



Date: December 5, 2017

To: City Council for Action

From: City Manager and Interim City Attorney

Subject: Charter Review Committee Recommendations: Proposed Charter Amendment on Methods of Election & Future Work Plan Items

EXECUTIVE SUMMARY

On April 11, 2017, the City Council appointed a Charter Review Committee to evaluate the City's at-large by-seat election method of Council Members and to make a recommendation regarding district or other methods of election in time for the June 2018 primary election. The Committee presented its recommendation to implement district elections to Council on July 18, 2017. Council directed Interim City Attorney to draft ballot language to amend the City Charter in accordance with the Committee's recommendation and for the Committee to review and approve in subsequent charter review meetings. The Committee's approved ballot language is attached for review (Attachment 1).

At its August 7, 2017 meeting, the Ethics Committee received a presentation regarding the Charter Review Committee's recommendation and provided direction to seek other potential charter amendments from the community through outreach via e-Notify, social media, and Charter Review Committee meetings. The Charter Review Committee reviewed and prioritized the suggestions received at their meetings on October 5, October 23 and November 6, 2017.

DISCUSSION

Proposed Charter Amendment – Council Districts – Voting Method of Election

Regarding Council districts, in the City's current at-large, by-seat method of election, candidates may run for any seat up for election and voters may cast one vote per seat; seats do not represent a geographic area or district. The Charter Review Committee received extensive information on election systems, voting methodologies, and various possibilities to changes in how Santa Clara elects its six at-large, by-seat council members. After thorough deliberation, the Committee recommended the by-district method of election in which candidates run for office in a particular district and are elected only by the voters from that district. The following by-district method of election is included in the proposed charter amendment:

- Elect City Council Members to two three-member districts (e.g. District 1 and District 2);
- Elect the three Council Members at the same time alternating district elections between gubernatorial and presidential election years; and
- Transition to include:
 - In 2018, elect two members to four-year terms in District 1;
 - In 2020, elect one member to a two-year term in District 1, and three members to four-year terms in District 2.

Regarding voting method, the City currently uses plurality voting, where the candidate receiving the most votes is elected. The Charter Review Committee recommended a different form of voting known as Single Transferrable Vote (STV), which is a form of Ranked Choice Voting (RCV) that is used for electing candidates to multiple openings in the same position during an election and requires candidates to reach a certain threshold of votes, dependent on the number of seats being voted on, to be elected. The Santa Clara County Registrar of Voters (ROV) has indicated that they cannot support this type of voting method until 2020. Historically, the City has consolidated its elections with the County ROV, like other cities in the County, and may continue to do so despite the proposed alternate voting method. Thus, the current method of plurality voting is to continue until the County ROV can support the new method of voting.

RCV is currently used in the cities of Berkeley, Oakland, San Francisco, and San Leandro and is only available to charter cities. Voters rank candidates on their ballot in order of preference and candidates must receive a certain threshold of voter support, dependent on the number of seats being voted on, to be elected (Attachment 2). The Committee recommended including a general description of the new voting method in the proposed charter amendment and establishing the new rules for casting and counting the votes through adoption of a City ordinance. With the difference of ranking vs. selecting candidates, voter education and outreach in collaboration with the Santa Clara County ROV will be necessary.

Implementation of Proposed Charter Amendment

As set forth in the proposed Charter amendment, the method of voting shall be Ranked Choice Voting (RCV), and the ballot format and rules for casting and counting the votes shall be established by ordinance, which will need to be in effect by the November 2020 election when the County ROV will be able to support such election method. Staff will bring back a report for formally placing the ballot question on the June 2018 at a future Council meeting. For the purpose of public education and discussion on the implications of the proposed Charter amendment, the City Attorney's Office will begin to work with a consultant with relevant subject matter experience and expertise to provide the demographic analysis necessary to create the two districts and, based on the consultant's professional recommendation, an Ordinance will be drafted by the City Attorney's Office outlining the methodology of drawing districts. The following must be done before the City Council can take action on the ordinance:

