



REVISED MEETING AGENDA

May 22, 2017
7:00 – 9:00 p.m.

Committee Members

Tino Silva, <i>Chair</i>	Chris Horton
Keith Stattenfield, <i>Vice Chair</i>	Steve Lodge
Hazel Alabado	Rex McIntosh
Markus Bracamonte	Jodi Muirhead
Saskia Feain	Beverly Silva
Mary Hanna-Weir	Teresa Sulcer
Hosam Haggag	

Staff

City Manager, Rajeev Batra
Interim City Attorney, Brian Doyle
Management Analyst (Staff Liaison),
Raania Mohsen

Topic

- | | |
|---|---------------|
| 1. Call to Order | Chair |
| 2. Public Presentations | |
| <i>This item is reserved for persons to address the Committee on any matter not on the agenda that is within the subject matter jurisdiction of this Committee. The law does not permit action on, or extended discussion of, any item not on the agenda except under special circumstances. The Committee, or staff, may briefly respond to statements made or questions posed, and the Committee may request staff to report back at a subsequent meeting.</i> | |
| 3. Approval of Minutes from May 8, 2017 Meeting | Committee |
| 4. Pros & Cons Analysis of Voting Methods | Committee |
| 5. District Election Method | City Attorney |
| a) Multi-Member Districts | |
| 6. Future Agenda Topics/ Draft Workplan | Committee |
| a) Feasibility of Voting Methods in Santa Clara County | |
| 7. Next Meeting Scheduled June 12, 2017, 7 pm, City Council Chambers | |
| 8. Public Presentations | |
| <i>This item is reserved for persons to address the Committee on any matter on the agenda.</i> | |
| 9. Adjournment | |



**City of
Santa Clara**
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**DRAFT MINUTES
CHARTER REVIEW COMMITTEE**
Central Park Library, Margie Edinger Room
2634 Homestead Road
Santa Clara, CA 95050
Monday, May 8, 2017, 7:00 – 9:30 pm

Commissioners Present: Tino Silva, *Chair* Rex McIntosh
Keith Stattenfield, *Vice Chair* Jodi Muirhead
Hazel Alabado Beverly Silva
Markus Bracamonte Teresa Sulcer
Saskia Feain
Mary Hanna-Weir
Hosam Haggag

Absent: Chris Horton
Steve Lodge

Staff: Rod Diridon Jr., City Clerk
Brian Doyle, Interim City Attorney
Raania Mohsen, Management Analyst (Staff Liaison)

Matters for Council Action: None

1. **Call to Order.** Chair Tino Silva called the meeting to order with a quorum present at 7:10 pm. Chair Silva announced that he does not expect to get through all items on the Agenda. If items are not addressed, they will be included in the next meeting Agenda. Chair also noted that members of the public could provide comments before adjournment, as indicated on the Agenda as item 11.

2. **Approval of Minutes**

MOTION WAS MADE BY STATTFIELD AND SECONDED BY HAGGAG TO APPROVE THE April 24, 2017 MEETING MINUTES. MOTION CARRIED UNANIMOUSLY 10:0.

MOTION TO EXCUSE COMMITTEE MEMBER STEVE LODGE WAS MADE BY STATTFIELD AND SECONDED BY BEVERLY SILVA. MOTION CARRIED UNANIMOUSLY 10:0.

Chair Silva continued the meeting with Agenda Item 6, District Voting Method.

3. **District Voting Method**

a) Advantages & Disadvantages

City Clerk reviewed difference between At-Large and District Voting methods. Interim City Attorney led discussion on advantages and disadvantages of the By-District Voting method:

Advantages of By-District Voting	Disadvantages of By-District Voting
1. Ends current lawsuit	1. Mini-mayor effect
2. Ensures every area of the jurisdiction is represented and thus leads to more responsiveness	2. Possibly leads to horse-trading of votes between Council Members
3. Reduces costs of campaigning because there are fewer voters to reach out to	3. Council Member seats will continue to be inaccessible (every 4 years only) to minority groups if districts are not based on minority groups.
4. Elected Council Member will have the ability to know and focus on the represented area, citizens, and its issues	4. Will not lead to most qualified candidates being elected if they are all running in one district as opposed to running at-large.
5. Gives minority groups a better chance of being represented on the City Council	

