



PART 3 OF A SERIES

P is for Puzzle

Know the facts before you vote to change Del Mar's constitution (AKA Charter)

Del Mar's **Measure P Charter Amendment**; walk around town and ask neighbors if they know why Measure P is on the ballot. The answer is likely "no – what the heck is Measure P?" Totally understandable as this was **at one time Item #75 on the list of City Priorities with virtually no discussion or information** being provided by the City. In an attempt to put the puzzle pieces together - here's a few things we learned along the way in our P investigation.

Measure P is Mayor Worden's idea with support from Councilmember Haviland. The idea was first brought to the City Council on April 2, 2018 and has been "fast tracked" by the City Council so it could be placed on the November ballot. To our knowledge, apart from a couple of City Council meetings with minimal discussion, the only other conversations have been held in organized private gatherings. With this selective approach, we learned that the proposed amendment is being promoted as giving our City more "local control."

That of course sounds good. However, this spoon feeding of an important issue to the exclusion of the general voting public base begs the question: - **In pushing for Measure P, has Mayor Worden and the City Council acted in a manner that gives all citizens the full picture of this Charter amendment?**

This question would likely be answered by a Ballot Argument Against Measure P. However, **(and this is important) there is NO Ballot Argument Against Measure P** even though the City Council authorized one to be prepared and made part of the ballot at its July 16, 2018 meeting. At that meeting, Councilmember Parks accepted the responsibility of writing the Ballot Argument Against Measure P. In accepting that responsibility, Councilmember Parks said "I would actually ask Dwight to write it" (Minute 3:24:37). In response, **Mayor Worden said "I will write you (Parks) a draft" (Minute 3:24:40). Remember, Mayor Worden created Measure P.**

Despite the City Council agreeing there should be a Ballot Argument Against Measure P, **NONE** has been prepared and citizens voting by mail or at the ballot box **will not have the benefit of such an analysis.**

The City's pitch of "local control" fails to educate citizens of whether Measure P will actually provide more local control than what we have today as well as the potential shortcomings of Measure P. Right now, the **only way** citizens will be educated is if they read the Ballot Argument In-Favor and the City Attorney Impartial Analysis.

<http://www.delmar.ca.us/DocumentCenter/View/3716/Measure-P---Ballot-Argument-In-Favor-of-Charter-Amendment?bidId=>
<http://www.delmar.ca.us/DocumentCenter/View/3713/Measure-P---City-Attorney-Impartial-Analysis---Charter-Amendment>

These documents fail to answer the following questions:

- ❖ Will Measure P **actually** increase local control from what Del Mar has today, and if so, **who/what exactly will have additional powers?**

- ❖ What are these additional powers **needed for?**
- ❖ Will Measure P provide **any greater protection against future State laws regarding land use, housing and zoning?**
- ❖ Does Measure P have **any shortcomings?**

When there is a proposed amendment to our constitution no matter how we feel, it is incumbent on the City Council to present arguments both for and against that amendment. The City Council has failed to present any argument against P...zippo. Since the City Council failed to fulfill its responsibility in preparing the Ballot Argument Against Measure P, **the Del Mar Woodpecker will provide some arguments against Measure P for you** to consider with the caveat of we may not be seeing the fox in the hen house.

Arguments Against Changing Del Mar’s Charter:

Various state laws that protect citizens could be eliminated by new Del Mar ordinances enacted under the Charter Amendment:

- ❖ State law requires a majority of Councilmembers for a quorum and a majority vote on virtually all ordinances and resolutions. The Charter Amendment would allow the City to change this.
- ❖ State law requires passage of ordinances at regular City Council meetings. The Charter Amendment would allow the City to adopt any procedure for enacting an ordinance.
- ❖ State law requires minimum qualifications for City Councilmembers (e.g. age, citizenship, residency etc.). The Charter Amendment would allow the City to adopt any criteria provided it does not violate the U.S. Constitution.
- ❖ State law establishes dates, rules and procedures for elections. The Charter Amendment would allow the City to change dates, rules and procedures (e.g. City could implement hybrid voting systems and cumulative/ranked choice voting).
- ❖ State law has restrictions on the imposition of assessments. The Charter Amendment would give the City broader assessment powers.
- ❖ State law prohibits imposition of real property transfer tax. The Charter Amendment would allow the City to impose a real property transfer tax so long as it does not violate the state Constitution.

Del Mar's original 1959 Charter has never been changed and has served us well for almost 60 years.

There is no need for additional “home rule” as Del Mar has been free for decades to exercise control of its zoning, planning, housing and other land use matters. The City has not shown or provided any examples of how the amendment will actually provide our City any greater protection from State laws related zoning than we currently have. So why change something that we already have that has worked for 60 years?

The Charter Amendment gives Del Mar authority over “municipal affairs” a/k/a home rule.

Determining what is and is not a “municipal affair” is not always straightforward. The California Constitution does not define “municipal affair.” It does, however, set out a nonexclusive list of four “core” categories that are, by definition, municipal affairs. These categories are:

1. Regulation of the city police force;
2. Sub-government in all or part of a city
3. Conduct of city elections; and
4. The manner in which . . . municipal officers [are] elected.

Beyond this list, it is up to the courts to determine what is and is not a municipal affair. Since the question of what is a municipal affair is subject to judicial interpretation, it is difficult to predict how courts will rule on this issue going forward. For example, older court decisions found housing to be a local affair, but later decisions have found housing, especially affordable housing, to be a statewide concern.

*Supporting positive change in the best
interest of the entire Del Mar Community.
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The concept of greater local control under a Charter Amendment is complex and will create greater areas of uncertainty regarding the City Council interpretation of what is or is not a “municipal affair”

There will be additional controversies and perhaps challenges in our community relating to the adoption and enforcement of “municipal affairs”. This will likely lead to unforeseen and unintended consequences that will continue to divide and negatively impact our community and citizens.

All California cities, both Charter and General Law, must follow land use matters of "state-wide concern".

The proposed Charter Amendment would not change this or create any exemption for Del Mar. Therefore, Del Mar will still be subject to laws like the Coastal Act and California’s affordable housing laws.



Regardless of how you vote on Measure P, remember expansion of Del Mar’s charter power can make our City better, or it can make it worse. It all depends on who’s in charge.

Your Vote Has the “P”ower!

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