

File



OFFICE OF THE CITY CLERK

REPORT

To The Honorable Mayor and City Council

DATE: November 1, 1999 REPORT NO.: 99-08

SUBJECT: MUNICIPAL CODE ADDITION - PROCESS FOR APPOINTING MEMBERS OF THE REDISTRICTING COMMISSION

ISSUE

On June 2, 1992, the voters approved a Charter amendment which added Section 5.1, "Redistricting Commission," to the San Diego City Charter. This section, which became effective July 13, 1992, provides for the establishment of a Redistricting Commission with the exclusive authority to adopt plans specifying City Council district boundaries. The section also describes the Commission's tasks, and establishes general procedures for the accomplishment of those tasks.

Next year, the federal government will conduct Census 2000, and for the first time, the provisions of Charter Section 5.1 will be used to redraw the boundaries of San Diego's Council districts. The first action to be taken is the appointment of the seven-member Redistricting Commission. The Charter mandates that the nomination period shall begin on July 1, 2000, and provides broad guidelines for the appointment process.

The City Clerk's proposed addition to the San Diego Municipal Code--Division 14, "Procedure for Making Appointments to the Redistricting Commission"-- builds upon the provisions of Charter Section 5.1 to prescribe a specific, orderly process for the nomination and selection of members of the Redistricting Commission.

RECOMMENDATION

Adopt the proposed addition to the San Diego Municipal Code.

DISCUSSION

Charter Section 5.1 clearly identifies who shall appoint the members of the Redistricting Commission, but establishes only a general method for making those appointments. Where the Charter is specific, the proposed division essentially reiterates Charter language. Where the Charter is general, the proposed division draws upon the process for filling a Council vacancy by appointment, codified in Division 8 of the Municipal Code, to flesh out the procedure for appointing Commission members.

Key provisions of the proposed division include (a) identifying the appointing authority; (b) defining the composition of the Redistricting Commission; (c) providing an application and nomination process; (d) clarifying the City Clerk's role in that process; (e) determining what background information must be provided regarding an applicant or nominee to ensure that the appointed Commission meets the Charter's requirements; (f) specifying the public hearing process should the City Council be required to appoint Commission members; and (g) codifying miscellaneous Charter provisions regarding service on the Redistricting Commission. Following is a discussion of each of these key provisions.

The Appointing Authority

Charter Section 5.1 specifies that the Presiding Judge of the Municipal Court of the San Diego Judicial District shall appoint the members of the Redistricting Commission. Should the Presiding Judge decline to act, then a Judge of the Municipal Court, selected by vote of the Judges of the Municipal Court, shall make the appointments. Should the Judges decline to select an appointing authority, then a panel of three retired Superior Court Judges, whose names are drawn at random by the City Manager, shall make the appointments. Should all of the preceding decline to act, then the City Council shall make the appointments by majority vote.

The language of the proposed division essentially parallels that of the Charter, except that it provides for a "successor court" to the Municipal Court. While the Charter specifies "Municipal Court," Municipal and Superior Courts in the San Diego Judicial District were unified in 1998 by a majority vote of the judges of those courts, pursuant to Proposition 220. Consequently, the proposed division takes into account both the provisions of the Charter and the aftermath of the 1998 unification.

The Redistricting Commission

Charter Section 5.1 requires that the Redistricting Commission be composed of seven members, who shall be registered to vote in the City of San Diego. The Charter also requires that the appointing authority appoint women and men who will give the Redistricting Commission geographic, social and ethnic diversity, and who, in the appointing authority's judgment, have a high degree of competency to carry out the responsibilities of the Commission. The appointees shall include individuals with a demonstrated capacity to serve with impartiality in a non-partisan role.

The proposed division essentially reiterates the Charter, but clarifies that any individual applying or being nominated for appointment to the Redistricting Commission shall be a registered voter of the City on the date that the application or nomination for appointment is filed with the City Clerk.

The Application and Nomination Process

Charter Section 5.1 provides for a 30-day nomination period, commencing on July 1 of every year in which a national decennial census is taken. Appointments are to be made no later than November 1 of every year in which a national decennial census is taken.