Further discussion led to the following statements and questions:

- Can more than one Council Member represent a district? Can voting systems be combined? Yes, for example, two Council Members could represent one district and by-district voting could be combined with Instant Ranked Voting.
- Do all seats need to be elected by-district? No, there are jurisdictions that combine mixed voting systems. For example, in Oakland, one Council Member is elected at-large and the others are elected by-district.
- Districts can be drawn according to geography or population or community interests.
- If a jurisdiction violates the Federal Voting Act, than it usually results in the courts drawing the districts for the jurisdiction.

b) Preliminary Direction

Committee Members could not provide direction in favor of by-district voting at this time.

c) Demographic Report of 2011

Report provided to Committee Members as an attachment to Agenda packet.

4. Laws Affecting Election Methods of Council Members. Interim City Attorney provided overview/PowerPoint presentation on the California Voting Rights Act (CVRA), 2001 and reviewed key terms and concepts including:

- At-large method of election – any of the following methods of electing members to the governing body of a political subdivision:
 - One in which voters of the entire jurisdiction elect the members to the governing body.

- One in which candidates are required to reside within given areas of the jurisdiction and the voters of the entire jurisdiction elect the members to the governing body.
- One that combines at-large elections with district-based elections.
- District-based election – method of electing members to the governing body of a political subdivision in which the candidate must reside within an election district that is a divisible part of the political subdivision and is elected only by voters residing within that election district.
- Political sub-division- geographic area of representation created for the provision of government services, including, but not limited to, a general law city, general law county, charter city, charter county, charter city and county, school district, community college district, or other district organized pursuant to state law.
- Protected class – a class of voters who are members of a race, color, or language minority group, as referenced and defined in the Federal Voting Rights Act of 1965.
- Racially polarized voting – voting in which there is a difference in the choice of candidates that are preferred by voters in a protected class, and in the choice of candidates that are preferred by voters in the rest of the electorate.
- If at-large method of election results in a pattern of voting that affects a protected class of voters, such as its ability to elect candidates of its choice or influence the outcome of an election, then this is considered a violation of the (CVRA).
- The CVRA differs from the Federal Voting Rights Act in that it allows a safe harbor for cities accused of a violation through changing to by-district voting.
- A city that does not have protected class in geographically compact or concentrated areas is not precluded from a finding of racially polarized voting or a violation of the CVRA; if a violation is confirmed by the court, it shall implement appropriate remedies, including the imposition of district-based elections that are tailored to remedy the violation.

Committee Members discussed the value of changing the City's election method to by-district voting in order to resolve the current lawsuit and avoid additional costs to the city (e.g. defense of lawsuit, cost of Plaintiff's attorney fees and expenses). Committee Members stated that its primary goal is to make a recommendation regarding the City's election method that would increase the likelihood of the election of minority candidates to Council. By-district voting alone may not be enough. The Committee needs to consider other voting methods in addition to by-district voting e.g. cumulative voting, choice-ranked voting, multi-member districts.

Interim City Attorney stated that though the Council could have directly placed a charter amendment on the ballot proposing by-district voting in light of the current lawsuit, Council Members chose to form the Charter Review Committee to provide citizens with the opportunity to engage, provide input, and shape the City's future.

MOTION TO TAKE A 5-MINUTE RECESS AND CONTINUE MEETING UNTIL 9:30 PM WAS MADE BY HAGGAG AND SECONDED BY BRACAMONTE. MOTION CARRIED UNANIMOUSLY 11:0.

Chair Silva resumed the meeting at 8:35 pm.

Interim City Attorney completed presentation and noted that defendants of a CVRA complaint e.g. City of Santa Clara, are potentially responsible for covering the attorney fees and costs incurred by the plaintiff in addition to its own attorney fees and costs.

5. Review of Election/Voting Methods of City Council

a) California Municipal Democracy Index 2016

Interim City Attorney highlighted some key points noted in the California Municipal Democracy Index 2016, which was authored by California Common Cause and provided to Committee Members in the agenda packet as a valuable source of information about election and voting methods of cities across the State of California.

