenditures shall be and become appropriated to the several departments, offices and agencies for the respective objects and purposes named therein. However, the City Manager may transfer any unused balance that is less than an amount specified by ordinance from one object or purpose to another within the same department, office or agency. All appropriations shall lapse at the end of the fiscal year to the extent that they have not been expended or lawfully encumbered.

At any public meeting after the adoption of the budget, the Council may amend or supplement the budget by motion adopted by the affirmative vote of at least four members of the Council.

SECTION 1212. FUNDS.

All money paid into the City Treasury shall be credited to and kept in separate funds in accordance with the provisions of this Charter, the law, or ordinance. The following funds are hereby established: General Fund, and such bond funds, interest funds, sinking funds, special deposit funds, trust funds, and other funds as may be required by law or ordinance. For the purposes of this

Charter, the General Fund is established as a medium of control of and accounting for municipal activities other than activities authorized or contemplated by special funds. All revenues and receipts which are not by law or Charter pledged or encumbered for special purposes shall be credited to the General Fund.

SECTION 1213. INDEPENDENT AUDIT.

The Council shall employ each year an independent certified public accountant who shall examine the records and accounts of the City and make a report to the Council, the City Manager and Financial Director of the City. Copies of the report shall be made available for inspection by the public.

SECTION 1214. TAX LIMITS.

The Council shall not levy a property tax for municipal purposes, other than the bonded debt of the City and special assessments, in excess of the total aggregate tax rate allowed under all laws now or hereafter applicable to cities organized under the general laws of the State of California, unless authorized by the affirmative votes of a majority of the electors voting on a proposition to increase such levy.

SECTION 1215. TAX PROCEDURE.

The procedure for the assessment, levy and collection of taxes upon property, taxable for municipal purposes, shall be prescribed by ordinance of the Council and shall conform as nearly as practicable to the general laws of the State of California.
SECTION 1216. BONDED DEBT LIMIT.

The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of fifteen percent (15%) of the total assessed valuation, for the purposes of City taxation, of all the real and personal property within the City.

SECTION 1217. GENERAL OBLIGATION BONDS.

No bonded indebtedness which shall constitute a general obligation of the City may be created unless authorized by the affirmative votes of the electors voting on such proposition in full compliance with the applicable provisions of State law.

SECTION 1218. REVENUE BONDS.

The City may issue revenue bonds to provide funds for the acquisition, construction and financing of additions to, or improvements or extensions of, the water supply and distribution system of the City, or its sewage collection and disposal system.

(a) Nature of Obligation: Revenue bonds issued under this section shall not constitute general obligations or general indebtedness of the City. Rather they shall be obligations on which principal, interest and any premiums upon redemption prior to maturity are payable solely from revenues, income and other receipts derived from the use and operation of the system to which the bonds pertain, or, if the Council so determines, such payments may be made, from a defined portion of such revenues, income and receipts.

(b) Mode of Issuance: The power to issue revenue bonds pursuant to this section shall be vested solely in the Council, but no such bonds shall be issued unless they shall first be authorized by the affirmative vote of a majority of those electors voting on the question of incurring such indebtedness. The Council may issue and sell revenue bonds so authorized, and it may fix and provide any terms, conditions, covenants and restrictions as it may deem necessary or desirable to facilitate the issuance and sale of the bonds or for the protection or security of the holders thereof. To the extent that any provisions of any ordinance, resolution or order of the Council pertaining to the issuance of bonds pursuant to this section are inconsistent with the provisions of any other section of this Charter, the provisions of such ordinance, resolution or order shall control so long as any of the revenue bonds or interest coupons to which they pertain are outstanding and unpaid.

(c) Effect of Section: The provisions of this Section are in addition to, and not a limitation upon, any power which the City might exercise in absence of this section.

ARTICLE XIII
INALIENABLE RIGHTS OF THE CITY

SECTION 1300. INALIENABLE RIGHTS OF THE CITY.

The rights of the City in its tideland property, including waterfront and submerged lands as such now or hereafter exist and all improvements thereon, are
inalienable except as provided in this article.

SECTION 1301. LEASES.

The Council may lease tideland property for public recreational purposes for a term not exceeding that allowed by state law. The Council may lease such property for any other purpose and for such term as it deems reasonable if the proposed lease provisions are approved by a majority vote of the electors thereon.

SECTION 1302. TRANSFERS TO STATE.

The Council may convey its tideland property to the State of California.

SECTION 1303. CREATION OF DISTRICT.

The Council may create or cause to be created a Harbor or Port District for the purpose of administering and developing its tideland property in the public interest, and may transfer such property to the District subject to such terms and conditions as the Council deems necessary to ensure that the property will be used and developed in the public interest. The Council shall reserve the right to appoint members of the governing board of any such District and shall reserve the mineral rights on any property transferred to the District.

SECTION 1304. VENTURA PORT DISTRICT.

The Ventura Port District has been created for the purpose of developing and improving the harbor and waterfront areas of the City in the public interest consistent with this Article.

SECTION 1400. GRANT OF FRANCHISE.

The Council is empowered to grant by ordinance a franchise to any person, firm or corporation, whether operating under an existing franchise or not, to use the public streets and places as the same now or may hereafter exist, for the construction and operation of plants, works, or equipment, necessary or convenient in connection with any public utility or service. The Council may prescribe by procedural ordinance the terms and conditions of any such grant. When two or more applicants seek to provide the same public utility or service within the City, the Council may grant more than one franchise and prescribe a specific geographical area of the City to be serviced by each applicant.

SECTION 1401. RESOLUTION OF INTENTION, NOTICE AND PUBLIC HEARING.

Before granting any franchise, the City Council shall pass a resolution declaring its intention to grant the franchise, stating the name of the proposed grantee, the character of the franchise and the terms and conditions upon which it is proposed to be granted. Such resolution shall set forth the day, hour, and place of a public hearing at which protests will be heard. It shall direct the City Clerk to publish the resolution at least once within fifteen (15) days of its passage, in the official newspaper. The time fixed for such hearing shall be at least twenty (20) but not more than sixty (60) days after the passage of the resolution.
At the time set for the hearing, the Council shall proceed to hear and pass upon all protests and its decision thereon shall be final and conclusive. Thereafter, the Council may grant by ordinance or deny the franchise, subject to the right of referendum of the people.

SECTION 1402. TERMS OF FRANCHISE.

Every franchise shall state the term for which it is granted, and no franchise shall exceed fifty (50) years, unless it is indeterminate.

A franchise grant may be indeterminate, that is to say, it may provide that it shall endure in full force and effect until the same, with the consent of the Public Utilities Commission of the State of California, shall be voluntarily surrendered or abandoned by its possessor, or until the State of California, or some municipal or public corporation, thereunto duly authorized by law, shall purchase by voluntary agreement or shall condemn and take, under the power of eminent domain, all property actually used and useful in the exercise of such franchise and situated within the territorial limits of the State, municipal or public corporation purchasing or condemning such property, or until the franchise shall be forfeited for non-compliance with the terms by the possessor thereof.

SECTION 1403. GRANT TO BE IN LIEU OF ALL OTHER FRANCHISES.

Any franchise granted by the City with respect to any given utility facilities, shall be in lieu of all other franchises, rights or privileges owned by the grantee, or by any successor of the grantee to any rights under such franchises, with respect to such utility facilities within the limits of the City as they now or hereafter exist, except any franchise derived under Section 19 of Article XI of the Constitution, as that Section existed prior to the amendment thereof adopted October 10, 1911. The acceptance of any franchise hereunder shall operate as an abandonment of all such other franchises, rights and privileges within the limits of the City, as such limits shall at any time exist, in lieu of which such franchises shall be granted.

Any franchise granted pursuant to this Charter shall not become effective until the grantee has filed written acceptance with the City. Such acceptance by the grantee shall constitute a continuing agreement that if and when the City shall thereafter annex, or consolidate with additional territory, any and all other such franchises, rights and privileges owned by the grantee therein, except a franchise derived under said constitutional provisions, shall likewise be deemed to be abandoned within the limits of such territory.

SECTION 1404. EMINENT DOMAIN.

No franchise shall in any way or to any extent impair, or affect the right of the City to acquire the property of the grantee, either by purchase or through the exercise of the right of eminent domain, and nothing in this Charter shall be construed to contract away, to modify, or abridge in any manner or for any period of time, the City's right of eminent domain with respect to any public utility.

SECTION 1405. DUTIES OF GRANTEE.
By its acceptance, the grantee shall covenant and agree to perform and be bound by each and all of the terms and conditions imposed in the grant, or by procedural ordinance, and shall further agree to:

(a) Comply with all lawful ordinances, rules and regulations theretofore or thereafter adopted by the Council in the exercise of its police powers.

(b) Pay to the City, on demand, the cost of all repairs to public property made necessary by any of the operations of the grantee under such franchise.

(c) Indemnify and hold harmless the City and its officers from any and all liability for damages proximately resulting from any operations under such franchises.

(d) Remove and relocate, without expense to the City, any facilities installed, used and maintained under the franchise if and when made necessary by the City's making any lawful changes of grade, alignment or width of any public street, or place, including the construction of any subsurface improvement.

(e) Pay to the City, during the life of the franchise, such compensation as the Council may prescribe in the Ordinance granting the franchise.

SECTION 1406. ESTABLISHMENT OF PUBLIC UTILITIES.

