



File #: 19-0798, Version: 1

SUBJECT

Study Session to Introduce Issues Requiring Council Direction for Proposed Amendments to Charter Article VI (The Council) to be Submitted to Voters in the March 2020 Election to Implement City Council By-District Elections

BACKGROUND

Following extensive public outreach efforts related to the California Voting Rights Act (CVRA) and district-based city council elections, on June 18, 2019 (RTC No. 19-0362), the City Council voted 5-2 to direct staff to prepare a ballot measure for the March 2020 election amending the City Charter to change the City's electoral system from seven at-large numbered City Council seats to six district seats and an at-large, directly elected mayor. As noted in that report, staff's goal in drafting Charter amendments is to add necessary provisions for district elections as directed by the Council while maintaining all other existing concepts and principles in the Charter to the extent they are not in conflict, and unless otherwise directed by Council. The goal of this report is to provide an overview of necessary revisions to Article VI, highlighting policy issues still requiring Council direction.

Concurrently, the Office of the City Manager is working with a demographer to engage in a public process for district-map drawing to determine the boundaries for six city council districts. A City Council meeting to review initial map submissions is scheduled as a separate matter on tonight's Council regular meeting agenda.

DISCUSSION

1. Overview of Amendments to Charter Article VI and Issues Requiring Council Direction

For ease of discussion, staff has grouped the Charter language changes into three basic categories: (1) "No change" required; (2) "Administrative updates" to implement the Council's prior direction for six districts and one at-large mayor that require no further direction to staff to prepare; and (3) "Direction Needed" for outstanding policy issues that do require additional direction from the Council before staff can prepare comprehensive draft charter language. Attachment 2 is a table providing an "at a glance" summary of existing provisions of Charter Article VI, and the provisions that fall into each category.

As noted in the chart, most of the changes fall into the "administrative update" category, with Council's prior direction on six districts and an at-large mayor providing sufficient information for the Office of the City Attorney (OCA) staff to draft appropriate amendments. Staff recommends that the Council focus discussion in this study session on the following two areas requiring substantive policy direction:

- a. Terms and Term Limits for Council Members and Mayor:** The Charter will need to clarify terms and term limits, particularly with the new at-large mayor position. Existing Charter provisions establish terms of four years for council members and two years for the mayor, and a term limit of two successive four-year terms, with a four-year gap required if a council member has held two successive terms or two years if the council member served one term. Filling an unexpired term of less than two years does not count toward term limits. The Council will need to provide direction on the term for the elected mayor position, as well as on total term limits.

Typical options for term limits fall into three categories:

- i. Maintain existing term limits regardless of whether an individual is elected as mayor or to a council seat.
- ii. Establish a combined term limit for individuals who are elected as council member and mayor. For example, a total term as council and mayor not to exceed three successive four-year terms, so that one could serve 2 terms in a council seat and one term as mayor.
- iii. Separate term limits for mayor and council. For example, a maximum of two terms for each office, so that one could serve two successive terms as a council member and two successive terms as mayor.

- b. Redistricting:** The Charter should be amended to create a new section that generally addresses how the City will complete redistricting. Typical options fall into five categories:
- i. State that the Council will establish redistricting by ordinance. This approach would give the City more flexibility to change the process in the future than a detailed charter provision, which would require approval of the voters to change.
 - ii. Independent Redistricting Commission: Makes final decisions on district maps without City Council input.
 - iii. Modified Independent Commission: The cities of Chula Vista, Escondido, and Stockton are examples of cities that have redistricting commissions that adopt maps, but receive input from the City Council before making a final decision.
 - iv. Advisory Commission: A commission that is purely advisory would make recommendations to the City Council on district maps, and the City Council would make a final decision.
 - v. Modified Advisory Commission: The City of Merced established a commission that narrows to two maps, then the Council makes a final decision on one of the two maps recommended.

2. Timeline for Preparing Charter Language

A resolution approving the final Charter language and placing the measure on the ballot must be adopted no later than 88 days before the election. Thus, the last City Council date to place the measure on the ballot is December 3, 2019. However, the City Clerk's preferred date for this action is the November 12, 2019 Council meeting or earlier. Currently, a second study session to discuss Charter language is scheduled for October 8, 2019, and adoption of a resolution placing the final measure on the ballot is scheduled for November 12.

