



## Agenda Report

18-1001

Agenda Date: 7/16/2018

### REPORT TO COUNCIL

#### SUBJECT

Action on Submitting a Ballot Measure(s) for a Charter Amendment on the November 6, 2018 Election regarding District Elections

#### BACKGROUND

On June 6, 2018, the Santa Clara County Superior Court issued a ruling stating that the City of Santa Clara's current way of electing its council members in City-wide elections is in violation of the California Voting Rights Act (CVRA). On June 26, 2018, the Court issued an [Order](http://santaclaraca.gov/home/showdocument?id=58277) [<http://santaclaraca.gov/home/showdocument?id=58277>](http://santaclaraca.gov/home/showdocument?id=58277) regarding the Schedule for the Remedies Phase of Trial. The Court will hold the remedies phase of the proceedings beginning July 18, 2018.

In accordance with the Court's orders following two public hearings, the Ad-hoc Advisory Districting Committee and staff, submitted five maps by the set deadline of July 6, as follows:

- a) One 2-District Map (the same map previously approved by the Council based on the recommendation of the Ad-hoc Advisory Districting Committee. Under this map, City Council Members would be elected by two districts (Districts 1 and 2) with three Council Members representing each district;
- b) Two 3-District Maps. Under these maps, City Council Members would be elected by three Districts (Districts, 1 2 and 3) with two Council Members representing each district;
- c) Two 6-District Maps. Under these maps, City Council Members would be elected by six districts (Districts 1, 2, 3, 4, 5 and 6) with one Council Member representing each district.

These City's map options were developed with data from the 2010 census, as required by law, and previously public input received for the development of the 2-district map. It is extremely important to note that a re-districting process for the 2020 Census would be legally required and it is unknown whether a Court remedy will impact the November 2020 election and/or future elections in Santa Clara.

At the third public hearing held on July 11, 2018, the professional demographer presented an Amended 6-District Draft Plan 3 to take into account the school boundaries and public input received at the prior hearings. The Committee took three actions:

- 1) Recommended the Amended 6-District Draft Plan 3
- 2) Recommended having the Mayor continue to be elected at-large.
- 3) Recommended sequencing to allow a candidate in District 1, with the highest Asian Citizen Voting

Age Population (CVAP), to be elected in November 2020, a presidential election, which typically is a higher voter turnout. Taking that into account, as well as incumbency, the Committee recommended that candidates in Districts 2 and 3 be elected in November 2018 and Districts 1, 4, 5 and 6 be elected in November 2020.

In addition to the Ad-hoc Advisory Districting Committee meetings, public input was received via email to [districts@santaclaraca.gov](mailto:districts@santaclaraca.gov) <<mailto:districts@santaclaraca.gov>> and solicited through an *Open City Hall* survey, which was posted on July 9 and will remain open until midnight, July 17. All correspondence and survey results have been posted to the City's website. For more information and to view the Ad-hoc Advisory Districting Committee agenda materials draft proposed maps, and to watch recordings of the meetings, visit the City's website at [www.santaclaraca.gov/districts](http://www.santaclaraca.gov/districts) <<http://www.santaclaraca.gov/districts>>.

### **DISCUSSION**

With the unknown outcome of the trial or possibility of appeal, the Council may consider placing one or more ballot measure on the November 2018 election to seek voter input on the way Council Members are elected beginning with the November 2020 election.

In order to submit a ballot measure to the voters, the deadline is August 10, 2018 and Council would need to adopt a series of Resolutions formally calling a Special Election for the purpose of submitting this ballot measure; requesting that the Special Election be consolidated with the Statewide General Election; and, submitting the measure to voters and authorizing certain related actions, including directing the City Attorney to prepare an impartial analysis of the measure.

Due to the scheduled Council recess, staff has prepared two policy alternatives that provide two different frameworks for how to approach this issue: Alternative 1 maximizes the community input and sequentially provides the voters with the right to determine whether there are Council Districts and if so, how many. Alternative 2 accelerates community input and voter decision on the number of Council districts prior to the boundaries being established and assumes that Santa Clara voters want to elect Council Members by districts.

