

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: City Clerk's Office

AGENDA DATE: May 16, 2023

PUBLIC HEARING DATE: N/A

CONTACT PERSON NAME AND PHONE NUMBER: Laura D. Prine, (915) 212-0049

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL: Goal 6 – Set the Standard for Sound Governance and Fiscal Management

SUBGOAL: 6.8 – Support Transparent and Inclusive Government

SUBJECT:

Discussion and action on a Resolution to canvass the votes cast in the May 6, 2023, City Charter Amendments Special Election.

BACKGROUND / DISCUSSION:

On February 7, 2023, the City Council of the City of El Paso adopted Ordinance 019436 ordering a Special Election held on May 6, 2023, for the purpose of approval or disapproval of the proposed amendments to the Home Rule Charter of the City of El Paso

PRIOR COUNCIL ACTION:

The last canvassing of the votes for a Special Charter Election was on November 19, 2018.

AMOUNT AND SOURCE OF FUNDING:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Laura D Prine

**RESOLUTION CANVASSING RETURNS
OF THE 2023 CITY OF EL PASO CHARTER
AMENDMENTS SPECIAL ELECTION**

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

WHEREAS, the City Council of the City of El Paso ordered a special election to be held in said City on May 6, 2023, for the purpose of determining whether certain amendments to the City Charter should be adopted; and

WHEREAS, the election officers who held said election have duly made returns of the results thereof, and said returns have been duly delivered to said City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That the City Council officially finds and determines that said election was duly given, that proper notice of said election was duly given, that proper election officers were duly appointed prior to said election, that said election was duly held, that due returns of the results of said Special Election have been duly made and delivered, that the election returns have properly been made out and duly certified by the officers of said election in the different voting precincts of the City, and that the City Council has duly canvassed said returns, all in accordance with law and the ordinance thereto calling said election.

2. That the City Council officially finds and determines that the following votes were cast at said election for the measures by the resident, qualified electors of said City, who voted at the Special Election on the following Amendments to the Charter of the City of El Paso, the text of which are attached as **Exhibit A:**

CHARTER AMENDMENT A

For: 20,632
Against: 27,628

CHARTER AMENDMENT B

For: 19,137
Against: 28,660

CHARTER AMENDMENT C

For: 30,642
Against: 17,499

CHARTER AMENDMENT D

For: 34,524
Against: 13,967

CHARTER AMENDMENT E

For: 31,757
Against: 16,065

CHARTER AMENDMENT F

For: 22,881
Against: 24,686

CHARTER AMENDMENT G

For: 22,441
Against: 25,409

CHARTER AMENDMENT H

For: 19,570
Against: 27,984

CHARTER AMENDMENT I

For: 28,550
Against: 19,747

CHARTER AMENDMENT J

For: 26,431
Against: 21,081

3. That the City Council officially finds, determines, and declares the result of said Special Election for the submission of City Charter Amendments and that the following **City Charter Amendments by measures C, D, E, I, and J** did receive a majority vote and therefore did carry.

4. (a) That the City Council officially finds, determines, and declares the result of said Special Election for the submission of City Charter Amendments and that the following **City Charter Amendments by measures A, B, F, G, and H** did not receive a majority vote and therefore did not carry.

(b) That the City Council declares that the **City Charter Amendments by measures A, B, F, G, and H** shall not be adopted.

ADOPTED this _____ day of May 2023.

THE CITY OF EL PASO

ATTEST

Oscar Leeser
Mayor

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Karla Saenz

Karla A. Saenz
Assistant City Attorney

EXHIBIT A

AMENDMENT A
Text of Amendment

Amending Section 3.1 of the City Charter, relating to the creation; composition; powers and duties of City Council, to read in pertinent part as follows:

Section 3.1 – CREATION; COMPOSITION; POWERS AND DUTIES

There shall be a City Council consisting of District Representatives and the Mayor. The Council shall have legislative powers, and the power and duty to select, direct, and regularly evaluate the City Manager, as well as such other and specific powers and duties as may be provided by law or this Charter. Each Representative shall have the discretion and sole authority to appoint and remove district office staff.

Ballot Proposition

FOR () Should section 3.1 of the City Charter, relating to creation, composition; powers and duties of Council be amended to allow City Council Representatives to appoint and remove district office staff?

