



## **AGENDA**

October 23, 2017, 7:00 p.m.

### **Committee Members**

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

### **Staff**

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

1. Call to Order and Roll Call Chair
  
2. Public Presentations  
*This portion of the meeting is reserved for persons to address the Committee on any matter not on the agenda that is within the subject matter jurisdiction of the 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 may request staff to report back at a subsequent meeting. Please limit your remarks to 3 minutes.*
  
3. Approval of Draft Minutes from October 5, 2017 Special Meeting Committee
  
4. Review and Approval of Revised Draft Charter Amendment Related to Election of City Council Members Interim City Attorney/Committee
  - a) Review of information related to residency requirement
  - b) Review of information regarding office abandonment
  
5. Discussion of Potential Charter Amendments Committee
  - a) Convert Police Chief from elected to appointed position
  - b) Convert City Clerk from elected to appointed position
  - c) Voting Method of elected Mayor, City Clerk, Police Chief
  - d) Provide City Officers with duty to report city charter violations, establish complaint process for city staff who report suspected charter violations, provide whistleblower protection for those who report

6. Informational Memo Addressing Future Presentations & Agenda Items

City Manager's Office

7. Public Comment on Agenda Items

*Public may comment before any vote taken by the Committee. This time is reserved for persons to address the Committee on any matter on the agenda for which a vote was not taken.*

8. Adjournment

Chair

Next meetings: TBD



**City of  
Santa Clara**  
The Center of What's Possible

**CHARTER REVIEW COMMITTEE  
DRAFT MINUTES**  
CENTRAL PARK LIBRARY  
REDWOOD MEETING ROOM  
2635 Homestead Road  
Santa Clara, CA 95051  
Thursday, October 5, 2017, 7:00 p.m.

**Committee Members Present:** Tino Silva, Chair (7:15 pm)      Hosam Haggag  
Keith Stattenfield, Vice Chair      Mary Hanna-Weir  
Hazel Alabado      Steve Lodge  
Markus Bracamonte      Jodi Muirhead  
Saskia Feain

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

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**Matters for Council Action:** Committee recommends to forward suggested charter amendments items 5(G) through 5(O) to staff to provide input as needed and forward to Council for review and approval.

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1. **Call to Order.** Vice Chair Keith Stattenfield called the meeting to order with a quorum present at 7:04 pm.

2. **Public Presentations on any matter not on the agenda.**

Steve Chessin of Californians for Electoral Reform stated assuming the charter amendment related to the method of election of City Council Members is approved by the Charter Committee and subsequently the Council, and goes to the ballot in November 2018, Californians for Electoral Reform is willing to assist and support a campaign in support of the charter amendment. Fair Vote may also assist and support the campaign for the charter amendment.

3. **Approval of Draft Minutes from September 18, 2017 Meeting.**

**MOTION MADE BY HAGGAG AND SECONDED BY HANNA-WEIR TO APPROVE SEPTEMBER 18, 2017 MINUTES. MOTION PASSED 7:0 WITH ONE ABSTENTION FROM FEAIN.**

4. **Review and Approval of Draft Charter Amendment Related to Election of City Council Members.** Interim City Attorney provided revised charter amendment language per

suggestions provided at the September 18, 2017 Charter Review Committee meeting. Committee Members suggested further revisions and requested Interim City Attorney to research and provide more information regarding the following options addressing residency requirement:

- Residency requirement prior to running for office;
- Residency requirement for duration of term;
- Provision allowing an elected candidate to move to another district within the City in the middle of his or her term.

City Clerk noted that the City Charter used to include a residency requirement in order to run for elected office but it was struck from the Charter.

Relating to residency requirement and per interest expressed by Committee Members, Interim City Attorney suggested bringing back a new amendment to the Charter that addresses abandonment, or when an elected officer moves out of the City, how abandonment is determined and what happens when the office becomes vacant due to abandonment.

Committee Members noted that it's important to ensure proposed charter amendments remain valid and in alignment with the California Voting Rights Act (CVRA) and the definition of "by district" elections.

