



Agenda Report

19-1004

Agenda Date: 11/5/2019

REPORT TO COUNCIL

SUBJECT

Approval of Charter Review Committee Recommendations Regarding District Elections

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.

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.

DISCUSSION

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.

At its October 17, 2019 public input session, the Committee voted to approve several recommendations to inform a charter amendment related to district elections. The recommendations are outlined below.

Recommendation 1

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.

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.

Recommendation 2

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, with one representative serving a two-year term to realign. The transition plan would be as follows:

- 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.

Recommendation 3

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 which provides:

A local jurisdiction may establish by resolution, ordinance, or charter amendment an independent redistricting commission, a hybrid redistricting commission, or an advisory redistricting commission composed of residents of the local jurisdiction to change the legislative body's district boundaries or to recommend to the legislative body changes to those district boundaries.

Elections Code Section 23003 sets forth the provisions applicable to Independent Redistricting Commissions:

- (a) This section applies to hybrid redistricting commissions and independent redistricting commissions.
- (b) Notwithstanding any other law, the local jurisdiction may prescribe the manner in which members are appointed to the commission, provided that the jurisdiction uses an application process open to all eligible residents and provided that the commissioners are not directly appointed by the legislative body or an elected official of the local jurisdiction.
- (c) A person shall not be appointed to serve on the commission if the person or any family member of the person has been elected or appointed to, or been a candidate for, an elective office of the local jurisdiction in the eight years preceding the person's application.
- (d) A person shall not be appointed to serve on the commission if either of the following applies:
 - (1) The person or his or her spouse has done any of the following in the eight years preceding the person's application:
 - (A) Served as an officer of, employee of, or paid consultant to, a campaign committee or a candidate for elective office of the local jurisdiction.
 - (B) Served as an officer of, employee of, or paid consultant to, a political party or as an elected or appointed member of a political party central committee.
 - (C) Served as a staff member or a consultant to, or who has contracted with, a currently serving elected officer of the local jurisdiction.
 - (D) Been registered to lobby the local jurisdiction.
 - (E) Contributed five hundred dollars (\$500) or more in a year to any candidate for an elective office of the local jurisdiction. The local jurisdiction may adjust this amount by the cumulative change in the California Consumer Price Index, or its successor, in every year ending in zero.
 - (2) A family member of the person, other than his or her spouse, has done any of the following in the four years preceding the person's application:
 - (A) Served as an officer of, employee of, or paid consultant to, a campaign committee or a candidate for elective office of the local jurisdiction.
 - (B) Served as an officer of, employee of, or paid consultant to, a political party or as an elected or appointed member of a political party central committee.
 - (C) Served as a staff member of or consultant to, or has contracted with, a currently serving elected

officer of the local jurisdiction.

(D) Been registered to lobby the local jurisdiction.

(E) Contributed five hundred dollars (\$500) or more in a year to any candidate for an elective office of the local jurisdiction. The local jurisdiction may adjust this amount by the cumulative change in the California Consumer Price Index, or its successor, in every year ending in zero.

(e) A member of the commission shall not do any of the following:

(1) While serving on the commission, endorse, work for, volunteer for, or make a campaign contribution to, a candidate for an elective office of the local jurisdiction.

(2) Be a candidate for an elective office of the local jurisdiction if any of the following is true:

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(A) Less than five years has elapsed since the date of the member's appointment to the commission.

(B) The election for that office will be conducted using district boundaries that were adopted by the commission on which the member served, and those district boundaries have not been subsequently readopted by a commission after the end of the member's term on the commission.

(C) The election for that office will be conducted using district boundaries that were adopted by a legislative body pursuant to a recommendation by the commission on which the member served, and those district boundaries have not been subsequently readopted by a legislative body pursuant to a recommendation by a commission after the end of the member's term on the commission.

(3) For four years commencing with the date of his or her appointment to the commission:

(A) Accept employment as a staff member of, or consultant to, an elected official or candidate for elective office of the local jurisdiction.

(B) Receive a noncompetitively bid contract with the local jurisdiction.

(C) Register as a lobbyist for the local jurisdiction.

(4) For two years commencing with the date of his or her appointment to the commission, accept an appointment to an office of the local jurisdiction.

(f) The commission shall not be comprised entirely of members who are registered to vote with the same political party preference.

(g) Each member of the commission shall be a designated employee in the conflict of interest code for the commission pursuant to Article 3 (commencing with Section 87300) of Chapter 7 of Title 9 of the Government Code <[https://1.next.westlaw.com/Link/Document/FullText?](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000211&cite=CAGTS87300&originatingDoc=N049EB160BBAF11E8BE9EBA)

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(h) The commission is subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code

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[C2CD054BA9&refType=LQ&originationContext=document&transitionType=DocumentItem&contextD](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000211&cite=CAGTS54950&originatingDoc=N049EB160BBAF11E8BE9EBA)
[ata=\(sc.Category\)>\)](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000211&cite=CAGTS54950&originatingDoc=N049EB160BBAF11E8BE9EBA) and the California Public Records Act (Chapter 3.5 (commencing with Section

6250) of Division 7 of Title 1 of the Government Code

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- (i) The commission shall be subject to the same redistricting deadlines, requirements, and restrictions that would otherwise apply to a legislative body. A local jurisdiction may also impose additional requirements and restrictions on the commission, on members of the commission, or on applicants to the commission in excess of those prescribed by this section.
- (j) The commission shall publish a map of the proposed new district boundaries and make that map available to the public for at least seven days before that map may be adopted. The commission shall hold at least three public hearings preceding the hearing at which the new boundaries are adopted.
- (k) The commission shall not draw districts for the purpose of favoring or discriminating against a political party or an incumbent or political candidate.
- (l) District boundaries adopted by an independent redistricting commission or adopted by a legislative body from recommendations provided by a hybrid redistricting commission, shall not be altered by the legislative body or the commission until after the next federal decennial census occurs, unless those boundaries have been invalidated by a final judgment or order of a court of competent jurisdiction.
- (m) For the purposes of subdivisions (c) and (d), "local jurisdiction" does not include a local jurisdiction that contracts with a county independent redistricting commission pursuant to Section 23004 <[https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000206&cite=CAELS23004&originatingDoc=N049EB160BBAF11E8BE9EBA C2CD054BA9&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=\(sc.Category\)>](https://1.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000206&cite=CAELS23004&originatingDoc=N049EB160BBAF11E8BE9EBA C2CD054BA9&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Category)>).

Next Steps

Based on the feedback received at this meeting, a request for authorization to adopt 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 will be brought to City Council on December 3, 2019. The request will include the ballot measure language, which will need to be finalized at the December 3, 2019 meeting as the final ballot measure language is due to the Registrar of Voters on December 6, 2019 for the March 2020 primary election.

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(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

FISCAL IMPACT

There is no fiscal impact associated with approval of this item other than staff time.

COORDINATION

This report was coordinated with the City Attorney'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>> or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

Staff does not have a recommendation on this item. This is a recommendation from the Charter Review Committee and staff requests Council direction on language to include in a draft charter amendment.

Approved by: Hosam Haggag, City Clerk

ATTACHMENTS

1. Excerpt from Assembly Bill 849