- Prior to drawing a draft map, the City should hold at least two public hearings within a thirty-day period to elicit public input on the composition of the districts. Elections Code § 10010(a)(1). It is recommended that an ad-hoc Council subcommittee be created for this purpose. Prior to the public hearings, public outreach should be conducted to explain the districting process and encourage public participation. At a minimum, methods of outreach will include posting to the City's website, e-Notify, social media channels and direct mail to all registered voters. Any meeting notice will provide information of translation service resources for non-English speakers and, with advance notice, the City will put in place the required translation services to enable participation in other languages.
- After public input is received, a draft map will be drawn, which will be published and made available to the public. The potential sequence of the elections must also be provided for if there are members of the Council that may be elected in their districts at different times due to staggered terms of office. The sequence must take into consideration the preferences expressed by members of the districts. The City is required to hold at least two additional public hearings over a 45-day period to elicit public input on the draft map and potential sequence of elections. Elections Code § 10010(a)(2), (b).

Future Work Plan Items: Review of Potential Charter Amendments for Council Consideration

In recommending future work plan items, the Charter Review Committee reviewed fourteen potential charter amendments as received by members of the community and the Committee, which included:

1. Convert Police Chief from elected to appointed position
2. Convert City Clerk from elected to appointed position
3. Voting method of elected Mayor, City Clerk, Police Chief
4. Convert Mayor from elected to appointed rotating position
5. 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. Revise current value of property (\$500.00) that can be sold by City of Santa Clara according to approved process
7. Revise the required five-sevenths vote for an emergency ordinance to four-sevenths vote
8. Require full text of any proposed ordinance to be posted on City website at least three days before adoption
9. 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
10. Clarify City Planning Commissioners' classification
11. Require City budget to be posted on City website
12. Revise value of public works contracts (\$1,000) that require bidding
13. Require final audit and report to be posted on City website
14. Require public documents to be posted on City website

At their meetings on October 5 and October 23, the Committee unanimously recommended that the Charter not be changed to convert the positions of Chief of Police and City Clerk to appointed positions.

The Committee also unanimously voted to eliminate item #4 and defer items #6 - 14 to staff for input and potential recommendations to Council. As such, the remaining potential Charter amendments have been reviewed and a summary of input has been provided for Council's consideration and direction (Attachment 3). According to the attached summary matrix, staff has identified as priority items the need to update provisions included in the Charter since its adoption in 1952 that contain outdated terms of value and procedure, specifically Charter Section 1310 Contracts on public work and Charter Section 714 Power to lease, sell, or convey City property. In addition, staff has identified other Charter amendments, which have also been noted in the summary matrix. For the purpose of clarification and clean-up of Charter Section 1101 Classified Service, a review of the roles listed as unclassified service positions may be warranted in addition to other administrative amendments based on best practices and improved efficiencies, such as the addition of limited term employees and redefinition of temporary employees.

As a general rule, it is recommended not to present more than three ballot questions as an effort to avoid voter confusion and fatigue. The identified priority items are administrative in nature and are not recommended to be included in the November 2018 election.

At their meeting of November 6, the Committee reviewed the remaining items (#3 and #5) and unanimously recommended to:

- Change the voting method for the Mayor, City Clerk, and Chief of Police to match the recommended voting method of Council Members beginning in 2020 with the election of the City Clerk and Chief of Police, and then with subsequent elections thereafter.
- Refer to the Ethics Committee review of methods for reporting potential Charter violations by City staff and/or members of the public.

The Charter Review Committee met ten times and has completed its assignment from the City Council. In review of the suggested potential Charter amendments, the Council may consider providing direction regarding future work plan items to the Charter Review Committee.

ADVANTAGES AND DISADVANTAGES OF ISSUE

The Charter Review Committee's recommendations address the current legal challenge regarding the City's election method by proposing district elections and a voting method that leads to proportional representation. Despite this, a potential disadvantage may be further legal challenges to the City's election and voting methods.

ECONOMIC/FISCAL IMPACT

If the Council approves the recommendation, there will be costs associated with including a ballot question for the November 2018 election and consultant services will be needed to assist with districting. In addition, a robust community education and outreach program would be needed, which may include the need for professional experts to assist with the districting and to provide voter education. Although the costs are unknown at this time, subsequent budget appropriations for these needs will be brought before Council for consideration when appropriate.