**5. Review & Prioritization of the Following Potential Charter Amendments as received from Community and Committee Members:**

- A. **Convert Police Chief from elected to appointed position**
- B. **Convert City Clerk from elected to appointed position**
- C. **Voting method of elected Mayor, City Clerk, Police Chief**
- D. **Convert Mayor from elected to appointed rotating position**
- E. **Provide City Officers with duty to report city charter violations, establish complaint process for city staff who report suspected charter violations, provide whistleblower protection for those who report**
- F. **Require Council Meetings to occur every 30 days and at least 20 meetings per year, separated by 14 days**
- G. **Revise current value of property (\$500.00) that can be sold by City of Santa Clara according to approved process**
- H. **Revise the required five-sevenths vote for an emergency ordinance to four-sevenths vote**
- I. **Require full text of any proposed ordinance to be posted on website at least three days before adoption**
- J. **Add "commissions" to requirement of City Attorney to attend meetings of and give his/her advice or opinion in writing when requested to do so by City Council, boards or officers**
- K. **Clarify City Planning Commissioners' classification**
- L. **Require city budget to be posted on city website**
- M. **Revise current value of public works contracts (\$1,000) that requires bidding**
- N. **Require final audit and report to be posted on city's website**
- O. **Require public documents to be posted on city's website**

Chair Tino clarified Committee is to prioritize the suggested amendments according to preference. Committee Members and staff provided the following comments and options for consideration:

- Review the items according to subject matter, e.g. “election of officers” items 5(A) through 5(D).
- Forward all items for Council to review and approve.
- Be mindful that each charter amendment brought forward as a ballot measure could potentially cost about \$70,000.
- Be mindful of the single-subject requirement for each ballot measure.
- Some of the items require subject matter expertise, e.g. Director of Public Works.

**MOTION MADE BY VICE CHAIR STATENFIELD AND SECONDED BY HAGGAG TO ELIMINATE FROM LIST OF POTENTIAL CHARTER AMENDMENTS 5(F) OCCURRENCE OF COUNCIL MEETINGS, AND FORWARD ITEMS 5(G) THROUGH 5(O) TO STAFF TO PROVIDE INPUT AS NEEDED, AND FORWARD TO COUNCIL FOR REVIEW. MOTION PASSED UNANIMOUSLY 9:0.**

Members of the public provided comments on motion. A member of the public (name unknown) recommended for Committee to consider resources and staff’s time when evaluating items 5(G) through 5(O) of the potential charter amendments and forwarding to Council for review. David Kadlec suggested considering forming a permanent Charter Review Committee. Gautam Barve recommended for Police Chief and City Clerk to remain elected at-large. A member of the public (name unknown) recommended for Mayor, City Clerk, and Police Chief to remain elected and through Ranked Choice Voting (RCV), similar to the Committee’s recommended method for election of Council Members.

Motion made by Haggag and seconded by Bracamonte to eliminate from list of potential charter amendments items 5(a), 5(b), and 5(d), which propose to convert police chief, city clerk, and mayor from elected to appointed positions.

Committee Members noted and discussed:

- validity of elimination and prioritization of items off the list of suggested potential charter amendments;
- adding the qualifications of Police Chief as a discussion item for the next Agenda;
- adding the merit of an elected Fire Chief as a discussion item for the next Agenda;

Motion amended by Haggag and seconded by Bracamonte to review each item separately and to eliminate item 5(a), convert police chief from elected to appointed position, from further consideration.

Committee Member comments included:

- The requirement of an elected police chief reduces the pool of candidates eligible to run for Police Chief; however, because there has not yet been a problem with having an elected police chief, there is no need to change it.
- City of Santa Clara has a standard for public safety that needs to be maintained through the election of a Police Chief who must meet the required qualifications outlined in the Charter

in order to run for office; however, ensuring accountability is also important but difficult with an elected official.

Members of the public provided comments on the motion. In his capacity as resident of the City of Santa Clara, Brian Doyle stated elected officers do not have accountability. There is no citizen oversight of the Police Chief except for disciplinary hearings conducted by the Civil Service Commission. Steve Silva expressed support for the roles of Police Chief and City Clerk remaining as elected officials but suggested to consider establishing mechanisms of accountability and oversight through the City Manager just like other employees of the City.

