



June 7, 2011

**SUBJECT: Resolution Calling for Special Municipal Election for Proposed Charter Amendments, on a Consolidated November 8, 2011 Ballot**

**REPORT IN BRIEF**

The Sunnyvale City Council can, by a majority vote, put proposed Sunnyvale City Charter changes on the ballot for voter approval. The City Council appointed the 2011 Charter Review Committee to assist the Council in reviewing only the Charter provisions on the procedure for selecting a mayor and Council compensation and to make recommendations to the Council on what Charter amendments to place on the ballot. On May 10, 2011, the City Council reviewed and discussed the recommendations of the 2011 Charter Review Committee. The Council voted to place two Charter amendments on the November 8, 2011, ballot.

The first Charter amendment proposes changing from a Council-selected to a directly-elected Mayor, with an 8 year lifetime term limit as Mayor and service as Mayor considered a separate office and not counting toward Council term limits. The second proposed amendment would set Council and Mayor compensation at the current compensation of \$2,088.64 and \$2,784.86 for 2012, delete the current automatic 5% annual increase and provide for annual increases based on the Bay Area Consumer Price Index.

This Report to Council with the attached Resolution is the next step in placing these Charter amendments on the ballot.

**BACKGROUND**

Cities in California are either "general law" or "charter" cities. General law cities have only those powers granted by state statute to cities. Article XI of the California Constitution authorizes the adoption of a city charter by the majority vote of a city's electorate. If adopted, the charter serves as the city's constitution and a blueprint for city government and ordinances. The City of Sunnyvale adopted its City Charter in 1949, and it has been amended fourteen times since its adoption. The voters last amended the Sunnyvale City Charter in 2007. The California Constitution establishes the requirements for both adoption and amendment of a city charter. The Sunnyvale City Council can,

by a majority vote, put proposed Sunnyvale City Charter changes on the ballot for voter approval.

On November 9, 2010, the City Council approved the formation of a Charter Review Committee to assist the Council in reviewing the Charter provisions on procedure for selecting a mayor and term and term limits for the mayor, and on Council and Mayor compensation. The City Council, on January 25, 2011, appointed eleven members to the Committee. The Committee first convened on February 7, 2011, and met eight times over the next three months. The Committee invited and received email comments and held a noticed public hearing on March 24, 2011 to provide opportunity for public input and comment on the Charter and proposed amendments.

The Committee completed its review on changing to a directly-elected Mayor and Council compensation, and presented its Final Report and Recommendations to the City Council on May 10, 2011. The City Council discussed the Committee's recommendations and voted on May 10 to put two Charter amendments on a directly-elected Mayor and Council compensation on the November 8, 2011 ballot.

#### **EXISTING POLICY**

The City's existing Charter policies on selection of a Mayor and term and term limits are established by Sections 600, 601, 602 and 605.

The City's existing Charter policies on Council and Mayor compensation are established by Section 603.

#### **DISCUSSION**

After receipt of the Committee's Final Report and Recommendations, the City Council decided at the May 10, 2011, meeting which of the Committee's recommended changes to the Charter to approve, reject or modify to place on the ballot.<sup>1</sup> The Charter issues that Council voted to place on the November 2011 ballot are as follows:

##### **A. Directly-Elected Mayor and Term and Term Limits**

Shall Charter Sections 601, 602, and 605 be amended to change the current Council-appointed Mayor to a directly-elected Mayor, to provide that there is an 8-year lifetime term limit for a directly-elected Mayor, and to provide that service as Mayor is not counted toward Council term

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<sup>1</sup> The resolution and ballot measures need to be filed with the Registrar of Voters no later than August 12, 2011.

limits and a person can serve a combined total of 16 years as Mayor and Council member in a twenty-year period?

### **B. Council Compensation**

Shall Charter Section 603 be amended to delete the current automatic 5% annual increase in Council compensation, to set the 2012 Council compensation at \$2,088.64 per month and Mayor compensation at \$2,784.86 per month, and to provide for annual cost of living adjustments tied to the Consumer Price Index not to exceed 5% or result in a decrease?