AGAINST ()

AMENDMENT B
Text of Amendment

Amending Section 3.18 of the City Charter, relating to the use of ordinances, to read in pertinent part as follows:

Section 3.18 LEASE; FRANCHISE, AND CONVEYANCE.

The right of control, ownership and use of streets, alleys, parks and public places of the City is declared to be inalienable except as provided by ordinance passed by the Council and except for uses of less than thirty days which may have a separate approval process as established by ordinance.

Any authorization for the conveyance, lease, or grant of a franchise regarding the property of the City shall provide for payment to the City of a reasonable fee as consideration for that conveyance, lease, or franchise.

Any sale of City owned property in fee simple, franchise or lease for an initial term longer than forty years shall be approved by ordinance.

In addition, any authorization for a lease or franchise must provide that the City may revoke it if necessary to secure efficiency of public service at a reasonable rate, and must assure that the property is maintained in good condition throughout the life of the lease or franchise.

Ballot Proposition

FOR () Should section 3.18 of the City Charter relating to Leases, Franchises, and Conveyances be amended to authorize Council to lease City owned property for 40 years or less by Council resolution or ordinance?

AGAINST ()

AMENDMENT C
Text of Amendment

Amending Section 3.5 of the City Charter, relating to City Council Procedures and Rules, to read in pertinent part as follows:

Section 3.5 A CITY COUNCIL PROCEDURES AND RULES

Meetings. Regular meetings of the Council shall be held in Council chambers no less than once every other week at such times as may be prescribed by resolution, except that Council may reschedule meetings by resolution to allow for City holidays, but must have no less than two regular meetings per month. The Mayor may cancel a meeting if necessary due to a Federal, State or Local declared emergency.

Ballot Proposition

FOR () Should section 3.5A of the City Charter be amended to allow Council to reschedule meetings by resolution to allow for City holidays but shall hold no less than two regular meetings per month.

AGAINST ()

AMENDMENT D
Text of Amendment

Section 3.5 A CITY COUNCIL PROCEDURES AND RULES

Meetings. Regular meetings of the Council shall be held in Council chambers no less than once every other week at such times as may be prescribed by resolution, except that Council may reschedule meetings by resolution to allow for City holidays, but must have no less than two regular meetings per month. The Mayor may cancel a meeting if necessary due to a Federal, State or Local declared emergency.

Ballot Proposition

FOR () Should section 3.5A of the City Charter be amended to allow the Mayor to cancel a meeting if necessary due to a Federal, State, or Local declared emergency?

AGAINST ()

AMENDMENT E
Text of Amendment

Amending Sections 3.9B relating to Ordinances, 3.10B relating to emergency ordinances, 6.1-12 relating to civil service hearing officers to read in pertinent part as follows:

Section 3.9 ORDINANCES IN GENERAL.

B. Legislative Procedure. Except as provided in Section 3.13, an ordinance may be introduced by any Council member at any meeting of the Council. A proposed ordinance must be filed with the City Clerk in sufficient time for inclusion on the agenda for the Council meeting at which it is to be introduced. Upon such filing the City Clerk shall distribute copies to each member of the Council and to the City Manager. No ordinance shall be adopted finally except at a regular open meeting of the Council following notice, publication, and a public hearing. The notice shall contain:

1. The proposed ordinance or a brief summary thereof;
2. The places where copies of it have been filed and the times when they are available for public examination; and
3. The time and place for the public hearing. The notice shall be published by any contemporary means of information sharing, including but not limited to publication in a newspaper of general circulation in the City or placement on a website at least five days prior to the public hearing. The hearing may be held by a designated Council committee or the Council separately or in connection with any Council meeting and may be adjourned to a specified time. All interested persons present shall have an opportunity to be heard. As soon as practicable after adoption of any ordinance, the City Clerk shall publish it again, with notice of its adoption, in abstract form, by any contemporary means of information sharing. These abstracts must state, at a minimum, the purpose of the ordinance and, where penal, the penalty provided. In any event, the publication must be written so as to be understood by an average person.

Section 3.10B EMERGENCY ORDINANCES.

Procedures. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it may be introduced on one-hour public notice, and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the unanimous vote of the Council members present shall be required for adoption.

Section 6.1-12 HEARING OFFICERS.

The Commission will appoint one or more compensated hearing officers to hear appeals made under Section 6.13-4. The need for hearing officers in excess of one shall be determined jointly by the Commission and the City Manager. Hearing officers will perform those duties and functions necessary to render a recommendation to the Commission on the matter in dispute.