The City may establish, acquire, lease, and/or operate, or cease to operate and dispose of, public utilities and quasi-public utilities or any part thereof, at its own option in the manner provided by the laws now existing or hereafter enacted, or by the majority vote of the registered qualified electors of the City in the manner provided by ordinance enacted by the Council by the affirmative vote of five members of such Council. All amendments of such ordinances shall require a like vote.

ARTICLE XV
MISCELLANEOUS

SECTION 1500. DEFINITIONS.

Unless the provisions or the context otherwise requires, as used in this Charter:

(a) "Shall" is mandatory, and "may" is permissive.

(b) "City" is the City of San Buenaventura and "department," "board," "commission," "agency," "officer," or "employee" is a department, board, commission, agency, officer or employee, as the case may be, of the City of San Buenaventura.

(c) "Council" is the City Council.

(d) "County" is the County of Ventura.

(e) "State" is the State of California.

SECTION 1501. VIOLATIONS.

The violations of any provision of this Charter shall be a misdemeanor and shall be punishable as provided in
Section 19 of the California Penal Code or any successor provision.

**SECTION 1502. VALIDITY.**

If any provision of this Charter or the application thereof to any person or circumstance is held invalid, the remainder of the Charter and the application of such provision to other persons or circumstances shall remain in full force and effect.

The captions used as headings of the various Articles and Sections hereof are for convenience only and are not to be considered as a part of this Charter or used in determining the intent or context thereof.

**SECTION 1503. AMENDMENTS.**

Any amendment of this Charter shall be made pursuant to and in accordance with the applicable provisions of the Constitution of the State of California.
DATE: April 30, 2015

TO: Charter Review Committee

FROM: Gregory G. Diaz, City Attorney

SUBJECT: Consideration of Durational Residency for Candidates for City Council, Section 503 of the City Charter

RECOMMENDATION:

That the Charter Review Committee recommend revising Section 503, “Eligibility for Office,” of the San Buenaventura City Charter to require that candidates for elective office with the City be residents for a period not to exceed 30 days consistent with decisions of the California Supreme Court.

DISCUSSION:

At the City Council’s meeting of March 20, 2015, the City Council granted the Charter Review Committee’s request to review the continued legality of the durational residency provisions of Section 503 of the City Charter that currently requires that candidates for elected office with the City be residents of the City for at least one year. When asked by a Member of the Charter Review Committee what other provisions of the Charter may have legal issues, the City Attorney expressed concern about Section 503’s durational residency requirement.

Section 503 of the City Charter currently provides as follows:

"SECTION 503. ELIGIBILITY FOR OFFICE.

No person shall hold, or be eligible for nomination to office as a member of the City Council unless at the time his nomination papers are filed or his appointment made, he is a registered voter of this City and he has been continuously, for at least one year next preceding his election or appointment, a resident of this City or of territory annexed thereto."
If any provision of this section should be invalid, such invalidity shall not affect the validity of the remaining portions of this section, and the law applicable to general law cities of the State of California shall apply in the place of any invalid provision.

May the City Charter require a person to be a resident of the City of San Buenaventura for at least one year in order to be eligible for election to the City Council? The simple answer is no. Any requirement that a person be a resident of the City of San Buenaventura for longer than 30 days prior to his or her filing for elective office with the City Council is constitutionally invalid. The same result is reached for those appointed to fill a vacancy on the City Council.

The California Supreme Court has held that a durational residency requirement longer than 30 days for eligibility to run for public office is a violation of the United States Constitution. In the Mellon case, (Attachment "1"), the Court dealt with a City of Santa Cruz Charter provision that required a prospective City Council candidate to reside in the City for at least two years to be eligible to run for office. In that case, the Court held that the “provision of the Charter of the City of Santa Cruz which prescribes a two-year residence requirement for candidates for the office of city councilman... violates the equal protection clause of the Fourteenth Amendment to the United States Constitution.” Though the Court further held that the City could constitutionally require that the prospective candidate be a City resident for 30 days before filing nominating papers. Similarly, in the Hamilton case, (Attachment “2”), the Court dealt with two Sections to the Long Beach City Charter. The first Section required a prospective candidate for any board or commission of the City be a Long Beach resident for one year preceding the selection. The other Section required a City Council candidate be a six-month resident in the district from which they are nominated. In that case, the Court held that “any durational residence requirement for candidates for local office in excess of [30 days] violates the equal protection clause of the Fourteenth Amendment.”

Section 503 of the San Buenaventura Charter has a similar provision to those in Santa Cruz and in Long Beach. The only real difference is how long the durational residency requirement is/was. Therefore, Section 503 violates the equal protection clause of the Fourteenth Amendment and is constitutionally invalid as it imposes the same restrictions to eligibility for City Council as the above-mentioned cities. A

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1 Thompson v Mellon (1973) 9 Cal. 3d 96; Johnson v Hamilton (1975) 15 Cal. 3d 461.
2 Mellon (1973) 9 Cal. 3d 96, 98.
3 Id. at p. 97.
4 Id. at p. 106.
5 Hamilton (1975) 15 Cal. 3d 461, 464.
6 Id. at 472.
durational residency requirement of no more than 30 days is permissible if the City desires to impose such restriction.

Based on the above, it is staff’s recommendation that Section 503’s at least one year durational residency provision be revised to provide that it be at least thirty days.

ATTACHMENTS:
Attachment “1” -- Mellon case.
Attachment “2” -- Hamilton case.
In an original proceeding in mandamus in the Supreme Court, a resident of a city who had been denied the right to file papers for his candidacy for the office of city councilman challenged the constitutionality of a city charter provision prescribing a two-year durational residence requirement for candidates for that office. The court concluded that the provision violates the equal protection clause of the Fourteenth Amendment to the United States Constitution, and it ordered issuance of a peremptory writ of mandate directing the city clerk to file the petitioner's nomination papers and to place his name upon the ballot subject to his compliance with all other requirements for becoming a candidate for city councilman. It held that durational residence requirements for candidates for public office touch upon a fundamental interest and therefore must be subjected to strict scrutiny as to whether they are necessary to the accomplishment of compelling governmental objectives. The court did not view the provision as necessary to further a compelling governmental interest, and it was not convinced that it constituted the least restrictive method of achieving the desired purpose of having knowledgeable candidates. It was pointed out that the city had failed to demonstrate that the election process is inadequate to weed out inadequate, incompetent, unknowledgeable candidates, insensitive to, and unaware of, the best needs of the community.

In Bank. (Opinion by Sullivan, J., with Tobriner, J., concurring. Separate concurring opinion by Wright, C. J., and Molinari, J. * Separate concurring opinion by Mosk, J. Separate dissenting opinion by Burke, J., with McComb, J., concurring.) *97
In *Camara* this court held that the three-year durational residence then *required by the Santa Cruz City Charter for candidates for city councilman violated the equal protection clause of the Fourteenth Amendment for the reasons “to be further elucidated” in *Zeilenga*. Subsequently, in *Zeilenga* we held that the five-year durational residence requirement imposed by the Butte County Charter for candidates for the county board of supervisors violated the equal protection clause of the Fourteenth Amendment. We there said: “[W]e are not convinced that the five-year provision constitutes “the least restrictive method of achieving the desired purpose” [citation], namely a reasonable knowledge by a proposed candidate of the general requirements of his county.” (*Zeilenga v. Nelson*, supra, 4 Cal.3d at p. 723.)

We concluded in *Zeilenga* that the right to hold office was a fundamental right and that restrictions upon its exercise must, therefore, be strictly scrutinized. Indeed, we declared in effect that the right to be a candidate for public office was inextricably intertwined with the right to vote and equally as fundamental. We said: “[T]he right to vote would be empty indeed if it did not include the right of choice for whom to vote. ... But it does mean that in judging the validity of a restraint upon eligibility for elective office, we must be mindful that the restraint is upon the right to vote as well. ... Far from being unrestricted, the power to prescribe qualifications for elective office is sharply limited by the constitutional guaranty of a right to vote. ...”

It is noteworthy, however, that after our decision in *Zeilenga*, the United States Supreme Court in *Bullock v. Carter* (1972) 405 U.S. 134 [31 L.Ed.2d 92, 92 S.Ct. 849], apparently deemed it unnecessary to declare that the right to run for public office was in itself a fundamental right requiring the “strict scrutiny” test. Rather, the high court examined the interrelation between the restrictive effect of candidates' filing fees on the candidates' right to run for office and the voters' right to vote for candidates of their choice and remarked: “The initial and direct impact of filing fees is felt by aspirants for office, rather than voters, and the Court has not heretofore attached such fundamental status to candidacy as to invoke a rigorous standard of review. [Fn. omitted.] However, the rights of voters and the rights of candidates do not lend themselves to neat separation; laws that affect candidates always have at least some theoretical, correlative effect on voters. ... [T]he Texas system creates barriers to candidate access to the primary ballot, thereby tending to limit the field of candidates from which voters might choose. The existence...
of such barriers does not of itself compel close scrutiny. ... In approaching candidate restrictions, it is essential to examine in a realistic light the extent and nature of their impact on voters.” (405 U.S. at pp. 142-143 [31 L.Ed.2d at pp. 99-100].) Following such examination, the court determined that the exclusion of candidates from the ballot who could not afford to pay the filing fees, thereby tending “to deny some voters the opportunity to vote for a candidate of their choosing” had a “real and appreciable impact on the exercise of the franchise, ...” ( Id. at p. 144 [31 L.Ed.2d at p. 100].) The high court then concluded that the Texas filing fee system “must be 'closely scrutinized' and found reasonably necessary to the accomplishment of legitimate state objectives in order to pass constitutional muster.” ( Id. at p. 144 [31 L.Ed.2d at p. 100].) Thus, Bullock held that restrictions upon candidacy for public office which excluded a significant group of potential candidates from the ballot must be “closely scrutinized.”