### **FISCAL IMPACT**

The current estimate for the 2011 election is \$42,519 per Charter ballot measure. Actual costs could be higher or lower, depending on whether other jurisdictions share the special election costs and the number of Charter ballot measures selected by the Council.

If the Charter amendment on a directly-elected Mayor is approved by the voters, there should be no additional election costs in future years as the costs for the Mayor's seat will be the same as for a Council member. If an incumbent Council member runs for Mayor and is elected in the middle of the Council member's term, a special election to fill the Council seat vacated by the newly-elected Mayor will need to be held. The City is responsible for paying the costs of such a special election, if required.

If the Charter amendment on Council compensation is approved by the voters, there will be future cost savings if the future annual CPI increases are less than the current 5% increase in the Charter. The exact amount of savings will depend on the difference between the annual CPI and 5%. There will be a one-time cost savings of \$9,190.00 in 2012 based on setting the compensation at the 2011 base with the first increase in January, 2013. If the CPI remains below the current 5% automatic increase, savings will increase based on compounding. At the CPI average of approximately 2.2% for the last 5 years, it will take approximately 4 years to fully recover the costs of the ballot measure amending the Council compensation.

### **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.

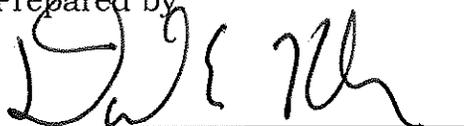
**ALTERNATIVES**

1. Move to approve the attached Resolution calling a Special Municipal Election for the purpose of submitting to the voters two ballot measures concerning amendments to the City Charter to be placed on the ballot at the consolidated election to be held in the City of Sunnyvale on November 8, 2011.
2. Move to approve the attached Resolution, as modified.
3. Do not approve the attached Resolution calling a Special Municipal Election for the purpose of submitting to the voters two ballot measures concerning amendments to the City Charter to be placed on the ballot at the consolidated election to be held in the City of Sunnyvale on November 8, 2011.

**RECOMMENDATION**

Based on prior Council direction, staff recommends Alternative 1, move to approve the Resolution calling a Special Municipal Election for the purpose of submitting to the voters two ballot measures concerning amendments to the City Charter to be placed on the ballot at the consolidated election to be held in the City of Sunnyvale on November 8, 2011.

Prepared by:



David E. Kahn, City Attorney

**Attachments**

Attachment 1 – Resolution calling a Special Municipal Election for the purpose of submitting to the voters two ballot measures concerning amendments to the City Charter to be placed on the ballot at the consolidated election to be held in the City of Sunnyvale on November 8, 2011.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE CALLING A SPECIAL MUNICIPAL ELECTION FOR THE PURPOSE OF SUBMITTING TO THE VOTERS TWO MEASURES CONCERNING AMENDMENTS TO THE CITY CHARTER TO BE PLACED ON THE BALLOT AT THE CONSOLIDATED ELECTION TO BE HELD IN THE CITY OF SUNNYVALE ON NOVEMBER 8, 2011**

WHEREAS, the City Council adopted Resolution \_\_\_\_\_ on \_\_\_\_\_, calling a General Municipal Election to be held in the City of Sunnyvale on November 8, 2011, and requesting election consolidation and the services of the Registrar of Voters; and

WHEREAS, the City Council is interested in submitting to the voters two measures concerning amendments to the City Charter; and

WHEREAS, the City Clerk will set the dates for submittal of arguments for and against the measures; and

WHEREAS, a City may allow for submittal of rebuttal arguments for City ballot measures if the City Council adopts a resolution which adopts the provisions of Elections Code section 9285 concerning rebuttal arguments; and

