




Sunnyvale

OFFICE OF THE CITY ATTORNEY
MEMORANDUM

Date: November 5, 2019
To: Honorable Mayor and City Council
From: JOHN A. NAGEL 
City Attorney
Subject: Supplemental Clarifying Response to Question No. 3 of the Responses to Council Questions Posed at October 29, 2019 Meeting

Question 3: *How do the term limit provisions of the proposed Charter Section 603 impact the Councilmembers whose terms were extended by 1 year to a one-time 5-year term as a result of Measure A (switch from odd to even year elections)?*

I would like to make a clarification to my earlier response to note that the provisions of Measure A extended the terms of all council seats by one year, not just seats 4-7. Measure A specifically provided that the terms of all seats expiring in January 2016 and 2018 would be extended by one year, notwithstanding the 4-year term limits set forth in the charter. The proposed Charter provisions do not purport to change the even-year general municipal elections or the associated provisions approved by voters to extend terms by one year to facilitate that change. These terms are still considered “four year elective terms” for purposes of interpreting the Charter because the councilmembers were initially elected to four-year terms, which were later extended by operation of law when voters approved the change to even-year elections. As a result, this exception to the four-year term limit would apply for any councilmember(s) whose terms would have expired in January 2016 (extended to January 2017) and January 2018 (extended to January 2019).

Though Measure A did not make its impact to the Charter’s total term limit provisions explicitly clear, it is my opinion that the extension didn’t alter councilmembers’ base elective term of four years for the purposes of term limit calculations. If the Council determines it wishes to make this explicit in the proposed Charter revisions, then they could consider adding a subsection (d) to the new section 604 (Term limits.), which could read as follows:

(d) Notwithstanding the four-year City Councilmember term limits set forth in this article, the elective terms for City Councilmembers whose terms of office would have expired in January 2016 and 2018 and that were extended by one year pursuant to the voter’s adoption of Measure A (2013) shall be considered four-year elective terms for purposes of calculating total term limits pursuant to this section.