OFFICE OF THE CITY CLERK

REPORT

REPORT TO THE CHARTER REVIEW COMMITTEE

DATE: February 19, 2015 **REPORT NO.:** 15-02

SUBJECT: Proposed Changes to the Charter: Section 5 (Redistricting) and Section 5.1 (Redistricting Commission)

BACKGROUND

In June 1992, San Diego citizens approved Ballot Proposition C, which amended the City Charter to grant "sole and exclusive authority to adopt plans which specify the boundaries of districts for the City Council" to a seven-member citizen Redistricting Commission. A 1991 article in the Los Angeles Times indicated that the intention of the ballot proposition was to de-politicize the redistricting process and increase citizen involvement in local government.

The current process, as outlined in the City's Charter, and further detailed in the Municipal Code, has been used in two successful City of San Diego redistricting processes: 2000 and 2010. As part of their Final Reports, both the 2000 and 2010 Commissions included recommendations for improving the process (see Attachments A and B). In addition, in 2012, the San Diego County Grand Jury filed a report entitled "City of San Diego 2010 Redistricting Commission," which evaluated and made findings on aspects of the City's redistricting process (see Attachment C for the City's response as well as the Grand Jury's findings).

This valuable feedback was combined with additional information gathered from support staff to provide the framework for this report.

The current City Charter language related to redistricting is included as Attachment D for reference.

Possible Changes to Consider

Section 4: Districts Established

- Since the ninth Council District was created in 2010, it may be possible to remove language anticipating the addition of the ninth district, and have the section simply reflect that the City shall be divided into nine (9) council districts as nearly equal in population as practicable.

Section 5: Redistricting

- The nine month deadline outlined in this section should be reviewed and researched. The Registrar of Voters has difficulty creating precincts for the following primary election because of the short timeframe, but it may be legally necessary to keep the nine month deadline.

- In addition, the City Attorney's Office should review the elements of the federal Voting Rights Act that are included in both Section 5 and 5.1 and determine if changes should be made to the related language in these sections.

Section 5.1: Redistricting Commission

- It has been suggested that the number of Citizen Commissioners be increased from seven (7) to nine (9), with one Commissioner coming from each Council District in order to meet Charter requirement for geographical diversity.

- The appointing authority process as outlined in this Section should be reviewed and potentially updated due to judicial ethics prohibitions (see Attachment E) and the Court's response to recent requests for assistance in the appointment process. The methodology should be updated to reflect current practices.

- Possibly outline contingency procedures in the event of an absence of an appointing authority member and/or an emergency. Make clear that a quorum of the three-member Appointing Authority is sufficient to make appointments to the Redistricting Commission, or, alternatively, make clear that the three-judge panel must reschedule any meeting if necessary to ensure all three members can be present to make appointments, unless rescheduling would result in missing Charter deadlines.

- Review language and potentially eliminate the outdated references to the Penal Code, which are referenced as part of the appointment procedure.

- Review the option for the City Council to appoint the Commission as a last resort to the appointment process. Methodology should address possible conflicts of interest and voter intent regarding an independent Commission.

- The current Charter indicates that the City Manager should randomly select appointing authority members to create a panel of three. This could be updated to identify the City Clerk or the City's Chief Operating Officer to fulfill this role.

- There have been several recommendations to expand the nomination period from thirty (30) days to sixty (60) days or ninety (90) days, in order to provide the Clerk sufficient time to complete outreach and generate a sizeable pool of applicants.

- If possible, it would be beneficial to replace the vacancy procedures with "alternates" to eliminate the possibility of a second appointment process within a truncated timeframe.

- Provide in the Charter (or perhaps the San Diego Municipal Code) that the City may accept applications for the Commission's chief of staff before the group has been seated, to save time on the process.

- The Budget process should be reviewed and potentially updated to reflect current practices and the City's current budget timeline.

- Effectiveness of map, change to boundaries, and duration of Commission service:

    - Review language regarding the effective dates of the map and the district boundaries for purposes of representation, to bring this into compliance with constitutional law and current practice.

        - Make clear that the boundaries of redrawn Council districts, for purposes of representation, take effect after the next regularly scheduled municipal general election, when some of the Councilmembers are sworn in for a new term. This would be identical to when Congressional districts change and consistent with the law. Thus, the map may be "final" – i.e., the document will not be changed -- but the representation of neighborhoods and district maps do not change until after the next regularly scheduled Councilmember elections.

- Make clear that when the Charter states that the "final redistricting plan" shall be effective 30 days after adoption, it does not mean that the boundaries move at that time. It means that the plan on file has been adopted and cannot be changed, absent annexations or other circumstances provided in the Charter. Clarify language that now says that upon approval of the plan, the boundaries are adjusted, as the language has proven ambiguous.

- Review for clarification the provision that states that Commissioners serve until "any and all legal and referendum challenges have been resolved," as this could go on indefinitely.