City Council hearings regarding the district maps are scheduled for October 8, November 5, and November 12, with an ordinance adopting the maps scheduled for December 3 (first reading) and

December 12 (second reading).

3. Responses to Frequently Asked Questions

In prior meetings, the Council has raised several questions about the process of transitioning to district-based elections. Similar questions continue to arise, and staff thought it would be helpful to provide more detailed answers to some common questions.

Q1: How many cities have required an election to move to district elections to address CVRA issues and what was the outcome?

A1: There is no current or comprehensive source addressing cities that have moved to district elections or how they got there. At least 27 cities have placed measures on the ballot related to transitioning to district elections between 2009 and 2018. Twenty of those measures passed, with approval ranging anywhere from just above 50% to more than 75%.

Charter cities that placed measures on the ballot include: Anaheim (2014); Chula Vista (2012); Compton (2012); Eureka (2016); Merced (2014); Modesto (2008); Oceanside (2012); Santa Clara (2018); Santa Rosa (2012); Stockton (2016); Tulare (2012); Whittier (2014); Placentia (2016); Visalia (2012). General law cities include: Ceres (2015); Costa Mesa (2018); Madera (2010); Sanger (2010); Bellflower (2016); Corona (2016); Escondido (2013); Fullerton (2016); Highland (2014); Woodland (2014); West Covina (2009); Rancho Cucamonga (2016); Los Banos (2014). Note that prior to 2016, general law cities were required to place a measure on the ballot to change from an at-large method of election to a by-district method of election. Government Code section 34886 allowed cities with populations of fewer than 100,000 people to make the change by ordinance beginning in 2016, and all general law cities could make the change by ordinance beginning in 2017.

Of the above referenced cities, those that had failing measures have since moved to district elections. Visalia settled with a stipulated judgment in 2014 and paid \$125,000 in attorney fees. Oceanside and Santa Rosa were subsequently threatened with lawsuits in 2017 and utilized the safe harbor/ordinance approach to resolve the issue prior to litigation. Oceanside's Charter is substantially different from Sunnyvale's and only contains basic details related to the form of government. Detailed provisions regarding size and structure of council were already in their municipal code, so there was not a question of whether a Charter amendment would be required. Santa Rosa's Charter still provides for at-large elections. The City of Escondido, which had been sued at the time it placed the charter proposal on the ballot, entered into a consent decree providing for the establishment of by-district elections. In Highland, the City was sued after the ballot measure failed, and a court eventually ordered district elections, choosing the plaintiff's proposed district map over the City's proposal for cumulative voting. Santa Clara's measure for two districts and a complex version of ranked choice voting ("RCV") within the districts appeared on the ballot shortly after the City lost the CVRA lawsuit that had been filed against it. That measure was vigorously opposed by the plaintiffs in the CVRA action.

Q2: In cities that moved to districts to satisfy the CVRA and changed from a council-appointed mayor to directly elected mayor, was this done by ballot or ordinance? If by ballot, did the measures all succeed on the first vote?

A2: Some cities that changed to a district system and added a directly elected mayor appear to have accomplished the change through the adoption of an ordinance, while others did so through a ballot measure. In Whittier (2014); Costa Mesa (2016); Ceres (2015); Los Banos (2014); Madera (2010); Sanger (2019), ballot measures passed.

Q3: Could the City transition to a district system by ordinance if the Charter Amendment fails?

A3: The risks associated with transitioning to a district system by ordinance and constraints imposed by Sunnyvale's existing Charter provisions have been discussed extensively in prior open session meetings and reports to the Council. (See RTC No. 18-1025, Section 3 (Nov. 20, 2018)). The analysis from the City Attorney's Office remains the same as stated in those reports.

RECOMMENDATION

Staff recommends that the Council discuss the policy issues requiring further direction and provide direction to staff on information the Council would like to see at the next study session on Charter language.

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ATTACHMENTS

1. Current Charter Article VI
2. Table Summarizing Existing Charter Article 6 Provisions, Overview of Changes and Issues Requiring Council Direction