

Attachment F

**CITY OF NEWPORT BEACH
CHARTER UPDATE COMMISSION STAFF REPORT**

Agenda Item No. 2
February 2, 2010

TO: HONORABLE MEMBERS OF THE CHARTER UPDATE COMMISSION

FROM: City Clerk's Office
Leilani I. Brown, City Clerk
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SUBJECT: CHARTER SECTION 414 – PUBLICATION OF ORDINANCES

RECOMMENDATION:

Recommend to the City Council that Charter Section 414 be removed and follow Government Code Section 36933.

DISCUSSION:

Attached is a "white paper" with relevant background information and suggested alternatives for the Commission to consider.

Submitted by:

Leilani I. Brown, MMC
City Clerk

Attachments: Section 414 White Paper
Charter Section 414
Government Code Section 36933

ORDINANCE PUBLICATION REQUIREMENTS

Statement of Issue:

Currently, Charter Section 414 requires that an ordinance be published in its entirety at least once in the official newspaper. However, publication of ordinances in their entirety can be extremely expensive. Government Code Section 36933 allows for summaries of ordinances to be published as a cost savings measure for local governments.

Relevant Background:

The California State Legislature has approved legislation to balance the need for public disclosure of local government ordinances with the need for cost savings. Government Code Section 36933 gives cities the ability to publish a summary of a proposed ordinance (ordinance for introduction), as long as a certified copy of the full text of the proposed ordinance is posted in the Office of the City Clerk at least five days prior to the City Council meeting at which the proposed ordinance will be considered. Section 36933 further requires that a summary of the adopted ordinance be published within 15 days after adoption and a certified copy of the ordinance to be posted in the Office of the City Clerk.

Currently, consistent with Government Code Section 40806, the City Clerk keeps a book marked "ordinances." In addition, the Office of the City Clerk scans the ordinances into the City's document imaging system. Both the original hard copy version and the scanned version are considered permanent records and are never to be destroyed. The scanned ordinances are also accessible via the City's webpage and, once the ordinance goes into effect, it is codified into the Newport Beach Municipal Code (NBMC), which is also available on the City's webpage.

The *Daily Pilot* is the current official newspaper of the City. The cost to have the ordinance introduction summary and the ordinance adoption summary published can range from \$100 to \$200 a summary. In 2008 and 2009, 49 ordinances were adopted. The cost to publish a two-page ordinance in its entirety is about \$400. Over the last two years, the 49 adopted ordinances totaled 712 pages, of which 18 ordinances were over 12 pages long. Publishing all of the ordinances in their entirety cost the City about \$142,400 during that two-year period. Publishing ordinance summaries would have cost the City about \$10,000, a significant cost savings.

In a survey conducted of Orange County cities, most municipalities only publish ordinance summaries. One city publishes ordinances in their entirety unless the ordinance is too lengthy. In such cases, a summary is published. One city only posts ordinances since there is not a newspaper of general circulation operating in the jurisdiction.

Alternatives:

Alternative 1: Remove Section 414 and follow Government Code Section 36933.

This alternative would allow the City to publish summaries of adopted ordinances and realize a significant cost savings, using the procedures set forth in Government Code Section 36933. All other procedures to ensure public disclosure of adopted ordinances would continue unchanged. Citizens who rely primarily on the printed newspaper for information would have to use the City's website or come to City Hall to read the full text of adopted ordinances.

Alternative 2: Do not amend Section 414 and continue to publish adopted ordinances in their entirety at least once in the official newspaper of the City.

This alternative will allow those residents who rely on the printed newspaper for text of adopted ordinances to continue to obtain the information in this manner. However, the City would not be able to realize any cost savings associated with the publishing of ordinances summaries. Further, this alternative is not the standard practice followed by most other cities in Orange County.

NEWPORT BEACH CHARTER SECTION 414

Section 414. Ordinances. Publication.

The City Clerk shall cause each ordinance to be published at least once in the official newspaper within fifteen days after its adoption.

GOVERNMENT CODE SECTION 36933

36933. (a) Within 15 days after its passage, the city clerk shall cause each ordinance to be published at least once, with the names of those city council members voting for and against the ordinance, in a newspaper of general circulation published and circulated in the city, or if there is none, he or she shall cause it to be posted in at least three public places in the city or published in a newspaper of general circulation printed and published in the county and circulated in the city. In cities incorporated less than one year, the city council may determine whether ordinances are to be published or posted. Ordinances shall not be published in a newspaper if the charge exceeds the customary rate charged by the newspaper for publication of private legal notices, but these ordinances shall be posted in the manner and at the time required by this section.

(b) Except as provided in Section 36937, an ordinance shall not take effect or be valid unless it is published or posted in substantially the manner and at the time required by this section.

(c) The publication or posting of ordinances, as required by subdivision (a), may be satisfied by either of the following actions:

(1) The city council may publish a summary of a proposed ordinance or proposed amendment to an existing ordinance. The summary shall be prepared by an official designated by the city council. A summary shall be published and a certified copy of the full text of the proposed ordinance or proposed amendment shall be posted in the office of the city clerk at least five days prior to the city council meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, the city council shall publish a summary of the ordinance or amendment with the names of those city council members voting for and against the ordinance or amendment and the city clerk shall post in the office of the city clerk a certified copy of the full text of the adopted ordinance or amendment along with the names of those city council members voting for and against the ordinance or amendment; or

(2) If the city official designated by the city council determines that it is not feasible to prepare a fair and adequate summary of the proposed or adopted ordinance or amendment, and if the city council so orders, a display advertisement of at least one-quarter of a page in a newspaper of general circulation in the city shall be published at least five days prior to the city council meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, a display advertisement of at least one-quarter of a page shall be published. The advertisement shall indicate the general nature of, and provide information about, the proposed or adopted ordinance or amendment, including information sufficient to enable the public to obtain copies of the complete text of the ordinance or amendment, and the names of those city council members voting for and against the ordinance or amendment.