Other Impacts

Charter Section 12(d): This section, regarding Councilmember representation after a redistricting, has proved confusing and problematic. This requires legal analysis. Among other amendments, the first portion needs legal analysis to determine if the "determine by lot" scenario can be removed. The subsection can be streamlined and brought into compliance with practices used in the past redistricting and the current state of the law. This section should be reviewed at the same time as the others.

Municipal Code Chapter 2, Article 7, Division 14: Procedure for Making Appointments to the Redistricting Commission (see Attachment F): This entire Division would need to be reviewed and updated as appropriate contingent upon changes to the Charter.

My Office will work with the City Attorney's Office to determine other potential impacts to the Charter and/or San Diego Municipal Code based on proposed changes.

CONCLUSION

The current redistricting process as outlined in the City's Charter and further detailed in the Municipal Code has guided two full Redistricting efforts (2000 and 2010). Recommendations for updates and improvements came from both Commissions; as well as from a Grand Jury Report in 2012. This report attempts to highlight those recommendations so that the City Attorney can research their legality and feasibility and a comprehensive list of proposed changes can be brought back to a future Charter Review Committee for consideration.

Elizabeth Maland
City Clerk

cc: Jan Goldsmith, City Attorney
Andrea Tevlin, Independent Budget Analyst
Scott Chadwick, Chief Operating Officer

Attachment A

This attachment contains the "The Recommendations" section of the 2000 Redistricting Commission's Final Report. To view the entire report and other material related to the 2000 Redistricting Process please go to:

http://www.sandiego.gov/redistricting2000/

You may also obtain this material by contacting the Office of the City Clerk by e-mail at CityClerk@SanDiego.gov or by phone at 619-533-4000.

Appendix B

THE RECOMMENDATIONS

RECOMMENDATION 1:

The City Clerk, in cooperation with the City Manager, should prepare a budget for the Redistricting Commission during the City's normal budgeting process.

Currently, City staff begins budgeting 8 months prior to the beginning of a budget year. Anticipating that the Year 2010 Redistricting Commission will begin its work in fall 2010 (fiscal year 2011), a budget must be submitted to and approved by the City Council in spring 2010 for the fiscal year beginning July 1, 2010 and ending June 30, 2011. The Office of the City Clerk should be charged with this responsibility on behalf of the then unseated Redistricting Commission as this is the department responsible for organizing the Commission prior to the hiring of Commission staff. The City Manager is responsible for submitting a balanced City budget to the Mayor and Council for approval. The budget should include a minimum of three full time Commission staff positions, redistricting specialty consultant, public outreach and education consultant, and legal counsel, in addition to office space, furniture, equipment, supplies and printing services.

The City Charter requires the Redistricting Commission to adopt a budget for the approval of the Appointing Authority within 60 days of appointment. However, this is too late in the City's normal budgeting process for such budget to be timely approved by the City Council. Rather, any deviations between the budget submitted by the City Manager in spring 2010 and the budget approved by the Appointing Authority circa December 2010, could be addressed during the City's Midyear Budget Adjustment process, circa January 2011. The Redistricting Commission would also need to prepare and submit a budget for the remainder of its term of existence, i.e., through December 31, 2011, for the first half of the fiscal 2012 budget year.

Because of the importance of the budget to its program, a subcommittee of the Commission or the Commission Chair should present and defend the Commission's budget to the Appointing Authority and, if necessary, to the City Manager and City Council.

In the case of the Year 2000 Redistricting Commission, no budget was approved for fiscal year 2001. As a result, the Office of the City Clerk was charged with

expenses associated with organizing the Commission and the Director of the department that formerly employed the Commission's Director (Neighborhood Code Compliance) generously agreed to assume the Commission's expenses through June 2001. The City Manager did submit a budget on behalf of the Redistricting Commission for the period June 1, 2001 through December 31, 2001 that was approved by the City Council. The 2010 Redistricting Commission should not have to rely for its expenses on the generosity of City Department Directors whose work is unrelated to that of the Commission. Lacking a budget, the Commission is unable to make early and necessary programmatic decisions or to hire and pay staff, which could, and did, negatively impact the program timeline for the duration of the redistricting season.

RECOMMENDATION 2:

The Appointing Authority, in cooperation with the City Clerk, should select and seat the members of the Redistricting Commission as early as possible. The Redistricting Commission should immediately after it is seated begin recruitment and hiring of the Commission Director.

Currently, the California Primary is held in March of each election year and includes City Council district elections. In order to meet the County Registrar of Voters' due date for receipt of the new Council district plan, and in order for the new plan to be effective for the next election cycle, the Redistricting Commission will need to adopt a Final Redistricting Plan some four months earlier than the City Charter deadline of December 31. To allow for a full twelve month redistricting season, the Commission should be appointed, sworn in and convening its first meeting by September 2010. The Commission Director should begin work no later than December.

The Year 2000 Redistricting Commission was sworn in on October 25, 2000. Complying with City Personnel Department advertising, recruitment and hiring guidelines, the Commission was not able to get its Director and staff on board until March 5, 2001.

RECOMMENDATION 3:

A subcommittee of the Redistricting Commission should meet with the City Manager within the first 30 days to establish a working relationship and to ascertain the level of budgetary and staff support the City Manager is willing to commit to the work of the Commission.