The overwhelming weight of recent authority, both before and after Bullock has held that durational residence requirements as a precondition to candidacy for public office have such a substantial impact on the right to vote as to invoke the “strict scrutiny” test. Typical of the pre-Bullock cases is Mogk v. City of Detroit, supra, 335 F.Supp. 698, 700-701: “The Supreme Court has, in election cases, dealt most often with voters' rights rather than the rights of persons to become candidates for public office, but it seems to us that they are, in the main, inextricably intertwined.

Two post-Bullock cases clearly demonstrate why durational residence requirements as a precondition to candidacy for public office must be tested by the “strict scrutiny” test. “The right to hold or run for public office has not as yet been expressly declared by the Supreme Court to have the same status [as the right to vote]. [Fn. omitted.] After so noting, however, the court in Bullock proceeded to note the interrelation between restrictions on the right to candidacy and restrictions on the right to vote: ... Unlike the Texas filing fee system and the laws concerning candidacy considered by the Supreme Court in other cases, [fn. omitted] the burden of Section 3-300 [five-year residency requirement to run for mayor] does not fall more heavily on minority economic or political groups. This distinction, while significant, does not render the Bullock case inapplicable, however. As I read that case the grounds asserted for utilizing the 'compelling interest' test were alternative. Accordingly, where the law in question poses an absolute barrier to the candidacy of a not insubstantial segment of the community and, to that degree, limits the voters in their choice of candidates, the more strict standard of review must be applied. [Citations.]” (Wellford v. Battaglia, supra, 343 F.Supp. at pp. 146-147; accord: Manson v. Edwards, supra, 345 F.Supp. 719, 721-724, where the court applied the “strict scrutiny” test to a provision of the Charter of the City of Detroit requiring all candidates for city council to be at least 25 years of age.)

Some courts have applied the “strict scrutiny” test to durational residence requirements to run for office on an entirely different theory, namely the right to travel. The Sixth Circuit in declaring unconstitutional a city charter provision which required two years' residence in the city as a condition of eligibility to hold elective office, said: “The durational residency requirement at issue classifies Plymouth residents on the basis of recent travel. That classification alone requires that the requirement be strictly scrutinized because it operates to penalize the exercise of the basic constitutional right to travel. Dunn v. Blumstein, 405 U.S. 330, 338, 92 S.Ct. 995, 31 L.Ed.2d 274 (1972). It is not material that the classification denies new residents something that is not a constitutional right, i.e., the right to become a candidate for public office. [Citations.]” (Green v. McKeon (6th Cir. 1972) 468 F.2d 883, 884-885.)

The court in Wellford based its application of the “strict scrutiny” test alternatively on the right to travel: “Moreover, application of the compelling interest test is required in this case for a wholly independent reason. ... The right to travel referred to by the court in the Dunn case is a right to intrastate as well as interstate migration. [Fn. omitted.] King v. New Rochelle Municipal Housing Authority, 442 F.2d 646 (2nd Cir. 1971). Moreover, the motive behind a challenged law and its actual effect on the right to travel are not relevant considerations in determining the appropriate standard of review. If the statute places a penalty on migration, it does not matter whether the legislature intended to deter travel or whether the penalty in fact has that effect. Dunn v. Blumstein, supra, 405 U.S. at pp. 339-341, 92 S.Ct. 995. [5] Section 3-300 classifies bona fide residence on the basis of recent travel, penalizing those persons and only those persons who have recently exercised their constitutional right of migration. For this reason alone it must meet the compelling interest test.” (Wellford v. Battaglia, supra, 343 F.Supp. at pp. 147-148.)

([1]) Thus, it is abundantly clear that durational residence requirements imposed as a precondition to candidacy for public office must be tested by the “strict scrutiny” test, either because as held by this court in Zeilenga the right to be a
candidate for public office is a fundamental right in itself or because as held in the cases discussed above, such restrictions on the right to be a candidate impinge on other fundamental rights, namely the right to vote and the right to travel.

Mindful of the foregoing decisions, we now turn our attention to the application of the "strict scrutiny" test to the two-year durational residence requirement imposed by the Santa Cruz City Charter. The crucial question which we face is this: Has the City met its burden of establishing that this durational residence requirement conditioning the right to run for public office promotes a compelling governmental interest and that such requirement is necessary to further such interest? In Zeilenga this court recognized that the state has a legitimate interest in requiring "a reasonable knowledge by a proposed candidate of the general requirements" (4 Cal.3d at p. 723) of the public entity in which he seeks public office, but held that a five-year residence requirement was not necessary to achieve this purpose. In Camara we held that a three-year residence requirement for prospective candidates for the office of councilman in the City of Santa Cruz was not necessary to achieve a compelling state interest. Subsequent to these decisions by this court, the United States Supreme Court in Dunn v. Blumstein, supra, 405 U.S. 330, subjected a durational residence requirement of one year in the state and 90 days in the county as a prerequisite to the right to vote to the "strict scrutiny" test and concluded that it violated the equal protection clause of the Fourteenth Amendment. In Dunn, the high court exhaustively scrutinized durational residence requirements in order to determine whether they were necessary to further the state interest of having "knowledgeable voters." Because these two fundamental rights - the right to vote and the right to be a candidate for public office - are interrelated and exert a reciprocal impact on each other and because the state interest in having knowledgeable voters and the state interest in having knowledgeable candidates coalesce, we think the Dunn court's reasoning is uniquely compelling in the case at bench. We, therefore, set it forth at some length.

"The argument that durational residence requirements further the goal of having 'knowledgeable voters' appears to involve three separate claims. The first is that such requirements 'afford some surety that the voter has, in fact, become a member of the community.' But here the State appears to confuse a bona fide residence requirement with a durational residence requirement. As already noted, a State does have an interest in limiting the franchise to bona fide members of the community. But this does not justify or explain the exclusion from the franchise of persons, not because their bona fide residence is questioned, but because they are recent rather than long-time residents.

"The second branch of the 'knowledgeable voters' justification is that durational residence requirements assure that the voter 'has a common interest in all matters pertaining to [the community's] government ....' By this, presumably, the State means that it may require a period of residence sufficiently lengthy to impress upon its voters the local viewpoint. This is precisely the sort of argument this Court has repeatedly rejected. ...

"Similarly here, Tennessee's hopes for voters with a 'common interest in all matters pertaining to [the community's] government' is impermissible. [Fn. omitted.] To paraphrase what we said elsewhere, 'All too often, lack of a ["common interest"] might mean no more than a different interest.' Evans v. Cornman, 398 U.S., at 423. 'Differences of opinion' may not be the basis for excluding any group or person from the franchise. ...

"Finally, the State urges that a long-time resident is 'more likely to exercise his right [to vote] more intelligently.' To the extent that this is different from the previous argument, the State is apparently asserting an interest in limiting the franchise to voters who are knowledgeable about the issues. In this case, Tennessee argues that people who have been in the State less than a year and the county less than three months are likely to be unaware of the issues involved in the congressional, state, and local elections, and therefore can be barred from the franchise." (Dunn v. Blumstein, supra, 405 U.S. at pp. 354-356 [31 L.Ed.2d at pp. 291-292].)

Referring to its opinion in *104 Kramer v. Union School District (1969) 395 U.S. 621 [23 L.Ed.2d 583, 89 S.Ct. 1886] in which upon application of the "strict scrutiny" test the court had struck down as violative of the equal protection clause a state law limiting the vote in school district elections to parents of school children and to property owners, the Dunn court continued: "Similarly, the durational residence requirements in this case founder because of their crudeness as a device for achieving the articulated state goal of assuring the knowledgeable exercise of the franchise. The classifications created by durational residence requirements obviously permit any long-time resident to vote regardless of his knowledge of the issues - and obviously many long­time residents do not have any. On the other hand, the classifications bar from the franchise many other, admittedly
new, residents who have become at least minimally, and often fully, informed about the issues. Indeed, recent migrants who take the time to register and vote shortly after moving are likely to be those citizens, such as appellee, who make it a point to be informed and knowledgeable about the issues. Given modern communications, and given the clear indication that campaign spending and voter education occur largely during the month before an election [fn. omitted], the State cannot seriously maintain that it is 'necessary' to reside for a year in the State and three months in the county in order to be knowledgeable about congressional, state, or even purely local elections. There is simply nothing in the record to support the conclusive presumption that residents who have lived in the State for less than a year and their county for less than three months are uninformed about elections. ...

“It may well be true that new residents as a group know less about state and local issues than older residents; and it is surely true that durational residence requirements will exclude some people from voting who are totally uninformed about election matters. But as devices to limit the franchise to knowledgeable residents, the conclusive presumptions of durational residence requirements are much too crude. They exclude too many people who should not, and need not, be excluded. They represent a requirement of knowledge unfairly imposed on only some citizens. We are aware that classifications are always imprecise. By requiring classifications to be tailored to their purpose, we do not secretly require the impossible. Here, there is simply too attenuated a relationship between the state interest in an informed electorate and the fixed requirement that voters must have been residents in the State for a year and the county for three months. Given the exacting standard of precision we require of statutes affecting constitutional rights, we cannot say that durational residence requirements are necessary to further a compelling state interest.” (Dunn v. Blumstein, supra, 405 U.S. at pp. 357-360 [31 L.Ed.2d at pp. 293-294].)

