City of Sunnyvale

Agenda Item-No Attachments (PDF)

File #: 19-1198, **Version:** 1

REPORT TO COUNCIL

SUBJECT
Adopt a Resolution Calling a Special Municipal Election to be Held in the City of Sunnyvale on Tuesday, March 3, 2020, for the Purpose of Submitting to City Voters a Ballot Measure Concerning Amendments to Article VI of the City Charter to Implement City Council District Elections; Requesting Consolidation With the Statewide Presidential Primary Election and Election Services From Santa Clara County; Directing the City Attorney to Prepare an Impartial Analysis; and Setting Priorities for Ballot Arguments

BACKGROUND
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.

On September 10, 2019 (RTC No. 19-0798), staff provided an overview of necessary revisions to Article VI and highlighted three key policy issues requiring Council direction- mayor term, total term limits, and redistricting. The Council approved staff's general approach for the charter amendments 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.

On October 8, 2019 (RTC No. 19-1009), the Council further discussed the policy issues and conducted straw polls on the policy issues. Five Councilmembers (Hendricks, Larsson, Smith, Fong, Goldman) indicated preferences for a four-year term for the Mayor, and five Councilmembers (Klein, Hendricks, Larsson, Fong, Goldman) preferred a total limit of three-terms.

On October 29, 2019 (RTC No. 19-1133), the Council discussed a variety of issues and reached a consensus that the Charter draft should clarify (1) a residency requirement prior to filing candidacy papers, and (2) that the three-term total limit is also limited to service in a single position (mayor or councilmember) for no more than two full terms. In addition, four members (Klein, Hendricks, Larsson, Melton) tentatively indicated interest in addressing redistricting with a charter amendment section authorizing the Council to enact an ordinance addressing all matters pertinent to redistricting.

On November 5, 2019 (RTC No. 19-1174) the Council discussed a comprehensive draft of proposed amendments to Charter Article VI and provided various comments including:
(1) noting that the second sentence of section 600 has too much "legalese" and whether it can be simplified;
(2) asking whether sections 603(a) and (b) are redundant and/or could be simplified;
(3) confirming a change recommended by the City Attorney to section 604, and asking whether section 604(c) should be clarified related to appointed and elective terms longer than two years;

(4) confirming prior tentative direction to provide for redistricting by ordinance, and discussing whether the Council could take additional action following placing the measure on the ballot to discuss and declare an intent regarding future redistricting.

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 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.

DISCUSSION

Consistent with Council direction discussed above, this report details the necessary steps required to place the proposed Charter measure on the March 3, 2020, election ballot.

The attached draft resolution provides for the following:
1. Approval of the ballot question language to be presented to Sunnyvale voters.
2. "Calling" a Special Municipal Election to be consolidated with the statewide presidential primary election held on March 3, 2020, and requesting the services of the Santa Clara County Registrar of Voters to conduct the election.
3. Direction to the City Attorney to prepare an impartial analysis for the measure.
4. Direction on ballot arguments to the City Clerk to be printed in the Sample Ballot.
5. Approval of a draft amendment to the Charter to incorporate the proposed changes if the measure is approved by a majority of voters.

Ballot Question Language

Ballot measures may not exceed 75 words. The proposed ballot question is as follows:

> Shall Article VI of the City of Sunnyvale Charter be amended to establish "by-district" elections for six Council members required to be residents of a district and elected only by the voters of that district, and one Mayor who will be directly elected by all City voters; change term limits to permit service on the Council for three consecutive terms but only two as Council member or Mayor; and make other conforming amendments?

Calling an Election

The California Elections Code requires the Council to adopt a resolution calling an election, requesting consolidation with the Statewide Presidential Primary Election and requesting the Registrar of Voters to provide election services. The draft resolution provides for these requirements.

Impartial Analysis by the City Attorney

California Elections Code Section 9280 authorizes Council to direct the City Attorney to prepare an impartial analysis of the measure. The draft resolution provides this direction to the City Attorney.

Ballot Arguments

California Elections Code Section 9282(b) provides for the filing of ballot measure arguments by the following: City Council or any member(s) of the Council authorized by the Council, any individual voter eligible to vote on the measure, bona fide association of citizens or any combination of voters and associations.

If the Council decides to submit an argument in favor or against the ballot measure or authorize certain members to submit an argument, then pursuant to Election Code Section 9287(a) that argument will be given preference over any other argument submitted in favor of the ballot measure. If the Council chooses not to submit an argument, the City Clerk will follow the priorities described in Elections Code Section 9287(a) in selecting an argument to be printed in the Sample Ballot.

