



City of Sunnyvale

Agenda Item-No Attachments (PDF)

File #: 20-0498, Version: 1

REPORT TO COUNCIL

SUBJECT

Discussion of Impacts of COVID-19 on Administrative Issues for the November 3, 2020 Regular Municipal Election, and Consideration of Adoption of a Resolution Waiving the Signature Gathering Requirement in Sunnyvale Municipal Code Section 2.28.030 and Providing for the City to Cover Publication Costs of City Council Candidate Statements for the November 2020 General Municipal Election due to the COVID-19 Emergency

BACKGROUND

At the March 3, 2020 election, Sunnyvale voters approved Measure B, changing the Sunnyvale electoral system from seven at-large Councilmembers to a system with six district-based Councilmembers and a Mayor elected at-large. The November 3, 2020 Election will be the first election held under the new system, with voters registered in Districts 2, 4 and 6 eligible to vote for a candidate from their respective district and all Sunnyvale voters eligible to vote for Mayor.

The State of California has been operating under a state of emergency since March 4, 2020, due to the COVID-19 Pandemic. The City of Sunnyvale and Santa Clara County also declared states of emergency, which are anticipated to continue into the Summer months as the state and local jurisdictions continue implementing measures to address the COVID-19 Pandemic. Staff has received questions about how “social distancing” requirements and recommendations may impact the local elections process, including signature requirements, appointments to submit nomination paperwork, and other similar candidacy issues.

This report provides an overview of how the Office of City Clerk will be addressing some of these issues for November 2020 City Council candidates and provides an option for the Council to suspend signature requirements set forth in Sunnyvale Municipal Code (SMC) section 2.28.030 that allow candidates for City Council to receive either a partial or full subsidy from the City for the cost to publish a Candidate Statement of Qualifications.

EXISTING POLICY

California Elections Code Section 8028.

Sunnyvale City Charter Section 1404 (Initiative, Referendum, and Recall).

Sunnyvale Municipal Code Chapter 2.28 (Elections).

ENVIRONMENTAL REVIEW

The adoption of a resolution eliminating the signature gathering requirement for in lieu petitions for the cost of candidate’s statements for the November 3, 2020 Election does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines sections 15378(b)(4) and 15378(b)(5) in that it is a fiscal and governmental organizational or administrative activity that will not result in direct or indirect changes in the environment and does

not involve any commitment to any specific project which may result in a potential significant impact on the environment.

DISCUSSION

The nomination period for City Council and Mayoral candidates running for election in November 2020 will begin on July 13, and the City Clerk has already received several candidate statements of intention to run for City Council and Mayor. The City Clerk has also received several questions about modifications to the typical process for running for City Council in light of the closures and social distancing requirements related to COVID-19.

1. Administrative Modifications for City Candidates Related to COVID-19

a. Appointments to Issue and Submit Candidate Election Forms

The Office of the City Clerk will accept appointments with potential Council candidates to issue nomination paperwork and for the submittal of nomination paperwork during the Nomination Period for the November 3, 2020 Election. These appointments can be accommodated in-person in conference rooms to allow for social distancing as required by state and/or local regulations or at the request of the potential candidate. The Office of the City Clerk will accept written requests for appointments in alternate formats as provided for by Elections Code section 8028 and detailed in Secretary of State Memorandum No. 20085 (Attachment 3 to the report). Staff plans to publicize these provisions on the City's website and other appropriate channels.

b. Appointments to Issue and Submit Candidate Nomination Paperwork

In order for a candidate to have their name included on the ballot, the Office of the City Clerk issues nomination paperwork that includes forms required by the Elections Code and the Registrar of Voters (ROV). Nomination paperwork is typically issued during an in-person appointment with the City Clerk or Deputy City Clerk. Completed nomination paperwork is filed with the Office of the City Clerk at a subsequent in-person appointment. Each of these meetings must take place during the Nomination Period as outlined in the Elections Code that runs from 113 days prior to the election through 88 days prior to the election. For the November 3, 2020 Election, the Nomination Period is July 13, 2020 through August 7, 2020.

Secretary of State Memorandum No. 20085 (Attachment 3 to the report) provides guidance to Elections Officials regarding alternatives to in-person appointments that can be facilitated under Elections Code section 8028. At the written request of a potential candidate, nomination paperwork can be made available to the potential candidate via mail, via email, or via a website using an encrypted internet security protocol. Regardless of the method used to issue nomination paperwork, the original nomination paperwork, including original signatures, must be received by the Office of the City Clerk prior to the close of the nomination period.