In Young v. Gnoss (1972) 7 Cal.3d 18, 27 [*105 101 Cal.Rptr. 533, 496 P.2d 445], this court applied Dunn to durational residence requirements conditioning the right to vote in California and concluded that Dunn prohibited all durational residence requirements in excess of 30 days.

Respondent has not suggested and our attention has not been directed to any persuasive argument distinguishing, on the one hand, the reasoning of the court in Dunn concerning the relationship between durational residence requirements and the state interest in knowledgeable voters, and on the other, the relationship between durational residence requirements and the state interest in knowledgeable candidates. The imprecise nature of a durational residence requirement which includes uninformed old time resident candidates but excludes well informed new resident candidates is clear. It is simply too crude and imprecise an instrument to effectuate this state interest.

Under Dunn old time residents cannot reserve for themselves the right to vote in local elections by resorting to the technique of durational residence requirements. Neither can they limit the new residents' right to vote for candidates of their choosing by barring the latter from running for public office. Perhaps there may be some communities which in their desire to preserve the status quo, will attempt to impose political silence on the newcomer until he has accommodated himself to the local "scene." But new arrivals shed none of their fundamental rights by exercising their right to travel and may not be arbitrarily excluded from either a voice or a role in the affairs of their newly selected home. In these times of political and social ferment, intensified by an extraordinarily movable population, the status quo of the community, if worthy of preservation, must justify its continued acceptance through the free exercise of the ballot box.

In the case at bench, the City has failed to demonstrate that the election process is inadequate to weed out incompetent, unknowledgeable candidates, insensitive to, and unaware of, the best needs of the community. The hallowed belief in the wisdom and power of the electorate must not be sold short and may not be circumscribed by artificial residence barriers fencing in the right to vote or the right to be a candidate for public office.

We therefore arrive at these conclusions. Durational residence requirements for candidates for public office touch upon a fundamental interest and, therefore, must be strictly scrutinized. Having subjected to such scrutiny the two-year durational residence requirement prescribed by section 602 of the Santa Cruz City Charter, we cannot say that it is necessary to further a compelling governmental interest. We are not convinced that this provision constitutes "the least restrictive method of achieving the desired *106 purpose" of having knowledgeable candidates. We conclude that the provision denies to petitioner and other prospective candidates, falling within its reach, the equal protection of the laws. 6

Although this disposes of the precise issue raised before us, we apprehend that it may not lay the problem to rest. After
we struck down in Camara the City's three-year durational residence requirement found in former section 602, the City merely modified the section to substitute a two-year requirement. We now feel similarly constrained to find that requirement unconstitutional. It would seem likely that the City may respond by further changing section 602 so as to prescribe a requirement of less than two years, indeed possibly slightly less than two years. Under the circumstances we feel under an obligation to express our views as to the constitutional limits of such requirements so that legislative bodies may be guided accordingly.

Applying to this constitutional problem the rationale of Dunn v. Blumstein, supra, and of our own decision in Young v. Gross, supra, we are of the opinion that where, as in the instant case, a public entity conditions the right to be a candidate for public office on residence therein, the entity may constitutionally require that the prospective candidate be a resident at the time he files his nominating papers or equivalent declaration of candidacy and for a period of not more than 30 days next preceding such date of filing. We are of the view that any durational residence requirement in excess of the foregoing is violative of the equal protection of the laws. We observe that in Dunn and Young which dealt with durational residence requirements for the exercise of the right to vote, the critical date was the date of the election. In situations like the instant one, however, dealing with such requirements for the exercise of the right to be a candidate for public office, the critical date is the date of filing nominating papers or other declaration of candidacy since there is an obvious governmental interest in requiring the candidates to be residents throughout the entire election process. 7

Let a peremptory write of mandate issue directing respondent city clerk *107 to file petitioner's nomination papers and to place his name upon the ballot for the municipal election of April 10, 1973, if he complies with all other requirements for becoming a candidate for City Councilman of the City of Santa Cruz. This order is final forthwith. 8

Tobriner, J., concurred.

WRIGHT, C. J., and MOLINARI, J. *

We concur in the judgment insofar as it holds that the two-year durational residence requirement prescribed by section 602 of the Santa Cruz City Charter is invalid as it denies to petitioner the equal protection of the laws.

MOSK, J.
I concur in the judgment.

While I approve the majority opinion in general, I would more elaborately address what I believe to be the underlying problem, and would rely on state constitutional grounds to reach the result.

For several years this court has been groping for an acceptable formula in the murky waters of durational residence requirements for political candidacy (Zeilenga v. Nelson (1971) 4 Cal.3d 716 [94 Cal.Rptr. 602, 484 P.2d 578], and Camara v. Mellon (1971) 4 Cal.3d 714 [94 Cal.Rptr. 601, 484 P.2d 577]). Political entities, navigating in our wake, have made similar attempts. That all such formulae, however rationalized, will founder when challenged in judicial proceedings seems preordained. And, indeed, all such durational residential requirements should be rejected because they can be justified solely on a paternalistic theory that the citizens of yesterday know what is best for the governance of the citizens of today and tomorrow. This is at variance with enlightened principles of democracy and self-government.

There are three available alternatives. First, we can approve every residence requirement adopted by political entities on a theory that self-imposed restrictions upon local government are inviolate. Thus if a self-perpetuating community "establishment" determines that two years' residence - or three, or five, or ten years - is necessary before candidates can acquire knowledge of the problems of the community, the judiciary must reject a challenge brought by a "newcomer" who may have been in the community one - or two, four or nine years - regardless of his actual knowledge of governmental problems. Our court unanimously rejected *108 this theory when we struck down a five-year requirement in Zeilenga and a majority agreed in invalidating a three-year period in Camara.

The second alternative is to selectively approve or disapprove durational requirements as they are presented to us case by case. Up to now this has been our approach, but I suggest it has proved long on expenditure of judicial resources and short on wisdom. When the three-year period adopted by Santa Cruz was rejected in Camara the administration there proposed a two-year period. Since that now becomes invalid,
as the majority notes, the city, if undeterred, may conceive a new proposal of something less than two years. Vagueness of permissible limits only assures future litigation.

More significant in this problem, however, has been the absence of objective criteria. Five years was invalidated in *Zeilenga* because the members of this court subjectively determined that the period was too long. For the same reason a majority found three years improper in *Camara*, over the dissent of three justices who would have approved that requirement. Here the dissent would approve a two-year rule.

In the same manner recently a three-judge federal court in *Thompson v. Mellon*, 9 Cal.3d 96 (1973) 507 P.2d 628, 107 Cal.Rptr. 20, 65 A.L.R.3d 1029, determined that the period was too long. For the same reason a majority found three years improper in *Camara*, over the dissent of three justices who would have approved that requirement. Here the dissent would approve a two-year rule.

In the same manner recently a three-judge federal court in *Walker v. Yacht* (D.Del. 1972) 352 F.Supp. 85, divided on what the judges deemed “reasonable” durational residency requirements. Since there are no visible signposts, all these individual conclusions were apparently reached via a visceral route.

The third alternative, now substantially adopted by the majority, would reestablish the predictability which is the hallmark of a responsible judicial system, and at the same time assure maximum participation in the electoral process. Logic dictates a result which equates the right to vote with the right to seek public office. Any citizen qualified to vote in a jurisdiction should be entitled to seek public office in that jurisdiction, assuming in appropriate instances he possesses the required professional qualifications (e.g., only a member of the bar may seek the office of district attorney). If he has the knowledge essential to vote intelligently, in general he will have the knowledge to serve his community in elective office. However, if his fellow citizens believe he lacks the capability to serve, their remedy is to reject his candidacy at the ballot box.

We cannot be so naive as to believe absence of durational residence requirements will automatically catapult uninformed candidates into public office. Inevitably time in the jurisdiction will be a significant issue in local political campaigns. The “life-long resident” of a community will tout his superior familiarity with the problems of the area. The recent settler will assuredly be faced with the charge he is an interloper or carpetbagger. In *109* most instances the candidate well tutored in community problems will be better known by the electorate and will prevail. But if the voters exercise their franchise to reject the life-long resident, and prefer to be represented by the newcomer, restraints imposed by a past citizenry, presumably to prevent future folly, should not be permitted to thwart such democratically determined result.

Where I part with the majority opinion is in its total reliance upon *Dunn v. Blumstein* (1972) 405 U.S. 330 [31 L.Ed.2d 274, 92 S.Ct. 995]. We faithfully followed *Dunn* in *Young v. Gnoss* (1972) 7 Cal.3d 18 [101 Cal.Rptr. 533, 496 P.2d 445], since a similar factual issue was involved, and thus grounded that state decision on federal constitutional grounds. While *Dunn* is analytically helpful here, I prefer to invoke article I, section 21, of the California Constitution, which provides that no “citizen, or class of citizens be granted privileges or immunities which, upon the same terms, shall not be granted to all citizens.” This section of our state Constitution, binding upon counties and cities, including charter cities (Acton v. Henderson (1957) 150 Cal.App.2d 1, 18 [309 P.2d 481]), has long been applied to invalidate discriminatory legislation involving the right to seek political office (Murphy v. Curry (1902) 137 Cal. 479 [70 P. 461]; Britton v. Board of Comrs. (1900) 129 Cal. 337 [61 P.1115]; Eaton v. Brown (1892) 96 Cal. 371 [31 P. 250]), and seems particularly appropriate in this case, where those who have resided in the community for more than two years are granted privileges denied to citizens who have resided therein a lesser period.