The hearing officers will serve at the Commission’s pleasure, and will be procured through the City's procurement process.

Ballot Proposition

FOR () Shall Sections 3.9B, 3.10B, 6.1-12 of the City Charter be amended to eliminate provisions which have become inoperative because they have been superseded by state law; replace obsolete references, and update terminology to current legal usage?

AGAINST ()

AMENDMENT F
Text of Amendment

Amending Section 3.11 of the City Charter, relating to Initiatives to read in pertinent part as follows:

Article III Section 3.11 – Initiative

Section 3.11 INITIATIVE. Any registered voter may initiate an ordinance that complies with federal, state and local law by filing with the City Clerk a statement that they intend to circulate a petition. Such statement must include the names and addresses of the petitioners, and the full text of the proposed ordinance.

The City Clerk shall place the proposed Ordinance on the City Council Agenda for introduction within thirty calendar days after receiving the statement, followed by a public hearing at the second reading. If City Council fails to adopt the ordinance, or adopts it with amendments, the City Clerk will notify the petitioners.

If the petitioners still wish to seek adoption of the ordinance after Council fails to adopt, or does not agree to Council’s amendments, it will then have 365 calendar days after notice from the City Clerk to complete the petition by gathering signatures in the form required by state law, including but not limited to original signature, printed name, residence address and date of birth or voter registration of a number of registered voters equal to at least five percent of the voters who voted in the last general City election, or 7,500, whichever number is smaller. The petition must set forth the precise content of the ordinance desired by the petitioners.

The City Clerk shall review the petition without delay, but no more than 60 City Clerk office working days, to verify if it meets all requirements, and if authenticated with the required number of signatures, must place that ordinance on the agenda of a Council meeting to be held within thirty working days of the authentication by the City Clerk, of the petition bearing the authenticated names and addresses of the petitioners. Such an item shall be treated by the Council exactly as any other proposed ordinance.

If Council does not adopt, or adopts the proposed ordinance in an amended form, the City Council thereafter must place the proposed ordinance on the ballot at one of the next two

uniform elections, no later than the next citywide general election specified in State law meeting all deadlines. If the proposal receives the favorable vote of a majority of those voting in that election it shall thereupon become a City ordinance. Initiative ordinances adopted or approved by the electors shall be published and may be amended or repealed by the Council, as in the case of other ordinances; provided, however, that no ordinance adopted at the polls under an initiative may be amended or repealed by the Council within two years of adoption.

The Council is not obliged to consider the same ordinance initiated by petition, or one that is substantially the same, more often than once in: two years.

Ballot Proposition

FOR () Should section 3.11 relating to the initiative petition of the City Charter be amended to remove the requirement for a second petition, and institute a process for the public to initiate a City ordinance?

AGAINST ()

AMENDMENT G
Text of Amendment

Amending Section 6.1-4 of the City Charter, relating to Civil Service qualifications to read in pertinent part as follows:

Section 6.1-4 QUALIFICATIONS.

Members of the Commission must be residents of the City at the time of their appointment and remain a resident of the City throughout their term of office. No Commissioner shall be related in any manner described in Article III, Section 3.3 B to any employee of the City, the Public Service Board, or any entity that has a contract with the City to operate or manage any City facility or department, nor hold any salaried public office or other employment compensated by the City, and any violation of this provision shall be deemed malfeasance in office and cause for removal therefrom. The City should adopt rules that reflect the diversity of the community and City workforce. No more than three Commissioners may be former city employees, and any such Commissioners are not eligible for appointment until two years following separation from the City. Any commissioner may be either actively employed or retired.

Ballot Proposition

FOR () Should 6.1-4 of the City Charter be amended to change the qualifications requirements for Civil Service Commissioners to allow for the appointment of Commissioners that reflect the diversity of the community and City workforce?

AGAINST ()

AMENDMENT H

Text of Amendment

Amending Section 6.7-1 and 6.8-1 of the City Charter, relating to penalty for deceit in examinations, examinations and eligibility to read in pertinent part as follows:

Section 6.7-1 (Reserved.)

Section 6.8-1 EXAMINATION AND ELIGIBILITY

The Human Resources Director shall establish administrative policies and procedures for the promotion process, and eligibility, consistent with the provisions of this Article and all applicable federal and state employment laws.

