



Agenda Report

21-1311

Agenda Date: 11/8/2021

REPORT TO TASK FORCE ON DIVERSITY, EQUITY, AND INCLUSION

SUBJECT

Background Information on the Elected Police Chief and City Clerk Positions

BACKGROUND

At the September 13, 2021 Task Force on Diversity, Equity, and Inclusion (Task Force) meeting, Chair Neil Datar reported on the Policing and Community Engagement/Relations Subcommittee's (Subcommittee) recent work with the Police Department. The Task Force raised an interest in discussing the elected Chief of Police and City Clerk positions and voted to add a discussion to their next meeting agenda.

At the October 18, 2021 Task Force special meeting, the City Manager reported that she had some concerns with this topic coming forward to the Task Force since the City Council directed staff to bring this discussion to their 2022 Priority Setting Session. The City Manager also noted that she would need to consult with the City Attorney's Office regarding her concerns and would report back to the Task Force. She also committed to providing background information on the elected Chief of Police and elected City Clerk.

Concerns were raised about the Task Force taking a position on a matter that is before the Council as a potential ballot measure in November 2022 and how this action departs from the role of Council directed advisory bodies that could be perceived as a political position. It is not a practice for Council directed advisory bodies to act on ballot measures or political positions and this matter would need to be referred to the full Council in a public session to determine how to proceed.

On November 2, Chair Datar requested that a letter, drafted by the Subcommittee, regarding taking a position on the elected status of the police chief be placed on the agenda for the November 8 Task Force meeting. At this time, staff is unable to place this item on the agenda for discussion for the reasons noted in this report.

DISCUSSION

As the City Manager reported at the last Task Force meeting, the City Council has placed, on its February 2022 Priority Setting Session, a discussion of the Elected Chief of Police and City Clerk for potential ballot measures for November 2022.

Here is a link to the August Priority Setting Session report:

<https://santaclarca.legistar.com/LegislationDetail.aspx?ID=5084241&GUID=5E0A501C-3885-4304-BD0A-846BCAA79B21&FullText=1>

Given that this is a policy discussion that the Council has indicated it will discuss and that staff has not received any direction to move forward with community outreach on this topic, it would be

inappropriate for any council appointed board, commission, or taskforce to take this topic up prior to the Council's policy deliberation.

In addition to pre-empting Council discussion, placing a position on the Task Force agenda regarding the elected Chief of Police position also preempts any public input. The Task Force's Mission Statement requires making recommendations to Council: ***“through an open dialogue with the communities of Santa Clara and directed by community input.”*** Placing a position on the Task Force agenda regarding the elected Chief of Police preempts public input on the topic and is not consistent with its established Mission Statement requirements.

Lastly, if the Task Force takes a formal position at this stage without substantive Council discussion or public input, it could, and more likely will, be perceived as taking a political position, which is not the purpose of the Task Force.

Background Information

As background, staff has included links and reports of information related to the two positions.

The 2017 Charter Review Committee was appointed to evaluate the City's at-large by-seat election method of Council Members and to make a recommendation regarding district or other methods of election to the City Council. In addition, the Charter Review Committee was directed to seek other potential charter amendments from the community. Page 3 of their final report lists these items and also notes the Charter Review Committee's recommendation on the elected police chief position.

The final report from the Charter Review Committee Can be found here:

<https://www.santaclaraca.gov/home/showpublisheddocument/55770/636489532058170000>

On March 29, 2018, the City Council held a Study Session on the roles, responsibilities, and qualifications of a professional City Clerk.

The Study Session can be viewed here:

http://santaclara.granicus.com/MediaPlayer.php?view_id=1&clip_id=94.

Master Municipal Clerks Dawn Abrahamson and Lee Price presented detailed information on the profession. The PowerPoint presentation is included with this report as Attachment 1. The report to Council and the final Ordinance adopted by City Council that bifurcated the Assistant City Clerk duties and responsibilities from the Elected City Clerk's duties and responsibilities are included as Attachments 2 and 3.

Charter Sections:

- Section 903 of the Santa Clara City Charter defines the powers and duties of the elected City Clerk and can be viewed here:
<https://www.codepublishing.com/CA/SantaClara/#!/SantaClaraCH.html#903>
<https://www.codepublishing.com/CA/SantaClara/>.
- Section 906 of the Santa Clara City Charter defines the powers and duties of the Chief of Police and can be viewed here:
<https://www.codepublishing.com/CA/SantaClara/#!/SantaClaraCH.html#906>

[<https://www.codepublishing.com/CA/SantaClara/>](https://www.codepublishing.com/CA/SantaClara/).

- Section 701.1 of the Santa Clara City Charter defines the qualifications for the Chief of the Police and can be viewed here:

<https://www.codepublishing.com/CA/SantaClara/#!/SantaClaraCH.html#701.1>

[<https://www.codepublishing.com/CA/SantaClara/>](https://www.codepublishing.com/CA/SantaClara/).

ENVIRONMENTAL REVIEW

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

FISCAL IMPACT

There is no fiscal impact associated with the preparation of this report other than administrative staff time.

PUBLIC CONTACT

Public contact was made by posting the Task Force on Diversity, Equity, and Inclusion agenda on the City’s official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City’s website and in the City Clerk’s Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk’s Office at (408) 615-2220, email clerk@santaclaraca.gov [<mailto:clerk@santaclaraca.gov>](mailto:clerk@santaclaraca.gov) or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

Staff makes no recommendation but is prepared to submit this matter to the full City Council for direction.

Approved by: Deanna J. Santana, City Manager
Sujata Reuter, Assistant City Attorney

ATTACHMENTS

1. March 29, 2018 PowerPoint Presentation
2. RTC 18-487 Action on Adoption of Ordinance No. 1983
3. Ordinance No. 1983