2. City Subsidy of Candidate Statement of Qualification Publication Costs

The City's subsidy of the cost to publish Candidate Statements of Qualifications (SMC section 2.28.030) has been used by nearly all candidates in the last three City Council elections. Under the current Code, candidates that gather 250 valid signatures receive a full subsidy and a prorated amount for less than 250 signatures. During the August 2016 Special Council Election, the City subsidized 100% of the \$4,198 cost to publish two candidate statements. During the November 2016 Council Election, the City subsidized 63% of the \$16,281 cost to publish nine candidate statements. During the November 2018 Council Election, the City subsidized 95% of the \$11,964 cost to publish

six candidate statements.

Under normal circumstances, the City would likely subsidize a significant portion of the costs to publish candidate statements for the November 3, 2020 Election.

The subsidy for the cost to publish a Candidate Statement of Qualifications is available in several other municipalities in Santa Clara County. See Attachment 4 to the report for details of the various subsidies for candidate statements available to council candidates in Santa Clara County.

The COVID-19 Pandemic presents challenges to candidates wishing to utilize the Petition-in-Lieu process. Social distancing requirements and prohibitions on large gatherings are likely to continue into the Summer and make it more difficult for candidates to gather signatures needed for a full or partial subsidy of the cost to publish a candidate statement. In recognition of the challenges presented by the COVID-19 response, a draft Resolution (Attachment 1 to the report) has been prepared to waive the signature gathering requirements of SMC section 2.28.030 (in lieu petitions for cost of candidate's statement) for the November 3, 2020 Election and approve the City covering the full cost to publish candidate statements without requiring candidates to collect signatures.

If the Council chooses not to waive the requirements of SMC section 2.28.030 for the November 2020 election, the Office of the City Clerk has determined that it is possible to make modifications to the existing in-lieu forms to help mitigate the COVID-19 challenges described above and better promote social distancing and health recommendations. Currently, the City Clerk provides potential candidates with Petition-in-Lieu of Payment for Candidate's Statement of Qualifications forms that contain 30 signatures each, which candidates use to gather signatures to submit for verification. If Council does not adopt a Resolution waiving the signature requirement, the Office of the City Clerk will revise the forms so that fewer signatures are required on each form, reducing the number of people required to touch the same sheet of paper.

3. Other Issues for Future Council Consideration Regarding Local Elections

Staff recognizes that there are other issues of interest to the public and the Council related to local elections, including whether to amend SMC section 2.28.030 to reduce the number of signatures required to obtain the candidate statement subsidy because of the new district election structure, and local campaign finance regulations in advance of AB 571 (Political Reform Act of 1974: contribution limits) going into effect on January 1, 2021. This report is only intended to address issues immediately impacted by the COVID-19 Pandemic, and staff plans to return to Council at a later date with potential amendments to SMC section 2.28.030 and Council's consideration of potential local campaign finance regulations.

FISCAL IMPACT

Waiving the signature gathering requirement associated with SMC section 2.28.030 (in lieu petitions for cost of candidate's statement) so that the City covers the cost for all candidate statements in 2020 due to the COVID-19 Pandemic is not anticipated to have a significant fiscal impact. The Biannual Elections Costs project in the FY 2020/21 Budget is recommended to include \$773,059. This amount was recommended to cover the cost of three District Councilmember elections and the Mayoral election, including a full subsidy of all Candidate Statements of Qualifications and potential for up to two ballot measures. Modifications to the Petition-in-Lieu form and the format for appointments with the Office of the City Clerk are anticipated to be accomplished within the recommended budget amount.

PUBLIC CONTACT

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

ALTERNATIVES

1. Adopt a Resolution Waiving the Signature Gathering Requirement in Sunnyvale Municipal Code Section 2.28.030 and providing for the City to cover publication costs of City Council Candidate Statements for the November 2020 General Municipal Election due to the COVID-19 Emergency.
2. Do not adopt a resolution Waiving the Signature Gathering Requirements in Sunnyvale Municipal Code section 2.28.030.
3. Other discussion or direction as provided by Council related to issues impacting the November 2020 local election as a result of the COVID-19 Emergency.

STAFF RECOMMENDATION

Staff makes no recommendation. This report is developed to facilitate conversation for the public hearing and for consideration and action by the City Council.

Prepared by: David Carnahan, City Clerk

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Resolution
2. Sunnyvale Municipal Code Section 2.28.030 In lieu petitions for cost of candidate's statement
3. Secretary of State Memorandum No. 20085
4. Cities and Towns in Santa Clara County: Subsidy of Council/Mayor Candidate Statements