RECOMMENDATION

Per the Charter Review Committee's recommendations, that the Council:

- 1) Approve the proposed Charter amendment language to:
 - a) Elect City Council Members by two districts (e.g. District 1 and 2) with three Council Members representing each district;
 - b) Elect the three Council Members at the same time per district alternating/staggering between gubernatorial and presidential election years;
 - c) Utilize Single Transferrable Vote, a form of Ranked Choice Voting, as soon as the Santa Clara County Registrar of Voters Office can support such a system; continue with the City's current voting method of plurality until the County can support the new voting method.
 - d) Transition to include:
 - In 2018 elect two members to four-year terms in District 1;
 - In 2020 elect one member to a two-year term in District 1 and three members to four-year terms in District 2.
 - e) Change voting method of all other elected officers, including Mayor, City Clerk, Chief of Police, to match the recommended voting method of Council Members (Ranked Choice Voting by means of Single Transferrable Vote) beginning in 2020 with the election of the City Clerk and Chief of Police, and then with subsequent elections thereafter.

- 2) Direct the City Manager and the Interim City Attorney to initiate the process to draw the districts with public outreach.
- 3) That the Council provide further direction regarding administrative charter amendments and future work plan items for the Charter Review Committee.
- 4) That the Council note and file Charter Review Committee meeting minutes of October 5, October 23, and November 6, 2017 (Attachment 4).

APPROVED:



Deanna J. Santana
City Manager



Brian Doyle
Interim City Attorney

Documents Related to this Report:

- 1) *Proposed Ballot Language for Charter Amendment*
- 2) *Summary of Single Transferrable Vote by Means of Ranked Choice Voting*
- 3) *Potential Charter Amendments for Council's Consideration*
- 4) *Charter Review Committee Meeting Minutes of October 5, October 23, and November 6, 2017*

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 elector of the City in the district represented by the 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~~ 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 by district. There shall be 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 and each district election held thereafter, 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 the election to be held in November 2024 and each district election held thereafter, 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.
- (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. 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.

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.

- (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 15450.
- (b) The single transferable vote form of ranked choice voting shall be used for electing the Mayor, Police Chief, City Clerk and 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 15450 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.

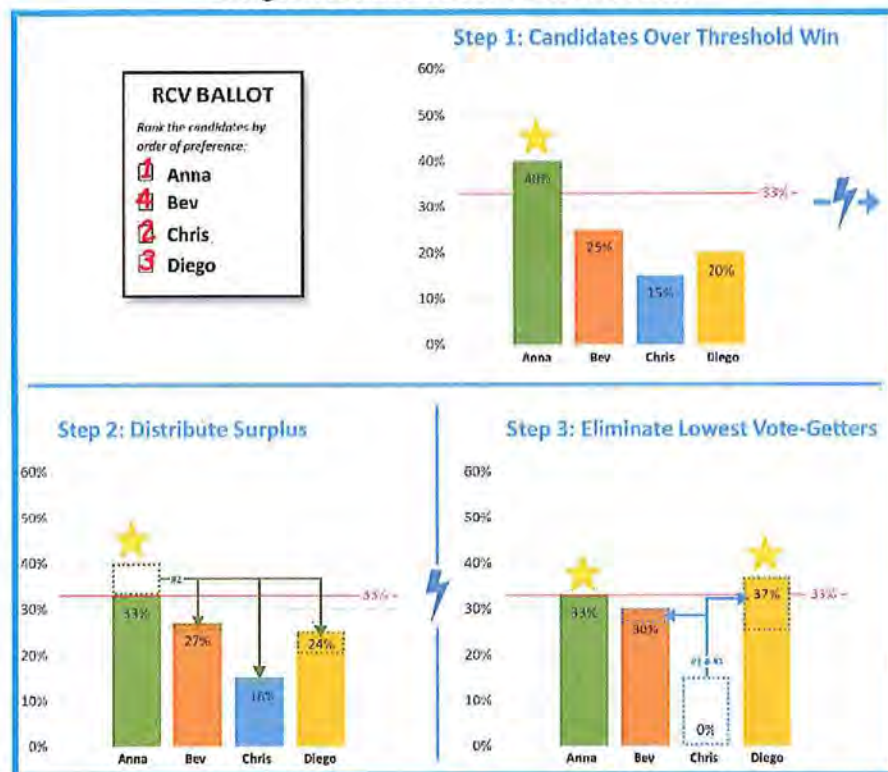


Summary of Ranked Choice Voting by Means of Single Transferrable Vote*

Single Transferrable Vote (STV) is a form of Ranked Choice Voting (RCV) that is used for electing candidates to multiple openings in the same election. It requires candidates to reach a certain threshold of votes, dependent on the number of seats being voted on, to be elected. In the following example, there are two available seats with four candidates running and thus the threshold of votes is 33%.

