

**June 15, 2010****SUBJECT: Proposed Charter Amendment for a Directly-Elected Mayor for the November 2, 2010 Election****REPORT IN BRIEF**

The Sunnyvale City Charter is the “Constitution” for the City and provides the legal guidelines for the form and function of its government. The City Charter currently provides that the City’s mayor is selected by the City Council from one of its members for a term of two years. An alternate method of selecting the mayor is by direct election as a separate position from that of a council member. On May 25, 2010, the Council reviewed and discussed the Study Issue on a directly elected mayor, and directed staff to return with a proposed Charter amendment for Council consideration to place a Charter amendment on the November 2010 election ballot providing for a directly-elected mayor for a two year or four year term.

This report provides the proposed Charter amendment language for a ballot measure. If Council approves placing the Charter amendment on the November 2010 ballot, the cost of the election is approximately \$167,000. If the Charter ballot measure is placed on the November 2011 ballot, cost is reduced to approximately \$42,000.

BACKGROUND

Sunnyvale is a Charter City and is governed by the terms of its Charter, which was first adopted in 1949, and has been amended periodically. All Charter Amendments must be approved by the voters. Under the California Constitution, Charter Amendments may be proposed by the City Council, by voter initiative or by a Charter commission. The Sunnyvale City Council can, by a majority vote, put proposed Sunnyvale City Charter changes on the ballot for voter approval.

On May 25, 2010, the City Council reviewed and discussed a study issue report summarizing the history of Sunnyvale’s consideration of a directly-elected mayor and advantages and disadvantages of having a directly-elected mayor. At this meeting Councilmembers voted to move forward with considering a directly-elected mayor to be elected to either a two- or four-year term. This Report to Council outlines the alternatives the City Council may

consider in order to present the Charter Amendment to the voters in a November 2, 2010 special election.

EXISTING POLICY

Section 605 of the City Charter currently provides for a mayor to be chosen from among the Councilmembers every two years. The mayor is selected by the Councilmembers and is appointed through a City Council motion.

DISCUSSION

The Council considered the pros and cons of a directly-elected mayor in the May 25, 2010 study issue and directed staff to move forward with presenting a proposed Charter amendment and resolution to place a Charter amendment for a directly-elected mayor on the November 2010 ballot. Accordingly, staff has moved expeditiously to return to Council with proposed ballot and Charter amendment language.

The Council must make a number of decisions on the terms of the proposed Charter amendment. First, the Council must decide if they want a 2- or 4-year term. Second, the Council must determine what term limits there will be for the mayor position. Current Charter provisions limit Councilmembers to serving for eight years in any twelve-year period, unless appointed to serve an unexpired term of less than two years. The proposed Charter amendment includes a similar term limit of 8 years, unless elected to fill an unexpired term of less than 2 years. The Council could, however, decide to propose a Charter amendment that would have no term limits for the mayor or term limits of more than 8 years.

The proposed Charter amendment allows for an incumbent Councilmember to run for mayor, but the incumbent can not run for both mayor and a council seat in the same election.

If the Charter amendment for a directly elected mayor is passed by the voters, the proposed Charter amendment provides for the first election for a directly-elected mayor to occur at the 2011 General Election at the expiration of the current 2-year mayoral term. It would be possible to hold a special election in early 2010 solely for the purpose of electing a mayor, but costs for such a special election would be substantially higher than at a general election and would be contrary to the current Charter language recently adopted providing for a 2-year mayoral term.

FISCAL IMPACT

If Council elects to place a Charter amendment on the November 2010 ballot, the City will be consolidating its special municipal election with the state and county election. The County Registrar of Voters charges the City for the costs of handling the ballot measure, and actual costs depend on the number of other ballot measures by the City and other cities on the general election ballot. Estimated cost from the Registrar of Voters for putting the ballot measure on the November 2010 ballot is \$167,461. If the ballot measure is placed on the 2011 general election, estimated cost is \$42,496.

If there is a change to a directly-elected mayor, there will be election costs for each mayoral election. However, these costs should be approximately the same as the cost for a regular council seat election provided the election for mayor corresponds with the general election for Council seats.

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 Web site.

ALTERNATIVES

1. Adopt the attached resolution placing a Charter Amendment on the ballot for the November 2, 2010 special election amending the charter provision for selecting the mayor to provide for a directly elected mayor for a term of 2 or 4 years.
2. Adopt the attached resolution, as modified, placing a Charter Amendment on the ballot for the November 2, 2010 special election amending the charter provision for selecting the mayor to provide for a directly elected mayor for a term of 2 or 4 years.
3. Do not adopt the attached resolution placing the Charter Amendment on the ballot for the November 2, 2010 special election amending the charter provision for selecting the mayor through a general election.

RECOMMENDATION

Staff makes no recommendation on whether or not to propose a Charter amendment changing to a directly-elected mayor.

In view of current fiscal challenges and the substantially greater cost of placing the Charter amendment on the November 2010 ballot in contrast to the

November 2011 ballot, staff recommends that if Council elects to proceed with the Charter amendment it consider placing it on the November 2011 ballot.