The proposed division essentially reiterates the Charter, but adds provisions for those years in which July 1 falls on a Saturday, Sunday or holiday; and for those years in which the 30th day following the beginning of the nomination period falls on a Saturday, Sunday or holiday. When July 1 falls on a Saturday, Sunday or holiday, the nomination period shall begin on the next business day. When the 30th day following the commencement of the nomination period falls on a Saturday, Sunday or holiday, then applications and nominations shall be due on the next business day following the 30th day.

The City Clerk's Role

Charter Section 5.1 describes the responsibilities of the City Clerk. Where those responsibilities relate to the appointment process, they are reiterated more specifically in the proposed division. These responsibilities include soliciting nominations; and providing information to the public regarding the nomination period, guidelines for applicants and those wishing to make a nomination, and any public hearing(s) regarding the applications and nominations. The City Clerk must also provide the submitted applications and nominations to the appointing authority on the first business day after the close of the nomination period.

It should be noted that Charter Section 5.1 places additional responsibilities on the City Clerk which are unrelated to the appointment process.

Candidates' Background Information

As discussed above, Charter Section 5.1 broadly defines the composition of the Redistricting Commission. To help ensure that the appointing authority is provided with sufficient information about applicants and nominees to enable the authority to appoint a Commission which meets the Charter's requirements, the proposed division requires disclosure of the following: the applicant's or nominee's name; his or her address for the preceding five years; ethnicity; gender; business or occupation for the preceding five years; and information regarding military service, education, service in public office, public service appointments, service in civic or community organizations, and membership in professional or technical organizations, if any. Additionally, the applicant or nominee shall be required to file a statement of economic interests, with the scope of disclosure to be decided by resolution of the City Council. The applicant or the individual/organization making a

nomination shall also submit a statement of qualifications not longer than 100 words, describing the applicant's or nominee's suitability to serve on the Redistricting Commission.

The Public Hearing Process

Following the procedures for filling a Council vacancy by appointment, established in Division 8 of the Municipal Code, the proposed division provides that, in the event the City Council is the appointing authority, at least one public hearing shall be held for the purpose of considering the applications and nominations for appointment.

Service on the Commission

The proposed division includes the following additional Charter requirements:

(a) any individual who accepts appointment to the Redistricting Commission shall declare that he or she will not seek election to a San Diego City public office for a period of five years after the Commission's adoption of a final redistricting plan;

(b) members of the Commission shall serve until the redistricting plan the Commission adopts becomes effective, and any and all legal challenges and referendary actions have been resolved; and

(c) any vacancy occurring in the Commission shall be filled within seven calendar days by the appointing authority. The procedures and criteria for filling the vacancy shall be the same as required by Charter Section 5.1 and the proposed division, and the appointing authority shall fill the vacancy from the same pool of individuals originally considered.

OTHER PROVISIONS OF CHARTER SECTION 5.1 NOT ADDRESSED BY THE PROPOSED MUNICIPAL CODE AMENDMENT

As proposed, Division 14 is limited to those portions of Charter Section 5.1 which relate to the appointment of members of the Redistricting Commission. The Charter section also addresses other procedural requirements for the Commission itself, including the following:

First Meeting

The Commission shall hold its first meeting within twenty days after the members of the Commission are appointed, at a time and place designated by the City Clerk.

Commission Staff

The Commission shall elect a chair and a vice chair and shall employ a chief of staff. The chief of staff is exempt from Civil Service, and shall contract for needed staff, technical consultants and services, using existing City staff to the extent possible.

Commission Budget

The Commission shall adopt a budget and submit it to the appointing authority within sixty days after the members of the Commission are appointed. If the budget is approved by the appointing authority, it shall be forwarded to the City Council for consideration. The City Council shall appropriate funds to the Commission and to the City Clerk adequate to carry out their duties under Charter Section 5.1.

Meetings Open to the Public

All Commission meetings shall be open to the public; and Commission records, data and plans shall be available, at no charge, for public inspection during normal business hours in the office of the City Clerk. Copies of records and plans shall be provided to any interested person, for a reasonable fee.