1. Voters rank candidates according to preference.
2. Any candidate who receives more first choice votes than the threshold is elected, e.g. Anna.
3. Surplus votes are redistributed proportionally according to voters' second choice, e.g. Anna's first-choice votes exceed the threshold to be elected.
4. If no candidate has received sufficient votes to reach the threshold, the candidate with the fewest votes (Chris) is eliminated and their votes are redistributed according to voters' next ranked preferences.
5. Process continues until the number of candidates equaling the number of seats to be filled reaches the threshold and is elected.

Single Transferrable Vote Election



In this example, Anna is elected outright and her surplus votes are redistributed proportionally according to her voters' second-choices. After the transfer of her votes, since no candidate had

*Source: *California Municipal Democracy Index 2016*. California Common Cause: Holding Power Accountable. Accessed May 2017.
<http://www.commoncause.org/states/california/research-and-reports/california-municipal.pdf>.

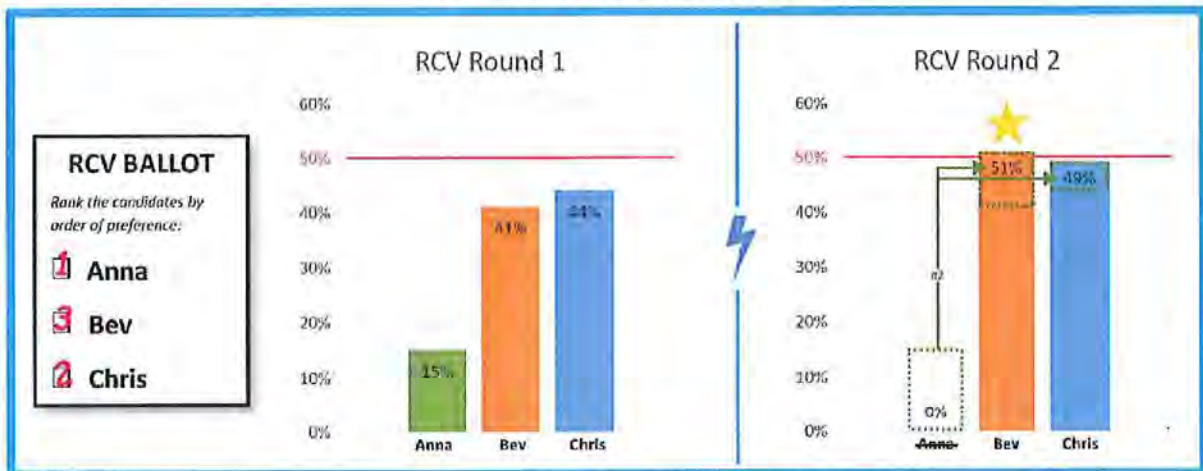


received sufficient votes to reach the threshold, the candidate with the fewest votes (Chris) is eliminated and his votes are redistributed according to his voters' next ranked preferences. In this case, Deigo reached the threshold after Chris's votes were redistributed, and is elected along with Anna.

For clarification RCV by definition is a majority winner voting system in which voters have the option of ranking the candidates for one available seat, while STV is used to describe a form of RCV when electing candidates to multiple seats. In the following example of RCV, there are three candidates.

1. Voters rank candidates according to preference.
2. If a candidate receives a majority of the first choice votes, he or she is elected.
3. If no candidate receives a majority, the candidate who received the fewest votes is eliminated and their votes are redistributed to their voters' next ranked preferences. 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 and sequentially redistributing their votes, until a candidate receives a majority of the continuing votes and is elected.