### **Alternative 1 - Advisory Vote on Council Districts**

<b>MEASURE 1 ADVISORY VOTE: BY DISTRICT COUNCIL ELECTIONS.</b> 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?	<b>YES</b>
	<b>NO</b>

### ***Staff Commentary***

An advisory vote would allow Santa Clara voters to cast their vote on whether or not they support district elections. This would also allow for a robust public outreach and engagement process that complies with the California Elections Code, Federal Voting Rights Act and the Equal Protection Clause of the U.S. Constitution.

If the advisory measure passes, the City would be able to meet the legal requirements for districting, in addition to the more robust community outreach goals that the Council has traditionally used for

more significant City efforts.

The City would be able to submit the Charter Amendment to the voters at the 2020 primary election expected in June after a thorough public engagement process with sufficient time to hear all voices and process the complicated demographic data necessary in compliance with the law.

This approach would seek public input on: the number of districts, the boundary lines for districts, election sequencing and a transition plan.

### **Alternative 2 - Charter Amendment for Council Districts**

As an alternative, three potential ballot measures for the November 2018 election are presented for the Council's consideration to submit to the voters to amend the Charter to move to district elections:

- Two Districts
- Three Districts
- Six Districts

The Council may submit one, two or three of these ballot measures to the voters at the November 2018 election. In order to effect a change to the Charter, a ballot measure must receive 50%+1 of the votes. In the event that the Council places more than one measure on the ballot, it should be noted that it is possible that more than one ballot measure can achieve 50%+1 because voters may cast their vote on each ballot question. In this instance, the measure that has achieved the highest vote will prevail (e.g., if one if measure passes by 52% and one passes by 60%, the second measure would be enacted).

In each of these options (2 districts, 3 districts or 6 districts), the proposed Charter amendments would modify Charter Sections 600, 700.1 and add a new Section 700.2.

The following are the ballot questions for each of the alternatives:

#### **a) Two Districts**

<b>MEASURE 2 BY DISTRICT COUNCIL ELECTIONS.</b> Shall the City Charter be amended to change how Council Members are elected by establishing two districts beginning in 2020 each represented by three Council Members with sequencing and terms to be established by ordinance of the City Council?	<b>YES</b>
	<b>NO</b>

#### **b) Three Districts**

<b>MEASURE 1B BY DISTRICT COUNCIL ELECTIONS.</b> Shall the City Charter be amended to change how Council Members are elected by establishing three districts beginning in 2020 each represented by two Council Members with sequencing and terms to be established by ordinance of the City Council?	<b>YES</b>
	<b>NO</b>

### c) Six Districts

<b>MEASURE 1C BY DISTRICT COUNCIL ELECTIONS.</b> Shall the City Charter be amended to change how Council Members are elected by establishing six districts beginning in 2020 each represented by one Council Member with sequencing and terms to be established by ordinance of the City Council?	<b>YES</b>
	<b>NO</b>

### Staff Commentary

As stated above, Alternative 2 accelerates voter decision on the number of Council districts prior to the boundaries being established and assumes that Santa Clara voters want to elect Council Members by districts.

A vote in November 2018 would require a less robust community engagement process (e.g., the number of district options has been determined), for which voters may not entirely understand the impacts of their decision and unintended consequences of each structure. Additionally, against the backdrop of candidates running for the November 2018 election and the City Council introducing options for Council district boundaries, there would be a level of voter confusion that would be very difficult to overcome through a City-sponsored education effort.

Any public outreach and engagement process would need to comply with the California Elections Code, Federal Voting Rights Act and the Equal Protection Clause of the U.S. Constitution. The City would be able to meet the legal requirements for districting, in addition to community outreach goals that the Council has traditionally used for more significant City efforts.

The City also would be able to submit the Charter Amendment to the voters at the 2020 primary election expected in June after a thorough public engagement process with sufficient time to hear all voices and process the complicated demographic data necessary in compliance with the law.

See the discussion above relative to the election outcome with respect to 50%+1 or failure to obtain that threshold.

