

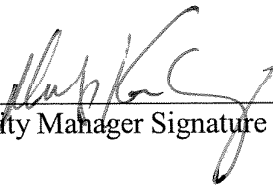
Office of the City Manager

TO BE DELIVERED AGENDA MATERIAL

Meeting Date: November 4, 2003

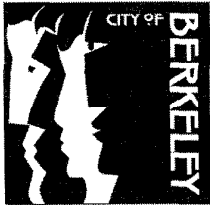
Item Number: 10

Item Description: Ballot Measure – Charter Amendment - Runoff Elections



City Manager Signature


(This cover sheet should be used only if the agenda item the material refers to was listed on the agenda as To Be Delivered)



Office of the City Manager

ACTION CALENDAR
November 4, 2003

To: Honorable Mayor and
Members of the City Council

From:  Phil Kamlarz, Acting City Manager

Subject: Draft text, ballot title and City Attorney's analysis of charter amendment delaying run-off election to February, with successful candidate assuming office March 1.

RECOMMENDATION

That Council: 1) determine which ballot measure or measures are to be placed on the March 2004 ballot, i.e. Option 1 (40% run-off trigger +delayed February run-off election) or Option 2 (delayed February run-off election only) or Option 3 (40% run-off trigger only); and 2) provide comments and direction on the text, title and City Attorney's analysis of such measures.

FISCAL IMPACT OF RECOMMENDATION

The City Clerk estimates that a Council run-off election in a single district costs approximately \$100,000 and a citywide run-off election for the office of Mayor and Auditor costs approximately \$300,000. Delaying the date of the run-off to February may result in savings up to half the cost of a run-off election, because about half of the costs incurred in a run-off election are expended even though no run-off actually occurs, because of the expedited timing of the election.

CURRENT SITUATION AND ITS EFFECTS

The Charter currently requires a run-off election for the office of Mayor, Councilmember and Auditor if no candidate receives at least 45% of the vote cast for that office at the November general municipal election. The run-off election must occur four weeks after the initial election. In 2004 the general election will be held on November 2, 2004 and any runoff election will be held on November 30, 2004.

A prior City Manager's report for the October 14, 2003 Council meeting described the many logistical problems and financial and administrative burdens caused to both the City and candidates by the run-off itself and as well as its expedited timing. They are not repeated here.

BACKGROUND

At its October 21, 2003 meeting the City Council asked the City Attorney to prepare charter amendments for placement on the March 2004 ballot that would reduce the threshold for a run-off election. Currently under the Charter, a run-off election is triggered if no candidate for the office of Mayor, Councilmember or Auditor receives at least 45% of the votes cast for that office, at the November general municipal election. The Council asked the City Attorney to prepare a charter amendment that would reduce this vote requirement from 45% to 40% in order to avoid the substantial costs of a run-off election. In addition, the Council asked the City Attorney to prepare a charter amendment to delay the run-off election to February of the year following the general municipal election, in order to reduce the costs of such an election. The Council further requested that the amendments be prepared both as a single charter amendment and as two separate charter amendments. In accordance with the Council's request, attached are three versions of a proposed charter amendment. Each version has an associated proposed text, ballot title and City Attorney's analysis. Option 1 combines the lowered 40% vote threshold and the delayed February run-off election. Option 2 contains only the delayed February run-off election. Option 3 contains the lowered 40% vote threshold.

The major impetus for the proposed changes embodied in the text of the charter amendments before you tonight, is to ensure that a runoff election is not called until it is determined that such election is necessary and to reduce or avoid altogether the hefty costs and significant administrative burden of conducting a run-off election. The Council determined to address the problem by reducing the vote requirement to be declared an outright winner from 45% of the votes cast to 40% of the votes cast and to delay the run-off election from four weeks after the initial election to approximately 12 weeks after the initial election to February of the following year, with the successful candidate in the run-off assuming office on March 1. The Council asked that it be provided with the option to either place a single charter amendment on the March ballot to accomplish both objectives or to propose two separate amendments to accomplish each objective. All proposals before you also contain some additional amending language in the nature of related clean up charter amendments.

At the Council's request, you have been provided with three options:

Option 1 Combines lowered 40% vote threshold with delayed February run-off date.

Option 2 Delayed February run-off only.

Option 3 40% run-off vote threshold only.

The Council could choose either Options 1 or 2 or 3 alone, or Options 2 and 3 together.

The Council should provide direction and comments to the City Attorney so that the text, title and analyses for these measures can be finalized for Council approval and the Council can call the special municipal election by November 25, 2004 in time to consolidate it with March 2004 primary election.

RATIONALE FOR RECOMMENDATION

The proposed amendments if adopted could result in a significant reduction in costs and administrative burdens both for the City and for candidates.