- The cities of Santa Clara and Sunnyvale are the only two cities in the State of California that elect Council Members at-large by numbered seats.
- The number of cities using by- district voting is increasing rapidly. Fifty-nine cities in California use the by-district election method and 16 additional cities have committed to transitioning to by-district elections in 2017 and 2018.
- Bay Area cities that use the by-district election method include San Jose, San Francisco, Oakland, and Berkeley. Fremont is also about to transition to by-district voting.

6. Plurality vs. Runoff

- Under California law, general law cities must elect their officials using the **plurality**-winner voting method, meaning the candidate who receives the most votes is elected, even if votes received are less than the majority.
- Some charter cities have adopted different voting methods, such as majority-winner voting methods, in which candidates must receive at least 51% of the votes to win. The two most common majority-winner voting methods are the **two-round runoff** and **instant runoff voting** (IRV).
- For example, the City of Santa Clara currently uses the plurality voting method, while the City of San Jose uses the two-round runoff form of voting, in which if no candidate receives a majority of the vote, the top two vote-getting candidates advance to a second election where the candidate who receives the most votes is elected.

7. Ranked Choice Voting vs. Cumulative

- **Ranked Choice Voting** is also known as **instant runoff voting** (IRV) and another majority-winner voting method. Under IRV, voters rank their candidates according to preference. If a candidate receives a majority of the first choice votes, he or she is elected. If no candidate receives a majority, the candidate who received the fewest votes is eliminated and his or her votes are redistributed to the voters' second choice. The votes are then recounted to see if any candidate now has a majority. If not, this process repeats until the lowest-scoring candidates are sequentially eliminated.
 - In **cumulative voting**, candidates run at-large, voters are allocated a number of votes equal to the number of seats to be filled, and the winner is determined by plurality vote. Under cumulative voting, a voter is not required to cast their votes to separate candidates and can allocate all of their votes to the same candidate.
 - Outside of California, many cities have adopted cumulative voting as an effort to empower minority communities in at-large voting.
 - In 2015, Santa Clara, California reached a settlement agreement with CVRA plaintiffs to adopt cumulative voting to address concerns of minority

disenfranchisement; however, the judge rejected the settlement on the grounds that Santa Clarita was not authorized to adopt this voting system because it's a general law city.

- Today four Bay Area cities use IRV: Berkeley, Oakland, San Francisco, and San Leandro.
- In **limited voting** voters have fewer voters than there are seats. For example, in a five-seat district, each voter might be allowed to cast two votes, and the winners are the five candidates who receive the highest totals of votes.
- **Proportional Voting**, also known as single transferable vote (STV), is the multi-seat version of IRV and has not been supported in Santa Clara County in the past.

City Clerk suggested seeking advice from the Santa Clara County Registrar of Voters regarding viability of different voting systems because often, voter participation decreases if the new system is different from the norm and voters do not understand how to vote or how their votes are calculated. If a new voting method is implemented, much effort will need to be directed to education about the new voting method.

8. Future Agenda Topics. Committee Members requested the following information at the next meeting:

- pros and cons of the various voting methods
- feasibility of the various voting methods
- feasibility of multi-member districts.

9. Requested Information for Review

a) Charter Review Committee Recommendation of 2011

As a former member of the 2011 Charter Review Committee, Vice Chair Stattenfield reported that the Committee's recommendation to City Council included the following:

- 1) Consider proportional representation, or single transferable vote (STV), in which voters rank candidates in order of preference; candidates win when they reach the "victory threshold."
- 2) Amend charter to allow at-large elections (vs. at-large by seats) in order to avoid candidates picking their opponents based on seats.

b) Charter Review Committee Recommendation of 2016

As former Chair of the 2016 Charter Review Committee, Committee Member Beverly Silva reported that it was recommended to City Council to form a new Charter Review Committee to solely focus on evaluating the City's election method.

10. Public Presentations. Members of the public shared comments regarding cumulative voting; limited voting; the CVRA; Ranked Choice Voting in San Francisco, Berkeley, and Oakland; voter registration and education to minority communities; campaign funding; and questions about the legality of multi-member districts.