Ballot Proposition

FOR () Should Section 6.7-1 be deleted and 6.8-1 relating to Examinations of the City Charter be amended to remove the requirement for examinations and allow the City to establish Civil Service Rules, policies and procedures for the promotion of City employees?

AGAINST ()

AMENDMENT NO. I

Text of Amendment

Amending Section 6.13-11D of the City Charter, relating to pensions plans to read in pertinent part as follows:

Section 6.13-11D PENSION PLANS.

Firemen and Policemen Pension Fund of El Paso. The City shall continue to augment the Firemen and Policemen Pension Fund of El Paso in a manner consistent with the laws of Texas. To augment the Firemen and Policemen Pension Fund, the Council shall in each fiscal year beginning after May 2023, appropriate no less than eighteen percent of the total amount expended for wages of the participants, and may increase this contribution rate as allowed by the relevant state law requirements based on a qualified actuary's report; provided, however, that in the event age limits for participation in the pension fund, or any division of the fund, are increased as permitted by law and the raising of the age limits causes an increase in funding costs as determined by an actuary, the City shall appropriate an amount equal to such cost increase notwithstanding that such increased appropriation may exceed the otherwise determined percent of the total amount expended for wages of the participants. Notwithstanding the foregoing, if the City elects to pick up participant contributions to the Firemen and Policemen Pension Fund of El Paso under Section 414(h) of the Internal Revenue Code of 1986, as amended (the "Code"), then

the participant contributions picked up by the City shall be derived from a corresponding reduction in participant cash salaries and treated as a contribution by the City solely for determining tax treatment of such contributions under the Code. The picked up contributions by the City shall not be considered a contribution or required contribution by the City for any other purpose, including the limitations for the total amount expended for salaries of the participants designated in this Section 6.13-11.D. Notwithstanding the foregoing, the City shall have the authority to contract with the Firemen and Policemen Pension Fund to make a one-time contribution (either in lump sum or installments) to the Firemen and Policemen Pension Fund solely for an underfunded liability as of December 31, 2003 or the date of contribution, under such conditions as the City in its sole discretion may require and provided that (a) such authority, action and/or contribution complies with the Firemen and Policemen Pension Fund plan documents and all applicable statutes, laws, rules and regulations, and (b) a binding written agreement between the City and the Firemen and Policemen Pension Fund has been reached regarding (i) the amount of such under-funded liability, if any, (ii) the amount to be contributed by the City for such under-funded liability, and (iii) procedures (including, if necessary, amendments to the Firemen and Policemen Pension Fund plan documents) for managing the Firemen and Policemen Pension Fund on a going forward basis.

Ballot Proposition

FOR () Should section 6.13-11D relating to the police and fire pension fund be amended to establish that the City of El Paso shall contribute to the El Paso Policemen and Firemen Pension Fund no less than eighteen percent of the total amount expended for wages of the participants, and any increase to the contribution rate shall be as allowed by state law?

AGAINST ()

AMENDMENT NO. J

Text of Amendment

Amending Section 3.20B of the City Charter, relating to the Chief Internal Auditor to read in pertinent part as follows:

Section 3.20B Internal Audit Function

1. The Council shall establish and create an internal audit function to ensure that appropriate internal audits will be performed in accordance with professionally recognized auditing standards of the operations of all City departments, offices, agencies and programs.
2. The function shall be staffed by a Chief Internal Auditor and such other appropriate positions as are authorized by the Council who shall report to the Chief Internal Auditor.
3. Consistent with the provisions of this Charter, the Council shall by ordinance or resolution provide for the powers and duties of the Chief Internal Auditor as needed for the performance of the function.

4. The Financial Oversight and Audit Committee shall maintain legislative oversight over the internal audit function as provided in Section 3.6 B.

5. On and after the effective date of this amendment, the Chief Internal Auditor shall be appointed and removed by, and report to the Council. The Chairman of the Financial Oversight and Audit Committee shall maintain operational oversight over the internal audit function. The City Manager shall be responsible for the implementation of any audit recommendations for changes to City administrative procedures and operations as requested by the Council.

Ballot Proposition

FOR () Should Section 3.20B of the El Paso City Charter be amended to change the reporting structure of the Chief Internal Auditor so the position reports directly to City Council?

AGAINST ()