The Commission shall make every reasonable effort to afford maximum public access to its proceedings. It shall solicit public comment and shall hold at least four public hearings in various geographic areas of the City before the preparation of a preliminary redistricting plan.

Number of Votes Required/Quorum

Aye votes by five members of the Commission shall be required for the appointment of its chief of staff, the election of its chair, and the adoption of the final redistricting plan. A majority vote shall be required for all other actions. A majority of the entire Commission shall constitute a quorum for the transaction of business or exercise of any power of the Commission.

Preliminary and Final Redistricting Plans

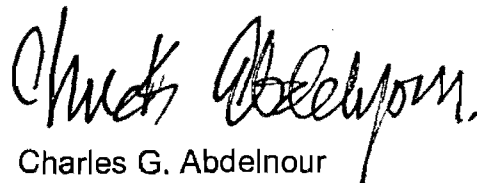
At least thirty days prior to the adoption of a final plan, the Commission shall file a preliminary plan with the City Clerk, along with a written statement of findings and reasons for adoption which includes notation of all criteria employed in the process and a full analysis and explanation of decisions made by the Commission.

During the thirty-day period after such filing, the Commission shall hold at least three public hearings in various geographic areas of the City before it adopts a final plan. Upon approval of the final plan, the Commission shall adjust the boundaries of any or all of the Council districts of the City pursuant to the final plan. Said final redistricting plan shall be effective thirty days after adoption and shall be subject to the right of referendum in the same manner as are ordinances of the City Council. If rejected by referendum, the same Commission shall create a new plan pursuant to the criteria set forth in Charter Sections 5 and 5.1.

SUMMARY

In summary, the City Clerk proposes the addition of Division 14 to the San Diego Municipal Code to prescribe a specific, orderly process for the nomination and selection of members of the Redistricting Commission, based upon the provisions of Charter Section 5.1.

I look forward to your review of the proposed Division 14. Should you have any questions, please contact Deputy Director Joyce Lane at 533-4024.

A handwritten signature in black ink that reads "Charles G. Abdelnour". The signature is written in a cursive, flowing style.

Charles G. Abdelnour
City Clerk

SAN DIEGO MUNICIPAL CODE - DIVISION 14 - PROCEDURE FOR MAKING APPOINTMENTS TO THE REDISTRICTING COMMISSION

27.1401 Purpose and Intent

The purpose and intent of this division is to establish an orderly procedure for the appointing authority established by San Diego City Charter Section 5.1 to follow in making any appointment to the Redistricting Commission; and for all individuals interested in being appointed to the Redistricting Commission, and all individuals or organizations desiring to nominate individuals for appointment to the Redistricting Commission, to follow in presenting their applications or nominations for consideration by the appointing authority.

27.1402 Appointing Authority

Pursuant to San Diego City Charter Section 5.1, the appointing authority for members of the Redistricting Commission shall be the Presiding Judge of the Municipal Court, or its successor court, of the San Diego Judicial District.

(a) In the event that the Presiding Judge declines to serve as the appointing authority, a Judge of the Municipal Court or its successor court, San Diego Judicial District, shall be the appointing authority. This Judge shall be selected by vote of the Judges of the Municipal Court, or its successor court.

(b) In the event that the Judges of the Municipal Court, or its successor court, decline to select an appointing authority pursuant to Section 27.1402(a), then a panel of three retired Superior Court Judges of the San Diego Judicial District shall serve as the appointing authority. The Judges on the panel shall be selected at random by the City Manager in the fashion described in Penal Code Sections 900(a) and 902.

(c) In the event that all of the preceding individuals decline to act, then the *City Council* shall serve as the appointing authority, and appointments to the Redistricting Commission shall be made by a majority vote of the *City Council*.

27.1403 Redistricting Commission Members

Pursuant to San Diego City Charter Section 5.1, the Redistricting Commission shall be composed of seven members. The appointing authority shall appoint women and men who will give the Redistricting Commission geographic, social and ethnic diversity, and who, in the opinion of the appointing authority, have a high degree of competency to carry out the responsibilities of the Commission. The members shall include individuals with a demonstrated capacity to serve with impartiality in a non-partisan role.