### Ballot Arguments and Impartial Analysis

The City Council may determine whether the Council or members of the Council authorized by the Council will draft any arguments. If the City Council decides not to draft the argument itself, any registered voter or bona fide association of citizens may submit a proposed argument to the City Clerk. If the Clerk receives multiple proposed arguments, the Clerk shall select one of the arguments in adherence to Elections Code Section 9287. Ballot arguments must be submitted no later than August 14, 2018 at 12:00 p.m., noon, to the City Clerk and rebuttal arguments must be submitted no later than August 21, 2018 at 12:00 p.m., noon, to the City Clerk. The City Attorney shall draft an impartial analysis on the measure, which is also due August 21, 2018 at 12:00 p.m., noon, to the City

Clerk.

### **Voter Education and Outreach**

Several efforts are underway to inform the public of the current Court Order and the efforts of the Ad-hoc Advisory Districting Committee and the Charter Review Committee. A separate webpage <http://www.santaclaraca.gov/districtelections> has been created to provide information related to district-based elections, including opportunities for when and how the public can contribute to providing their input.

Should the Council submit a ballot measure for the November election, a Communications Outreach plan will be created to utilize the many public outreach channels available to Santa Clara residents, including the following:

- City website and e-Notify
- Social media (Facebook, Twitter, Nextdoor)
- Government Access Channels
- Press Release
- Publication of ad in local and ethnic media outlets
- Postcard mailers to all Santa Clara residents
- Flyer distribution to City facilities
- Flyer email distribution to constituent database and community leaders/groups
- Utility bill inserts
- Translation of materials in eight languages, including Chinese, Hindu, Korean, Japanese, Portuguese, Spanish, Tagalog, Vietnamese

### **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 not potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

### **FISCAL IMPACT**

Because Santa Clara will hold a General Municipal Election November 6, 2018, there is an economy of scale with calling the Special Election for the same date.

The Registrar of Voters (ROV) has estimated costs for consolidating the General Municipal Election to be approximately \$366,605, and assumes one ballot measure. The ROV has provided cities with an estimated cost for each additional ballot measure at \$90,800. There are other costs for conducting an election, including printing, translation services, publishing notices and other related costs.

Based upon these estimates, the City Clerk’s Office budgeted costs with conducting both a General Municipal Election and Special Election with two ballot measures in its Fiscal Year 2018/19 Operating Budget.

Following the election, the ROV will determine the actual costs and will bill the city for its pro-rata share. Should costs exceed the approved budget amount, staff will return to the council to request additional funds.

On June 26, 2018, the Council authorized the City Manager to enter into necessary agreements and appropriated funds for consultant services, as needed, to respond to the CVRA case.

### **COORDINATION**

This report was coordinated with the City Attorney's Office and City Manager's Office.

### **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) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

### **ALTERNATIVES**

1. Adopt requisite Resolutions to submit an **advisory ballot measure** on the November 6, 2018 election to seek whether Santa Clara voters want to elect Council Members by district.
2. Adopt requisite Resolutions to submit a ballot measure on the November 6, 2018 election for a Charter Amendment to change the way Council Members are elected where Council Members would be elected by **two districts** (Districts 1 and 2) with three Council Members representing each district.
2. Adopt requisite Resolutions to submit a ballot measure on the November 6, 2018 election for a Charter Amendment to change the way Council Members are elected where Council Members would be elected by **three districts** (Districts 1, 2 and 3) with two Council Members representing each district.
3. Adopt requisite Resolutions to submit a ballot measure on the November 6, 2018 election for a Charter Amendment to change the way Council Members are elected where Council Members would be elected by **six districts** (Districts 1, 2, 3, 4, 5 and 6) with one Council Member representing each district.
4. Maintain the status-quo and await the Court's ruling on the CVRA case.

### **RECOMMENDATION**

Staff makes no recommendation on this issue.

Reviewed by: Jennifer Yamaguma, Acting City Clerk

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Requisite Resolutions for Advisory Ballot Measure
2. Requisite Resolutions for 2 Districts
3. Requisite Resolutions for 3 Districts
4. Requisite Resolution for 6 Districts
5. City Draft Maps
6. Plaintiff Draft Maps