



AGENDA REPORT

Date: February 13, 2018

To: Honorable Mayor and City Council

From: City Attorney and Assistant City Manager

Subject: Options for the Position of City Clerk

EXECUTIVE SUMMARY

On February 6, 2018, the City Council was informed by the elected City Clerk, Rod Diridon, Jr., that he was resigning effective immediately. The Council, at the February 6, 2018 City Council meeting, accepted the resignation of elected City Clerk Rod Diridon, Jr. Given that the resignation became effective that evening, the City Council had to make an immediate appointment to ensure that City Clerk functions and duties were continued until the Council had the opportunity to review options for how to fill the vacancy. As a result, the Council appointed Jennifer Yamaguma to perform the City Clerk duties pursuant to Charter Section 903 (City Clerk; Powers and Duties).

The Council did not make an appointment under the provisions of Charter Section 703 (Vacancies), and instead requested that information on the options for filling the City Clerk position be brought forward for consideration by the council.

The purpose of this report is to explain the consequences of possible actions under Charter Section 703 and to seek Council direction on how to proceed.

Charter Section 703 Vacancies states:

A vacancy in any elective office of the City, including Mayor, City Council, Chief of Police Department, and City Clerk, from whatever cause arising, shall be filled by appointment by the City Council by a four-fifths (4/5) vote of the remaining members.

In the event the City Council shall fail to fill a vacancy by appointment within thirty (30) days after such office shall have been declared vacant, it shall forthwith cause an election to be held to fill such vacancy. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent, provided that if the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general municipal election, the person appointed to fill the vacancy shall hold office until the next general municipal election that is scheduled 130 or more days after the date the City Council is notified of the vacancy, and thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

Under this section, if Council would like to appoint someone to serve as City Clerk it must do so within 30 days of February 7, 2018. If Council does not make an appointment by March 8, 2018, then the Charter requires an election to be held to fill the vacancy. Government Code section 36512 requires a special election called for purposes of filling a vacancy to be called not less than 114 days from the date of the next established election date. In order to make it to the June election, the special election for purposes of filling the vacancy would have to have been called by February 11, 2018. This time element eliminates the June 5, 2018 election. The next established election date is November 6, 2018.

If Council does not make an appointment by March 8, 2018, the Council would have to call the special election in November and the elective office would remain vacant until then. If Council does make an appointment, the appointee must fulfill the requirements of Charter section 600, i.e. be a resident and a qualified registered elector of the City. Whether Council makes an appointment or not, under current City Charter provisions, an election for City Clerk must be held in November 2018 to fill the office for the remainder of Mr. Diridon's term (until 2020), when another election must be held for the next four year term. Thus, under the current Charter requirements anyone wishing to serve as City Clerk must run in November 2018 and again in November 2020.

Options

As Council considers its options, it is important to note that the functions of the City Clerk are technical in nature and a core service of the City. The position requires technical and management skills as this person plans, manages, oversees, and directs the operations and services of the City Clerk's Office. These duties include the statutory responsibility of a professional city clerk, municipal elections, records management; ensuring compliance with the Brown Act, Election Code, Political Reform Act and Public Records Act; providing responsible and complex staff support, and serves as a technical resource for the City Council and City Manager. The City Clerk also provides oversight of the implementation of modernized technology systems used throughout the entire organization. Traditionally these skills are reflected through receipt of technical certifications such as certified municipal clerk or masters municipal clerk certifications.

Based on the above information, the Council has a few options to consider:

1. Council may appoint a City Clerk under Charter Section 703 (Vacancies) before March 9, 2018 who will serve until the November 2018 election. Any such appointment must be by a 4/5ths vote of the Council, which in this case means 6 Council members. The last regular Council meeting scheduled before then is March 6. The appointed City Clerk must be a resident and a qualified registered elector.
2. Council may choose not to appoint a Clerk under Section 703, and leave the elective office unfilled. The Council would be required to call a special election in November 6, 2018 for purposes of filling the vacancy. The duties of the City Clerk would continue to be performed by the person appointed by Council under Section 903 until the election occurs. The City is fortunate to have had a staff person who is a certified municipal clerk, long-tenured and has a deep understanding of the organization.

3. Council may place a Charter Amendment eliminating the City Clerk as an elected position on the ballot. Under this option, Council would need to direct the development and placement of a ballot measure for the June 2018 Special Election. In order to place such a measure on the June ballot it would need to act at the March 6 Council meeting. It is not recommended to put a Charter amendment on the November ballot because there would be a special election to fill the Clerk Office in November.
4. Additionally, the Council could consider reducing the duties of the elected City Clerk to the ceremonial duties and appoint a person with the requisite skills and certification to perform the duties as appointed under Charter section 903.

It should be noted that this vacancy has impacted staffing in the City Manager's Office. As was noted in the most recent priority setting session with the Council, when unanticipated events occur it requires that priorities be assessed to ensure continuity of service. In this instance, the City Manager's Office has reassigned a key member of its executive team at a time when both the City Manager's Office and the City Clerk's Office workloads are high, as illustrated during the priority session. It is also worth noting that the Assistant City Clerk position are vacant, which further impacts the distribution of workload between these two offices.

City Auditor

As noted above, on February 6, 2018, the City Council appointed an acting City Clerk, but did not appoint a City Auditor. Rod Diridon was serving as both the City Clerk and the City Auditor per Santa Clara City Code section 2.20.050. Under Charter sections 900 and 909 only the Council may appoint a City Auditor. Staff is working on a recommendation for the Council and will bring this forward at a later time.

