



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Adopt a Resolution Revising the Citywide Records Retention and Destruction Program Policy and Schedule (*Rescheduled from 12/4/2018, RTC 18-0898*)

BACKGROUND

In February 2010, Council adopted Resolution No. 420-10 establishing a Citywide Records Retention and Destruction Program Policy and Schedule (Records Retention Schedule) providing a critical tool toward effective and economical records management in accordance with Government Code section 34090, et seq. and numerous other federal, state and local codes (RTC No. 10-040). The Records Retention Schedule provides clear and precise information for records management and enables staff to more efficiently control inventory of active, inactive and expired records. Additionally, it also provides the City with the legal authority to dispose of records that have reached the end of their required retention period.

This item was placed on the Council agenda of December 4, 2018 (*RTC No. 18-0898*). As staff began to draft a response to a Council question regarding the Records Retention Schedule, staff requested that the item be pulled from the agenda and advised Council that it would be placed on the December 18, 2018 agenda to allow staff to make revisions and clarifications to the Records Retention Schedule regarding election-related records.

EXISTING POLICY

Administrative Policy Manual Chapter 5 - Information Management Article 5

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

DISCUSSION

Pursuant to the Administrative Policy Manual regarding information management, City staff submits for Council's consideration revisions to the City's Records Retention Schedule to assure it remains in compliance with government records retention regulations. Staff went through a review process with each City department and worked with Office of the City Attorney to assure that the Schedule complies with government records retention regulations. City Council action to adopt a Resolution revising the Records Retention Schedule is required to establish a current Schedule (Exhibit A of Attachment 1). A copy of the Schedule with markups is also attached as Attachment 2 for reference.

Storage of inactive and expired records is inefficient and costly. The revision to the Records Retention Schedule will also provide City staff with the framework to assess the viability for a digital records management system to help improve accessibility of records and reduce the City's overall administrative overhead costs.

Staff wishes to provide the following clarifications and note revisions made regarding election-related records.

Petitions are strictly governed by California Elections Code section 17200 which reads in pertinent part:

(a) Except as provided in subdivision (b), elections officials required by law to receive or file in their offices any initiative or referendum petition shall preserve the petition until eight months after the certification of the results of the election for which the petition qualified or, if the measure, for any reason, is not submitted to the voters, eight months after the final examination of the petition by the elections official.

(b) Thereafter, the petition shall be destroyed as soon as practicable unless any of the following conditions is satisfied:

- (1) The petition is in evidence in some action or proceeding then pending.
- (2) The elections official has received a written request from the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a grand jury, or the governing body of a county, city and county, or district, including a school district, that the petition be preserved for use in a pending or ongoing investigation into election irregularities, the subject of which relates to the petition's qualification or disqualification for placement on the ballot, or in a pending or ongoing investigation into a violation of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).
- (3) The proponents of the petition have commenced an examination pursuant to Section 6253.5 of the Government Code, in which case the petition shall be preserved until one year from the date that the proponents last examined the petition. (emphasis added.)

Furthermore, petitions are not public information and are governed by Government Code section 6253.5, which states "petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving the petitions.and, if the petition is found to be insufficient, by the proponents of the petition..."

Pursuant to Elections Code section 17200, the City Clerk is required by state law to destroy petitions eight months either after the certification of the election results or after the final examination of the petition if the petition does not qualify for being placed on the ballot, unless certain proscribed conditions exist as stated above.

Petition-related materials have been renamed "Petition Administrative Records" (ADMIN 34.01).

These records include the notice of intent to circulate petition, written text of the initiative and written statement setting forth the reasons for the proposed petition and are governed by Elections Code section 9202.5. Petition Administrative Records are proposed to have a permanent retention period.

The revisions also incorporated the deletion of the report series entitled "Losing Candidate Statements" as it was duplicative and the elimination of the record series entitled "Miscellaneous Election Materials" as it was no longer necessary because the records are now included in "Petition Administrative Records."

Government Code section 81009, effective January 1, 2019, requires permanent retention of the campaign statements of candidates elected to City Council and the retention of campaign statement for candidates not elected to City Council for at least 5 years. During the review process, staff evaluated and determined that of the value of keeping the candidate's statements for non-elected candidates permanently does not outweigh the administrative overhead of maintaining the records. The proposed Records Retention Schedule for non-elected candidate's statement is 8 years after the election, which is longer than required by Government Code section 81009. As Government Code section 81009 requires the statements to be kept at least 5 year, the City Council may decide that it wishes to keep the non-elected candidates' statements permanently.

FISCAL IMPACT

There is no fiscal impact. Revising the Records Retention Schedule will continue to result in long-term cost savings with the reduction of records stored internally and externally at off-site storage facilities.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

RECOMMENDATION

Adopt the Resolution Approving Revisions to the Citywide Records Retention and Destruction Program Policy and Schedule.

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Prepared by: Nhon Nguyen, Senior Management Analyst

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Resolution Updating the Citywide Records Retention and Destruction Program Policy and Schedule with Exhibit A entitled "Records Retention and Destruction Schedule"
2. 2018 Records Retention Schedule with Edits