I also disagree with the majority's dictum on the date from which the qualification to seek office should be measured. *Dunn* and *Young* declared the critical point on the right to vote to be the date of election. Here, without any citation of authority, the majority purport to create a new requirement: one must be qualified at the time of filing nominating papers or other declaration of candidacy.

The United States Constitution requires senators to be 30 years of age and they must when elected be an inhabitant of their state (art. I, § 3, cl. 3). Obviously they need not be inhabitants when they merely declare for office. In actual practice the qualifications during candidacy have been irrelevant. For example, in modern times two senators were 29 when elected and only reached the constitutionally required age prior to taking their oath of office. (Senator Rush Holt, West Virginia, elected in 1934, and Senator Joseph Biden, Jr., Delaware, elected in 1972.) The crucial times being the election or assumption of office for United States Senators, either date would seem to suffice for city councilmen in Santa Cruz. *110*

The majority refer to the “hallowed belief in the wisdom and power of the electorate.” I have consistently maintained that in the final analysis the only solution to qualifications problems is to repose faith in the electoral process. One
of the first members of the United States Supreme Court, Justice James Iredell, saw the issue remarkably well in *Fries Case* (D.Pa. 1799) 9 Fed.Cas. No. 5126: "All systems of government suppose they are to be administered by men of common sense and common honesty. In our country, as all ultimately depends on the voice of the people, they have it in their power, and it is to be presumed they generally will choose men of this description; but if they will not, the case, to be sure, is without remedy."

BURKE, J.
I dissent. In *Zeilenga v. Nelson*, 4 Cal.3d 716 [94 Cal.Rptr. 602, 484 P.2d 578], and *Camara v. Mellon*, 4 Cal.3d 714 [94 Cal.Rptr. 601, 484 P.2d 577], this court struck down candidate residence requirement provisions of five years and three years duration respectively. Although I concurred in *Zeilenga*, I dissented in *Camara* (joined by Chief Justice Wright and Justice McComb) on the basis that although a five-year requirement appeared to be arbitrary and capricious, a three-year requirement probably fell within reasonable limits, given recognition to the constitutional home rule rights of charter cities to fashion their local governments as electors of such entities deem best and the legitimate interests underlying candidate residence requirements. In the instant case, obedient to our mandate in *Camara*, the voters of the City of Santa Cruz discarded the three-year requirement in its charter and adopted a two-year requirement. Now, the majority not only strike down this two-year provision, they also announce the invalidity of any candidate residence requirement in excess of 30 days. In my view, this extreme holding is totally unjustified. Residential qualifications for election to local public office perform legitimate and compelling public interests which would warrant our upholding the two-year residence requirement at issue as a valid exercise of the City's own constitutional right to control its municipal affairs.

Initially, we must determine what standard governs in measuring the constitutionality of various restrictions imposed upon the right to run for public office. The latest pronouncement of the United States Supreme Court indicates that the traditional "rational basis" test may be sufficient in the absence of a discrimination based upon wealth or some other "suspect" classification. (See *Bullock v. Carter*, 405 U.S. 134, 142-144 [31 L.Ed.2d 92, 99-100, 92 S.Ct. 849], applying a "close scrutiny" test to invalidate a Texas filing fee scheme which tended to exclude from the ballot candidates unable to afford the substantial fees at issue therein.) The residence requirement at issue may operate to restrict the field of candidates from which 111 voters might choose, but, as stated in *Bullock*, "The existence of such barriers does not of itself compel close scrutiny." (Id. at p. 143 [31 L.Ed.2d at p. 100].)

Even if we assume, arguendo, that a close scrutiny standard applies, that standard is one of *reasonable necessity*. Again, as stated in *Bullock*, the provision at issue "must be 'closely scrutinized' and found *reasonably necessary* to the accomplishment of legitimate state objectives in order to pass constitutional muster." (405 U.S. 134, 144 [31 L.Ed.2d 92, 100]; italics added.) The majority, I fear, wholly ignore this rule of reason in testing the validity of the charter provision under scrutiny herein. (See, e.g., p. 102, lines 24-28, ante.) As I will demonstrate, however, there do exist legitimate interests underlying the requirement that a candidate for public office be a resident of the municipality for a reasonable period of time prior to the election, and the residence requirement is indeed "reasonably necessary" to promote those interests. Accordingly, whether we apply the "rational basis" test or the "close scrutiny - reasonably necessary" standard, we should uphold the constitutionality of the provision at issue in this case.

First of all, it seems evident that a municipality has the constitutional authority in controlling municipal affairs and exercising its "home rule" powers (see Cal. Const., art. XI, §§ 5, 7), to designate the qualifications of candidates for public office, including the requirement that candidates have a minimum degree of familiarity with local conditions, problems and issues. As this court stated in *Lindsey v. Dominguez*, 217 Cal. 533, 535 [20 P.2d 327], "The City has the undoubted right and power to fix reasonable restrictions upon the right to hold office under its charter." Certainly no one could contend with conviction that a municipality has no legitimate interest whatever in taking reasonable measures to assure that knowledgeable candidates appear on the ballot. In the light of the lack of feasible alternative provisions, a residence requirement appears *reasonably* necessary to promote that interest. True, a new resident/candidate conceivably could gain familiarity with local problems by intensive study and research of his new locale, and a long-time resident/candidate may lack such familiarity altogether, but the residence requirement is generally the most practical assurance of a candidate's minimum qualifications in this regard. None of the cases cited by the majority requires absolute precision in this area; as explained above, only a "reasonable necessity" must be shown.
The majority state that "City has failed to demonstrate that the election process is inadequate to weed out incompetent, unknowledgeable candidates..." Yet, as the majority must know, the inadequacy of the election process is something wholly incapable of objective proof. Rather than require our municipalities to meet an impossible standard of proof, we should acknowledge their authority to take reasonable measures to enhance the value of the democratic process by affording additional protection to voters against unknowledgeable or fraudulent candidates.

Additionally, a municipality should be permitted to conclude that its voters are entitled, to a reasonable extent at least, to have some firm basis for judging the character and ability of the candidates appearing on the ballot. A residence requirement affords local voters some opportunity to familiarize themselves with, and either develop confidence in or reject, particular candidates. In fact, a candidate's dealings with the public in prior business, civic, charitable, social, or other local affairs often provide the only opportunity for voter-candidate contact in a noncampaign atmosphere. Of course, it is conceivable that some new resident/candidates may, by intensive campaigning, obtain a degree of exposure to the voters, and some old resident/candidates may not, but these are exceptions which do not militate against the validity of the requirement in its general application. Perfect precision is not required - only "reasonable necessity." The majority do not even acknowledge the existence of a legitimate interest of municipalities in promoting voter-candidate contact, much less do they reach the question whether a residence requirement is a reasonable means of promoting that interest.

Thus, despite the majority's assertion that a residence requirement is too "crude and imprecise" to serve as a proper means of promoting legitimate municipal goals, the majority wholly fail to suggest any conceivable alternative procedures to accomplish the twin purposes described above. In my view, the City's two-year residence requirement seems reasonably suited to assure that local candidates are familiar with local problems and have had some exposure to local voters; and frankly, I cannot imagine a more objective, precise, less intrusive means of accomplishing those purposes.

Indeed, a recent federal case has upheld a three-year durational residence requirement for candidates for election to the general assembly in Delaware. The court determined that the "rational basis" test applied and acknowledged not only the state's interest in promoting knowledgeable candidates but also the additional interest in familiarizing the voters with those candidates. (Walker v. Yucht (D.Del. 1972) 352 F.Supp. 85 [three-judge court]; see also Draper v. Phelps (W.D.Okl. 1972) 351 F.Supp. 677 [three-judge court, acknowledging both interests to uphold a six-month residence requirement]; State ex rel. Gralike v. Walsh (Mo. 1972) 483 S.W.2d 70 [upholding one-year residence requirement].)

The majority's reliance upon Dunn v. Blumstein, 405 U.S. 330 [31 L.Ed.2d 274, 92 S.Ct. 995], seems wholly misplaced. That case involved the validity of residence requirements for voters, not candidates, and reached the conclusion that municipalities cannot require voters to be long-time residents to promote some vague purpose to achieve a more intelligent electorate. Unquestionably, the court was greatly troubled in Dunn by the fact that the voter residence requirement tended to exclude many voters who were wholly qualified to exercise their franchise. But although a residence requirement may be ill-suited as a voter-qualification device, its value as applied to candidates seems unquestioned. Any person with rudimentary awareness of issues and candidates can cast his ballot, and an uninformed vote is easily cancelled by an intelligent one. But voters are not responsible for managing civic affairs and making the day-to-day decisions which municipal officials must face. Surely a significant distinction exists between the law under attack here, and the provision held invalid in Dunn. As this court pointed out many years ago in Lindsey v. Dominguez, supra, 217 Cal. 533, 535, in upholding a similar two-year residence requirement in the Los Angeles City Charter, "The right to vote and the right to hold office are independent matters. This is evidenced in Constitutions and statutes, both national and state."