Ranked Choice Voting Election



In this example no candidate had a majority of the first choice votes so Anna, receiving the fewest votes, was eliminated. Most of her voters picked Bev as their second choice, enabling her to win a majority of the votes cast after adding Anna's redistributed second-choice votes to her total.

RCV is also known as Instant Runoff Voting because voters' preferences between candidates are known in advance and it stimulates the results of a runoff instantly, without a second election. Please note, the term Single Transferrable Vote can still be used to describe an election of one seat, e.g. City Mayor, because if no candidate has a majority of the first choice votes, then a process of eliminating and "transferring" of votes occurs until a winning candidate receives a majority of votes as exemplified above.

*Source: *California Municipal Democracy Index 2016*. California Common Cause: Holding Power Accountable. Accessed May 2017.
<http://www.commoncause.org/states/california/research-and-reports/california-municipal.pdf>.



Potential Charter Amendments for Council's Consideration

Items recommended to be addressed as charter amendment:

Item	Charter Section	Suggested Modifications	Background
1	714 Power to lease, sell, or convey City Property	Revise the not-to-exceed value (\$500.00) in which property can be sold by City of Santa Clara without first publishing the intention to sell in an official newspaper once a week for two weeks preceding the date of such a sale; adjust value annually based on consumer price index.	<ul style="list-style-type: none"> • This provision has been in the Charter since its adoption in 1952 and is very much outdated in terms of the value and procedures for sale. • Today, according to CPI Inflation Calculator, \$500.00 in 1952 has the same buying power as \$4,656.96 in September 2017. • Revision was attempted in the November 7, 1972 Election through Measure E, which proposed to increase the value to \$2,500; the measure failed. • Revision was attempted in the March 7, 2000 Special Election through Measure K, which proposed to increase the value to \$50,000; the measure failed.
2	1310 Contracts on Public Work	Revise current value of public works contracts (\$1,000.00) that requires bidding and adjust annually based on consumer price index.	<ul style="list-style-type: none"> • This value has been in the Charter since its adoption in 1952 and is very much outdated and has no exceptions, such as for emergency purchases. • Today, \$1,000.00 in 1952 has the same buying power as \$9,313.92 in September 2017 according to CPI Inflation Calculator. • Current city purchasing policy requires formal written competitive proposals for public works contracts exceeding \$50,000 or for electric, water and sewer utility contracts exceeding \$150,000. • Revision was attempted in the November 7, 1972 Election through Measure E, which proposed to increase the value to \$3,500; the measure failed. • Revision was attempted in March 7, 2000 Special Election through Measure K, which proposed to increase the value to \$50,000; the measure failed. • Other charter cities have updated value in their charters: Gilroy - \$35,000; San Jose - \$100,000; Sunnyvale - \$50,000 but amended charter to determine by ordinance; Mountain View - \$15,000 indexed to 1978 dollars, which is equal to \$59,236 according to CPI Inflation Calculator.
3	1006 Planning Commission – Generally, 1101 Classified Service	Clarify classification of Planning Commissioners; Section 1006 states that all City Planning Commissioners shall not hold any paid office or employment in the City government but Section 1101 declares all members of boards or commissions are members of the unclassified service.	<ul style="list-style-type: none"> • For the purpose of clarification and clean-up of Charter Section 1101, a review of the roles listed as unclassified service positions may be warranted in addition to other administrative amendments based on best practices and improved efficiencies. • The city charters of Sunnyvale, Gilroy, and Mountain View are similar to Santa Clara's existing charter provision addressing classified and unclassified service.



Items recommended to be addressed through adoption of city ordinance or policy:

Item	Charter Section	Suggested Modifications	Background
4	812 Publication of Ordinances, 1302 Budget – Submission to City Council, 1319 Independent Audit, and throughout the Charter as needed	Revise sections of the Charter to require posting of ordinance, budget, audit, and in general to the extent possible that full materials prepared before public meetings in addition to the agenda shall be available on the City's website in addition to the three public places such information is posted.	<ul style="list-style-type: none"> The City's budget and single audit reports are currently posted on the city's website and include reports dated back to 2011. In accordance with the California Brown Act, all agendas of public meetings are posted on the City's website at least 72 hours before the date of the meeting or 24 hours if it is a special meeting. In practice, the City posts all council meeting agenda packet materials, which includes any proposed ordinances, resolutions, reports, etc., to the City's website along with the agendas. This courtesy is also provided for the public meetings of some Committees, Boards, and Commissions. If Council chooses to consider this suggestions, such an update could be made through adoption of city policy or ordinance and should be supported with additional resources across departments that serve as staff liaison for the City's various boards, committees and commissions.

