

# REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 09/01/2009

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**SUBMITTED TO:** HB Charter Review Commission

**SUBMITTED BY:** Mark D. Bixby, Charter Review Commissioner *MDB*

**SUBJECT:** Amend charter section 615 (Granting of Franchises) to impose minor restrictions.

**Statement of Issue:** Improves accountability and fiscal prudence by requiring determinate franchises that do not exceed a maximum term. Improves transparency by forbidding the granting of franchises by emergency ordinance.

**Recommended Action: Motion to:**

Amend Huntington Beach charter section 615 as follows:

The City Council shall by ordinance regulate the granting of franchises for the City. Every franchise shall state the term for which it is granted, which shall not exceed twenty five years. No franchise shall be granted by emergency ordinance.

**Alternative Action(s):**

Approve the recommended action, but alter the maximum franchise term.

**Analysis:**

Recent city practice appears to favor determinate franchise terms of fifteen to twenty five years. The longest determinate franchises I have been able to locate in city records are for forty year terms, the last being granted back in 1970.

I have only been able to find three indeterminate franchises, which were all granted during the period 1949 through 1961. An indeterminate franchise is one of no fixed term, whereby the agreement is terminated by the grantee abandoning the franchise, the city or some other government entity doing a voluntary buyout of the franchise, or by the city or some other government entity exercising eminent domain over the franchise.

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Most Huntington Beach city franchises are for petroleum or gas products for which the market value has increased dramatically in recent years and can be expected to increase further in the future. By limiting franchises to a maximum of twenty five years, the city will have the option of renegotiating pricing to reflect future market conditions at renewal time rather than being stuck for extra decades at pricing that is no longer favorable to the city. Several other city charters limit their franchises to determinate terms of various lengths.

Several city charters also forbid the granting of franchises by emergency ordinance. Due to the long-term duration of franchise agreements and the amount of money involved, franchises should always be granted by regular ordinances in order to provide for maximum transparency of these agreements.