Indeed, residence requirements for candidates for public office play an important role in our state and federal constitutional schemes. For example, the President of the United States must have been a fourteen-year resident in this country (U.S. Const., art. II, § 1, cl. 5), a United States Senator a nine-year resident (id., art. I, § 3, cl. 3), a United States Representative a seven-year resident (id., art. I, § 2, cl. 2). The Governor of California must have been a resident of California for five years (Cal. Const., art. V, § 2), the Lieutenant Governor a resident for five years (id., art. V, § 9), and a member of the state Legislature a resident for three years (id., art. IV, § 2, subd. (c)). Are these various constitutional provisions themselves unconstitutional because too "crude and imprecise"?
I should also point out that for general law cities there exists a one-year residence requirement for persons seeking to hold office as city councilman, *114 clerk or treasurer. (Gov. Code, § 36502.) An identical provision exists with respect to candidates for county boards of supervisors. (Gov. Code, § 25041.) We referred to this latter provision with implicit approval when we struck down the five-year requirement in Butte County. ( Zeilenga v. Nelson, supra, 4 Cal.3d 716, 722 ["The difficulty of making such a showing (of compelling necessity for a five-year requirement) seems self-evident when one realizes that as to general law counties the residence requirement is only one year."].) Thus, it is apparent that the Legislature has weighed the various competing considerations and has determined that, on balance, a one-year requirement is reasonable in the absence of contrary charter provision. Under the majority's holding, however, these statutory provisions likewise are declared too crude and imprecise to withstand constitutional scrutiny, even though they represent the careful judgment of the Legislature.

Counsel for respondent lists 32 chartered cities and their respective residence requirements of which:

Three require five years.

Two require four years.

Twelve require three years.

Four require two years.

Eight require one year.

One (Berkeley) requires qualification as an elector.

One (San Jose) requires qualification as a resident elector.

One (Monterey) has no residence requirement.

Out of this list (which is only a sampling but includes at least all the larger cities) 21 require two or more years, eight require one year, and only three less than one year. This sampling clearly establishes the belief of the voters of these cities that some substantial residential requirement is essential to qualify as a nominee for membership on the local governing board.

Yet our court majority evidently refuses to acknowledge that these provisions perform valuable functions in promoting legitimate interests of these municipalities and their voters.

I would uphold the City's two-year provision as reasonably necessary to promote legitimate municipal objectives. A fortiori I would uphold the one-year requirement chosen by the Legislature. Certainly a lesser period *115 would be wholly inadequate to protect and promote the interests discussed above.

McComb, J., concurred.

Footnotes

* Assigned by the Chairman of the Judicial Council.

1 Section 602 provides: "No person shall be eligible to be nominated for or to hold office as a member of the Council unless he is a registered qualified voter of this city, and shall have been for at least two (2) years next preceding his nomination or appointment, a resident of the City of Santa Cruz or of territory annexed thereto."

2 We quoted from our opinion in Westbrook v. Mihaly (1970) 2 Cal.3d 765, 785 [87 Cal.Rptr. 839, 471 P.2d 487], vacated on other grounds (1971) 403 U.S. 915 [29 L.Ed.2d 692, 91 S.Ct. 2224], where we had declared that "in cases involving 'suspect classifications' or touching on 'fundamental interests,' the [United States Supreme Court] has adopted an attitude of active and critical analysis, subjecting the classification to strict scrutiny. [Citations.] Under the strict standard applied in such cases, the state bears the burden of establishing not only that it has a compelling interest which justifies the law but that the distinctions drawn by the law are necessary to further its purpose." (Pp. 784-785.) (Original italics; fn.s. omitted.) Zeilenga v. Nelson, supra, 4 Cal.3d at p. 721, quoting Gangemi v. Rosengard (1965) 44 N.J. 166 [207 A.2d 665, 667]; "[T]he right to run for public office is as fundamental a right as is the right to vote, ..." ( Zeilenga v. Nelson, supra, 4 Cal.3d at p. 723.)

to apply the "strict scrutiny" test to a six-month durational residence requirement upon candidacy for the state Legislature; and State ex rel. Gralike v. Walsh (Mo. 1972) 483 S.W.2d 70, and where the court refused to apply the "strict scrutiny" test to a one-year durational residence requirement upon candidacy for the state senate. Reynolds, supra, and Williams, supra, hold that a citizen has a right to vote effectively and, by logical extension, that means that he is to be given a wide latitude in his choice of public officials." The court then applied the "strict scrutiny" test and declared a three-year residence requirement for membership on the city revision charter commission unconstitutional.


In Lindsey v. Dominguez (1933) 217 Cal. 533 [20 P.2d 327], this court upheld a two-year residence requirement for the office of city councilman, but did not reach the constitutional issue now before us. In Westbrook v. Mihaly, supra, 2 Cal.3d at page 785. Wenke v. Hitchcock, supra, 6 Cal.3d 746, we partially overruled Lindsey. To the extent that Lindsey is inconsistent with our ruling here, that case is overruled.

For example, in the present case, the municipal election is to be held on April 10, 1973, and the nominating papers must be filed no later than February 1, 1973. Thus a charter requirement of the City that all prospective candidates be residents for at least 30 days next preceding the filing of nominating papers could permissibly have the effect of prescribing durational residence for a period of at least 98 days prior to the coming election.

This paragraph confirms our order in identical language filed on February 23, 1973.

* Assigned by the Chairman of the Judicial Council.

1 Neither the municipality, its taxpayers nor the candidates themselves should be put to the inconvenience and expense of undertaking a pre-election test of the candidate's local knowledge.

2 The majority perhaps overlook the fact that it was the "election process" itself which created the residence requirement in City's charter. Are not the voters entitled to enact self-protective measures to obtain a qualified slate of candidates? In the very words of the majority, "The hallowed belief in the wisdom and power of the electorate must not be sold short ...."
Johnson v. Hamilton, 15 Cal.3d 461 (1975)
541 P.2d 881, 125 Cal.Rptr. 129

15 Cal.3d 461
Supreme Court of California,
In Bank.

Wayne Clarke JOHNSON et al., Petitioners,
v. Elaine HAMILTON, as City Clerk, etc., Respondent.


By application for writ of mandate, petitioner sought to challenge city charter provisions imposing residence requirements upon candidates for city office. The Supreme Court, Richardson, J., held that ‘compelling’ reasons exist for a requirement that candidates for public office establish their residence, and eligibility for office, within a reasonable and fixed time prior to election, but any durational residence requirement for candidates for local their residence, and eligibility for equal protection.

Alternative writ of mandate discharged, and peremptory writ denied, in view of city clerk's acceptance of nominating papers and agreement to consider petitioner as candidate.

Clark, J., filed a concurring opinion in which McComb, J., joined.

Mosk, J., filed a concurring opinion.

Attorneys and Law Firms

Goettlieb, Gottlieb & Stein, Arthur J. Gottlieb, and Karl Manheim, Long Beach, for petitioners.

Fred Okrand, Los Angeles, as amicus curie, for petitioners.

Leonard Putnam, City Atty., and Arthur Y. Honda, Deputy City Atty., for respondent.

Opinion

RICHARDSON, Justice.

This case invites our inquiry into an area that has been well illuminated by several recent opinions of this court. The issue presented is the constitutionality of two provisions of the Charter of the City of Long Beach which impose residence requirements upon candidates for city office. We have concluded that the provisions are invalid as violative of the equal protection clause of the Fourteenth Amendment.

Petitioner was a candidate for City Councilman of Long Beach at a primary nominating election held March 18, 1975, and, if successful, would have been a candidate at the general municipal election held on May 13, 1975. On December 9, 1974, the respondent City Clerk of Long Beach informed petitioner that petitioner failed to satisfy two provisions of the city charter, namely, (1) section 29, requiring a one-year residence in the city preceding the election or appointment to any board or commission of the city, and (2) section 30, requiring, as to a candidate for councilman, a six month's residence in the district from which he is nominated, prior to filing his declaration of candidacy. By January 22, 1975, the last day on which candidates could file for the office of councilman, petitioner would have been a district resident for five and one-half months, and by May 13, 1975, general municipal election day, he would have been a city resident for nine months. He thus failed to meet the requirements of either section 29 or 30.

*465 Declarations of candidacy for the office in question were required to be filed between January 7 and January 22, 1975. In order to expedite adjudication of the controversy petitioner sought, and was denied, a writ of mandate in the Court of Appeal. On January 14, 1975, we issued an alternative writ of mandate directing respondent city clerk either to accept petitioner's nominating papers or to show cause why she had not done so. On January 22, 1975, respondent in her return to the alternative writ informed us that she had accepted petitioner's nominating papers and would place his name on the ballot if the papers were found to be in order.

[11] We are informed that petitioner was defeated at the March 18 primary election, thereby raising the issue of mootness. Respondent, however, requested that we retain the case and decide the issue on the merits in view of the importance of the question presented and its effect upon future candidates and elections. We have frequently held that a case is not mooted from the fact alone that the issue in the case is of no further immediate interest to the person raising it. (Gordon v. Justice Court (1974) 12 Cal.3d 323, 326, fn. 1, 115 Cal.Rptr. 632, 525 P.2d 72; Zeilenga v. Nelson (1971) 4 Cal.3d 716, 719—720, 94 Cal.Rptr. 602, 484 P.2d 578.) For example, in In re William M. (1970) 3 Cal.3d 16, 23, 89 Cal.Rptr. 33, 37, 473 P.2d 737, 741, we noted that: "(I) f a pending case poses an issue of broad public interest that is
likely to recur, the court may exercise an inherent discretion to resolve that issue even though an event occurring during its pendency would normally render the matter moot.’

Furthermore, petitioner in his second cause of action purports to represent a Class of persons who are similarly barred from candidacy by reason of the subject charter provisions. Although the underlying controversy may be moot as to petitioner, others similarly situated may be affected and the issues as to them may not be moot. (See Sosna v. Iowa (1975) 419 U.S. 393, 401, 95 S.Ct. 553, 42 L.Ed.2d 532 (class action attack on one-year residence requirement for obtaining divorce).)