WHEREAS, whenever two or more elections of any legislative or congressional district, public district, city, county or other political subdivision are called to be held on the same day, in the same territory, or in territory that is in part the same, such elections may be either completely or partially consolidated pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, and Section 5342 of the Education Code; and

WHEREAS, Elections Code Section 10002 empowers the City Council to request the assistance of the County Registrar of Voters to provide election services to the City and the City Council intends to call a General and Special Municipal Election on November 8, 2011, and for the consolidation of that election;

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

1. SPECIAL ELECTION. A Special Municipal Election hereby is called to be held in and for the City of Sunnyvale on Tuesday, November 8, 2011, for the purpose of submitting the below-designated measures to the voters of the City. The City Council orders that the Special Municipal Election be consolidated and combined with the General Municipal Election called for the same date.

2. MEASURES. The City Council hereby submits to the voters of the City of Sunnyvale, and orders to be placed on the ballot, at the Special Municipal Election called for November 8, 2011, the following measures:

**A. CITY OF SUNNYVALE CHARTER MEASURE \_\_\_\_\_**

Shall Charter Sections 600, 601, 602, and 605 be amended to change the current Council-appointed Mayor to a directly-elected Mayor, to provide that there is an 8-year lifetime term limit for a directly-elected Mayor, and to provide that service as Mayor is not counted toward Council term limits and a person can serve a combined total of 16 years as Mayor and Council member in a twenty-year period?

YES \_\_\_\_\_  
NO \_\_\_\_\_

**B. CITY OF SUNNYVALE CHARTER MEASURE \_\_\_\_\_**

Shall Charter Section 603 be amended to delete the current automatic 5% annual increase in Council compensation, to set the 2012 Council compensation at \$2,088.64 per month and Mayor compensation at \$2,784.86 per month, and to provide for annual cost of living adjustments tied to the Consumer Price Index not to exceed 5% or result in a decrease?

YES \_\_\_\_\_  
NO \_\_\_\_\_

3. **ADOPTION OF MEASURES.** In the event a majority of the electors voting on the Charter measures set forth above vote in favor thereof, the City Charter of the City of Sunnyvale shall be amended to read as set forth in Exhibit "A," attached hereto 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 amendments using distinguishing type styles to identify the proposed amendments, 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.

4. **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 measures submitted herein to the electorate, including, but not limited to, required publications, postings, notices and filings. Further, the City Clerk is hereby directed to forward a copy of this Resolution to the City Attorney for preparation of an impartial analysis of the measures submitted.

5. **ARGUMENTS.** Arguments for and against may be filed consistent with Elections Code Section 9282, *et seq.*

6. **REBUTTAL ARGUMENTS.** The City Council adopts the provisions of the Elections Code section 9285 to allow rebuttal arguments for all City of Sunnyvale ballot measures upon the adoption date of this resolution.

7. **CONSOLIDATION OF ELECTIONS.** The City Council hereby orders that this Special Municipal Election be consolidated with other Santa Clara County Consolidated and California statewide General Elections to be held on Tuesday, November 8, 2011. Furthermore, pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, and

Education Code Section 5342, the City Council hereby requests the governing body of any other political subdivision, or any officer otherwise authorized by law, to partially or completely consolidate such elections, and to further provide that, upon consolidation, the consolidated election shall be held and conducted, election officers appointed, voting precincts designated, ballots printed, polls opened and closed, ballots opened and returned, returns canvassed, and all other proceedings in connection with the election shall be regulated and done by the Registrar of Voters of the County of Santa Clara or any body or official authorized by law to perform such functions and canvass the returns of the elections; and that this City Council consents to such consolidation.

8. CONTRACT WITH REGISTRAR. Pursuant to Section 10002 of the California Elections Code, the City Council hereby requests the Board of Supervisors of the County of Santa Clara to permit the Registrar of Voters to render services to the City of Sunnyvale relating to the conduct of Sunnyvale's Special Municipal Election to be held on Tuesday, November 8, 2011. Services shall be of the type normally performed by the Registrar of Voters in assisting the clerks of municipalities in the conduct of elections including, but not limited to, those certain services set forth in Section 3 hereof.

