

Appendix L

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

Agenda Item No. 3
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 419 – PUBLICATION OF LEGAL NOTICES

RECOMMENDATION:

Recommend to the City Council that Charter Section 419 be removed and handle legal advertising as a contract or purchase agreement.

DISCUSSION:

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

Submitted by:

Leilani I. Brown
City Clerk

Attachments: Section 419 White Paper
Charter Section 419

PUBLICATION OF LEGAL NOTICES

Statement of Issue:

Charter Section 419 requires the City Clerk to go out to bid annually for publication of legal notices. Legal notices include Public Hearing Notices, Notices of Vacancies, and Notices Inviting Bids. Annual bidding is not the City's current practice for other similar professional service agreements. For professional service agreements, the standard timeframe between bids ranges between three and five years.

The annual bidding process for legal notices has not produced any noticeable savings and has created a difficult administrative burden on the City Clerk's Office. A survey of Orange County cities revealed that cities generally publish legal notices in a local newspaper that is a subsidiary of the *Orange County Register* or the *Los Angeles Times*. In some cases, cities do not publish legal notices at all in a newspaper of general circulation, but post the notices in three public locations instead.

Relevant Background:

For the last 18 fiscal years, the *Daily Pilot*, a subsidiary of the *Los Angeles Times*, has published the City's legal notices. Publishing a legal notice in the classified section costs \$9.50/column inch, which has been the *Daily Pilot's* rate since FY 1999-2000. Under the annual bidding process, normally only the *Daily Pilot* and the *Orange County Register* have submitted bids. Legal notices are also posted at City Hall, in the City Clerk's Office, and on the City's webpage.

The current annual bid process for legal notices consists of:

- Preparing a staff report for the City Council requesting authorization to advertise for bids
- Advertising the Notice Inviting Bids twice at a total cost of \$180
- Posting of the Notice Inviting Bids in two locations
- Mailing the three bid packages to all the newspapers of general circulation published and circulated in the City of Newport Beach
- Evaluating bids submitted to compare costs and identify recommended vendor
- Preparing a staff report to the City Council to award the bid to the recommended vendor

Alternatives:

Alternative 1: Amend Section 419 to require the City Clerk to go out to bid at an interval to be determined by the City Council, rather than annually, for contracting out of publication of legal notices.

This alternative remains consistent with the intent of the existing Charter Section to go out to bid for the service, but delegates the authority to the City Council to determine an appropriate bid interval based on best practices, the state of the print media industry, etc. The bidding process would remain the same but would allow the bid price to be established for longer periods of time. Maintaining bidding requirements by City charter provides less flexibility to bid and negotiate an appropriate contract as the print media industry continues to decline. The City has existing policies and procedures for the procurement of professional service agreements which achieve the same results without a Charter requirement.

Alternative 2: Remove Section 419 from the City Charter and handle legal advertising as a contract or purchase agreement.

This alternative would allow the City Clerk to handle the publication of legal advertising as a standard professional services agreement governed by the existing regulations and policies of the City. The bidding process would stay the same, but would be timed to be consistent with best practices for such services. With print media in decline as an industry, this alternative also provides greater flexibility to increase or decrease the timeframe between bids depending on the number of local newspapers operating in the City.

CHARTER SECTION 414 – Publishing of Legal Notices

Section 419. Publishing of Legal Notices.

In the event that there is more than one newspaper of general circulation published and circulated in the City, the City Council, annually, prior to the beginning of each fiscal year, shall publish a notice inviting bids and contract for the publication of all legal notices or other matter required to be published in a newspaper of general circulation in said City, during the ensuing fiscal year. In the event there is only one newspaper of general circulation published and circulated in the City, the City Council shall have the power to contract with such newspaper for the printing and publishing of such legal notices or matter without being required to advertise for bids therefor. The newspaper with which any such contract is made shall be designated the official newspaper for the publication of such notices or 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 and circulated in the City, then all legal notices or other matter may be published by posting copies thereof in at least three public places in the city.

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