Unfortunately, the City Charter does not specifically recognize the role of the City Manager in the redistricting process. As a result, a new citizen commission might not realize the Manager's important role in City government. It is the City

Manager who prepares and submits the City budget for Council approval. The Manager also supervises all City staff. Some departments, especially those that lend significant staff to the Redistricting Commission, will incur extraordinary expenses, including overtime pay, on behalf of the Commission. The Planning Department that loaned a Senior Planner to the Year 2000 Redistricting Commission and the Office of the City Clerk that paid the overtime expenses of the Legislative Recorders incurred unbudgeted expenses approaching $50,000. Therefore, it is critically important for the Commission to have a good working relationship with the Office of the City Manager and for there to be mutual understanding and advance agreement with respect to the resources the City will provide to the Redistricting Commission.

The City Manager should announce the appointment of the Redistricting Commission and its Director to all City Department Directors, and issue an appeal for City staff to cooperate with Commission requests for assistance during the redistricting process.

RECOMMENDATION 4:

The City Manager should appoint liaison staff to assist the Redistricting Commission prior to the hiring of the Commission Director.

The City Manager's staff could assist the Commission make early operating decisions, including refining its budget, obtaining accounting numbers from the Auditor's Office, securing office space, furniture, equipment and stationary supplies, and making lease/purchase decisions for the temporary offices of the Commission staff. This role for the City Manager becomes less important the earlier the Commission Director is hired.

In the case of the Year 2000 Redistricting Commission, most of this work was postponed until the Commission Director was hired on March 5. In the absence of a budget and accounting numbers (used to pay bills and track expenses), Commission staff was not able to order telephones, computers, supplies or the redistricting software for several weeks. As a result, staff was forced to use equipment and supplies borrowed from other City offices to the detriment of the Commission's programmatic timeline. Again, the Redistricting Commission should not be put in the position of relying on the generosity of other City departments for its operations. Early action on the part of the City Manager's liaison can prevent this negative impact in the future.

RECOMMENDATION 5:

The Redistricting Commission should hire its key staff - Director, Technical Specialist and Secretary - as full time employees of the Commission.

At a minimum, the Commission staff will include a Director (referred to in the City Charter as Chief of Staff), a Technical Specialist and a Secretary. The Commission may also want to hire a community outreach/public information specialist. It will be to the Commission's benefit if each of these employees is thoroughly knowledgeable of City procedures and resources.

The Year 2000 Redistricting Commission's full time staff included a Director of Operations and an Executive Secretary. The Technical Specialist was employed by the City Planning Department as a Senior Planner in Urban Analysis and, by way of an agreement with the City Manager, was loaned to the Redistricting Commission half time. The City Charter requires that the Commission utilize City staff to the extent possible. Unfortunately, when the Redistricting Commission realized that the services of the Technical Specialist were temporarily needed full time, the City Manager and the Planning Department were unable or unwilling to alter the original agreement.

During the 37 weeks between March 5 and October 30 when she returned full time to the Planning Department, the Technical Specialist worked an average of 22 hours per week for the Redistricting Commission. However, during 11 of those weeks, she worked more than 20 hours on redistricting with a high of 42 hours per week during the month of August when the Commission was in the final stages of adopting a Plan. Because she retained her responsibilities in the Planning Department, the Technical Specialist worked more than 40 hours per week on the two jobs together for 32 of the 37 weeks, again, with a high of 65 hours a week for two weeks in August.

While the Commission benefited greatly from the Specialist's willingness to work so much overtime on its behalf, one negative consequence of not having her full time services was that some Commission members were reluctant to ask for data they felt they needed to avoid burdening her more. Further, there were some tasks that simply were not done due to her unavailability full time. The Technical Specialist's contribution to the Redistricting Commission's work is too important and too time sensitive to not have that position filled by staff that can be totally committed. In this case, it resulted in the Commission's being understaffed during the busiest months which exacerbated the time crunch. Employing the Technical Specialist full time will ensure that Commission data needs and program goals are met in a timely manner.

The City Manager should ensure that City employees on special assignment to

the Redistricting Commission are able to return to their previous permanent assignments on City staff or to other commensurate positions.

RECOMMENDATION 6:

Redistricting Commission staff should have unlimited access to office equipment essential to meeting the Commission's timeline.

The Redistricting Commission is a temporary City department that will be in existence for approximately one year. There is, understandably, a reluctance to spend money purchasing equipment for the sole use of Commission staff as well as a temptation to require sharing equipment with existing permanent City departments.

The staff of the Year 2000 Redistricting Commission initially shared a fax machine and copier with the City Transportation Department that occupied next-door offices. This was inconvenient for both staffs especially during the height of redistricting activity:

- Commission staff had the equipment continually in use to the exclusion of others;
- Commission offices and telephones were left unattended while faxing or copying;
- Commission staff could not perform other duties while waiting for faxing or copying processes to be completed, or while waiting for access to the equipment;
- Commission staff could not access fax or copy machines after normal business hours or on weekends when much of the Commission work was conducted.