11. Adjournment. The meeting adjourned at 9:30 pm.

MOTION TO ADJOURN THE MEETING MADE BY HOSAM HAGGAG AND SECONDED BY KEITH STATENFIELD. MOTION CARRIED UNANIMOUSLY 11:0.



Election Systems

Election System	Description	Pros	Cons	Examples
By-District	Candidate runs for office in a particular council district and is elected only by the voters from that district.	<ol style="list-style-type: none"> 1. Ensures that every area of the city is represented and has an elected advocate; according to the National League of Cities, it "gives all legitimate groups, especially those with a geographic base, a better chance of being represented on the city council, especially minority groups;" 2. Reduces cost of campaigning and easier to campaign because there are fewer voters that a candidate needs to reach out to; 	<ol style="list-style-type: none"> 1. Can create more intra-city council conflict as each member tries to maximize resources for their particular district; 2. Mini-mayor effect; 3. Seats in a district will only be accessible every four years, as opposed to citywide every two years due to staggered terms. 	Tends to be used by larger cities (12%, 59 cities); number is growing due to civil rights litigations and has increased threefold since 2002 when the CVRA was adopted; 16 more cities are transitioning to this method by 2017 and 2018. Cities with by-district elections are much more likely than cities with at-large elections to adopt majority-winner voting methods. Thirty-two percent of cities (19) with by-district elections use either the two-round runoff or IRV.
At-Large	City council candidates run city-wide and are elected by a citywide electorate; each voter may cast a number of votes equal to the number of seats up for election.	Better qualified individuals are elected to the council because the candidate pool is larger; leads to focusing on the whole community vs. a single district.	May lead to certain areas, especially low-income and minority areas, being unrepresented and politically neglected; in addition, a cohesively voting majority can potentially elect every seat on the city council, preventing a minority population from having any representation.	Most cities (415 cities, 86%) in California elect their city councils at-large; popular among small and mid-size cities; due to civil rights violations, several cities transitioning away from at-large.
At-Large from District	Candidates run to represent (and must reside in) a district but elected citywide; voters can cast one vote per district.	Provides broader geographic representation on the city council while ensuring that council members are accountable to the electorate as a whole.	It can enable a majority of the electorate to win every available seat, shutting out minority representation.	Eight cities in California use this form of election.
At-Large by Seat (used by Santa Clara)	Candidates may run for any seat up for election; seats do not represent a geographic area; voters cast one vote per seat.	<ol style="list-style-type: none"> 1. Promotes greater political accountability because candidates may target specific incumbents to challenge. 2. Allows voters to vote citywide for all seats without the vote dilution seen in the regular at-large system. 	It can enable a majority of the electorate to win every available seat, shutting out minority representation.	Two charter cities use this system: Santa Clara and Sunnyvale. Chula Vista and Modesto used to use this system but both recently transitioned to by-district election; superior court elections use this system and school and community college districts are authorized to use this system.

*California Common Cause, Municipal Democracy Index 2016, see <http://www.commoncause.org/states/california/research-and-reports/california-municipal.pdf>



Voting Methods

Voting Methods		Description	Pros	Cons	Examples
Majority		Candidate that receives a majority (over 50%) of votes is elected.			Used by large cities (20 cities, 4% of population).
Majority-	Two Round Runoff	If no candidate receives a majority vote in the primary election, the two top vote getters advance to a second runoff election.	<ol style="list-style-type: none"> 1. Promotes majority support; 2. Provides a second election for the majority to consolidate its vote on the representative of the two remaining candidates. 	<ol style="list-style-type: none"> 1. More expensive; city has to pay for two elections; 2. Depending on when the first-round and second-round elections are scheduled, there can be vastly different turnout between these elections; when city run-offs are not synchronized with higher visible state elections, runoff turnout will likely depend on how excited voters are about that particular race, for example, when the runoff is consolidated with the November election, voter turnout tends to increase. 	Sixteen cities use this method including San Jose, Los Angeles, Sacramento, Burbank, Long Beach, and Stockton; adopted by charter cities who use by-district election; general law cities cannot use this voting method.
Majority-	Top Two Runoff System	A variation of the two round runoff; candidates first run in a primary election and top two candidates in the primary then advance to a runoff general election, regardless of whether one of those candidates received a majority in the primary election; ensures that a runoff always occurs.	In addition to points (one and two) mentioned above in the two round runoff, the November electorate always provides the final say; when the runoff is consolidated with the November election, voter turnout tends to increase.	<ol style="list-style-type: none"> 1. More expensive; city has to pay for two elections; 2. Depending on when the first-round and second-round elections are scheduled, there can be vastly different turnout between these elections; when city run-offs are not synchronized with higher visible state elections, runoff turnout will likely depend on how excited voters are about that particular race. 	San Diego will transition into the mandatory top two runoff system beginning in 2018. Most elections are decided without the need for a runoff and by a smaller, less diverse electorate; thus San Diego voters chose to transition to the new system ensuring the November electorate will always have the final say.