Subject to the approval of the Board of Supervisors of the foregoing requests, the City Clerk is hereby authorized to engage the services of the Registrar of Voters of the County of Santa Clara to aid in the conduct of the election. Further, the City Director of Finance is authorized and directed to pay the costs of services, provided that no payment shall be made for services which the Registrar of Voters is otherwise required by law to perform.

9. IMPARTIAL ANALYSIS BY CITY ATTORNEY. Pursuant to Election Code Section 9280, the City Council hereby directs the City Attorney to prepare an impartial analysis of the measures.

10. 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.

ADOPTED by the City Council at a regular meeting held on \_\_\_\_\_, 2011, 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 AMENDMENTS TO THE  
CITY CHARTER OF THE CITY OF SUNNYVALE

The City Council of the City of Sunnyvale, on its own motion, submits to the electors the following amendments to the City Charter of the City of Sunnyvale. The City Council has called a Special Municipal Election to be held on Tuesday, November 8, 2011, for the purpose of voting on the City Charter amendments.

The proposed amendments to the City Charter of the City of Sunnyvale follow the statement of the measures. The provisions of the City Charter proposed to be deleted are printed as ~~strike-out~~ type, and the new provisions proposed to be added to the City Charter are printed as underlined type.

CITY OF SUNNYVALE CHARTER MEASURE \_\_\_\_\_

Shall Charter Sections 600, 601, 602, and 605 be amended to change the current Council-appointed Mayor to a directly-elected Mayor, to provide that there is an 8-year lifetime term limit for a directly-elected Mayor, and to provide that service as Mayor is not counted toward Council term limits and a person can serve a combined total of 16 years as Mayor and Council member in a twenty-year period?

YES \_\_\_\_\_  
NO \_\_\_\_\_

If Measure \_\_\_\_\_ carries, the City Charter of the City of Sunnyvale, shall be amended by amending Section 600, 601, 602 and 605, of Article VI (The Council), to read as follows:

**Section 600. Elective Officers of the City.** The elective officers of the City shall consist of a City Council composed of seven members, including the office of Mayor.

**Section 601. Term and Election.** Each member of the City Council and the Mayor shall be elected from the City at large at the General Municipal Election for a term of four years. The term shall commence at the first regular meeting in January, at which the City Council shall certify the election results, and shall continue until a successor is elected and qualified.

The office of each member of the Council and Mayor is a separate elective office to be separately filled at any election. The person elected at any election to the office designated "Mayor" shall be deemed elected both as 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 seat. At no time shall a member of the Council, including the Mayor, hold more than one City elective office.

The person receiving the highest number of all the votes cast for a particular elective office at any election shall be deemed and declared elected to that office.

Each Council seat shall be designated by a number from ~~1~~2 through 7 and shall be known as "Councilmember Seat Number \_\_\_\_\_." Commencing with the 2013 General Municipal Election, seat 1 shall be designated as the Mayor's seat. The designation given to each elective office shall be used in all elections, nomination papers, certificates of election, and all other papers pertaining to such office, and to designate the incumbent of such office.

Seats numbered ~~1, 2, and 3~~ shall be filled at the General Municipal Election held in ~~2013~~ 1977 and every fourth year thereafter. Seats numbered 4, 5, 6, and 7 shall be filled at the General Municipal Election held in 1979 and every fourth year thereafter. The Mayor's seat shall be filled at the General Municipal Election held in 2013 and every fourth year thereafter.

**Section 602. Qualifications.** No person shall be eligible to hold office as a member of the City Council unless he/she shall be a registered voter of the City at the time of his/her nomination or appointment.

No person shall be a candidate for more than one elective office.

No incumbent member of the Council shall be a candidate for a Council seat other than the one which that person then holds.