The resolution is drafted with three options for the Council's consideration regarding the submission of the argument in favor or against the measure:

a. Authorize the City Council as a body to submit a written argument [in favor] or [against] the measure;

b. Authorize __[#]___ member(s) of the City Council to submit a written argument [in favor] or [against] the measure:_[one or more name(s)]_. At [Name(s)] discretion, the argument may also be signed by other members of the City Council, bona fide associations, or individual voters who are eligible to vote on the measure. In the event that an argument is filed against the measure [Name(s)] is also authorized to submit a rebuttal argument on behalf of the City Council, which, at [Name(s)] discretion, may also be signed by members of the City Council, bona fide associations, or individual voters who are eligible to vote on the measure. Signatures on the rebuttal argument may be different from those who signed the primary argument, OR

c. Take no action with regard to authorizing the Council, or member or members of the Council to submit a written argument [in favor] or [against] the measure.

The deadline for submitting arguments for and against the measure will be 14 days from the adoption of the Resolution Calling the Election (Elections Code Section 9286). Rebuttal arguments may then be filed by the author(s) of the primary arguments no later than 10 days after the final filing date for primary arguments (Elections Code Section 9285(4)). Submission deadlines are specified in the resolution. If Council selects Option A, a special Council meeting would need to be held for the Council to consider and approve the written argument.

Draft Amendments to Sunnyvale Charter Article VI
The proposed amendments to Charter Article VI are in Exhibit A to the attached resolution. The attached version reflects the Council's prior discussions and tentative direction through the meeting on November 5, 2019. The following updates were made based on the comments at the November 5 meeting:

(1) Section 600: At the meeting, the City Attorney recommended retaining the "legalese" in the second sentence because it serves a purpose that may facilitate future charter interpretation. However, for simplicity and clarity, the first and second sentences were divided into two subsections and the last clause of the second sentence was removed.

(2) Sections 603(a) and (b): Revised and reorganized so that 603(a) now directly addresses requirements for the mayor and 603(b) addresses requirements for district council members.

(3) Section 604: Added "elective" to the following sentence in subsection (b): "Any Mayor or member of the Council elected or appointed to a term of two (2) years or more shall constitute a four (4) year *elective* term for the purposes of this section." This change provides clarity by aligning the new language with the existing language retained in subsection(c), to make clear that any term of two or more years is equivalent to a "four-year elective term" as defined for purposes of calculating total term limits.

FISCAL IMPACT
The cost associated with placing a six-page ballot measure and requesting the services of the Registrar of Voters of Santa Clara County to conduct the election is approximately $256,000. If the attached resolution calling a Special Municipal Election in March 2020 is adopted, staff will request an updated estimate from the Registrar of Voters of Santa Clara County and return to Council with an associated budget modification in January 2020 addressing the costs of placing this ballot measure on the March 2020 ballot.

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 a resolution calling a Special Municipal Election to be held in the City of Sunnyvale on Tuesday, March 3, 2020, for the purpose of submitting to City voters a ballot measure concerning amendments to Article VI of the City Charter to implement City Council district elections; requesting consolidation with the statewide Presidential Primary Election and election services from Santa Clara County; directing the City Attorney to prepare an impartial analysis; and setting priorities for ballot arguments.

2. Do not adopt the resolution placing the Charter measure on the ballot, provide further direction to staff, and return with the appropriate actions no later than December 3, 2019 to submit the measure for the March 3, 2020 election.

STAFF RECOMMENDATION
Alternative 1: Adopt a resolution calling a Special Municipal Election to be held in the City of Sunnyvale on Tuesday, March 3, 2020, for the purpose of submitting to City voters a ballot measure concerning amendments to Article VI of the City Charter to implement City Council district elections; requesting consolidation with the Statewide Presidential Primary Election and Election Services from Santa Clara County; directing the City Attorney to prepare an impartial analysis; and setting priorities for ballot arguments.

Prepared by: Melissa C. Tronquet, Assistant City Attorney and David Carnahan, City Clerk
Reviewed by: Jaqui Guzman, Deputy City Manager
Reviewed by: Kent Steffens, City Manager
Reviewed and Approved by: John A. Nagel, City Attorney

ATTACHMENT
1. Resolution Calling a Special Municipal Election for March 3, 2020