

## FULL TEXT OF MEASURE B-11

### RESOLUTION NO. 10264 (2011 Series)

#### A RESOLUTION OF THE CITY OF SAN LUIS OBISPO ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A PROPOSED CHARTER REPEAL MEASURE AT AN ALL MAILED BALLOT SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, AUGUST 30, 2011 AS CALLED BY RESOLUTION NO. 10263 (2011 SERIES)

**WHEREAS**, a All Mailed Ballot Special Municipal Election for the purpose of placing two City measures before the voters has been called on Tuesday, August 30, 2011 by Resolution No. 10263 (2011 series), adopted on May 17, 2011; and

**WHEREAS**, the City Council has the authority to submit a Charter repeal measure to the electorate pursuant to the authority of Article XI of the Constitution, Title 4, Division 2, Chapter 3 of the Government Code, Division 9, Chapter 3, Article 3 (commencing at section 9255) of the Elections Code of the State of California, City Charter Sections 301 and 303, and Ordinance Number 1559 (2011 Series); and

**WHEREAS**, the City Council finds and declares that it is in the best interest of the City, consistent with principles of sound management and fiscal responsibility, and to the fullest extent permitted by State law, to vest in the duly elected City Council final decision making authority over and management of the City's employee agreements governing wages, hours or terms and conditions of City employment; and

**WHEREAS**, City Charter Section 1107 ("Impartial and Binding Arbitration for San Luis Obispo Police Officers Association and San Luis Obispo Firefighters Association, IAFF Local 3523, Employee Disputes") currently mandates an impasse resolution procedure for disputes between the City and its public safety employees over wages, hours or terms and conditions of City employment, which differs from the usual dispute resolution process established by state law for public employees, and which removes final decision making authority over such disputes from the City Council, as set forth in relevant part below:

(D) Impasse Resolution Procedures.

(1) All disputes, controversies and grievances pertaining to wages, hours or terms and conditions of City employment which remain unresolved after good faith negotiations between the City and said employee organization shall be submitted to a three-member Board of Arbitrators upon the declaration of an impasse by the City or by said employee organization. Upon declaration of impasse by either party, the City and employee organization shall each exchange a written last offer of settlement on each of the issues remaining in dispute. Written last offer of settlement shall be exchanged between parties within two days of the declaration of impasse.

(2) Representatives designated by the City and representatives of the employee organization shall each select and appoint one arbitrator to the Board of Arbitrators within three (3) business days after either party has notified the other, in writing, of the declaration of impasse and the desire to proceed to arbitration. The third member of the Board of Arbitrators shall be selected by agreement between the City's and the employee's organization representative within ten (10) business days of the declaration of impasse. This third member shall serve as the neutral arbitrator and Chairperson of the Board. In the event that the City and the employee

organization cannot agree upon the selection of the neutral arbitrator within ten (10) business days from the date that either party has notified the other that it has declared an impasse, either party may then request the State Mediation and Conciliation Service of the State of California Department of Industrial Relations to provide a list of seven (7) persons who are qualified and experienced as labor arbitrators. If the arbitrators selected by the City and the employee organization cannot agree within three (3) days after receipt of such list on one of the seven (7) to act as the third arbitrator, they shall have five (5) business days to alternately strike names, with the City's arbitrator striking first, from the list of nominees until one name remains and that person shall then become the neutral arbitrator and Chairperson of the Board of Arbitrators.

(3) Any arbitration proceeding convened pursuant to this Article shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure. The Board of Arbitrators shall hold public hearings, receive evidence from the parties and cause a transcript of the proceedings to be prepared. The Board of Arbitrators may adopt by unanimous consent such other procedures that are designed to encourage an agreement between the parties, expedite the arbitration hearing process, or reduce the costs of the arbitration process.

(4) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the Board of Arbitrators shall direct each of the parties to submit, within such time limit as the Board of Arbitrators may establish, but not to exceed thirty (30) business days, a last offer of settlement on each of the remaining issues in dispute. The Board of Arbitrators shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to the following: changes in the average consumer price index for goods and services using the San Francisco-Oakland-San Jose index, as reported at the time impasse is declared for the preceding twelve (12) months, the wages, hours, benefits and terms and conditions of employment of employees performing similar services in comparable cities; and the financial condition of the City of San Luis Obispo and its ability to meet the costs of the decision of the Board of Arbitrators.

