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REPORT TO COUNCIL

SUBJECT

Discussion and Council Direction on Assigned Responsibilities and Commensurate Salary Options for Elected City Clerk

BACKGROUND

On February 6, 2018 City Clerk Rod Diridon, Jr. resigned from his elective office. That same night, the City Council accepted his resignation, in effect, declaring the office vacant. At the meeting of February 13, 2018 Council heard a presentation outlining options to consider in response to the immediate vacancy of the elective City Clerk position. Following a staff presentation, discussion and public input, Council directed staff to: 1) return with a potential draft Charter amendment related to the position of the City Clerk to include on the June 5, 2018 ballot, including alternative language for consideration; and 2) clarify any potential conflict with the By-District Council Elections & Voting Method Ballot Measure already approved for the June 5, 2018 election.

The Council also requested that staff conduct outreach utilizing social media and other tools to encourage public participation/feedback on the potential draft ballot measure(s); provide information on the cost of adding the ballot measure on the June 5, 2018 election; and, provide background information on previous Charter amendment ballot measures relative to the position of the elected City Clerk and related information from the recent Charter Review Committee.

In response to Council’s direction, on March 6, 2018, Council considered draft Resolutions outlining potential ballot measures related to the City Clerk and staff presented results of the conducted outreach and gathered background information for Council’s review. That evening, Council took no action to place charter amendments on the ballot or to appoint to the elected City Clerk position. Council instead directed staff to return to Council to call a special election for November 2018 Election to fill the vacancy, and directed the City Clerk to return to Council with a Study Session with

information on professional standards, qualifications and salary information for professional city/municipal clerks.

On March 29, Council held a Study Session on the roles, responsibilities and qualifications of a professional City Clerk. Master Municipal Clerks Dawn Abrahamson and Lee Price presented detailed information on the profession and answered Council's questions. A copy of the PowerPoint presentation is attached for reference. That evening, the Council directed the City Clerk and City Manager to prepare a report with options for the Council's consideration at the April 24 meeting, including compensation commensurate with the assigned duties of the City Clerk.

Pursuant to Council's direction, on April 24, staff presented two options for Council consideration, as well as associated compensation options, including: 1) assigning certain City Clerk responsibilities to the Assistant City Clerk, and 2) not assigning any City Clerk responsibilities to the Assistant City Clerk.

Due to other urgent and lengthy Council items, the options for the City Clerk position were up for discussion late in the evening. Therefore, the Council continued any action to a future Council meeting to be held at 7 pm.

DISCUSSION

Pursuant to Council's direction over the course of discussing the Office of the City Clerk at 5 different meetings since February 2018, staff has prepared the below options for Council consideration, as well as associated compensation options. For the purpose of calling the special election for the partial term ending November 2020 and to provide full transparency for anyone eligible and interested in running for the position in the November 2018 election, the Council should consider taking a series of actions as they relate to the elected City Clerk: 1) assign responsibilities, 2) set the salary, and 3) set the eligible benefits.

In the future, the Council could delegate, by ordinance, authority to set the salary and benefits of the elected City Clerk to the independent Salary Setting Commission. Per Charter Section 702 - Compensation, the first Salary Setting Commission will commence in January 2019. Therefore, the full Council needs to take the above-mentioned actions prior to the November 2018 election.

As previously discussed at the March 20, 2018 Council meeting, it should be noted that the City Manager has no oversight of elected positions, including the City Clerk, and does not administer performance evaluations or set the salary of elected positions.

Option 1: Assign certain City Clerk responsibilities to the Assistant City Clerk

Council has the authority to assign these professional duties pursuant to Charter Section 903, which states:

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.

The Council may consider formally assigning certain professional City Clerk duties to the Assistant City Clerk position by amending the City Code Section 2.20.030 - Assistant City Clerk.

This would assign the following City Charter and City Code provisions to the Assistant City Clerk as a primary responsibility:

Santa Clara City Charter:

1. Attend all meetings of the City Council and be responsible for the recording and maintaining of a full and true record of all the proceedings of the City Council in books that shall bear appropriate titles and be devoted to such purposes [Charter Section 903(a)];
2. Maintain separate books, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter [Charter Section 903(b)];
3. Maintain separate books, in which a record shall be made of all written contracts and official bonds [Charter Section 903(c)];
4. Keep all aforementioned books properly indexed and open to public inspection when not in actual use [Charter Section 903(d)]; and
5. Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of official records [Charter Section 903(f)].

Santa Clara City Code ("SCCC"):

1. The recording and maintaining of a full and true record of all the proceedings of the City Council [SCCC Section 2.20.020(a)].
2. Publishing and attesting the publication of all official notices [SCCC Section 2.20.020(b)].
3. Administering oaths or affirmations and taking affidavits and depositions pertaining to the affairs of the City [SCCC Section 2.20.020(c)].
4. The issuance of certified copies of official records as required and requested [SCCC Section 2.20.020(d)].
5. Officially recording the rights, titles, and interests in all real properties acquired by the City [SCCC Section 2.20.020(e)].
6. The handling of all Council correspondence unless otherwise specifically designated [SCCC Section 2.20.020(f)].
7. Preparing of the agenda and supplemental material for Council meetings in cooperation with the City Manager [SCCC Section 2.20.020(g)].
8. Routing Council assignments to the respective officers having primary responsibility for their execution [SCCC Section 2.20.020(h)].
9. Duplicating and distributing the minutes, ordinances, resolutions, policies and order of the City Council to the various boards, commissions and administrative officers [SCCC Section 2.20.020(i)].