*California Common Cause, Municipal Democracy Index 2016, see <http://www.commoncause.org/states/california/research-and-reports/california-municipal.pdf>



Voting Methods		Description	Pros	Cons	Examples
Majority-	Instant Runoff Voting (IRV), or Ranked Choice Voting (RCV)	<p>Voters rank the candidates on their ballot in order of preference; if no candidate has a majority of first-choice votes, then a process of elimination and transferring of votes begins:</p> <ol style="list-style-type: none"> 1. candidate who received the fewest votes is eliminated; 2. voters who selected eliminated candidates as first-choice will have those votes redistributed to voters' second choice; 3. The votes are then recounted to see if any candidate now has a majority; 4. If not, this process repeats, eliminating the lowest-scoring candidates sequentially and redistributing their votes, until a candidate receives a majority of the continuing votes and is elected. <p>IRV gets its name since voters' preferences between candidates are known in advance; it can simulate the results of a runoff instantly, without a second election.</p>	<ol style="list-style-type: none"> 1. Provides majority-winner benefits of the two-round runoff; 2. Because a winner can be determined without a second election, it has none of the turnout discrepancies that can accompany runoffs; 3. Eliminates need for second election; 4. Reduces campaign fundraising cycle; 	<ol style="list-style-type: none"> 1. Vote-counting methodology tends to confuse voters, especially minority and low-income voters who may be disenfranchised as a result; voters may not understand the concept of ranking vs. selecting candidates; 2. Can be expensive and time-consuming to count the ballots; 3. Voters may need to be more informed about all candidates and positions; 4. Can prevent or stifle debates between all candidates and lead to focus on debate with front-runner only 5. Feasibility in Santa Clara County unknown. 	<p>First used in CA municipal elections in 2004; four Bay Area cities use IRV: Berkeley, Oakland, San Francisco, and San Leandro; it is only available to charter cities.</p> <p>True-ranked choice voting systems allow voters to rank every candidate; Bay Area voting systems only allow for three rankings, in order of preference.</p>
	Plurality (used by Santa Clara)	<p>The candidate that receives the most votes is elected, even if less than a majority.</p>	<ol style="list-style-type: none"> 1. Easy to understand and administer; 2. Can be scheduled at the same time as the state general election when turnout is highest since it only requires one election. 	<ol style="list-style-type: none"> 1. Due to vote-splitting, it can result in winners who have little popular support; for example, in single-seat elections, candidates are sometimes elected even though 2/3 preferred someone else; in every CA single-seat city election from 2006-2004, 13% of winning candidates were elected with less than majority support; in races with 3 or more candidates, 42% of candidates were elected without majority support. 2. Also known as the spoiler effect, which is when the electorate is so divided and the winning candidate is the most disliked candidate. 3. Conversely, multi-seat plurality elections can result in over-representation of the majority's preferences. 	<p>Ninety-six percent of all cities (462) use this method; state law requires general law cities to use plurality voting; Santa Clara uses this method.</p>

*California Common Cause, Municipal Democracy Index 2016, see <http://www.commoncause.org/states/california/research-and-reports/california-municipal.pdf>



