

COUNCIL AGENDA – FEBRUARY 19, 2013

PUBLIC HEARING

SUBJECT: CONSIDERATION OF AN ORDINANCE ADDING PENALTY PROVISIONS TO THE MUNICIPAL CODE RELATED TO CHARTER SECTION 67 PERTAINING TO INTERFERENCE

SOURCE: ADMINISTRATIVE SERVICES DEPARTMENT

COMMENT: On January 15, 2013, the City Council directed staff to proceed with an Ordinance to amend the Municipal Code to add penalty provisions regarding Council interference in the administrative functions of the City. A copy of the January 15th staff report is herein provided for Council's reference. Because penalty provisions are proposed, staff was further directed to schedule a public hearing to receive public comments on the proposed ordinance.

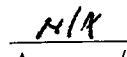
RECOMMENDATION: That the City Council:

1. Hold the public hearing to receive public comments;
2. Adopt the draft Ordinance of the City Council of the City of Porterville Adding Sections 2-6.1 and 2-6.2 to Chapter 2, Article I of the Porterville Municipal Code Regarding Council Manic Interference with Administrative Functions of the City;
3. Give first reading of the Ordinance; and order it to print.

ATTACHMENTS: 1. Staff Report of January 15, 2013
2. Draft Ordinance

Report No. 16


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COUNCIL AGENDA: JANUARY 15, 2013

SUBJECT: DRAFT ORDINANCE ADDING PENALTY PROVISIONS TO THE MUNICIPAL CODE RELATED TO PORTERVILLE MUNICIPAL CHARTER SECTION 67 (INTERFERENCE WITH PERFORMANCE OF DUTIES OF CITY MANAGER/POLITICAL ACTIVITIES OF COUNCIL MEMBERS, ADMINISTRATIVE OFFICERS AND EMPLOYEES)

SOURCE: City Attorney's Office/Ad Hoc Committee re Charter Issues

COMMENT: At the direction of the Council at prior City Council Meetings, the ad hoc committee consisting of Vice Mayor McCracken and Councilmember Ward met on multiple occasions to discuss a potential Charter Amendment addressing penalty and enforcement provisions for Charter violations, and potential alternatives or interim provisions including an ordinance provision imposing penalties for violations of Charter Section 67.

Per discussion with the committee, proposed ordinance language has been drafted by the City Attorney, that restates the proscriptions contained in Section 67 (including interference with the performance of duties of the City Manager) and specifies that violations of the Section would be subject to the general enforcement and penalty provisions contained in the Municipal Code – i.e. criminal citation as well as civil remedies. There are two proposed sections since Section 67 of the Charter also deals with restrictions on political activities of elected and appointed officials as well as City employees.

The committee also discussed the possibility of proposing the addition of a general penalty provision in the City Charter (covering all Charter violations). The cost of taking a proposed Charter measure to the ballot was much more expensive if done at a special election (estimated to cost approximately \$55,433 to \$59,128) than if done in November, 2013 (estimated to cost approximately \$40,651 to 44,346). The greatest savings to the City would likely be achieved if the Charter measure was done in conjunction with the City's General Election in June 2014. The City Clerk estimates the cost would likely be approximately \$20,000 to \$25,000 (in addition to the cost of the general election) depending on the number of amendments proposed. Given the cost, the committee believes any changes should be proposed for the June 2014 election.

ITEM NO. 12

ATTACHMENT 1

Additionally, the committee felt that the City Council may want to consider whether it wishes to propose any additional Charter amendments, as it will have been over ten years since the last comprehensive amendments were considered and approved by the voters.

RECOMMENDATION: The City Attorney/Committee is requesting that the City Council consider this report and the draft ordinance and provide further direction, including whether the Council wishes to consider the attached ordinance for first reading at a future City Council meeting.

ATTACHMENT: Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ADDING SECTIONS 2-6.1 AND 2-6.2 TO CHAPTER 2, ARTICLE I OF
THE PORTERVILLE MUNICIPAL CODE
REGARDING COUNCILMANIC INTERFERENCE WITH ADMINISTRATIVE
FUNCTIONS OF THE CITY

THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES ORDAIN AS
FOLLOWS:

Section 1. Code Amendment. Sections 2-6.1 and 2-6.2 are hereby
added to Chapter 2, Article I, of the Porterville Municipal Code, to read as
follows:

CHAPTER 2
ARTICLE I

Section 2-6.1. Interference with Performance of Duties of City Manager.

- (a) As set forth in Section 67 of the Porterville Municipal Charter, no member of the City Council shall in any manner attempt to influence or coerce the city manager in the making of any appointment or the purchase of supplies in accordance with applicable State and Federal law.
- (b) The City Council shall deal with the administrative functions of the City through the city manager. The City Council shall only have direct contact with the directors of the city's departments for the purpose of asking questions. No City Council member shall give an order or orders to any subordinate of the City under the jurisdiction of the City Manager or other such officers, either publicly or privately.
- (c) Violations of this Section shall be subject to the penalty and enforcement provisions set forth in this Municipal Code, including but not limited to Section 1-9.

Section 2-6.2. Political Activities of Council Members, Administrative Officers, and Employees.

- (a) As set forth (and unless otherwise specified) in Section 67 of the Porterville Municipal Charter, political activities of, and campaign contributions by, the City's legislative officers, administrative officers, and employees shall be governed in accordance with applicable State and Federal law.

- (b) All City legislative officers, administrative officers, and employees are prohibited from engaging in political activities during working hours.
- (c) All City officers and employees are prohibited from engaging in political activities at their work place. Furthermore, all City officers and employees are prohibited from engaging in political activities on City property, provided this prohibition does not pertain to property that is otherwise open to the public for the purpose of engaging in political activities.
- (d) Violations of the Section shall be subject to the penalty and enforcement provisions set forth in this Municipal Code, including but not limited to Section 1-9, in addition to any applicable State and Federal laws restricting said activities.

Section 3. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

Section 4. Effective Date. This Ordinance shall take effect thirty days after adoption as provided by Porterville Charter Section 12.

Section 5. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

PASSED, APPROVED AND ADOPTED, this ____ day of February, 2013.

Virginia R. Gurrola, Mayor

ATTEST:

John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk