




Council Meeting

Item No. 5. 19-1004: Approval of Charter Review Committee Recommendations

November 5, 2019



City of Santa Clara
The Center of What's Possible

Background

- In November 2018, the City of Santa Clara (City) held its first district-based elections as required by a ruling of the Santa Clara Superior Court (Court). The Court ruling implemented district-based elections with six Council districts but did not amend the City Charter. Under the state constitution, the City Charter can only be amended by a vote of the City electorate. Currently, the City Charter still states that City Councilmembers are to be elected "at-large, by seat."
- The City Council placed an advisory measure on the November 2018 ballot to determine if the voters wanted to engage in a public process to draft charter amendment language. The advisory ballot measure (known as "Measure N") read as follows:

"Shall the City of Santa Clara engage the voters in a public process to draft a Charter Amendment ballot measure to elect its Council Members, other than the Mayor, by district?"
- Santa Clara voters approved Measure N, with 70.4% of the vote, on Nov. 6, 2018.

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Charter Review Committee

- In July 2019, the City Council appointed a 7-member Charter Review Committee (Committee) charged with conducting public outreach and making recommendations related to district elections and a potential ballot measure.
- Over a four-month period the Committee held five formal public input sessions, five informal listening sessions, received 259 survey responses regarding district elections, received seven e-mails and conducted individual outreach in the community.
- On September 4, 2019 the Council was given a verbal update of the progress of the Committee and provided input on additional direction the Committee should consider.
- At its October 17, 2019 public input session, the Committee voted to approve several recommendations to inform a charter amendment related to district elections.

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Recommendation 1: Residency Requirements

- The Committee recommends the Santa Clara City Charter, Section 600, be amended to include the following requirements to run for and hold elected office as follows:
 1. A candidate must be a qualified and registered elector of the City.
 2. A candidate must have been a resident of the City of Santa Clara and, excepting the Mayor, Chief and Police and City Clerk, of the District represented by the person as member, for at least thirty (30) days prior to close of the nomination period.
 3. To hold office, Councilmembers must be a resident in the district represented by the Councilmember office.

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Recommendation 1: Residency Requirements

- The Committee further recommends the Santa Clara City Charter be amended to include the following language:
 - Upon any redistricting pursuant to the provisions of this section of the Charter or the ordinances enacted hereunder, each incumbent member of the Council will continue, during the remainder of the member's term, to hold office and represent the district by which the member was elected prior to such redistricting, notwithstanding any provision of Section 600 requiring a member to be a resident of the district represented by such member.
- Finally, the Committee also recommends staff adjust language in Section 600 to draw a clear distinction between city officials elected by-district versus at-large.

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Recommendation 2: Districts Configuration

- The Committee recommends the Santa Clara City Charter be amended to implement six council districts for the November 2020 election followed by a transition plan to three council districts with two representatives per district to be elected in alternate election years beginning in 2022.

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Recommendation 2: Districts Configuration

- To transition from 6 districts to 3, the committee recommends the following:
 - **November 2020** - One councilmember will be elected to represent each of districts 1, 4, 5, and 6 for a four-year term based on the court ordered districts.
 - **2021/2022** - As a result of the new 2020 Census, 3 new districts (named District 1, District 2 and District 3) will be drawn, conforming to requirements under state and federal law.
 - **November 2022** - One councilmember will be elected to represent each of the newly formed District 1 and District 2 for a four-year term.
 - **November 2024** - Districts 1 and 2 will each elect one person for a four-year term. The newly formed District 3 will elect two councilmembers. The candidate with the highest number of votes for District 3 will serve a four-year term and the candidate with next highest number of votes will serve a two-year term.
 - **November 2026 and every election thereafter** - Districts 1, 2 and 3 will each elect one councilmember for a four-year term.

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Recommendation 3: Redistricting

- The Committee recommends the Santa Clara City Charter be amended to state that the method by which Districts are to be drawn and redrawn shall be enacted by ordinance of the City Council in accordance with Elections Code Section 23001.
- The Committee further recommends including language requiring the use of an independent redistricting committee in compliance with the California Elections Code Section 23001.

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Diagram of Outcomes

Charter Amendment Ballot Measure, March 2020

| | | Pass | Fail |
|--------------------------------|------|--|--|
| Outcome of City's Appeal | Win | City implements Amendment 2020: 6 Districts 2022 and beyond: 3 Districts | City elects councilmembers per current Charter language (at-large, by-seat) |
| | Lose | City implements Amendment 2020: 6 Districts 2022 and beyond: 3 Districts | City implements Court Order 2020: 6 Districts 2022 and beyond: Charter unclear |



Action

- Council's decision on whether to adopt the Committee's recommendations or provide an alternate recommendation regarding the contents of the Charter Amendment.
- Based on the direction from Council, City Staff will draft a resolution to call the election, consolidate with the County and provide election services to place a measure on ballot and set date for arguments, impartial analysis and rebuttals.
- Resolution must be adopted prior to the December 6, 2019 deadline for the Registrar of Voters to be placed on the March, 2020 election.



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Some reservations about the staff report on this agenda item:

In November 2018, the City of Santa Clara (City) held its first district-based elections as required by a ruling of the Santa Clara Superior Court (Court). The Court ruling implemented district-based elections with six Council districts but did not amend the City Charter. Under the state constitution, the City Charter can only be amended by a vote of the City electorate. Currently, the City Charter still states that City Councilmembers are to be elected "at-large, by seat."

As has been done by many cities, I think City Council can go for District elections by an ordinance as has been done by more than 20 charter cities in California. (As per the ruling in the case of Jauregui vs City of Palmdale S219809)

Here is what CA government code section 34886 states:

34886

Notwithstanding Section 34871 or any other law, the legislative body of a city may adopt an ordinance that requires the members of the legislative body to be elected by district or by district with an elective mayor, as described in subdivisions (a) and (c) of Section 34871, without being required to submit the ordinance to the voters for approval. An ordinance adopted pursuant to this section shall comply with the requirements and criteria of Section 21601 or 21621 of the Elections Code, as applicable, and include a declaration that the change in the method of electing members of the legislative body is being made in furtherance of the purposes of the California Voting Rights Act of 2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of the Elections Code).

(Amended by Stats. 2016, Ch. 751, Sec. 1. (AB 2220) Effective January 1, 2017.)

POST MEETING MATERIAL

League of California Cities article:

II. Recent Legislation

a. Ability to Transition to District-Based Elections by Ordinance

Before January 1, 2017, Government Code Section 34886 allowed cities with populations less than 100,000 to transition to district-based elections by ordinance. Cities with populations greater than 100,000 were required to place the issue on the ballot for voters to approve the transition. The population cutoff created an issue for larger cities that received demand letters to change their election system. For example, the City of Rancho Cucamonga received a letter on December 23, 2015 alleging that the city's election system was in violation of the CVRA and urging the city to voluntarily change its at-large system of electing council members or face litigation. Because Rancho Cucamonga's population was greater than 100,000, the city had to place the measure on the ballot for voters' approval. After the city began analyzing its election system, but before it was able to place the issue on the November 2016 ballot, a CVRA action was filed against the city on March 10, 2016. After the voters approved the transition to district based elections, the plaintiffs refused to dismiss the action alleging that the election system adopted by the city was flawed. Recent legislative amendments to Government Code Section 34886 allow a city, regardless of population, to adopt an ordinance establishing district-based elections without being required to submit the ordinance to the voters for approval. The elimination of the population cutoff in Section 34886 helps large cities avoid the scenario that occurred in Rancho Cucamonga by giving them the ability to adopt district-based elections by ordinance.

the result of litigation initiated pursuant to the CVRA, including several California charter cities (e.g., Modesto, Palmdale, Santa Monica); and

WHEREAS, cities have spent millions of dollars in losing efforts to maintain at-large elections, paying both their own and the plaintiff's attorneys fees, which is authorized by the CVRA; and

City of Palm Springs - Ordinance

WHEREAS, The California Court of Appeals has ruled that Charter Cities must comply with the CVRA's requirements regarding by-district elections (*Jauregui v. City of Palmdale*, (2014) 226 Cal.App.4th 781); and

WHEREAS, on November 8, 2018, the Superior Court of the State of California for the County of Los Angeles issued its tentative decision and order in the case of *Pico Neighborhood Association, et al. v. City of Santa Monica*, ruling that Santa Monica must transition to by-district elections and the court rejected all defenses, including the fact that Santa Monica voters have twice voted to retain at-large elections in their charter since 1946; and

WHEREAS, to date, 29 Charter Cities have transitioned from at-large to by-district elections without a public vote, 21 by ordinance and nine by court order; and

WHEREAS, in response to the threatened litigation regarding alleged non-compliance with the CVRA, and the desire to maximize the goals of the CVRA and the City's goals of equality, diversity and inclusion, the City Council has determined that it is in the best interest of the City to transition from its current at-large election system to a by-district election system; and

HELP SHAPE THE FUTURE OF SANTA CLARA DISTRICT ELECTIONS



The City is seeking input from the community on the number of districts. Is the current six-district model working or would some other model be preferred?

Summary Of Responses

As of October 17, 2019, 3:31 PM, this forum had: **Topic Start**
Attendees: 369 July 30, 2019, 9:47 AM
Responses: 242
Hours of Public Comment: 12.1



QUESTION 1

Are you a resident of the city of Santa Clara?

| | | % | Count |
|-----|---|-------|-------|
| Yes |  | 97.1% | 235 |
| No |  | 2.9% | 7 |

QUESTION 2

Should the City Charter be changed to adopt the six Council district plan currently in place for electing its six Councilmembers by district?

| | | % | Count |
|-----|---|-------|-------|
| Yes |  | 65.8% | 152 |
| No |  | 34.2% | 79 |



QUESTION 3

If you answered No to question No. 2, would you like to see:

| | | % | Count |
|--|---|-------|-------|
| 3 districts with 2 Councilmembers elected per district |  | 59.2% | 58 |



HELP SHAPE THE FUTURE OF SANTA CLARA DISTRICT ELECTIONS

The City is seeking input from the community on the number of districts. Is the current six-district model working or would some other model be preferred?

| | | % | Count |
|---|---|-------|-------|
| 2 districts with 3 Councilmembers elected per district |  | 21.4% | 21 |
| Some other district configuration? Please insert any additional comments in question No. 5 below. |  | 19.4% | 19 |

QUESTION 4

Should Councilmembers be required to live in the district they represent?

| | | % | Count |
|-----|--|-------|-------|
| Yes |  | 94.2% | 226 |
| No |  | 5.8% | 14 |

QUESTION 5

Please tell us if you have any additional comments that you would like the Charter Review Committee to consider in making a recommendation on a City Charter amendment about district elections.

| | |
|----------|-----|
| Answered | 98 |
| Skipped | 144 |

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Julie Minot

From: Anthony Becker <ajbeck_8503@yahoo.com>
Sent: Tuesday, November 5, 2019 4:43 PM
To: Mayor and Council
Subject: Charter Review Item

Dear Mayor Gillmor,
Councilmembers Mahan, Hardy, Chahal, O'Neill, Watanabe, Davis

This is in regards to the Charter Review recommendation of 3 districts. I ask that you please as elected officials and the people's voices to not support the 3 district plan. I feel we are going backwards from an already progressive 6 single member district plan implemented by the judge last summer.

I hate to waste more money fighting against something that continues to bleed our city's tax dollars.

Please put agendas aside and please refrain from choosing a plan that benefits creating voting blocks. Please listen to what the people want in the surveys, listen to what the people want and that is the fair 6 districts and following the judges orders. I worry this will lead to more legal issues down the road.

This ballot measure if it fails would be a waste of money and if it was to pass it would go against the current districts and create more problems. We should adopt a ballot measure of 6 districts mainly because I feel (and history proves) that Santa Clara's appeal is doomed to fail. Please vote against a 3 district plan, we could do better and if not, like I said before we are wasting money to do something that goes backwards instead of forwards. I hope council can deliver what the people want.

Thank You for your service

Anthony Becker

POST MEETING MATERIAL