City of Sunnyvale

Agenda Item-No Attachments (PDF)

REPORT TO COUNCIL

SUBJECT
Adoption of Resolution Amending Resolution No. 907-18 (Declaring the City of Sunnyvale's Intent to Transition from At-Large to District-Based City Council Elections, Outlining Specific Steps to be Undertaken to Facilitate the Transition, and Estimating a Time Frame for Action Pursuant to Elections Code Section 10100) to State the City's Intent to Place a Measure on the March 2020 Ballot Proposing to Amend City of Sunnyvale Charter Section 601 and Provide Direction to Staff Regarding Scientific Polling.

BACKGROUND
On September 5, 2018, the City Council held a public hearing regarding changing from the City's current at-large with numbered seats system for electing City Council members to a district-based form of elections (RTC No. 18-0776). Council directed staff to scope a public outreach and education plan for receiving public input on transitioning to district-based elections, with the goal of placing a measure on the November 2020 ballot for voters to decide whether to amend the City Charter to change from at-large with numbered seats to district-based elections.

On October 9, 2018, the City received a certified letter from attorney Laura Ho of the law firm Goldstein, Borgen, Dardarian & Ho, alleging on behalf of potential plaintiff Samir Kalra that the City's current electoral system violates the California Voting Rights Act ("CVRA") because it "dilutes the voting power of Asian American voters."

On November 20, 2018, the City Council adopted a resolution of intent to change to district-based elections pursuant to Elections Code section 10010, triggering a 90-day "safe harbor" period during which the City could not be sued (Attachment 1). That resolution restated the Council's prior direction to change to district based elections and identified possible election dates of March 2020 or November 2020 for amending the City Charter to allow for by-district elections. The Council did not make a final determination about the timing and substance of such a ballot measure, indicating a desire to first consider input from public outreach and engagement.

On December 11, 2018, the City Council adopted the community outreach plan and directed staff to return in February 2019 with an update on initial outreach. On January 18, 2019, the City received a second letter from Ms. Ho notifying the City that her firm now represents three additional potential plaintiffs who joined the CVRA challenge and are Sunnyvale residents, Galen Kim Davis, Kathy Higuchi, and Bowman Ching.

On February 26, 2019, the Council held a public hearing to discuss the results of initial public outreach as well as legal issues and risks associated with determining the election date for a Charter amendment. The Council voted 7-0 to direct staff to return before March 29, 2019 with an amendment to the Resolution of Intent reflecting an intended election date of March 2020 for a

charter measure proposing to change to by-district elections.

DISCUSSION

1. Amendment to Resolution of Intent

As discussed in prior reports to Council, potential plaintiffs have made clear that they are committed to a process that results in the first district elections in Sunnyvale occurring in November 2020. They recently agreed to extend the safe harbor period through March 29, 2019, and have been actively cooperating with the City on community outreach efforts, but have also consistently made clear that they are not willing to compromise on their goal of implementing by-district elections in November 2020. The March 2020 election is the earliest election available to place a charter amendment on the ballot, and would put the City on track for the first district elections in November 2020.

The attached draft amendment to Resolution No. 907-18 (Attachment 2) is consistent with the Council's direction on February 26, stating the City's intent to place a charter measure on the March 2020 ballot to change to a by-district City Council election system.

2. Next Steps for March 2020 Ballot Measure

If the Council approves this amendment, the next steps for placing a charter amendment on the March 2020 ballot are:
(a) Council direction on the content of the proposed charter amendment, particularly whether the Council desires seven districts or six districts with an at-large mayor. Staff is specifically seeking input on this question and related issues at the community outreach meetings scheduled for March through April 2019. A report on the results of this outreach will be presented to the City Council in June, and the Council will be asked to provide staff direction on the content of the measure at that time to inform the next phase of outreach focused on developing district boundaries;
(b) Council may want to consider directing staff to conduct scientific polling on the preferences of likely voters as it relates to the number of districts and method for selecting the City's mayor to help inform Council's decision on the substance of the ballot measure. The estimated cost of such a poll would be approximately $20,000-$25,000;
(c) Based on the Council's direction in June, the City Attorney's Office will draft the proposed Charter amendment;
(d) One or more public meetings will be held, likely between September and October 2019 for the Council to review, discuss, receive public comment on, and approve the content of the proposed Charter amendment;
(e) A resolution placing the measure on the ballot must be adopted no later than 88 days before the election. However, the City Clerk's preferred date for this action is the November 12, 2019 Council meeting or earlier.

ENVIRONMENTAL REVIEW
The action being considered does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15320,15378 and 15061 (b)(3) as it is an organizational structure change and does not have the potential to result in either a direct or reasonable foreseeable indirect physical change in the environment.

FISCAL IMPACT
No new fiscal impacts are anticipated at this time from the issues discussed in this report.

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.

ALTERNATIVES
1. Adopt Resolution Amending Resolution No. 907-18 (Declaring the City of Sunnyvale's Intent to Transition from At-Large to District-Based City Council Elections, Outlining Specific Steps to be Undertaken to Facilitate the Transition, and Estimating a Time Frame for Action Pursuant to Elections Code Section 10100) to State the City's Intent to Place a Measure on the March 2020 Ballot Proposing to Amend City of Sunnyvale Charter Section 601 and provide direction to staff regarding scientific polling.
2. Adopt Resolution Amending Resolution No. 907-18 with modifications and provide direction to staff regarding scientific polling.
3. Take no action.

RECOMMENDATION
Alternative 1: Adopt Resolution Amending Resolution No. 907-18 (Declaring the City of Sunnyvale's Intent to Transition from At-Large to District-Based City Council Elections, Outlining Specific Steps to be Undertaken to Facilitate the Transition, and Estimating a Time Frame for Action Pursuant to Elections Code Section 10100) to State the City's Intent to Place a Measure on the March 2020 Ballot Proposing to Amend City of Sunnyvale Charter Section 601 and provide direction to staff regarding scientific polling.

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ATTACHMENTS
1. Resolution No. 907-18
2. Draft Amendment to Resolution No. 907-18