ALTERNATIVE ACTIONS TO BE CONSIDERED

The Council could choose to leave the Charter as is despite the attendant costs if it believed that either that higher vote threshold was important or an expedited run-off election was worth the extra costs and burdens.

CONTACT PERSON

Manuela Albuquerque, City Attorney 981-6950
Sherry Kelly, City Clerk 981-6900
Approved by:



MANUELA ALBUQUERQUE, City Attorney

TITLE - OPTION 1 -COMBINED MEASURE

[40% RUNOFF TRIGGER + FEBRUARY RUNOFF]

Shall the Charter of the City of Berkeley be amended to: require a run-off election for the offices of Mayor, Auditor and Councilmember, only if the leading candidate for such office received less than 40% of the votes; and delay the run-off to the following February with the successful candidate assuming office in March?

Financial Implications: Savings, between \$100,000 to \$300,000 if runoff avoided and savings of \$50,000 to \$150,000 if run-off delayed to February.

10/30/03

OPTION 1 COMBINED MEASURE

TEXT OF CHARTER AMENDMENT REDUCING RUN-OFF VOTE THRESHOLD FROM 45% TO 40% AND CHANGING DATE OF RUN-OFF FROM DECEMBER TO FEBRUARY

The People of the City of Berkeley hereby amend the Charter of the City of Berkeley to read as follows:

Section 1- Votes to Trigger Run-off

Article V section Section 9, the second last paragraph shall be amended to read as follows:

The candidate receiving the highest number of votes for the offices, respectively, of Mayor, Auditor and Councilmembers of the City shall be elected to such offices, provided that such candidate receives at least ~~45%~~ 40% of the votes cast for each such office. In the event that no candidate for Mayor, Auditor and Councilmember for one or more Council offices receives at least ~~45%~~ 40% of the votes cast for that office, then there shall be a run-off election between the two candidates receiving the most votes, which run-off election shall be held on the first Tuesday after the first Monday in February of the odd numbered year following ~~four weeks after~~ the initial election. No other issues shall appear on the ballot of any run-off election. The successful candidate in any run-off election shall assume office on March 1, after the election results have been declared by the Council.

Section 2 – Declaration of Results

Article III section 5(10) shall be amended to read as follows:

(10) Canvass of returns and declaration of results.

The City Council shall meet at its usual place of meeting ~~on the first Tuesday~~ as soon as practicable after the election, including any run-off election, to receive the certification of results prepared by the City Clerk. The City Clerk shall canvass the results of the election in accordance with procedures established in the State of California Elections Code. The persons having the ~~majority~~ number of voters required by this Charter for each elective office ~~of the votes given for Mayor, Auditor and for Councilmembers from each Council District, and the persons having the highest number of votes given for each other office,~~ shall be declared elected.

CITY ATTORNEY'S ANALYSIS - OPTION 1 -COMBINED MEASURE

[40% RUNOFF TRIGGER + FEBRUARY RUNOFF]

The proposed charter amendment would lower the vote threshold for triggering a run-off election to under 40%. Under current law, a run-off election is required if the candidate with the most votes for the offices of Mayor, Councilmember or Auditor fails to receive at least 45% of the total votes cast for the office. Under the proposed amendment a run-off election for these offices would only be triggered if the candidate with the most votes for each office fails to receive at least 40% of the votes cast for that office. The proposed charter amendment would make conforming changes to another section of the Charter concerning the Council's duty to certify election results. The charter amendment would also delay any run-off election from the December immediately after the November election to the first Tuesday in February of the next year and the successful candidate in such a run-off would assume office on March 1.

Financial Implications: The savings from avoiding a run-off election by lowering the vote threshold to 40% ranges between \$100,000 for a run-off election in a Council district, to \$300,000 for a citywide run-off election for Mayor or Auditor. The costs savings from delaying any run-off election from December to February ranges between \$50,000 for a Council run-off district election to \$150,000 for a citywide run-off election for Mayor or Auditor.

TITLE - OPTION 2 –RUN-OFF ONLY

Shall the Charter of the City of Berkeley be amended to delay the run-off election for the offices of Mayor, Auditor and Councilmember, to the following February with the successful candidate assuming office March 1?

Financial Implications: Savings, between \$50,000 to \$150,000 if run-off delayed to February.