Voting Methods		Description	Pros	Cons	Examples
Plurality-	Cumulative Voting	Traditional at-large voting in which candidates run at-large, voters are allocated a number of votes equal to the number of seats to be filled, and the winner is determined by plurality vote; however, a voter is not required to cast each vote for a separate candidate; voters have the option of allocating all their votes to the same candidate.	<ol style="list-style-type: none"> 1. Empowers minority communities in at-large voting systems; 2. Results in better representation for political and racial minorities than traditional at-large voting; 3. Results in better representation for ethnic minorities than by-district elections where the underrepresented group is dispersed across the city and cannot be drawn into its own district. 	<ol style="list-style-type: none"> 1. Incentivizes strategic voting and remains vulnerable to the spoiler effect; can lead to inconsistent results, sometimes giving voting blocs far more or far fewer seats than they deserve; 2. Feasibility in Santa Clara County unknown. 	Not used in the State of California; several cities in California have considered this method to settle or address CVRA lawsuits. In 2015, Santa Clara reached a settlement agreement with the CVRA plaintiffs to adopt cumulative voting; however the judge rejected the settlement agreement on the grounds that Santa Clara is a general law city and is not authorized to adopt this voting system; Jurisdictions in other states use this system: Alabama, Delaware, New Mexico, Illinois, Texas.
	Single Transferable Vote (STV), AKA Choice Voting, Proportional Representation	<p>Multi-seat version of IRV; voters rank candidates in order of preference and candidates are elected at-large, but, unlike traditional at-large voting, they must receive a certain threshold of voter support to be elected; the percent of the vote needed to be elected depends on the number of seats to be filled. The equation to calculate the voter threshold is $\text{Votes Cast}/(\text{Seats} + 1) + 1$.</p> <ol style="list-style-type: none"> 1. A candidate who reaches the voter threshold from first choice votes is elected, and any excess votes over the threshold are then counted for the voters' second choices. 2. After excess votes are counted, the candidate with the fewest votes is eliminated. 3. The voters who selected the defeated candidate as a first choice will then have their votes counted for their second choice. 4. This process continues until all seats are filled. 	<ol style="list-style-type: none"> 1. Effectively elects a legislative body that matches the diverse preferences of the electorate as a whole; 2. More likely to result in representation for a substantial minority voting bloc than any other at-large election system. 	<ol style="list-style-type: none"> 1. System is confusing; 2. Can enable fringe candidates to win; 3. Feasibility in Santa Clara County unknown. 	Extensively used abroad for parliamentary procedures; only one city in the U.S. uses it today: Cambridge, Massachusetts; general law cities are not able to use this system; U.S. cities, including Sacramento, used to use this system in the early 20th century; has not been supported in Santa Clara County in the past.

*California Common Cause, Municipal Democracy Index 2016, see <http://www.commoncause.org/states/california/research-and-reports/california-municipal.pdf>

Charter Review Draft Workplan 2017



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	Task Description	Anticipated Meeting Date	Notes/Attachments
1	To focus on district and other methods of electing members to the City Council within approximately three months and in time for the June 2018 election.	April 11, 2017 Council Meeting	As approved by Council
2	Review Laws affecting Election Methods of Council Members	8-May-17	CA Voting Rights Act Presentation provided by Interim City Attorney
3	Review Charter Review Committee Recommendation of 2011	8-May-17	
4	Review Charter Review Committee Recommendation fo 2016	8-May-17	
5	Review Election/Voting Methods of City Council	8-May-17	CA Municipal Democracy Index 2016 prepared by CA Common Cause
6	By-District Election Method	8-May-17	
7	Review Demographic Report of 2011	8-May-17	
8	Plurality vs. Runoff	8-May-17	
9	Instant Runoff (Ranked Choice Voting), Cumulative Voting	8-May-17	
10	Pros & Cons Analysis of Election Systems/Voting Methods	22-May-17	Primary Source: CA Municipal Democracy Index 2016
11	By-District Election Method: Multimember Districts	22-May-17	
12	Feasibility/Methods Supported by SCC Registrar of Voters	12-Jun-17	SCC Registrar of Voters to present/provide correspondence
13	Draft Recommendation/Charter Language	10-Jul-17	
14	Final Recommendation/Charter Language	24-Jul-17	
15	Other items to be addressed by Committee before November 2018 Election	24-Jul-17	TBD