

3/6/18

item 5



City of Santa Clara

City Clerk Vacancy

Options to consider

March 6, 2018



Background

- City Clerk Diridon, Jr. resigned on February 6, 2018 creating an immediate vacancy
- Council appointed Jennifer Yamaguma as acting City Clerk to ensure continuity of clerk functions under Charter section 903 (City Clerk; Powers and Duties)
 - *“The City Council may, in its discretion, appoint any other officer or employee of the City as City Clerk and grant such person additional compensation for the performance of such duties.”*

Background (con't)

- At the February 13 meeting, Council was presented with options for filling the position of the City Clerk under Charter section 703 (Vacancies):
 - Council may appoint a City Clerk who will serve until the November 2018 election
 - Leave the elective office unfilled until November 2018 and the duties of the City Clerk would continue to be performed by the person appointed by Council under Section 903 until the election occurs
 - Council may place a Charter Amendment eliminating the City Clerk as an elected position on the June ballot.
 - Reduce the duties of the elected City Clerk to the ceremonial duties and appoint a person with the requisite skills and clarification to perform the duties as appointed under Section 903. The ceremonial position would be elected and if the duties were not extensive, Council may/should revise the salary.

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Council Direction from Feb. 13

- Council directed staff to:
 - Return with a potential ballot draft Charter amendment related to the position of the City Clerk to include on the June 5, 2018 ballot, including alternative language for consideration
 - Clarify any potential conflict with the By-District Council Elections & Voting Method Ballot Measure already approved for the June 5, 2018 election
 - Conduct outreach utilizing social media and other tools to encourage public participation/feedback on the potential draft ballot measure(s); and
 - Provide background information on previous Charter amendment ballot measures relative to the position of elected City Clerk and information from the recent Charter Review Committee.

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Background

- Based on Council direction from February 13 meeting, staff has prepared alternative ballot questions with relation to the City Clerk position.
- If Council chooses to add a ballot question changing the office of City Clerk to an appointed position, the previously approved district election ballot question will need to be amended to remove reference to the city clerk
- Regardless of the City Clerk ballot question, Council may also elect to amend the district election question based on feedback received

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Background (con't)

- An Open City Hall topic on proposed ballot measure questions was opened and promoted through social media and the City's website (all comments included in the agenda packet)
- Previous Charter Review Committee Minutes show the Committee voted to retain the City Clerk as an elected position
- The last time a ballot measure was considered to move from City Clerk from appointed to elected was 1952.
- In addition, for due diligence, staff sought advice from ballot measure experts

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Option 1: Fill City Clerk Vacancy

- Council may appoint a City Clerk under Charter Section 703, before March 8 who would serve until the November 2018 election
- Any such appointment must be by a 4/5s vote of the Council (6 votes)
- The appointee must be a resident and a qualified registered elector.

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Charter Amendment Options 2A and 2B: City Clerk

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Current District Election & Voting Method Ballot Question

- **BY-DISTRICT COUNCIL ELECTIONS & VOTING METHOD.** Shall the City Charter be amended to change how Council Members are elected by: dividing the City into two districts beginning in 2018 each represented by three Council Members; and by changing the method of election beginning in 2020 for all elected officials (including Council Members, Mayor, City Clerk, and Police Chief) to a form of ranked choice voting known as "single transferrable vote"?

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Alternative Ballot Question 1

- If the Council chooses to submit a ballot question that changes the City Clerk to an appointive office, the District Election & Voting Method ballot question must be amended to remove reference to the City Clerk.
- **BY-DISTRICT COUNCIL ELECTIONS & VOTING METHOD.** Shall the City Charter be amended to divide the City into two districts beginning in 2018, each represented by three Council Members, and to change the method of election beginning in 2020 for all elected officials to a form of ranked choice voting?

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Alternative Ballot Question 1A

- Based on professional expertise, including input from Fair Vote, an additional ballot measure for district elections is being offered:

DISTRICT COUNCIL ELECTIONS/VOTING METHOD. Shall the City Charter be amended: to establish two districts starting in 2018 to be represented by three Council Members each; and, starting in 2020, to use ranked choice voting to allow voters to rank candidates in order of choice to determine the winners of elections of all locally-elected city officers, including Mayor?

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Measure 2A: City Manager Appoints City Clerk

- Proposed ballot question:
CITY ELECTIVE OFFICERS. Shall the City Charter be amended to make the City Clerk an appointed position instead of an elective officer?
- The Charter would be amended to delete all references to the City Clerk as an elective officer
- The duties of the City Clerk would continue to be performed by the person appointed by Council under Section 903 until election results are certified, after which Council would be able to appoint a City Clerk

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Measure 2B: Council Appoints City Clerk

- Proposed ballot question:
CITY ELECTIVE OFFICERS. Shall the City Charter be amended to make the City Clerk a City Council appointed position instead of an elective officer?
- The Charter would be amended to delete all references to the City Clerk as an elective officer and add it as a Council appointed officer under Section 900
- The duties of the City Clerk would continue to be performed by the person appointed by Council under Section 903 until election results are certified, after which Council would be able to appoint a City Clerk

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Additional Alternative – City Clerk

- Based on professional expertise, an additional ballot measure for the position of City Clerk is also being offered:
2c) "Santa Clara Charter Amendment. *Shall the office of City Clerk be appointive?*"

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Council Action Needed

- If Council chooses to adopt one of the Charter Amendment options it must take the following actions:
 - Adopt the required resolutions to call the Special Election, consolidate the election, and order the submission of both ballot measures and direct the City Attorney to prepare an impartial analysis for each; and
 - Decide if any Council members will draft an argument in favor of either measure (due March 13).