The Commission staff will need office space and computers for each of its staff. The staff must be in constant contact with one another to maximize efficiency. The computers must be capable of accommodating the redistricting software. Commission staff should also have unlimited access to a plotter as there is a constant need to produce maps in various formats and on short notice.

In recognition of the temporary nature of the Redistricting Commission, the City Manager's Office should provide lease/purchase guidance to the Commission, as well as the Manager's requirements for disposal of the equipment on the closing of the Commission offices.

RECOMMENDATION 7:

The Redistricting Commission should hire public outreach and education consultants early.

Ideally, the public outreach and education consultants should be on board at least three months prior to the first set of public hearings.

The public outreach campaign should be phased in, building on the recently concluded Census campaign to let the public know redistricting is imminent. The Commission should invite community leaders and media representatives to meet with them at the beginning of the process and prior to the onset of the public hearings. Public interest and participation will be increased to the extent the Commission makes sure public opinion leaders are educated about the importance of redistricting to their constituents, solicits their opinions, and obtains their assistance compiling mailing lists, distributing educational materials and generating interest in the public hearings. The public outreach effort must begin early so there is time to identify and contact leaders from the city's many and various communities of interest, and time to develop quality targeted educational and outreach materials.

The outreach consultants could also benefit from early decisions by the Redistricting Commission regarding the number of public hearings the Commission will conduct. Sites should be selected geographically so that no matter where in the city residents live, they will find a hearing nearby. An early start also ensures that the best sites will be available for the Commission's use and that the consultants have time to assess each site for space needs, access for the disabled, convenience to public transportation, adequate parking, accommodation of the City's communication systems, et al.

Working closely with the Commission staff and technical consultants, the outreach/education consultants will be best positioned to develop educational materials and responses to media requests for information. The outreach consultants should utilize all City resources to advertise Redistricting Commission public hearings, evaluate the need to translate materials into Spanish and other languages, and provide language services at the hearings.

In the case of the Year 2000 Redistricting Commission, the outreach consultants were hired only three weeks before the first public hearings. As a result, mailing lists and materials were hastily prepared and distributed at the last minute, which did not allow for maximum public participation. There was little participation on the part of known ethnic organizations. Although staff prepared frequent media releases and sent multiple notices of redistricting activity, most small media failed to cover Commission proceedings. Some of the public hearings sites were less than ideal. Although the consultants and staff did a commendable job of

public outreach, attendance at the later hearings proved that adequate time to plan and publicize the meetings is key and that a more direct and personal approach with public opinion leaders is critical to increasing public participation.

RECOMMENDATION 8:

The Redistricting Commission should hire technical consultants by February 1, make the software purchase decision shortly thereafter, and allow for staff training on the software prior to the onset of the pre-map public hearings.

The technical consultants should be on board early enough to assist with the decision of which software to purchase since the consultants and staff will need to be on the same system in order to transfer data and maps back and forth, and to position the consultant to back up staff in case of an emergency or if, for any reason, staff is not able to perform. The technical consultants will also be needed to support Commission workshops by evaluating available data, explaining how it might be used to augment redistricting decisions, and by compiling and presenting data to the Commission for their early consideration.

The Year 2000 Redistricting Commission's technical consultants were selected in late March 2001. The decision to utilize the redistricting software, Maptitude by Caliper Corp., was collectively made in April and, because of the need to comply with City rules for the purchase of nonstandard software, was not ordered and installed on staff computers until May 1. The Technical Specialist attended the Caliper Corporation's user training session at the first available session in mid-May, but this was just three weeks before the Commission drew its first iteration of the new Council district map. This was too late for staff to be thoroughly familiar with the software before having to perform real-time mapping and there was no time for staff to train on the software with the consultants. Fortunately, the consultants did have experts on their staff and this greatly facilitated the Commission's ability to move forward quickly with the necessary data input and map changes.

The Commission found it greatly helpful to hire a consultant that had the ability to assist them with any and all redistricting tasks but who was willing to work on an as-needed basis so that only those specific services that were needed could be requested.

RECOMMENDATION 9:

The Redistricting Commission should hire expert redistricting counsel and not rely exclusively on the Office of the City Attorney for legal advice.

Commissioners felt the role of the Deputy City Attorney liaison to the Commission was critical to its education and work. Nonetheless, some Commissioners were uncomfortable relying on only one legal opinion and felt that, "for balance", they sometimes needed a "second opinion" to that provided by the Office of the City Attorney. Others felt the City Attorney's role to protect the City and its officials, including City Council members, from legal action introduces a structural bias that potentially conflicts with the work of the Redistricting Commission, a bias that could affect legal opinions offered to the Commission and influence the redistricting process in a non-objective manner.