It should be noted that the practice of having the Assistant City Clerk fulfill the above noted duties is not uncommon in the City of Santa Clara, as there is a long-standing practice to have the Assistant City Clerk act as the office manager and lead the day-to-day professional operations and responsibilities of the office. The current salary of the Assistant City Clerk is reflective of this practice.

If Council were to choose this option, the primary responsibility for the following City Charter and City Code provisions would remain with the elected City Clerk:

Santa Clara City Charter:

1. Be the custodian of the seal of the City [Charter Section 903(e)];
2. Have charge of all City elections [Charter Section 903(g)].

Santa Clara City Code (“SCCC”):

1. The City Clerk shall be elected by the City at large for a term of four years and shall be custodian of the official seal of the City [SCCC Section 2.20.010]
2. The City Clerk shall be in charge of all City elections and shall conduct the same in accordance with the provisions of Section 700 of the Charter [SCCC Section 2.20.040]

The elected City Clerk would maintain sole responsibility for administering all aspects of City elections (e.g., Mayor, City Council, Chief of Police), except for the City Clerk election, and administrative duties would primarily be assigned to the Assistant City Clerk. This proposal maintains the prominence of the elected City Clerk role, while properly assigning administrative services with civil service staff.

Compensation:

Under this option, Council should consider reviewing the compensation for the elected City Clerk position to align the compensation to the specific assigned responsibilities noted above. The Council may consider the following choices related to setting the compensation for this policy option:

- a) Set the City Clerk elected position compensation at the same stipend rate of Council Members (currently \$2,000 per month) as defined in Charter Section 702 and to discontinue the practice of granting accrued time off to the elected position. If so directed by Council, staff could draft an Ordinance that would include the position of elected City Clerk to be reviewed by the Salary Setting Commission upon its review of the Mayor and Council Member salaries every odd year.

Option 2: Do not assign any City Clerk responsibilities to the Assistant City Clerk

The Council could take no action to assign the duties identified in the City Charter and City Code for the position of City Clerk to any other officer or employee of the City and whoever is elected to the position would be primarily responsible.

Compensation

The Council may consider the following choices related to setting the compensation for this policy option:

- a) Formally set the salary at \$178,500, which is the current salary (former City Clerk’s salary minus the appointed Auditor stipend); OR
- b) Benchmark the salary by setting it at 5% above the maximum range of the Assistant City Clerk, which would be approximately \$167,227.

Benefits and Accrued Time Off

Historically, the City Clerk has received fringe benefits aligned with Unit 9 - Unclassified Miscellaneous Management; however, upon review and consideration of other elected positions, the Council should consider discontinuing Santa Clara’s unique practice of having an elected position eligible to accrue paid time off through sick, vacation and/or management leave.

Council Members currently have the option of electing PERS and deferred compensation.

FISCAL IMPACT

The compensation of the elected City Clerk may or may not have a fiscal impact dependent upon

Council's direction. The City Clerk position is fully funded and has been included in the approved Fiscal Year 2018/19 budget, pending Council's actions.

The current Salary Schedule, which requires amendment, identifies the City Clerk/Auditor as one classification with a base pay of \$200,976, of which \$178,500 correlates to the City Clerk's Office (the City Auditor stipend equates to \$22,476). The City Council has already approved assignment of appointed City Auditor duties to the Assistant Finance Director classification and, as part of the action, directed staff to remove the stipend (\$22,476) from the elected City Clerk position. The Salary Schedule requires amendment with any additional action of the City Council on the City Clerk position and following such action, Finance will return with a budget adjustment in the first Quarter of Fiscal Year 2018/19 to reflect the Auditor function in the Finance Department and any other budget changes. If there is a reduction of salary and benefits, savings would be used to resolve the ongoing deficit as outlined in the City's 10 Year Financial Outlook/Plan.

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.

PUBLIC CONTACT

Public contact was made by posting the Council 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>> or at the public information desk at any City of Santa Clara public library.

ALTERNATIVES

1. Direct the City Attorney to draft an Ordinance amending the City Code to specify the primary responsibilities of the elected City Clerk and Assistant City Clerk (Option 1) and to draft an Ordinance setting a stipend for the position of elected City Clerk and benefits comparable to what the current Council Members are eligible to receive.
2. Take no action to assign certain City Clerk responsibilities to the Assistant City Clerk (Option 2); and
 - A.) Formally set the salary of City Clerk at \$178,500; OR
 - B.) Benchmark the salary by setting it at 5% above the maximum range of the Assistant City Clerk, which would be approximately \$167,227.
3. Take action on whether to discontinue providing any accrued time off for the elected position of City Clerk.
4. Take action on whether to include providing fringe benefits for the elected position of City Clerk.
5. Any other alternative as determined by the Council.

RECOMMENDATION

Council action on:

1. Setting the responsibilities of the elected City Clerk (staff makes no recommendation)
2. Setting the salary for the elected City Clerk (staff makes no recommendation)
3. Setting the benefits (staff makes no recommendation)
4. Alternative #3 to discontinue providing any accrued time off to align this position to an elected status (staff recommends this option)

Prepared by: Jennifer Yamaguma, Acting City Clerk

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