(5) After reaching a decision, the Board of Arbitrators shall mail or otherwise deliver a true copy of its decision to the parties. The decision of the Board of Arbitrators shall not be publicly disclosed and shall not be binding until ten (10) days after it is delivered to the parties. During that ten (10) day period the parties shall meet privately, attempt to resolve their differences, and by mutual agreement amend or modify the decision of the Board of Arbitrators. At the conclusion of the ten (10) day period, which may be extended by mutual agreement between the parties, the decision of Board of Arbitrators, as it may be modified or amended by the parties, shall be publicly disclosed and shall be binding on the parties. The City and the employee organization shall take whatever action is necessary to carry out and effectuate the arbitration award. No other actions by the City Council or by the electorate to conform or approve the decision of the Board of Arbitrators shall be permitted or required.

(6) The expenses of any arbitration proceeding convened pursuant to this Article, including the fee for the services of the chairperson of the Board of Arbitrators and the costs of preparation of the transcript of the proceedings shall be borne equally by the parties. The expenses of the arbitration, which the parties may incur individually, are to be borne by the party incurring such expenses. Such expenses include, but are not limited to, the expense of calling a party's witnesses, the costs incurred in gathering data and compiling reports, and any expenses incurred by the party's arbitrator. The parties may mutually agree to divide the costs in another manner.

(7) The proceedings described herein shall supersede the dispute resolution process for the San Luis Obispo Police Officers Association and the San Luis Obispo Firefighters Association which is set forth in Sections 13.2 and 14.1 of City of San Luis Obispo Resolution No. 6620, to the extent that such language is in conflict with this amendment. Furthermore, the proceedings described herein shall supersede any language within the Employer-Employee Resolution, the Personnel Rules and Regulations, any Memorandum of Agreement with the employee associations or any written policy or procedure relating to wages, hours or other terms and conditions of City employment, to the extent that such language is in conflict with this amendment. However, nothing in this section shall preclude the parties from mutually agreeing to use dispute resolution processes other than the binding arbitration process herein set forth. Nor, does it preclude the parties from negotiating, and submitting to the arbitration process set forth herein, a grievance process, which includes a form of binding arbitration that differs from the one, set forth herein.

**WHEREAS**, the City Council of the City of San Luis Obispo desires to submit to the voters a measure to repeal Section 1107 of the Charter of the City of San Luis Obispo in its entirety, the approval of which would result in the City's public safety employees being governed by the same State law dispute resolution procedures applicable to other represented public employee groups.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN LUIS OBISPO DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1:** The City Council of the City of San Luis Obispo hereby proposes on its own motion that a measure repealing in its entirety Section 1107 ("Impartial and Binding Arbitration for San Luis Obispo Police Officers Association and San Luis Obispo Firefighters Association, IAFF Local 3523, Employee Disputes") of the Charter of the City of San Luis Obispo be submitted to the voters at the Special All Mailed Ballot Municipal Election to be held on August 30, 2011.

**SECTION 2:** That the City Council, pursuant to its right and authority, does order submitted to the voters at the Special All Mailed Ballot Municipal Election on Tuesday, August 30, 2011, the following question:

Shall San Luis Obispo Charter Section 1107 ("Impartial and Binding Arbitration for San Luis Obispo Police Officers Association and San Luis Obispo Firefighters Association, IAFF Local 3523, Employee Disputes") be repealed in its entirety, leaving resolution of disputes over wages, hours, or working conditions, which	Yes
	No

remain unresolved after good faith negotiations between the City and the two covered organizations, subject to the same State law procedures for impasse resolution that govern other public employee organizations?	
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**SECTION 3.** That the City Council authorizes any and all members of the City Council to file written arguments in favor of the measure in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and to change the argument until and including the date fixed by the City Clerk after which no arguments for or against the measure may be submitted to the City Clerk.

**SECTION 4.** That the City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, who shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

**SECTION 5.** That in all particulars not recited in this resolution or Ordinance Number 1559 (2011 Series), the election shall be held and conducted as provided by law for holding municipal elections.

**SECTION 6.** That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

**SECTION 7.** That the City Clerk shall certify to the passage and adoption of this resolution.

**SECTION 8.** That the City Clerk is hereby directed to file a certified copy of this resolution with the San Luis Obispo County Board of Supervisors and Clerk-Recorder.

Upon motion of Council Member Smith, seconded by Council Member Carpenter, and on the following vote:

- AYES: Council Members Carpenter, Carter, and Smith and Mayor Marx
- NOES: Vice Mayor Ashbaugh
- ABSENT:

The foregoing resolution was adopted this 17th day of May 2011.