Commission members were also concerned that the Commission has no control over who the City Attorney appoints to this key role; they do not know how knowledgeable that individual will be or how committed to serving the Commission's needs. The Deputy City Attorney assigned to the Year 2000 Redistricting Commission was a valuable member of the Commission team; her commitment was not in question and the members of the Commission are appreciative of her extraordinary efforts to serve the Commission well. She attended all 50+ of the Commission's meetings, most of which were held after normal work hours and for which she was not compensated; she conducted extensive research in preparation for the many legal presentations she made at the public hearings and in order to respond to complex legal questions posed by Commission members and the public. Nonetheless, Commission members felt that the City's attorneys could not be expected to be "expert" in such a highly specialized field as redistricting law and that the Office of the City Attorney does not have a legitimate reason to develop expertise in redistricting on its staff because of the infrequency of the need, i.e., redistricting only comes up once every ten years.

The Redistricting Commission should continue to rely on the Office of the City Attorney for legal assistance, most especially on issues of municipal law. However, Commission members will be most comfortable with expert redistricting counsel that the Commission itself hires to exclusively serve their needs. Like the technical consultants, legal counsel should participate in the Commission's workshops, assisting the new Commission in understanding the state of applicable redistricting law.

RECOMMENDATION 10:

The members of the Redistricting Commission should participate in one or more workshops with technical and legal experts before the onset of the pre-map public hearings.

The Redistricting Commission will need to accomplish and/or begin a number of organizing tasks immediately after being sworn in:

- Review of City Charter sections relating to the Redistricting Commission;
- Review of Brown Act public meeting requirements;
- Develop Rules of Procedure (By-Laws);
- Elect Chair and Vice Chair;
- Establish Calendar of Meetings;
- Identify staffing requirements and other City resources needed;
- Develop budget based on program vision; submit to Appointing Authority within 60 days, and to City Council via the City Manager during Midyear Budget Adjustment period;
- Develop job description for Chief of Staff (Director);
- Advertise, conduct interviews and hire Chief of Staff;
- Develop Request for Proposals for Technical, Outreach and Legal Consultants;
- Advertise, conduct interviews and hire consultants;
- Make software purchase decision(s).

The Year 2000 Redistricting Commission completed many of the above tasks in a timely manner. In addition, the Commission benefited from hearing from resource people from City staff, the City Attorney's Office and the San Diego Association of Governments.

Members of the Redistricting Commission will always come to the task with different life experiences, skills, and knowledge of redistricting principles. They likely will not know one another and most will not have familiarity with City procedures and resources. They will not have in-depth knowledge of the City's many communities or communities of interest. And, they have only a few short months to discharge their duty to draw new City Council district boundaries. For these reasons, the Commissioners need a vehicle that will assist them in "getting up to speed" quickly.

In retrospect, Year 2000 Redistricting Commission members felt there was much to learn about redistricting principals; they could have benefited from an intense workshop delivered by redistricting experts early on (as opposed to learning much of what they needed to know later and in the midst of making boundary decisions). Such a workshop would have given them a better understanding of

specific concepts and an opportunity for more in-depth discussion among themselves to explore individual philosophies, which would enable them to establish a collective vision before they were thrust into the public to make critical decisions. Among the discussion topics that would be valuable to the decision making process:

- The 1965 Voting Rights Act;
- Recent and relevant legal cases;
- A history of City redistricting issues;
- Explanation of Census Bureau geography and terms;
- Explanation of redistricting terms used in the City Charter;
- Priority of Redistricting Criteria;
- Population deviation standards;
- Thorough understanding of what constitutes a "community of interest";
- Availability of voting, socioeconomic and other data; explanation of how these might be used to establish "communities of interest";
- Creating a public participation vision, including how to weigh public testimony relative to other information sources;
- Approach to providing data and information to the public;
- Options for accepting and considering maps developed by public members
- Comparison of software features;
- The advantages and disadvantages of creating a redistricting plan starting with current Council district boundaries vs. starting from scratch

In addition, it is recommended that the 2010 Commission hear from members of the Year 2000 Redistricting Commission and its staff and study purposely the proceedings associated with the 2000 redistricting process.

RECOMMENDATION 11:

The Appointing Authority should appoint Alternates to the Commission. The Commission By-Laws should be revised to require Alternate Commissioners to attend certain trainings and legal briefings.

The City Charter makes no provisions for Alternate members of the Redistricting Commission to be appointed other than in the event of a vacancy on the Commission after it is constituted. The Year 2000 Appointing Authority appointed seven (7) Alternates to fill vacancies on the Commission in the order of appointment. Fortunately, the seven (7) original Commissioners completed their full terms.

Commissioners were concerned that it would have been disruptive to the redistricting process if a vacancy occurred on the Commission and one or more of them had had to be replaced, especially late in the process. Only one of the

Alternate Commissioners regularly attended the Commission's public meetings so it is believed that any of the others would have been ill prepared to assume Commission duties.

Alternate Commissioners should be required at a minimum to attend any workshops and legal briefings convened for the benefit of Commissioners. Moreover, the first two Alternates appointed by the Appointing Authority should sit with the Commission at all times, as alternate jurors do, so they could benefit from hearing all the public testimony and become knowledgeable of other Commission business in the event of a vacancy. Because there is no requirement for such participation on the part of the Alternate Commissioners set out in the City Charter, the City Attorney should work with the Appointing Authority and the Redistricting Commission to put in place procedures to ensure that Alternate Commissioners are well prepared to assume Commission duties if necessary.