Finally, the Courts of Appeal have reached conflicting results in regard to the validity of a one-year residence requirement for candidates (Smith v. Evans (1974) 42 Cal.App.3d 154, 116 Cal.Rptr. 684 and Gage v. Allison (1972) 22 Cal.App.3d 85, 99 Cal.Rptr. 95), thereby necessitating resolution of this important issue.

Finding the issue ripe for review and for the foregoing reasons, we address the issue of durational residence requirements for political office.

*466 Petitioner’s constitutional challenge is broad. He argues that candidates disqualified from the ballot for their failure to meet the durational residence requirements are deprived of equal protection of the laws contrary to the Fourteenth Amendment, and that three important and fundamental rights are thereby necessarily impaired, namely, the rights to run for public office, to vote, and to travel. He urges that section 29 (the city) and section 30 (the district) of the charter impose conditions which ‘unfairly and indiscriminately exclude qualified and capable candidates’ ***131 **883 without any justification which is either reasonable or compelling.

[2] In consideration of constitutional attacks of the kind herein presented courts have utilized a two-level test in applying equal protection standards. Ordinarily, a legislative classification will be upheld if it bears a ‘rational relationship to a legitimate state purpose.’ (Weber v. City Council (1973) 9 Cal.3d 950, 958—959, 109 Cal.Rptr. 553, 558, 513 P.2d 601, 606; Westbrook v. Mihaly (1970) 2 Cal.3d 765, 784—785, 87 Cal.Rptr. 839, 471 P.2d 487, vacated on other grounds, 403 U.S. 915, 91 S.Ct. 2224, 29 L.Ed.2d 692.) In cases involving ‘suspect classifications’ or touching upon ‘fundamental interests,’ however, courts have ‘adopted an attitude of active and critical analysis, subjecting the classification to strict scrutiny. . . . Under the strict standard applied in such cases, the state bears the burden of establishing not only that it has a Compelling interest which justifies the law but that the distinctions drawn by the law are Necessary to further its purpose.’ (Westbrook v. Mihaly, supra, 2 Cal.3d at pp. 784—785, 87 Cal.Rptr. at p. 852, 471 P.2d at p. 500. Weber v. City Council, supra, 9 Cal.3d at p. 959, 109 Cal.Rptr. 553, 513 P.2d 601; Thompson v. Mellon (1973) 9 Cal.3d 96, 99, fn. 2, 107 Cal.Rptr. 20, 507 P.2d 628.)

Several recent federal Supreme Court decisions on the point suggest that candidacy for public office may not be a fundamental right protected by the Fourteenth Amendment, and that legislative restrictions upon it need not necessarily invoke strict scrutiny. (See American Party of Texas v. White (1974) 415 U.S. 767, 780, fn. 11, 94 S.Ct. 1296, 39 L.Ed.2d 744; Storer v. Brown (1974) 415 U.S. 724, 730, 94 S.Ct. 1274, 39 L.Ed.2d 714; Lubin v. Panish (1974) 415 U.S. 709, 719, 94 S.Ct. 1315, 39 L.Ed.2d 702; Bullock v. Carter (1972) 405 U.S. 134, 142—144, 92 S.Ct. 849, 31 L.Ed.2d 92.) Thus, in Bullock, in which the high court applied equal protection standards to a Texas filing fee system, the court observed that it ‘. . . has not heretofore attached such fundamental status to candidacy as to invoke a rigorous standard of review’ (Id. at pp. 142—143, 92 S.Ct. at p. 855), and that even the existence of barriers to candidate access to the ballot, which limit the *467 voter's choice of candidates, ‘. . . does not of itself compel close scrutiny.’ (Id. at p. 143, 92 S.Ct. at p. 856.) The Bullock court reasoned, however, that the Texas filing fee system ‘. . . falls with unequal weight on voters, as well as candidates, according to their economic status’ (Id. at p. 144, 92 S.Ct. at p. 856), thus resulting in an appreciable Financial impact upon the exercise of the franchise and thereby invoking the strict scrutiny test. See Harper v. Virginia Board of Elections (1966) 383 U.S. 663, 86 S.Ct. 1079, 16 L.Ed.2d 169; Lubin v. Panish, supra, 415 U.S. 709, 94 S.Ct. 1315, 39 L.Ed.2d 702, involving California's filing fee system.)

Similarly, in American Party and Storer, strict scrutiny was employed to determine the validity of ballot restrictions upon independent candidates since these restrictions placed 'unequal burdens on minority groups' thereby limiting their 'First Amendment freedoms.' (American Party of Texas v. White, supra, 415 U.S. 780, fn. 11, 94 S.Ct. 1296.) In the matter before us, unlike American Party, Storer, Lubin or Bullock, the durational residence requirement has no unequal impact upon poor or minority candidates or voters but by its nature falls with equal force upon every candidate.
On the other hand, the United States Supreme Court has employed a strict scrutiny test in several recent cases invalidating residence requirements within somewhat different contexts: Memorial Hospital v. Maricopa County (1974) 415 U.S. 250, 94 S.Ct. 1076, 39 L.Ed.2d 306 (one-year county residence requirement for the receipt of indigent medical care); Dunn v. Blumstein (1972) 405 U.S. 330, 92 S.Ct. 995, 31 L.Ed.2d 274 (one-year state and 90-day county residence requirement for voters); and Shapiro v. Thompson (1969) 394 U.S. 618, 89 S.Ct. 1322, 22 L.Ed.2d 600 (one-year residence requirement for receiving welfare benefits). In its most recent decision, however, the majority of the high court appear to have adopted a 'reasonable justification' test despite Justice Marshall's insistence in dissent that since the 'constitutional' right to travel was affected, a 'compelling governmental interest' approach was required. (Sosna v. Iowa, supra, 419 U.S. 393, 95 S.Ct. 553, 42 L.Ed.2d 532 (upholding a one-year state residence requirement for filing for divorce)).


We have recently had occasion, in a series of cases, to hold invalid candidate residence requirements on equal protection grounds. Thus, in Zeilenga v. Nelson, supra, 4 Cal.3d 716, 94 Cal.Rptr. 602, 484 P.2d 578, we found deficient a five-year durational residence requirement imposed by the Butte County Charter on candidates for the County Board of Supervisors. At the same time, in Camara v. Mellon (1971) 4 Cal.3d 714, 94 Cal.Rptr. 601, 484 P.2d 577, we invalidated a three-year residence requirement of the Santa Cruz City Charter for candidates to the city council. Most recently, in Thompson v. Mellon, supra, 9 Cal.3d 96, 107 Cal.Rptr. 20, 507 P.2d 628, we found vulnerable to similar attack a two-year requirement contained in the same charter, and for the same office as those involved in Camara.

In Zeilenga, we described the right to hold public office as valuable, fundamental and one that is subject to First Amendment protection, the impairment of which can be justified only by a 'compelling governmental interest.' We emphasized as well the interlocking relationships between the right to vote and the right to hold office. (See also Thompson v. Mellon, supra, 9 Cal.3d at pp. 99—102, 107 Cal.Rptr. 20, 507 P.2d 628 (opn. by Sullivan, J.), emphasizing the effect of candidate restrictions upon the rights to vote and to travel.)

[3] From the foregoing and by reason of the fact that durational residence requirements for candidates for public office impinge not only on one but on three important rights to which we have previously adverted, namely, candidacy, voting and travel, we conclude that they necessarily invite application of the strict scrutiny test.

In applying this test we note preliminarily that it is difficult to conceive of principles more central to a political democracy than the free and untrammelled access of the public to the ballot box and the reciprocal right of candidates to seek the public's suffrage. It follows, accordingly, that we examine with a close and questioning attention every intrusion, subtle or direct, which impairs or affects the unconditional exercise of these prerogatives.

***133 **885 Our inquiry is first directed to the discovery of those state interests of a compelling nature which warrant the restrictions. Two reasons are uniformly given for residence requirements, each pertaining to education—first, of the candidate regarding the issues, and second, of the electorate regarding the candidate. More specifically, advocates of the restrictions urge that a somewhat extended period of residence is reasonably required in order for a candidate to familiarize himself or herself with local conditions and problems to the degree that will assure effective representation. It is contended that those who for an appreciable interval become immersed in the local community are more likely to be knowledgeable and therefore more effective instruments of the societal will. Additionally,
the argument runs that the public, on its part, requires a similar period of exposure of a candidate so that his or her character, ability, personality, and habits may become generally known and assessed. It is asserted that by a more prolonged contact the true strengths and weaknesses of the candidates may be measured and weighed. (See Thompson v. Mellon, supra, 9 Cal.3d at pp. 111—112, 107 Cal.Rptr. 20, 507 P.2d 628, (dissenting opn. by Burke, J.).) In Thompson, following the rationale of Dunn v. Blumstein, supra, 405 U.S. at pp. 357—360, 92 S.Ct. 995, we considered in some depth and rejected these 'educational' purposes, insofar as they supported the two-year durational requirement at issue therein, finding them, among other things, too 'crude and imprecise.' In doing so and by concluding that the rights to vote and hold office are interrelated, we also rejected our contrary expression of 42 years ago in which by a closely divided court we described the two rights as 'independent matters.' (Lindsey v. Dominguez (1933) 217 Cal. 533, 535, 20 P.2d 327.)