Committee Members made the following suggestions as future agenda items:

- Include presentations on current mechanisms of accountability and oversight of elected officers for discussion.
- Discuss other mechanisms for accountability and oversight of the elected offices of Police Chief and City Clerk.
- Include presentations regarding the roles of Police Chief and City Clerk and details about the accountability of their performances from Committee Member Steve Lodge and a representative from the City Clerk's Office as appropriate.

Motion on the floor was withdrawn by Haggag.

**MOTION MADE BY MUIRHEAD AND SECONDED BY VICE CHAIR STATENFIELD TO EXTEND THE MEETING TO 9:15 PM. MOTION PASSED 7:2 WITH OPPOSITION FROM HAGGAG AND BRACAMONTE.**

**MOTION MADE BY HAGGAG AND SECONDED BY BRACAMONTE TO ELIMINATE FROM LIST OF POTENTIAL CHARTER AMENDMENTS 5(D) CONVERT MAYOR FROM ELECTED TO APPOINTED ROTATING POSITION. MOTION PASSED UNANIMOUSLY 9:0.**

Public Comments on motion received from David Kadlecek and included suggestion to further reconsider converting the Mayor from an elected position to a rotating appointment.

#### **6. Public Comment on Agenda Items.**

Steve Chessin suggested further revisions regarding the revised charter amendments and addressed the question of the single-subject requirement for ballot initiatives; it is not a requirement when placed by the legislative body. David Kadlecek addressed the question of elected officials being drawn out of districts, stated that a one-year residency requirement for elected office is in violation of the U.S. Constitution, and addressed the concern about elected officials continuing to represent their district should they move out of the district.

Meeting adjourned at 9:10 pm.

**MOTION TO ADJOURN MEETING MADE BY HAGGAG AND SECONDED BY HANNA-WEIR. MOTION PASSED UNANIMOUSLY 9:0.**

Prepared by:

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RAANIA MOHSEN  
Management Analyst, City Manager's Office

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Agenda Item #4  
Handbook Section # 10  
City Attorney's Office  
**Memorandum**

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**Date:** October 19, 2017  
**To:** Charter Review Committee  
**From:** Interim City Attorney  
**Subject:** Draft Ballot Language

On October 5, 2017, the Charter Review Committee reviewed the City Attorney's draft ballot language to amend the City Charter in accordance with the Committee's recommendation to 1) Elect Council Members by two districts (e.g., District A and District B) with three (3) Council Members representing each district; 2) Elect three (3) Council Members at the same time per district alternating/staggering between gubernatorial and presidential election years; 3) Utilize Ranked Choice Voting by means of Single Transferrable Vote as soon as the Santa Clara County Registrar of Voters Office can support such a system and continue with the City's current voting method until the County can support the new voting method; and, 4) Transition to include: in 2018, elect two (2) Council Members to four year terms in District A; and in 2020, elect one (1) Council Member to a two year term in District A and three (3) Council Members to four year terms in District B.


Attached is the draft ballot language with the changes recommended by the Committee to consider.

In addition, the Committee requested further information with regard to the following:

- a) Length of residency requirement;
- b) Moving out of district and its effect on office abandonment.

In *Thompson v Mellon*, 9 Cal.3d 96 (1973) the California Supreme Court ruled that a public entity "may constitutionally require that the prospective candidate be a resident at the time he files his nominating papers or equivalent declaration of candidacy and for a period of not more than 30 days next preceding such date of filing." The City of Santa Clara may not impose a greater residency requirement.

We have not had sufficient time to analyze the effect of potentially carving out moving out of a district and being able to stay in office on the rights of the voters or other candidate to bring back any substantive recommendation on the idea. We do, however, recommend not including the concept within this Charter amendment because of its potential to complicate the electorate's understanding of the new election procedures.

  
\_\_\_\_\_  
Brian Doyle  
Interim City Attorney



**Charter Amendment – Council Districts – Method of Election**

1. Section 600 of the Charter of the City of Santa Clara is amended to be entitled and to read as follows:

**Sec. 600 City elected officers.**

No person shall be eligible to hold ~~any the~~ elective office in the City including ~~of~~ Mayor, ~~City Council~~, Chief of the Police Department ~~and or~~ City Clerk, unless he or she is a resident and a qualified registered elector of the City. No person shall be eligible to hold the elective office of City Council Member other than Mayor unless he or she is a resident and a qualified registered elector of the City in the district represented by the City Council Member office.