Option 3: Leave Elective Office Vacant

- Council may choose not to appoint a City Clerk and leave the elective office vacant.
- The duties of the City Clerk would continue to be performed by the person appointed to act under Section 903 until the November 2018 election.
- Direct staff to return with a resolution calling for an election to fill the vacancy in the November 2018 election.

Options for Council Action

- 1) Immediately appoint a City Clerk to fill the elective office of City Clerk until November 2018 election
- 2) Adopt requisite Resolutions that submits a ballot question relative to the City Clerk position, including an amended district election ballot question accordingly
- 3) Take no action and allow the elective office of City Clerk to remain vacant and call an election in November 2018 to fill the vacancy
- 4) Adopt requisite Resolutions that amend the district election ballot question

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Options for Council Action

- 5) Council may elect to authorize certain members of the Council to write an argument for any ballot measure.
 - The legislative body, or member or members of the legislative body authorized by that body (recommendation to designate up to 3 Council Members to avoid Brown Act issues); or
 - Any individual voter who is eligible to vote on the measure, or
 - Bona fide association of citizens, or
 - Combination of voters and associations, may file a written argument for or against any city measure (Elections Code 9282)
 - An argument shall not exceed 300 words in length
 - No more than five signatures shall appear with any argument (Elections Code 9283)

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Current	Proposed A	Proposed B
Shall the City Charter be amended to change how Council Members are elected by: dividing the City into two districts beginning in 2018 each represented by three Council Members; and by changing the method of election beginning in 2020 for all elected officials (including Council Members, Mayor, City Clerk, and Police Chief) to a form of ranked choice voting known as "single transferrable vote"?	Shall the City Charter be amended: to divide the City into two districts beginning in 2018 each represented by three Council Members; to change the method of election beginning in 2020, or as soon thereafter , for all elected officials (including Council Members, Mayor, and Police Chief) to a form of ranked choice voting known as "single transferrable vote"?	Shall the City Charter be amended: to establish two districts starting in 2018 to be represented by three Council Members each; and, starting in 2020, or as soon thereafter , to use ranked choice voting to allow voters to select candidates in order of choice to determine the winners of elections of all city officers, including Mayor?"

District Election Ballot Question


City Clerk Ballot Question

Proposed A	Proposed B	Proposed C
Shall the City Charter be amended to make the City Clerk an appointed position instead of an elective officer?	Shall the City Charter be amended to make the City Clerk a City Council appointed position instead of an elective officer?	Shall the office of City Clerk be appointive?"



**City of
Santa Clara**
The Gateway to Silicon Valley

3/6/2018

ITEM 5

Genevieve Yip

From: Dave Kadlecsek <dkadlecsek@igc.org>
Sent: Monday, March 05, 2018 6:06 PM
To: Mayor and Council
Subject: item 5 of March 6th City Council agenda

Categories: Red Category

Mayor Gillmor and Councilmembers,

I'm writing as a strong supporter of the proposal embodied in ballot Measure 1, to change how our city's elected officials are elected to use the single-transferable vote method proportional representation from two multi-member districts for the City Council and instant runoff voting for the Mayor's and other inherently single-winner offices. While I tend to lean against making the City Clerk an appointed position, I haven't made up my mind and am primarily concerned that having a proposal to do so on the same ballot might make it more difficult for the election methods measure to pass. I understand that you have already decided to do so, and that on March 6th you are only considering the language for two ballot measures, not whether to place both issues on the ballot, so I won't try in this email to convince you to change your minds about this question, except to note that doing so will avoid having to deal with many of the problems with the measures' language.

The changed language proposed by the City Attorney for Measure 1, with the language proposed for the two alternative measures 2A and 2B, appears as if it was deliberately intended to put all of the complexity related to the two issues and their interaction into Measure 1, thus making it less likely to pass, while making Measure 2 overly simple, thus making it more likely to pass. I can't read minds, so I don't know whether that actually was the intention, but it seems to be the result.

If either version of Measure 2 as put before you were to be placed on the ballot and adopted the voters, the city would be in the ridiculous situation of having language in several sections of the charter (600, 601, and/or 703, depending on whether Measure 1 also passes) that refer to the City Clerk as an elected office, while a new section 602 would say such references are to be deleted. Adopting such a measure would be using Dickensian caricatures of deliberately obfuscatory lawyers as models to follow, not to avoid.

If you are to put both measures on the June ballot, deal with their overlapping, but not contradictory, changes the same way the state legislature does, by "double-jointing". There, when two bills modify the same section of state law, each bill contains two versions of the changed section, one with just the changes it would have made if the other bill didn't exist, and one that makes both sets of changes, with a provision that the combined version goes into effect only if the other bill is also signed by the governor but first.

In this situation, the charter amendment to change election methods needs to modify sections 600 and 700.1 of the charter and to add a section 700.2 to the charter, and a charter amendment to make the City Clerk appointed needs to modify sections 600 and 703 of the charter (and also section 900 if the appointment is to be by the City Council rather than the City Manager). The proposed changes to an added section 700.2 and to the existing section 703 from the City Attorney are fine, but the changes to section 703 need to be in Measure 2, not Measure 1.

The only section for which "double-jointing" is necessary is section 600. Measure 1 should just have the language originally approved on January 30th, with an alternate version that deletes the City Clerk from the list of elected officers that is to go into effect only if Measure 2 also passes. Measure 2 should just have the current section 600 of the charter with City Clerk deleted from the list of elected officers, with an alternate version to go into effect only if Measure 1 also passes that is the same as Measure 1's alternate version.

Measure 1 is proposing to do something that is somewhat complex. Please don't undermine its chances of passage by making it even more complex, just to make a second measure on the same ballot appear to be simpler.

/Dave Kadlecsek
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POST MEETING MATERIAL