Items recommended to remain as-is:

Item	Charter Section	Suggested Revisions	Background
5	811 Emergency Ordinances	Revise the required five-sevenths vote to four-sevenths vote should one or two council members not be available.	<ul style="list-style-type: none"> Emergency ordinances are typically necessary for preserving the public peace, health, safety or property and must contain a statement of the reason of its urgency. The city charters of Sunnyvale, Gilroy, and Mountain View have the same voting requirement as Santa Clara to pass emergency ordinances: five affirmative votes.
6	908 City Attorney	Add "commissions" to charter's requirement of City Attorney to "attend all meetings of the City Council and give his/her advice or opinion in writing whenever requested to do so by City Council, or by any boards or officers of the City."	<ul style="list-style-type: none"> Current charter language does not require City Attorney to provide his/her advice or opinion to City Commissions or Committees unless directed by City Council or City Officers. The city charters of Sunnyvale, Gilroy, and Mountain View are similar to Santa Clara's existing charter provision. If Council chooses to consider this suggestion, alternatively, such an update could be made in the City's Code Section 2.25.020 Duties and Responsibilities through adoption of ordinance and should be supported with additional resources to the City Attorney to be able to provide the service.



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)

Matters for Council Action: Committee recommends to eliminate item 5(D), convert Mayor from elected to appointed rotating position, and 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.

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 STATTFIELD 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 Kadlecek 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:



RAANIA MOHSEN
Management Analyst, City Manager's Office

I:\LIAISON COMMITTEES\Charter Review Committee\2017\Minutes\10-05-17 Charter Review Committee Special Meeting Revised Minutes.Doc



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

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

Matters for Council Action: Committee approved recommendation to maintain the roles of Police Chief and City Clerk as elected positions.

1. **Call to Order.** Chair Tino Silva called the meeting to order with a quorum present at 7:02 pm.

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

David Cary distributed a memo, which provided information and recommendations regarding draft charter amendments covering the following topics (Charter Section 600): district and city residency requirements for City Council members, including existing provisions in state law (Charter Section 700.2); using limited voting (single non-transferable vote) as the interim election method (Charter Section 700.1); avoiding ambiguity about electing the City Council by district rather than from the district; and other minor wording improvements (Charter Section 700.2)

Steve Chessin distributed a memo and reviewed additional suggestions to include in the revised charter amendment related to the election of council members.

3. **Approval of Draft Minutes from October 5, 2017 Special Meeting.**

MOTION MADE BY VICE CHAIR STATENFIELD AND SECONDED BY HANNA-WEIR TO APPROVE OCTOBER 5, 2017 MINUTES. MOTION PASSED 9:0 WITH THREE ABSTENTIONS FROM HORTON, SILVA, AND SULCER.

4. Review and Approval of Revised Draft Charter Amendment Related to Election of City Council Members. Interim City Attorney provided revised charter amendment language per suggestions provided at the October 5, 2017 Charter Review Committee Special Meeting. Committee Members suggested further revisions.

MOTION MADE BY VICE CHAIR STATENFIELD AND SECONDED BY HAGGAG TO APPROVE THE REVISED CHARTER AMENDMENT AND INCLUDE CHANGES MADE AND DISCUSSED WITH INTERIM CITY ATTORNEY INCLUDING THE ADDITION OF LANGUAGE TO ALLOW COUNCIL MEMBERS TO HOLD OFFICE WHERE REDISTRICTING RESULTS IN THEM NO LONGER LIVING IN THE DISTRICT TO WHICH THEY WERE ORIGINALLY ELECTED AND RECOMMEND TO COUNCIL AS A BALLOT MEASURE FOR THE JUNE PRIMARY ELECTION 2018. MOTION PASSED UNANIMOUSLY 12:0.