RECOMMENDATION 12:

The Redistricting Commission should conduct pre-map public hearings in each of the eight (8) Council districts in April after the Census population data is received, receive maps submitted by the public immediately following the public hearings, and reserve a full two months, May and June, for review of the public maps submitted and development of the Preliminary Redistricting Plan.

The Year 2000 Redistricting Commission began the pre-map public hearings in late April. At two per week, the eight (8) hearings were concluded in mid-May. Although somewhat burdensome for Commission members and not required by the City Charter, most felt the public appreciated the Commission's accessibility in conducting meetings in each Council district; this practice should be continued.

The Preliminary Redistricting Plan was adopted on June 29 but the Commission felt there was inadequate time to fully consider all the public testimony, explore options and develop a well thought-out preliminary plan. There was too little time for compiling and studying data, and for thorough analysis and discussion of the effect of each boundary move on various communities. Further, the Commission will need to allow time between the pre-map meetings and adoption of the Preliminary Plan to conduct specific outreach to nonparticipating sectors of the community if all views are to be considered.

The due date for acceptance of maps created by the public was set in late July after the conclusion of the post-map hearings. Commissioners felt that receiving maps after the adoption of the Preliminary Plan precluded serious consideration

of these maps. Further, since the public had already responded to the Commission-drawn preliminary map, it was too late for public response to any significant deviations between the preliminary and final plans.

RECOMMENDATION 13:

The Redistricting Commission should make early decisions on accepting redistricting plans created by members of the public.

The Commission should make early decisions on whether or not it will consider maps created by the public and, if so, what information, data and assistance will be provided in what formats, when and under what conditions such plans will be received and considered, and whether and how such plans will be made available to the general public.

The Year 2000 Redistricting Commission decided late in the process to receive plans created by the public. A paper "Redistricting Kit" containing all the necessary data, maps and instructions was provided, advertised on the Commission web site and distributed to those who requested it. As well, interested "mappers" were invited to schedule map development sessions using the Commission's redistricting software with staff assistance. Although the scheduling of these sessions proved difficult for the Commission's Technical Specialist who was busy with other redistricting tasks, several members of the public took advantage of this option and the Commission eventually considered 10 redistricting plans submitted by public members.

The Commission considered putting redistricting software on computers in City libraries or Community Service Centers, and also considered purchasing software that would allow public members to create redistricting plans via the internet. However, logistics and cost factors precluded adoption of these methods.

RECOMMENDATION 14:

The Redistricting Commission should contract for Recorder/ Transcription services, particularly at the onset of the map development meetings.

The minutes of Redistricting Commission proceedings is an important reference both to Commissioners as they prepare for subsequent meetings and to the public in the preparation of future testimony. Although the City Charter requires the Redistricting Commission to utilize City staff as much as possible, taking the minutes of Commission meetings should be contracted to a firm that can produce transcript quality minutes in a short turn around time.

The Year 2000 Redistricting Commission utilized staff Legislative Recorders from the Office of the City Clerk. There were four Recorders who took turns taking the minutes of Commission meetings and preparing them for Commission approval on an overtime basis. Although the Recorders are to be commended for their exemplary volunteer service, because they retained their normal job responsibilities they were not able to produce the minutes as quickly as needed by Commission members or the public who needed to promptly review the minutes to prepare for the next meetings. During the height of Commission activity when the Commission convened several meetings each week, some minutes were not produced for weeks.

There is also a need for consistency in minute-taking and both Commissioners and the public expressed a need for transcript quality minutes, i.e., more than summaries of what was said but less than court reporter quality where every word is recorded. Again, the Recorders did a commendable job in attempting to meet this need but this requirement overextended the Recorders and was the main cause for the delay in receiving the minutes for Commission approval.

RECOMMENDATION 15:

The City's Video Services staff should televise all "map development" meetings following the pre-map public hearings.

All Year 2000 Redistricting Commission map development meetings were televised live on City Access Television and rebroadcast at various times for the viewing convenience of the public. Commission members felt that televising these meetings was most significant in providing an open redistricting process. As well, public participants felt that televising the meetings was a convenient way for the public to monitor the redistricting proceedings.

RECOMMENDATION 16:

The Redistricting Commission should access and analyze socioeconomic and voting data as alternate sources of information to establish identifiable communities of interest; the Redistricting Commission should not rely on public testimony alone.

Establishing communities of interest is an important concept in redistricting. There are many bases for establishing these as they may be based on public perceptions or grounded in voting pattern or socioeconomic data. To augment public testimony, the Redistricting Commission should examine such factors as median household income, housing values, educational attainment, business counts and other socioeconomic information (that may not yet be available from the Census) as well as election results, political registration and other voting pattern data to establish communities of interest.