Prepared by:

David E. Kahn, City Attorney

Reviewed by:

Gary Luebbers, City Manager

Attachments

Attachment A – Proposed Resolution placing Charter Amendment for a Directly-Elected Mayor on the ballot in the November 2, 2010 Special Municipal Election.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE SUBMITTING A CHARTER AMENDMENT TO BE PLACED ON THE BALLOT AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD IN THE CITY OF SUNNYVALE ON NOVEMBER 2, 2010

WHEREAS, the City Council has determined to submit to the Electors, on its own motion, the following amendment to the Charter of the City of Sunnyvale to be considered at the Special Municipal Election.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. CHARTER AMENDMENT. The City Council hereby submits to the voters of the City, at the Special Municipal Election called for November 2, 2010, the following Charter Amendment:

A. CITY OF SUNNYVALE CHARTER MEASURE _____

Shall Charter Section 605 be amended to provide for the direct election of the mayor to serve a term of (2 years/4 years) years and be limited to serving eight years in any twelve-year period, not including election to an unexpired term of less than two years?

YES _____
NO _____

2. ADOPTION OF MEASURE. In the event a majority of the electors voting on a Charter Amendment set forth above vote in favor thereof, the Charter of the City of Sunnyvale shall be amended to read in accordance with the text corresponding to the Amendment as set forth in Exhibit "A", attached and incorporated herein, effective upon the date of filing. In the event the City Clerk or the Registrar of Voters is required to or does cause the publication or printing of the proposed amendment using distinguishing type styles to identify the proposed amendment, the Clerk or Registrar may authorize the use of any alternative distinguishing type style, such as italics, which is appropriate to the medium used for such publication or printing.

3. DUTIES OF CITY CLERK. The City Clerk hereby is directed to do all things required by law to effectuate the Special Municipal Election and to present the charter amendment submitted herein to the electorate, including, but not limited to, required publications, postings, noticings and filings. Further, the City Clerk is hereby directed to forward a copy of this resolution to the City Attorney for preparation of impartial analyses of the charter amendment submitted.

4. ARGUMENTS. Arguments for and against may be filed consistent with Elections Code Section 9282, *et seq.* The City Council confirms that the provisions of Elections Code Section 9285 do not apply and that no rebuttal arguments shall be permitted.

5. IMPARTIAL ANALYSIS BY CITY ATTORNEY. Pursuant to Election Code Section 9280, the City Council hereby directs the City Attorney to prepare impartial analyses of the charter amendment.

6. TRANSMITTAL OF RESOLUTION. The City Clerk is hereby directed to submit forthwith a certified copy of this resolution to the Board of Supervisors, to the Registrar of Voters, and to the County Clerk of the County of Santa Clara.

7. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Sections 15061(b)(3) and 15378(a), that this resolution is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. This action is further exempt under the definition of "Project" in Section 15378(b)(3) in that it concerns general policy and procedure making. The Council therefore directs that a Notice of Exemption be filed with the Santa Clara County Clerk.

Adopted by the City Council at a regular meeting held on _____, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

David Kahn, City Attorney

EXHIBIT "A" TO RESOLUTION NO. _____

**PROPOSED AMENDMENT
TO THE CHARTER OF THE CITY OF SUNNYVALE**

The proposed amendment to the Charter is set forth below. The provisions of the Charter proposed to be deleted are printed as strike-out type, and the new provisions are printed as underlined type.

A. CITY OF SUNNYVALE CHARTER MEASURE _____

Shall Charter Section 605 be amended to provide for the direct election of the mayor to serve a term of (2years/4 years) years and be limited to serving eight years in any twelve-year period, not including election to an unexpired term of less than two years?

YES _____
NO _____

Section 605. Presiding Officer. Mayor.

The office of Mayor shall be separately voted upon and is a separate office. The Mayor shall be elected by plurality at an election to be held every (two years/four years) commencing with the 2011 general election. No elected Mayor shall serve for more than eight years in any twelve-year period, unless elected to serve an unexpired term of less than two years in length as provided in this charter. The person elected at any election to the office designated "Mayor" shall be deemed elected, both as a Mayor and as a member of the Council. Although the Mayor is a Council member, his or her election does not change the number of Council members from seven.

No person shall be a candidate for both Mayor and a City Council seat at the same election. However, an incumbent member of the City Council may run for the elective office of Mayor, and the Mayor may run for the separate office of Mayor or other City Council office. However, at no time shall a member of the Council, including the Mayor, hold more than one City elective office.

~~At the first regular meeting in January, at which the City Council shall certify the election results, following each General Municipal Election, and at the first regular meeting in January every two years thereafter, the City Council shall select one of its members as its presiding officer, who shall have the title of Mayor. Such selection shall be by motion of the City Council. The Mayor shall have a voice and vote in all its proceedings. He/she shall be the official head of the City for all ceremonial purposes. He/she shall perform such other duties as may be prescribed by this Charter or as may be imposed by the City Council consistent with his/her office. The Mayor shall serve in such capacity for a term of (2 years/4 years) years from and after which the appointment is made he or she is elected, and until a successor is selected; provided, that a person can continue to serve in the capacity of Mayor only while that person remains as a member of the City Council. In the event of a vacancy in the office of Mayor, the Vice-Mayor shall serve as Mayor until a special election is held to fill the vacancy. the City Council shall select one of its members to serve as Mayor for the remainder of the unexpired term.~~

~~The Mayor may be removed from such office prior to expiration of his/her term by a motion of the City Council adopted by the affirmative votes of at least five members of the City Council.~~