As we have noted, two appellate courts have arrived at conflicting results these analyses of the problem. In Smith v. Evans, supra, 42 Cal.App.3d 154, 116 Cal.Rptr. 684, the court's careful analysis identified and focused on three predominant interests involved in the durational residency disputes, namely, the official public interest in the mechanics of the election process, the candidate's knowledge of the prevailing issues in a community, and the 'interest of those disadvantaged by the classification,' including the potential candidates and the public. The court properly *470 noted that both public and candidates suffer a loss of political rights from the imposition of 'dead periods' by reason of durational residence requirements. (Id. at pp. 161—162, 116 Cal.Rptr. (684.) 689.)

In Gage v. Allison, supra, the court upheld the one-year residency requirement for candidates for Los Angeles County Supervisor relying on Lindsey.

While Dunn v. Blumstein, supra, as noted by Justice Burke in his dissent in Thompson, involved voter not candidate residence, the close interlocking conceptual and functional relationship between voter and candidate recognized in Thompson makes particularly relevant the following conclusion of the United States Supreme Court in Dunn: '(A)s devices to limit the franchise to knowledgeable residents, the conclusive presumptions of durational residence requirements are much too crude. They exclude too many people who should not, and need not, be excluded. They represent a requirement of knowledge unfairly imposed on only some citizens. . . . Here, there is simply too attenuated a relationship between the state interest in an informed electorate and the fixed requirement that voters must have been residents in the State for a year and the county for three months. Given the exacting standard of precision we require of statutes affecting constitutional rights, we cannot say that durational residence requirements are necessary to further a compelling state interest.' (Italics added.) (405 U.S. at p. 360, 92 S.Ct. at p. 1012.) No persuasive reason has been suggested why the foregoing ***134 **886 Dunn analysis is not applicable with equal force to similar requirements imposed on candidates for public office.

In terms of the education of the candidate, the argument that an extended residence is necessary for an understanding of local issues, while perhaps appealing in the abstract, nonetheless ignores the hard realities bearing on the relationship of candidate and issue. The knowledge, appreciation, and comprehension of the public issues and problems which a candidate either possesses or may reasonably be expected to acquire are so much the product of the variables of motivation, intelligence, maturity, experience, opportunity, and desire as to make any flat rule of physical residence appear immediately suspect and arbitrary. The congeries of individual capacities for observation, study, exposure, and growth are simply so different as to be inhospitable to a rigid fixed qualification tied to residence.

Similarly, the public's need for education and information about a candidate are not served by a proscription so imperious as one based *471 upon extended physical presence alone. The advent of mass media in all their forms, the electronic transmission both pictorially and by the spoken word, together with the easy mobility of persons and image, and the increasing use of forums, debates, and voter education programs in combination reduce and dilute the expectancy that voter evaluation and education can best be served by an arbitrary residence requirement of the candidate.

One disturbing phenomenon of the current political scene of which we may take judicial notice is an apparent substantial increase in voter apathy. The erosion and decay caused by the acid of indifference, unconcern, and lack of participation, if prolonged, may pose a danger to the democratic institutions, far more subtle and invidious than any other. Such a danger suggests the wisdom of widening rather than narrowing the candidate options available to the public. The vigor of a democracy depends upon the continued infusion into the stream of public debate of the views and proposals of the many. These views and the political fortunes of those
who as candidates for public office advance them will be accepted or rejected by the people whose common sense and good judgment may, indeed must, be trusted. For in the final analysis it is the people's business with which we are concerned.

Our attention has been called to two recent cases in which the United States Supreme Court has, by summary affirmance, declined invitations to strike down rather lengthy durational residence requirements imposed upon candidates for State office. In Kanapaux v. Ellisor (D.S.C.1974), affirmed (1974) 419 U.S. 891, 95 S.Ct. 169, 42 L.Ed.2d 136, the federal district court upheld South Carolina's five-year residence requirement for candidates for Governor. And in Sununu v. Stark (D.N.H.1974) 383 F.Supp. 1287, affirmed (1975) 420 U.S. 958, 95 S.Ct. 1346, 43 L.Ed.2d 434, the federal district court upheld New Hampshire's seven-year residence requirement for candidates for State senator.

Summary affirmance by the Supreme Court is not necessarily dispositive of the court's position with respect to the constitutional issues raised in the case (see Serrano v. Priest (1971) 5 Cal.3d 584, 615—617, 96 Cal.Rptr. 601, 487 P.2d 1241). We are cognizant that, as illustrated by Kanapaux and Sununu, there exist numerous provisions in state and federal Constitutions imposing durational residence requirements for a series of state and federal executive and legislative officials from the President of the United States to members of the state *472 Legislature. (See Thompson v. Mellon, supra, 9 Cal.3d at p. 113, 107 Cal.Rptr. 20, 507 P.2d 628 (dissenting opn. by Burke, J.).) The validity of such requirements, however, is not presently before us.

[4] In summary we scrutinize strictly the residence requirements of the Long Beach Charter impinging as they do on the ***135 **887 three fundamental interests to which we have referred. Such inquiry discloses no state interest of a compelling nature which justifies the restrictions in question.

There do exist, however, 'compelling' reasons for a requirement that candidates for public office establish their residence, and eligibility for office, within a reasonable and fixed time prior to the election. As explained in Smith v. Evans, supra, 42 Cal.App.3d 154, 116 Cal.Rptr. 684, 'An orderly system of election laws crystallizes the issues and candidates during a given time-span before the election. During this period the election officials prepare and distribute sample ballots and print official ballots. During this period the candidates address their appeals to the voters. The latter, in turn, weigh the alternatives. They may rationally resolve their choices only by assurance that all the candidates are eligible.' (Id. at p. 160, 116 Cal.Rptr. at p. 688.)

Accordingly, it has been suggested that a public entity may constitutionally require a prospective candidate to be 'a resident at the time he files his nominating papers or equivalent declaration of candidacy and for a period of not more than 30 days next preceding such date of filing.' (Thompson v. Mellon, supra, 9 Cal.3d at p. 106, 107 Cal.Rptr. (20) at p. 28, 507 P.2d (628) at p. 636 (opn. of Sullivan J.); accord Smith v. Evans, supra, 42 Cal.App.3d at pp. 160—161, 116 Cal.Rptr. 684; cf. Dunn v. Blumstein, supra, 405 U.S. at p. 348, 92 S.Ct. 995; but see Thompson, supra, 9 Cal.3d at pp. 109—110, 107 Cal.Rptr. 20, 507 P.2d 628 (opn. by Mosk, J.).)

Such a 30-day prefiling residence requirement seems reasonably necessary and convenient to accommodate the needs of election officials in their task of timely verification of the candidate's true residence prior to the preparation and distribution of ballots. Accordingly, we hold that any durational residence requirement for candidates for local office in excess of the foregoing period is violative of the equal protection clause of the Fourteenth Amendment. To the extent that it is inconsistent with this opinion, Gage v. Allison, supra, 22 Cal.App.3d 85, 99 Cal.Rptr. 95, is disapproved.

Since respondent city clerk accepted petitioner's nominating papers and agreed to consider petitioner as a candidate for the subject election *473 the alternative writ of mandate is discharged and the peremptory writ is denied.

WRIGHT, C.J., and TOBRINGER, and SULLIVAN, JJ., concur.

CLARK, Justice (concurring).

Although United States Supreme Court pronouncements compel concurrence, I do so with apprehension. Today's holding invites mischief to local elections, for it is now possible for a candidate with little genuine interest in a locality to inject himself into its politics. While the voters ordinarily would be expected to reject such a person, the good judgment necessary to do so is more difficult to exercise when the candidate's only exposure to the electorate has been his behavior during the course of a brief campaign. (See Thompson v. Mellon (1973) 9 Cal.3d 96, 111—112, 107 Cal.Rptr. 20, 507 P.2d 628 (Burke, J., dissenting).)
The difficulty of ferreting out spurious candidates is compounded by the Supreme Court's decision in Dunn v. Blumstein (1972) 405 U.S. 330, 92 S.Ct. 995, 31 L.Ed.2d 274, wherein a durational residency requirement for voters was struck down. That decision, in combination with today's, creates the danger of roving candidates picking their elections and bringing their voters with them.

The danger of this electoral tandem, while perhaps negligible in large urban populations, is substantial in rural areas with smaller voter bases. Given enough imported voters, outvoting an existing majority of bona fide residents is possible —inviting a new form of gerrymandering. And, because apparent residence is easy to acquire but intent to remain is difficult to verify, the local entity will be hardpressed to protect itself.

I question the wisdom of striking at a city's legitimate interests in protecting its electoral process at a time when voter discontent and indifference appear high. Allowing spurious candidates and transient voters the opportunity to determine local elections may further weaken the trust essential to our democratic system.

We are not so far from Reconstruction that animosity does not still linger. We long paid the price for having imposed the carpetbaggers of that era on an unwilling populace. Today's decision may present new costs.

McCOMB, J., concurs.

MOSK, Justice (concurring).

I concur.

Nevertheless, I still adhere to the belief that the preferable test is to determine whether the elected candidate meets residence requirements at the time of assumption of office. (See my concurring opinion in Thompson v. Mellon (1973) 9 Cal.3d 96, 109, 107 Cal.Rptr. 20, 507 P.2d 628.) I would also base our conclusion on article I, section 7, subdivision (b), of the California Constitution.

However, recognizing that in this field as in so many others, perfection eludes definition as well as attainment, I am willing to join the majority in its conclusion.