Year 2000 Commissioners struggled with the public testimony they heard and with how to value "communities of interest" concepts in making boundary decisions. Some Commissioners believed the process placed too much emphasis on recognizing communities of interest based on traditional planning groups. This may have resulted from staff's initial choice of Planning Department designated community planning areas and Police Department neighborhood policing areas as educational tools during the initial public hearings. As a result of these choices, other bases for analyzing communities of interest, e.g., school districts and socioeconomic considerations received little attention. Commissioners wondered how much weight to put on public testimony as compared to other information sources, how much of the public testimony was accurate and how much of it skewed by community activists who knew better than others how to "work the system". They were concerned that planning groups did not represent all interests and asked how much weight should be given to the testimony of organized groups vs. that of individuals, how, even, to know the difference. Several Commissions felt that the term "communities of interest" lost it's meaning as all speakers eventually claimed to represent one; the differences between "community of interest" and "interest group" became blurred. Finally, some Commissioners felt the public testimony was "overwhelming", while others said is was "redundant" to hear the same speakers give the same testimony over and over.

In the case of the Year 2000 Redistricting Commission, there was too little time between the pre-map public hearings and the target date for adopting the preliminary map to compile, analyze and discuss alternate sources of information and the effects of boundary changes on all communities. As a result, Commission decisions usually mirrored what the most people said they wanted. While this resulted in a Redistricting Plan that was well received by the activist participants in the process, the Commissioners themselves felt a constant tension between doing what they thought was "right" vs. doing what those providing testimony requested.

Future Redistricting Commissions can better understand what to expect by studying the proceedings of the Year 2000 Redistricting Commission early in the process and by making decisions prior to the public hearings as to what information and data they want to consider.

RECOMMENDATION 17:

The City Attorney should give confidential and sensitive advice to members of the Redistricting Commission in private to avoid providing "ammunition" to potential litigants.

California public meeting law requires that, except under specific circumstances, all business of the Redistricting Commission is to be conducted in public. In an environment where redistricting law is continually evolving, the Commission must establish a legally sound record of its proceedings and strong justification for its decisions. Recognizing that members of a citizen commission may not be accustomed to carefully guarding their words in public, their attorney needs a way to provide counsel without publicly exposing mistakes or flaws to potential litigants. This could best be accomplished by having the City Attorney provide advice individually to Commission members in a manner that would not run afoul of open meeting requirements.

RECOMMENDATION 18:

In the conduct of the public meetings, the Redistricting Commission should restrict the role of members of the City Council to no more than that of other residents, be mindful of the appearance of conflicts of interest on their own part, and foster a fair and respectful meeting decorum.

The conduct of the public meetings is as important aspect in cultivating public trust in the redistricting process and respect for the Commission's decisions. The Chair can ensure fairness by calling speakers in the order they sign up to speak and by allowing each an equal amount of time.

Both Commission members and the public will recognize that members of the City Council will have great interest in the redistricting process and outcome, and that Council members have valuable and intimate knowledge of their districts. Members of the Redistricting Commission will need to carefully balance the need to solicit the opinions of elected officials against the need to guard against the appearance of undue influence by members of the Council. The Commission can best protect its independence by not allowing Council members more public meeting time or more access to information than other residents.

As well, Commission members must be mindful of the appearance of conflicts of interest on their own parts. Individuals are likely appointed to the Redistricting Commission in part because of their involvement in community activities and organizations. When organizations with which they are involved take positions before the Commission, the Commissioners should clearly declare their involvement to avoid compromising the integrity of the redistricting process. Further, to

protect the impartiality of the process, Commissioners should avoid advocating the positions of the Council districts where they reside.

To maintain appropriate decorum, the Chair should set clear ground rules for those participating in the public meetings. Applause, booing, intimidating or harassing behavior is unacceptable and detracts from the professionalism of the redistricting process.

Attachment B

This attachment contains the "Recommendations for the 2020 Commission" section of the 2010 Redistricting Commission's Final Report. To view the entire report and other material related to the 2010 Redistricting Process please go to:

http://www.sandiego.gov/redistricting/

You may also obtain this material by contacting the Office of the City Clerk by e-mail at CityClerk@SanDiego.gov or by phone at 619-533-4000.

RECOMMENDATIONS FOR THE 2020 COMMISSION

At its final meeting on October 25, 2011, the Commission met to discuss the proposed recommendations below:

I. INITIAL TASKS

1. Subcommittees and Early Planning

In addition to selecting a Chair, the Commission should consider establishing subcommittees to analyze the following:

- *Budget* – to work with Commission staff to develop a budget for approval by the Appointing Authority
- *Bylaws* – to review the 2010 Commission bylaws and propose adopting and/or revising them
- *Hiring* – to oversee the hiring process for the Chief of Staff and Executive Secretary
- *Legal* – to work with the City Attorney's Office to contract for outside, specialized Voting Rights Act counsel to support the City Attorney
- *Mapping Consultant* – to oversee the Request for Proposals process for contracting of a mapping consultant and obtaining redistricting software
- *Outreach* – to create a basic outreach plan and oversee the hiring of a public outreach consultant
- *Timeline* – to draft the initial Commission timeline

The Commission should consider selecting different Commissioners to chair each subcommittee. The Commission might suggest that each subcommittee return with a work plan listing responsibilities and deadlines, and complete as many of those duties as possible early in the process, especially if the Chief of Staff has not yet been hired.