ADVANTAGES AND DISADVANTAGES OF ISSUE

Not Applicable

ECONOMIC/FISCAL IMPACT

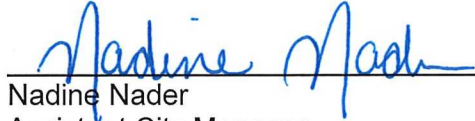
Staff will work to compile costs associated with Council's direction and will bring this forward at a later time.

RECOMMENDATION

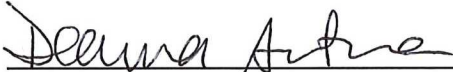
Provide Direction on next steps on the position of the City Clerk.



Brian Doyle
City Attorney



Nadine Nader
Assistant City Manager



Deanna J. Santana
City Manager

2/13/18

item 8.A.

City of Santa Clara

Options for the City Clerk Position

February 13, 2018



Background

- City Clerk Diridon resigned on February 6, 2018 effective immediately
- Council appointed Jennifer Yamaguma as acting City Clerk to ensure continuity of clerk functions under Charter Section 903 (City Clerk; Powers and Duties)
- Council directed staff to return with options for filling the position of the City Clerk under Charter Section 703 (Vacancies)

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Charter Section 703 (Vacancies)

- A vacancy in any elective office of the City....from whatever cause arising, shall be filled by appointment by the City Council by a four-fifths (4/5) vote of the remaining members.
- In the event the City Council shall fail to fill a vacancy by appointment within thirty (30) days after such office shall have been declared vacant, it shall forthwith cause an election to be held to fill such vacancy.
- A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent, provided that if the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general municipal election, the person appointed to fill the vacancy shall hold office until the next general municipal election that is scheduled 130 or more days after the date the City Council is notified of the vacancy, and thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

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Professional Requirements

- The position of City Clerk requires technical and management skills.
- Duties include:
 - Statutory responsibilities of a professional city clerk: municipal elections, records management; ensuring compliance with the Brown Act, Election Code, Political Reform Act and Public Records Act
 - Provides oversight of the implementation of modernized technology systems used throughout the entire organization.
 - Technical certifications such as certified municipal clerk or masters municipal clerk certifications are always preferred

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Option 1: Appoint Clerk under 703 (Vacancies)

- Council may appoint a City Clerk under Charter Section 703 (Vacancies) before March 8, 2018 who will serve until the November 2018 election.
- Any such appointment must be by a 4/5ths vote of the Council, which in this case means 6 Council members.
- The last regular Council meeting scheduled before then is March 6.
- The appointed City Clerk must be a resident and a qualified registered elector.

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Option 2: Not appoint City Clerk

- Council may choose not to appoint a Clerk under Section 703, and leave the elective office unfilled. The Council would be required to call a special election in November 6, 2018 for purposes of filling the vacancy.
- The duties of the City Clerk would continue to be performed by the person appointed by Council under Section 903 until the election occurs.

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Option 3: Charter Amendment

- Council may place a Charter Amendment eliminating the City Clerk as an elected position on the ballot.
- Under this option, Council would need to direct the development and placement of a ballot measure for the June 2018 Special Election.
- In order to place such a measure on the June ballot it would need to act at the March 6 Council meeting.
- It is not recommended to put a Charter amendment on the November ballot because there would be a special election to fill the Clerk Office in November.

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Option 4: Reduce to Ceremonial

- The Council could consider reducing the duties of the elected City Clerk to the ceremonial duties and appoint a person with the requisite skills and certification to perform the duties as appointed under Charter section 903.
- The ceremonial position would be elected and if the duties were not extensive, the Council may/should revise the salary.

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2/13/18

S.A.

Mayor and Council

From: Mayor and Council
To: margaret@fairvote.org
Subject: FW: Public Comment on the 2/13/2018 5:00 PM Council and Authorities Concurrent Special Meeting Item 8.A. by "Margaret Okuzumi"

From: AgendaManager@santaclaraca.gov [<mailto:AgendaManager@santaclaraca.gov>]

Sent: Monday, February 12, 2018 2:57 PM

To: Gill Norris; Vishal Arora; Clerk

Subject: Public Comment on the 2/13/2018 5:00 PM Council and Authorities Concurrent Special Meeting Item 8.A. by "Margaret Okuzumi"

2/13/2018 5:00 PM Council and Authorities Concurrent Special Meeting Public Comment Submission

Name:

Margaret Okuzumi

Email:

margaret@fairvote.org

Address:

749 Winstead Ter, Sunnyvale California 94087

Item:

8.A. Provide direction on next steps for the position of the City Clerk.

Comment:

We already have a ballot measure on the ballot asking voters to make the City Clerk position elected by RCV. If the question of having an elected city clerk or not is on the SAME ballot, then the two measures conflict and there's a question of which one takes precedence.

if a new ballot question asks "Shall the city make the city clerk an appointed position?" and it passes, and both measures pass, which one goes into effect? If the answer is, the one that has more votes, and people want an appointed city clerk, then they would have an incentive to vote against the current RCV measure, complicating its chances of passage.

I request that whatever you decide, please do not let the questions of RCV and continuing to have an elected city clerk or not, be conflated by being placed on the same ballot. If you want to voters to vote on the city clerk appointment question for the June ballot, one option could be to amend the current ballot measure to separate out the part of the city clerk, and only take up the question of it being by RCV or not on in November if the measure to make it appointed fails.