

REPORT TO COUNCIL

SUBJECT

Discussion and Possible Direction on 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

REPORT IN BRIEF

On June 18, 2018 (RTC No. 19-0362), the Council voted 6-2 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. The Council held a study session on September 10, 2019 (RTC No. 19-0798) at which staff provided an overview of necessary revisions to Article VI and highlighted policy issues requiring Council direction. This report provides information requested by the Council at that study session, as well as sample language for further discussion and potential direction.

DISCUSSION

As noted in prior reports, staff is drafting proposed Charter amendments based on the principle of adding provisions necessary to implement district elections for six council districts and one at-large mayor, while maintaining existing concepts and principles in the Charter to the extent possible and/or as otherwise directed by the Council.

For the study session on September 10, 2019, staff 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. (See Attachment 1). The Council generally indicated approval of this approach and the Charter sections identified for "administrative updates," and requested that staff return with sample language. Attachment 2 is a sample draft of possible Charter amendments. Each section identifies the type of change (administrative, direction needed, or new), provides a preliminary redline draft of sample language, and highlights areas still requiring policy decisions with sample language for different options within each area.

There are three areas requiring policy direction so that the City Attorney can complete drafting before the Council considers placing the full Charter measure on the ballot on November 12:

- 1. Mayor's Term Length:** Council discussed whether the length of the term for Mayor should be two or four years. Attachment 3 provides a summary, requested by Council at the last meeting, of information on Bay Area charter cities with elected mayors and term lengths. If the Council chooses a term for the Mayor of less than four years, Charter section 602 will need to be amended.

- 2. Total Term Limits:** The existing Charter has a limit of two successive four-year terms, with a four-year gap in office required if a council member has held two successive terms or two years if the member served one term. Filling an unexpired term of less than two years does not count toward term limits. Given the elected mayor structure, the Council may want to amend the term limit provisions. The attached draft provides sample language for each of the options described below. Note, however, that total term limits may also depend on whether the Council selects a two or four-year term for the mayor.
- (a) Maintain existing term limits** regardless of whether an individual is elected as mayor or to a council seat.
 - (b) New term limit greater than existing limits.** A moderate increase to existing term limits that creates a combined term limit for individuals who are elected as council member and mayor could address the new elected mayor position. The attached draft, for example, provides for a total term as council and mayor not to exceed three successive four-year terms, so that an individual could serve 2 terms in one position (mayor or councilmember) and one term in the other.
 - (c) Separate term limits for mayor and council.** For example, a maximum of two terms for each office, so that an individual could serve two successive terms as a council member and two successive terms as mayor.
- 3. Redistricting:** The Charter should be amended to create a new section that addresses redistricting. There are two key issues for the Council to consider related to redistricting: (1) the structure of a redistricting commission, and (2) whether to place redistricting factors and process in the Charter.

Typical options for redistricting commissions include:

- (a) Independent Redistricting Commission:** Makes final decisions on district maps without City Council input.
- (b) Modified Independent Commission:** Adopts a map which the Council may approve or reject, but if rejected by Council, decision returns to Commission for consideration of Council input and final decision.
- (c) Advisory Commission:** Makes make recommendations to the City Council on district maps, and the City Council makes a final decision (with or without modifying maps recommended)
- (d) Modified Advisory Commission:** Narrows maps to two (or some other number), and the Council makes a final decision on one of the maps recommended by the commission (modifications to commission maps not permitted).

As of the date this report was written, AB 849 (Attachment 4) is awaiting the Governor's signature. If signed, it will control redistricting unless the City's charter addresses the process. The Council should determine whether it wants the Charter to address these issues. Broadly, AB 849 contains four key requirements:

- (1) Requires adoption of new district boundaries after each decennial census.** Adoption may be no earlier than August 1 of each year ending in one (2021, 2031) and no later than 151 days before the City's next regular election. Cities may not complete mid-cycle redistricting except under certain circumstances. These provisions do not apply to charter cities that adopt different provisions in their charter.

- (2) **Specifies and prioritizes redistricting criteria as follows:** (a) geographic continuity; (b) respect communities of interest (defined as populations sharing “common social or economic interests that should be included within a single district for purposes of its effective and fair representation”); (c) encourage geographical compactness; (d) not favoring or discriminating against a political party.
- (3) **Specifies hearing procedures for district boundaries and maps.** A minimum of four public hearings is required, including one before drawing a draft map (which may be a workshop conducted by a consultant and/or a hearing held by an advisory commission) and two after drawing a draft map.
- (4) **Requires good faith measures to encourage public participation,** including providing: (a) information to media organizations, including those that serve language minority communities; (b) information through good government, civil rights, civil engagement, or community groups; (c) live translation of public hearings on request; (d) notice at least five days before each hearing; (e) posted maps with demographic information at least seven days before adoption; (f) recordings or summaries of public comment at each public hearing; and (g) a web page dedicated to redistricting for at least 10 years after adoption of new boundaries.

Next Steps and Timeline for Preparing Charter Language

The City Attorney will incorporate the policy direction provided by the Council at this session into a final, comprehensive draft of proposed charter changes, and work with outside counsel to refine the 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. 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. Adoption of a resolution placing the final charter measure on the ballot is currently scheduled for November 12. If the Council desires to review draft language further before considering placing the measure on the ballot on November 12, it should provide direction to staff to return before November 12.

Upcoming City Council hearings regarding the district maps are set for November 5 and November 12, with an ordinance adopting the maps and election sequencing scheduled for December 3 (first reading) and December 12 (adoption).

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

1. Discuss the proposed amendments to Charter Article VI and provide direction on the outstanding policy issues.
2. If the Council desires further discussion of charter language prior to November 12, direct staff to schedule an additional item on a future agenda.

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ATTACHMENTS

1. Chart Summary of Charter Provisions and Options for Changes
2. Sample Charter Amendment Redline (for discussion purposes, subject to change/refinement)
3. Summary of Mayor Terms in Selected Bay Area Charter Cities
4. Excerpt of AB 849 (provisions related to cities)