27.1404 Period for Filing Application Forms

(a) Pursuant to San Diego City Charter Section 5.1, there shall be a 30-calendar day nomination period for appointment to the Redistricting Commission. The nomination period shall commence July 1 of every year in which a national decennial census is taken.

(b) In a year in which a national decennial census is taken, if July 1 falls on a Saturday, Sunday or holiday, the nomination period for appointment shall commence on the next business day following July 1.

(c) In a year in which a national decennial census is taken, if the 30th calendar day following the date the nomination period commences falls on a Saturday, Sunday or holiday, the nomination period for appointment shall end on the next business day following the 30th calendar day.

27.1405 Notice to be Published by Clerk

Pursuant to San Diego City Charter Section 5.1 and except as provided for in Sections 27.1404(b) and (c), the City *Clerk* shall publish the following notice in a paper of general circulation within the City of San Diego no earlier than 30 calendar days before, and no later than 14 calendar days before, the beginning of the nomination period:

The nomination period for appointment to the Redistricting Commission of the City of San Diego shall be July 1 through July 30. Interested applicants and individuals or organizations desiring to nominate persons for appointment to the Redistricting Commission may obtain information and forms at the office of the City Clerk, City Administration Building, 202 C Street, San Diego, California. To be considered, applications shall be returned to the office of the City *Clerk* by close of business, 5:00 p.m. on July 30.

27.1406 Application Forms and Requirements

No earlier than July 1 and no later than the date for return of applications as published by the City *Clerk* under Section 27.1405, applicants and individuals or organizations desiring to nominate individuals for appointment to the Redistricting Commission shall file the following with the City *Clerk*:

(a) On forms provided by the City *Clerk*, background information certified by the applicant or nominee that it is true and correct, signed under penalty of California perjury laws, disclosing the following:

- (1) Name of applicant or nominee.
- (2) Current address.
- (3) Length of residence at current address, and address for past five years if other than the current address.
- (4) Ethnicity.
- (5) Gender.
- (6) Business or occupation engaged in during the past five years, together with address of and dates of service with each such business or occupation.
- (7) Branch, dates and rank at discharge of military service.

(8) Education starting with high school to highest level attained together with the name of each educational institution attended and any degree or diploma received.

(9) Description of and dates of service in public office, and public service appointments, if any.

(10) Description of and dates of service in civic or community organizations, if any.

(11) Membership in professional or technical organizations, if any.

(12) Name of nominating individual or organization, if applicable. In the case of an organization making a nomination for appointment, a statement confirming the organization's intent, written on organization letterhead and signed by an officer of the organization, shall accompany the nomination.

(b) A Statement of Economic Interests, Form 700. The scope of disclosure shall be decided by resolution of the *City Council*.

(c) A statement of qualifications not longer than 100 words expressing in the applicant's own words the reasons why the applicant believes he or she is qualified for the office, and signed by the applicant; or in the case of an individual nominated by another individual or an organization, a statement of qualifications not longer than 100 words expressing the reasons why the nominating individual or organization believes the nominee is qualified for the office. In the case of an individual nominated by another individual, the statement of qualifications shall be signed by the nominating individual. In the case of an individual nominated by an organization, the statement of qualifications shall be signed by an officer of the organization.

(d) On forms provided by the *City Clerk*, a statement signed by the applicant or nominee under penalty of California perjury laws that the applicant or nominee is registered to vote in the City of San Diego on the date his or her application or nomination for appointment is filed with the *City Clerk*.

(e) In the case of an individual nominated by another individual or an organization, on forms provided by the *City Clerk* and signed by the nominee, a statement that he or she accepts the nomination.

27.1407 Additional Responsibilities of the City Clerk

(a) Pursuant to San Diego City Charter Section 5.1, the *City Clerk* shall solicit nominations for appointment to the Redistricting Commission.

(b) Pursuant to San Diego City Charter Section 5.1, the *City Clerk* shall distribute to the news media the guidelines for selection of Commission members.

(c) Pursuant to San Diego City Charter Section 5.1, the *City Clerk* shall furnish each applicant, or individual or organization desiring to nominate an individual for appointment, with a copy of this division.