The elective officers of the City shall consist of a City Council composed of seven members, the Chief of the Police Department and the City Clerk. The members of the City Council, (which includes the office of the Mayor), the Chief of the Police Department and the City Clerk shall be elected from the City at-large at the times and in the manner provided in this Charter. Except as otherwise herein provided, a person elected to an office for other than an unexpired term shall serve a term of four years and shall serve until a successor is elected and qualified. The term shall commence on the date the City Council certifies the canvass of the election returns submitted to it by the County Registrar of Voters.

~~The person receiving the most votes cast for a particular City office shall be declared duly elected. Ties shall be broken as provided from time to time by ordinance.~~

The office of Mayor shall be separately voted upon and is a separate office. The person elected at any election to the office designated "Mayor" shall be deemed elected, both as a Mayor and as a member of the Council. Although the Mayor is a Council member, his or her election does not change the number of Council members from seven.

No person shall be a candidate for both Mayor and a City Council seat at the same election. However, an incumbent member of the City Council may run for the elective office of Mayor, and the Mayor may run for the separate office of Mayor or other City Council office. However, at no time shall a member of the Council, including the Mayor, hold more than one City elective office. Except as otherwise provided elsewhere in this Charter, no incumbent member of the City Council while serving in such office with an unexpired term of more than six months shall be a candidate for any numbered City Council seat other than the one which he or she holds.

2. Section 700.1 of the Charter of the City of Santa Clara is amended to be entitled and to read as follows:

**Sec. 700.1 Elections – City Council ~~Designation of seats.~~**

Members of the City Council shall be elected from two districts to be known as District 1 and District 2, with elections to be conducted as follows:

- (a) Each District shall be represented by three (3) Council Members.
- (b) In the election to be held in November 2018, the voters of District 1 shall nominate and elect two (2) Council Members who meet the qualifications set forth in Section 600 of this Charter for four year terms each.
- (c) In the election to be held in November 2020, the voters of District 1 shall nominate and elect one (1) Council Member who meets the qualifications set forth in Section 600 of this Charter for a two year term; and the voters of District 2 shall nominate and elect three (3) Council Members who meet the qualifications set forth in Section 600 of this Charter for four year terms each.
- (d) In the election to be held in November 2022, the voters of District 1 shall nominate and elect three (3) Council Members who meet the qualifications set forth in Section 600 of this Charter for four year terms each.
- (e) In each election held in or after November 2024, Council Members who meet the qualifications set forth in Section 600 of this Charter shall be elected for a four year term.
- (f) The method by which Districts are to be drawn and redrawn and the method of voting for City Council shall be enacted by ordinance of the City Council.

3. Section 700.2 of the Charter of the City of Santa Clara is amended to be entitled and to read as follows:

**Section 700.2 Method of Elections – City Council.**

- (a) In the general municipal election in November 2018 Members of the City Council shall be elected by the method of election set forth in Elections Code Section \_\_\_\_\_.
- (b) Ranked choice voting or single transferable vote shall be used for electing the Members of the City Council in the general municipal election in November 2020 and all subsequent elections. If the Registrar of Voters will not be ready to implement ranked-choice balloting in November 2020, then the City shall use the method of election provided for in Elections Code Section \_\_\_\_\_ until the Registrar of Voters is able to implement ranked-choice voting.
- (c) The City Council shall, by ordinance, establish the ballot format and the rules for casting and counting the vote.



**Date:** October 23, 2017

**To:** Charter Review Committee

**From:** City Manager's Office

**Subject:** Informational Memo: Future Presentations and Agenda Items

At its August 7, 2017 meeting, the Ethics Committee had directed the Charter Review Committee to review and prioritize future work plan items related to the City's Charter. At the October 5, 2017 Charter Review Special Meeting, the Committee was tasked with prioritizing potential charter amendments, as suggested by members of the community and Committee, to be forwarded to Council for review and approval. In order to complete the prioritization, Committee Members expressed interest in hearing more information about the current accountability mechanisms and the oversight of elected officers in the City of Santa Clara. The Committee's interest in conducting a thorough analysis is commendable. If the committee chooses to hear from past and current elected officials, it is recommended to also seek independent review of elected positions for a comprehensive and objective analysis.