David Cary addressed the issue of residency requirement. Steve Chessin noted the importance of avoiding ambiguity in the ballot language. A member of the public (name unknown) noted that in 2018 District 2 does not get a vote while District 1 gets to vote for two council members, and then in 2020 voters get to elect three council members in District 2 and one council member in District 1.

Interim City Attorney addressed the two items of residency requirement and moving out of the district while in office (office abandonment) as requested by the Committee at its October 5, 2017 Charter Review Meeting. Residency requirement is included in the City Charter and requires any candidate running for office to be a resident and registered elector. According to a California Supreme Court ruling, the City of Santa Clara may not impose a residency requirement of more than 30 days. In addition, it is not recommended to include the concept of office abandonment in the proposed charter amendment because of its potential to complicate the electorate's understanding of the new election procedures. The current Charter already states that an elected candidate or officer must be a resident and registered elector; however, it does not provide direction on how to address office abandonment should it occur. The current procedures available to address office abandonment include recall election or a challenge through the courts. Interim City Attorney offered to provide more research and information should the Committee express further interest.

5. Discussion of Potential Charter Amendments:

- 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**

Committee Members discussed and evaluated pros and cons of having an elected police chief. Committee Member Lodge provided some input as a former Police Chief for the City of Santa Clara.

MOTION MADE BY BRACAMONTE AND SECONDED BY HAGGAG TO MAINTAIN ROLE OF POLICE CHIEF AS AN ELECTED POSITION. MOTION PASSED UNANIMOUSLY 12:0.

MOTION MADE BY MUIRHEAD AND SECONDED BY HAGGAG TO EXTEND THE MEETING TO 9:15 PM. MOTION PASSED UNANIMOUSLY 12:0.

Staff reviewed the informational memo regarding future presentations and agenda reports and noted that there is an option for the committee to seek independent review of elected positions for a comprehensive and objective analysis.

Committee Members continued to discuss role of City Clerk as an elected role. Interim City Attorney advised that it would appear to be a conflict of interest if the City Clerk provided comments as a current elected official but would be welcome to provide comments as a member of the public.

Committee Members continued to discuss validity of hearing directly from City Clerk.

Motion made by Feain and seconded by Horton to table the discussion to a future meeting.

Motion was withdrawn by Feain.

Motion was made by Bracamonte and seconded by Lodge to maintain the role of City Clerk as an elected position.

The City Clerk recused himself from the discussion and left the Council Chambers.

Committee Members reviewed the job description of City Clerk as noted in the City Charter.

Motion on the floor was withdrawn by Bracamonte.

Motion made by Vice Chair Stattenfield to receive information at the next meeting about the role and duties of the City Clerk by someone independent of the City Clerk's Office. Motion was not seconded.

Committee Members continued to discuss the role and value of an elected City Clerk and determined to focus on the subject of an elected versus an appointed City Clerk.

MOTION MADE BY HAGGAG AND SECONDED BY BRACAMONTE TO EXTEND THE MEETING TO 9:45 PM. MOTION PASSED UNANIMOUSLY 12:0.

MOTION MADE BY BRACAMONTE AND SECONDED BY LODGE TO MAINTAIN THE ROLE OF CITY CLERK AS AN ELECTED POSITION. MOTION PASSED UNANIMOUSLY 12:0.

6. Informational Memo addressing Future Presentations & Agenda Items

Memo was reviewed and noted earlier in the meeting.

7. Public Comment on Agenda Items

No Comments provided.

8. Adjournment

Future agenda items at next meeting to include discussion of the following items:

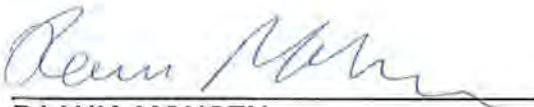
- Voting Method of elected Mayor, City Clerk, and Police Chief
- Provide City Officers with duty to report city charter violations, establish complaint process for city staff who report suspected charter violations, provide whistle blower protection for those who report

The next meeting is tentatively scheduled for November 6, 2017 in the City Council Chambers and will be confirmed and properly noticed by staff.

Meeting adjourned at 9:49 pm.