No person shall be eligible to serve as a member of the Council for more than two successive four-year elective terms. Any person who has served two successive four-year elective terms shall not serve again until at least four years have passed since that person last held office. Any person who fills an unexpired term of not more than two years in length shall, however, be eligible to serve two successive four-year terms after the expiration of the unexpired term which he/she filled. Any person who serves a four-year elective term and is either not re-elected or does not run for re-election for a second successive term is eligible to serve after two years have passed since that person last held office as a Councilmember but is not eligible to run for a second successive term. Any person may serve as a Councilmember for eight years in any twelve-year period, unless appointed to serve an unexpired term of less than two years in length as provided in this section.

The office of elected Mayor, to be filled from the City at large, is a separate office from the Council and solely for purpose of term limits is not a Council office nor Council. Consequently, time served in such office of elected Mayor is not time served on the Council and time served on the Council is not time served in such office of elected Mayor.

No person shall be eligible to serve as Mayor for more than two four-year elective terms in a lifetime. Any person may serve as a Councilmember and Mayor for a total of sixteen years in any twenty-year period, unless appointed to serve an unexpired term of less than two years in length as a Councilmember as provided in this section.

**Section 605. Presiding Officer. Mayor.** ~~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 Mayor shall be the Council's 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 two years from and after which the appointment is made, 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. The office of Mayor shall become and be deemed vacant immediately upon the incumbent ceasing to be a member of the City Council. In the event of a vacancy in the office of Mayor, the City Council shall officially declare the seat vacant within thirty days and call a Special Municipal Election for the purpose of filling such vacancy, 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.

**CITY OF SUNNYVALE CHARTER MEASURE \_\_\_\_\_**

Shall Charter Section 603 be amended to delete the current automatic 5% annual increase in Council compensation, to set the 2012 Council compensation at \$2,088.64 per month and Mayor compensation at \$2,784.86 per month, and to provide for annual cost of living adjustments tied to the Consumer Price Index not to exceed 5% or result in a decrease?

YES \_\_\_\_\_  
 NO \_\_\_\_\_

If Measure \_\_\_\_\_ carries, the City Charter of the City of Sunnyvale, shall be amended by amending Section 603, of Article VI (The Council), to read as follows:

**Section 603. Compensation.** In addition to reimbursement for necessary traveling and other expenses actually incurred when on official duty in or out of the City on order of the City Council, commencing January 1, 2012, each member of the City Council shall receive as salary \$2,088.64 per month, each month, that sum which has been established by the State Legislature for members of the city councils of general law cities having the population range within which the City of Sunnyvale falls, all as is specified in Government Code Section 36515 as it now exists or may hereafter be amended to read, and the Mayor shall receive as salary \$2,784.86 per month, each month, a sum equal to one hundred thirty-three and one-third percent of that established herein for Councilmembers.

In order to provide a cost of living adjustment, commencing on January 1, 2012, and annually on January 1 thereafter, the compensation of the Council and Mayor shall increase by a percentage equal to the percentage increase in the preceeding October's 12-month rolling average of the Consumer Price Index-Urban(CPI-U), or successor index, for San Francisco-Oakland-San Jose, as determined by the United States Department of Labor, Bureau of Consumers. In

no event shall the CPI-U compensation adjustment exceed 5% per year, or result in a compensation decrease. The CPI-U base index year shall be calendar year 2012. ~~the salaries provided herein shall be increased annually, effective January 1 of each year, by the amount permitted for general law cities by Government Code Section 36516(e), as it now exists or may hereafter be amended.~~

If a member of the City Council does not attend all meetings of the City Council called on order of the City Council and held during the month, his/her salary for such month shall be reduced by the sum equivalent to twenty percent of the month's salary for each meeting not attended unless he/she is absent on official duty with the consent of or on order of the City Council or is granted an excused absence by the City Council, or unless he/she is on personal leave. A member of the City Council shall be permitted four personal leave days per calendar year.