OPTION 2-RUN-OFF ONLY

TEXT OF CHARTER AMENDMENT DELAYING RUN-OFF TO FEBRUARY

The People of the City of Berkeley hereby amend the Charter of the City of Berkeley to read as follows:

Section 1- Votes to Trigger Run-off

Article V section Section 9, the second last paragraph shall be amended to read as follows:

The candidate receiving the highest number of votes for the offices, respectively, of Mayor, Auditor and Councilmembers of the City shall be elected to such offices, provided that such candidate receives at least 45% of the votes cast for each such office. In the event that no candidate for Mayor, Auditor and Councilmember for one or more Council offices receives at least 45% of the votes cast for that office, then there shall be a run-off election between the two candidates receiving the most votes, which run-off election shall be held on the first Tuesday after the first Monday in February of the odd numbered year following four weeks after the initial election. No other issues shall appear on the ballot of any run-off election. The successful candidate in any run-off election shall assume office on March 1, after the election results have been declared by the Council.

Section 2 – Declaration of Results

Article III section 5(10) shall be amended to read as follows:

(10) Canvass of returns and declaration of results.

The City Council shall meet at its usual place of meeting on the first Tuesday as soon as practicable after the election, including any run-off election, to receive the certification of results prepared by the City Clerk. The City Clerk shall canvass the results of the election in accordance with procedures established in the State of California Elections Code. The persons having the majority number of voters required by this Charter for each elective office of the votes given for Mayor, Auditor and for Councilmembers from each Council District, and the persons having the highest number of votes given for each other office, shall be declared elected.

**CITY ATTORNEY'S ANALYSIS - OPTION 2 - DELAYED RUN-OFF
ONLY**

The proposed charter amendment would delay the run-off election for the offices of Mayor, Council and Auditor from the December immediately after the November election to the first Tuesday in February of the next year. The successful candidate in such a run-off would assume office on March 1. Under current law, a run-off election is required if no candidate for the office of Mayor, Council or Auditor receives at least 45% of the votes cast for that office at the November general municipal election. In such case, a run-off election must be held four weeks later between the two candidates receiving the highest number of votes for the office in which the run-off election is required.

Financial Implications: The costs savings from delaying any run-off election from December to February ranges between \$50,000 for a Council run-off district election, to \$150,000 for a citywide run-off election for the offices of Mayor and Auditor.

TITLE - OPTION 3 –40% ONLY

[40% RUNOFF TRIGGER]

Shall the Charter of the City of Berkeley be amended to require a run-off election for the offices of Mayor, Auditor and Councilmember, only if the leading candidate for such office received less than 40% of the votes?

Financial Implications: Savings, between \$100,000 to \$300,000 if runoff avoided.

10/30/03

10-29-03

OPTION 3 - 40% ONLY

**TEXT OF CHARTER AMENDMENT REDUCING RUN-OFF VOTE
THRESHOLD FROM 45% TO 40%**

The People of the City of Berkeley hereby amend the Charter of the City of Berkeley to read as follows:

Section 1- Votes to Trigger Run-off

Article V section Section 9, the second last paragraph shall be amended to read as follows:

The candidate receiving the highest number of votes for the offices, respectively, of Mayor, Auditor and Councilmembers of the City shall be elected to such offices, provided that such candidate receives at least ~~45%~~ 40% of the votes cast for each such office. In the event that no candidate for Mayor, Auditor and Councilmember for one or more Council offices receives at least ~~45%~~ 40% of the votes cast for that office, then there shall be a run-off election between the two candidates receiving the most votes, which run-off election shall be held four weeks after the initial election. No other issues shall appear on the ballot of any run-off election.

Section 2 – Declaration of Results

Article III section 5(10) shall be amended to read as follows:

(10) Canvass of returns and declaration of results.

The City Council shall meet at its usual place of meeting ~~on the first Tuesday~~ as soon as practicable after the election, including any run-off election, to receive the certification of results prepared by the City Clerk. The City Clerk shall canvass the results of the election in accordance with procedures established in the State of California Elections Code. The persons having the ~~majority~~ number of voters required by this Charter for each elective office ~~of the votes given for Mayor, Auditor and for Councilmembers from each Council District, and the persons having the highest number of votes given for each other office,~~ shall be declared elected.

CITY ATTORNEY'S ANALYSIS - OPTION 3 – 40% ONLY

[40% RUNOFF TRIGGER]

The proposed charter amendment would lower the vote threshold for triggering a run-off election to under 40%. Under current law, a run-off election is required if the candidate with the most votes for the offices of Mayor, Councilmember or Auditor fails to receive at least 45% of the total votes cast for the office. Under the proposed amendment a run-off election for these offices would only be triggered if the candidate with the most votes for each office fails to receive at least 40% of the votes cast for that office. The proposed charter amendment would make conforming changes to another section of the Charter concerning the Council's duty to certify election results.

Financial Implications: The savings from avoiding a run-off election by lowering the vote threshold to 40% ranges between \$100,000 for a run-off election in a Council district, to \$300,000 for a citywide run-off election for Mayor or Auditor.