(d) Pursuant to San Diego City Charter Section 5.1, the City *Clerk* shall transmit the names and information regarding all applicants and nominees, with the names of nominating individuals and organizations, to the appointing authority on the first business day after the close of the nomination period.

(e) In the event the City *Council* serves as appointing authority to the Redistricting Commission pursuant to San Diego City Charter Section 5.1, the City *Clerk* shall advise each applicant or nominating individual or organization of the dates set by the City *Council* for public hearings on the applications, as provided for by Sections 27.1408, 27.1409 and 27.1410.

27.1408 Public Hearing

In the event the City *Council* serves as appointing authority to the Redistricting Commission pursuant to San Diego City Charter Section 5.1, the City *Council* shall hold at least one public hearing for the purpose of considering the applications and nominations for appointment. The hearing shall be held a reasonable time after the period for filing applications and nominations has ended as provided in Section 27.1404. A second public hearing may be held if there are additional questions or if additional time for discussion is needed by the City *Council* prior to making the appointment.

27.1409 Public Hearing and Appointment

In the event the City *Council* serves as appointing authority to the Redistricting Commission pursuant to San Diego City Charter Section 5.1:

(a) At the public hearing required by Section 27.1408, at the discretion of the presiding officer, each applicant and nominee may be allowed to make a presentation to the City *Council* in support of the applicant's or nominee's candidacy for appointment. At the discretion of the presiding officer, City Councilmembers may ask brief questions for clarification concerning either the presentation or matters contained in the application or nomination filed with the City *Clerk*. Applicants and nominees shall also be expected to answer questions from City Councilmembers concerning their candidacy. Such questions may concern but need not be limited to the candidate's background, reasons for seeking appointment, and capacity to serve with impartiality in a non-partisan role.

(b) At the conclusion of the public hearing or at a later meeting, the City *Council* may adopt a resolution appointing the seven members of the Redistricting Commission.

27.1410 Optional Second Public Hearing and Appointment

In the event the City *Council* serves as appointing authority to the Redistricting Commission:

(a) If, during the public hearing required by Section 27.1408, the City *Council* determines that there are too many candidates to consider in a single public hearing, the procedures outlined in Section 27.1410 shall be used.

(b) Before the conclusion of the first public hearing, the City *Council* shall select the candidates to appear at the second public hearing. After the selection is made, the presiding

officer shall announce the names of the candidates invited to appear at the second public hearing and set the date and time of such hearing.

(c) At the second public hearing, candidates invited to appear shall be expected to answer questions from City Councilmembers concerning their candidacy. Such questions may concern but need not be limited to the *candidate's* background, reasons for seeking appointment, and capacity to serve with impartiality in a non-partisan role.

(d) At the conclusion of the second public hearing the *City Council* may then, or at a later meeting, adopt a resolution appointing the seven members of the Redistricting Commission.

27.1411 Deadline for Completion of Appointments

Pursuant to San Diego City Charter Section 5.1, the appointing authority shall appoint the members of the Redistricting Commission no later than November 1 of every year in which a national decennial census is taken.

27.1412 Election of Redistricting Commissioner Prohibited

Pursuant to San Diego City Charter Section 5.1, any individual who accepts an appointment to the Redistricting Commission shall, at the time of his or her appointment, file a written declaration with the *City Clerk* that he or she will not seek election to a San Diego City public office for a period of five years after the Commission's adoption of a final redistricting plan.

27.1413 Length of Service on Redistricting Commission

Pursuant to San Diego City Charter Section 5.1, the members of the Redistricting Commission shall serve until the redistricting plan adopted by the Commission becomes effective and any and all legal challenges and referendary actions have been resolved.

27.1414 Vacancy on Redistricting Commission

Pursuant to San Diego City Charter Section 5.1, any vacancy in the Redistricting Commission which occurs after the Commission members have been appointed shall be filled within seven calendar days by the appointing authority, following the same procedure and using the same criteria established with San Diego City Charter Section 5.1 and this division, and making the selection from the same pool of individuals given consideration for appointment when the Commission's original members were appointed.