**MOTION MADE BY VICE CHAIR STATTFIELD AND SECONDED BY HORTON TO
ADJOURN MEETING. MOTION PASSED UNANIMOUSLY 12:0.**

Prepared by:



RAANIA MOHSEN
Management Analyst, City Manager's Office

I:\LIAISON COMMITTEES\Charter Review Committee\2017\Minutes\10-23-17 Charter Review Committee Meeting Minutes.Doc



Committee Members Present: Tino Silva, Chair
Keith Stattenfield, Vice Chair
Markus Bracamonte
Saskia Feain
Hosam Haggag
Mary Hanna-Weir
Steve Lodge (7:05 pm)
Jodi Muirhead (7:30 pm)
Teresa Sulcer

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

Matters for Council Action: Charter Review Committee recommends:

1. Change the voting method for the Mayor, City Clerk, and Chief of Police to match the recommended voting method of Council Members, which is Ranked Choice Voting by means of Single Transferrable Vote, beginning in 2020 with the elections of the City Clerk and Chief of Police, and with subsequent elections thereafter.
2. Refer review of methods for reporting potential charter violations by city staff and/or members of the public to the Ethics Committee.

1. **Call to Order.** Chair Tino Silva called the meeting to order with a quorum present at 7:00 pm.

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

No public presentations provided.

3. **Approval of Draft Minutes from October 23, 2017 Meeting.**

MOTION MADE BY VICE CHAIR STATENFIELD AND SECONDED BY FEAIN TO APPROVE OCTOBER 23, 2017 MEETING MINUTES. MOTION PASSED UNANIMOUSLY 7:0.

4. Review of Potential Charter Amendments & Recommendations.

a) Voting Method of elected Mayor, City Clerk, Chief of Police

Committee members discussed pros and cons of changing the voting method of the elected Mayor, City Clerk, and Chief of Police to match the recommended voting method of Council Members.

MOTION MADE BY HAGGAG AND SECONDED BY VICE CHAIR STATENFIELD TO CHANGE THE VOTING METHOD FOR CITY ELECTED OFFICIALS (MAYOR, CITY CLERK, CHIEF OF POLICE) TO MATCH THE RECOMMENDED VOTING METHOD FOR COUNCIL MEMBERS, WHICH IS RANKED CHOICE VOTING BY MEANS OF SINGLE TRANSFERRABLE VOTE, BEGINNING IN 2020 WITH THE ELECTION OF THE CITY CLERK AND CHIEF OF POLICE, AND WITH SUBSEQUENT ELECTIONS THEREAFTER. MOTION PASSED 7:1 WITH OPPOSITION RECEIVED FROM LODGE.

Members of the public provided comments. Steve Chessin and David Kadlecsek provided comments in favor of the motion.

Interim City Attorney confirmed the recommendation to change the voting method for all city elected officers will be included in the proposed charter amendment.

b) Provide City Officers with duty to report city charter violations, establish complaint process for city staff that report suspected charter violations, and provide whistleblower protection for those who report.

Interim City Attorney advised the Committee that mandatory reporting is typically beyond the scope of a city charter and it was noted that City employees are provided whistleblower protection according to the State's labor code.

Committee members discussed the absence of an enforcement mechanism and reporting process for staff and members of the public for suspected charter violations.

MOTION MADE BY VICE CHAIR STATENFIELD AND SECONDED BY HANNA-WEIR FOR REFERRAL TO THE ETHICS COMMITTEE TO CONSIDER REVIEW OF METHODS FOR REPORTING POTENTIAL CHARTER VIOLATIONS BY CITY STAFF AND/OR MEMBERS OF THE PUBLIC. MOTION PASSED UNANIMOUSLY 9:0.

5. Public Comment on Agenda Items

Steve Chessin commended the Committee for its efforts.

6. Adjournment

Meeting adjourned at 7:47 pm.

**MOTION MADE BY VICE CHAIR STATENFIELD AND SECONDED BY BRACAMONTE TO
ADJOURN MEETING. MOTION PASSED UNANIMOUSLY 9:0.**

Prepared by:



RAANIA MOHSEN
Management Analyst, City Manager's Office

I:\LIAISON COMMITTEES\Charter Review Committee\2017\Minutes\11-06-17 Charter Review Committee Meeting Minutes.Doc