The Commission suggests that regular meetings be held at least twice a month, particularly as start-up tasks are being completed, to keep Commission business moving forward. The Commission suggests that the future Commission reach out to prior Commissioners and staff, if they are available and in accordance with Commission bylaws and the Brown Act, as they can serve as a resource.

One of the Commissioners had a background in City planning and served as a resource as the Commission dealt with technical aspects of the City's geography. The Commission suggests that the City Planning & Community Investment Department assign a staff member to attend Commission meetings as a similar resource.

2. Budget

The 2010 Commission budget is attached to this memorandum. The Commission suggests that the budget be prepared as early as possible, and that the Commission proactively

identify priorities and establish a reserve amount for unanticipated costs. The Commission suggests that funding be allocated so funds can easily be carried over across fiscal years.

The Commission also suggests that the line item for translation services be increased so that simultaneous interpretation services can be provided for more Commission meetings and public hearings.

3. Bylaws

The Commission Bylaws are attached to this memorandum. The Commission suggests that the next Commission begin with this document and consider whether revisions are needed. The Commission suggests that the next panel retain Article 5, Section 6 of the 2010 Commission Bylaws governing comments between Commissioners and the public, press, and government officials.

In order to maximize public access, minimize outside communications, and provide transparency, the Commission suggests that future Commissions continue to collect and publish communication logs identifying any communications that occur outside of Brown Act-noticed meetings.

4. Timeline and Registrar of Voters Deadlines

The Commission's timeline is attached to this memorandum. The Commission suggests that future Commissions take into account City Charter section 5.1, where it specifies a 30-day period during which the Final Plan is subject to the right of referendum, and consider that timeline along with the deadline set by the San Diego County Registrar of Voters. This year, the Commission committed to complete its Final Plan one month before the Registrar's deadline, to allow the 30-day referendary period to run before that deadline.

The Commission suggests consulting with the Registrar of Voters early and often to determine whether redistricting data may be requested prior to deadlines specified in the City Charter. While the City Charter states that the City shall be redistricted no later than nine months following the receipt of the final Federal Decennial Census information, this year the Registrar requested final redistricting data several months early because of a potential change to the election calendar.

II. CENSUS DATA

The U.S. Census Bureau releases population tabulations no later than April 1 of the year following the year in which the decennial Census is taken, but does not specify an exact release date for each state. This year, the Commission received 2010 Census data in early March 2011. The Commission suggests that future Commission staff identify a Census Bureau contact or other local government liaison familiar with Census data, particularly if the mapping consultant has not yet been hired, so that the Commission can adjust its timeline if needed.

III. MEETINGS, TESTIMONY AND PUBLIC OUTREACH

1. Online Mapping Tool

The Commission provided an online mapping tool as a free resource to the public. The program became a central location where all maps submitted to the Commission and developed by the Commission could be accessed. The Commission suggests that future Commissions continue to provide free access to an online mapping tool and provide training sessions open to the public.

2. Public Hearings

The Commission held far more meetings than the number required by the City Charter and suggests that future Commissions do the same, to ensure access to the proceedings and a full opportunity for people to be heard. The Commission encourages the next panel to hold at least one hearing in each City Council District and one hearing on a Saturday.

The Commission suggests that future Commissions continue to hold meetings in City facilities, such as libraries, Balboa Park meeting rooms, and recreation centers appropriate for public hearings, in order to minimize meeting costs. The Commission did not have to pay to use City facilities.

3. Public Outreach

The Commission and Commission staff benefitted from hiring a public outreach team to assist the Outreach Subcommittee and staff to maximize access to Commission proceedings, particularly for traditionally underserved communities. The Commission suggests that future Commissions continue to engage local professional services or otherwise dedicate a Commission staff person to work on communications and public outreach.

The Chief of Staff made presentations to meetings of approximately 40 neighborhood groups, community planning groups, town councils, and stakeholder committees across the city. The majority of these presentations were made early, prior to pre-map public hearings, in order to encourage early public participation in the redistricting process. The Commission suggests that future Commissions encourage the Chief of Staff and/or an outreach team to continue this type and scale of outreach to the community.

IV. CITY STAFF

The Commission benefitted greatly from using City staff and resources to reduce outside personnel costs. The Commission suggests that future panels continue to use existing City resources to the extent possible to save funds. (For example, the next Commission can also use available City space and furniture for the Commission office.)

The Commission suggests that the City identify a staff liaison in the Business Office or other department who would be fully dedicated to the Commission until the Chief of Staff is

hired, and available on a part-time basis thereafter to assist the Commission and Chief of Staff with administrative and procedural matters.

The Commission recognizes that many City staff took on Commission work in addition to their full workloads, most often without additional compensation. However, discussions of this allocation of City staff and resources occurred prior to the hiring of the Commission's Chief of Staff. The Commission suggests that such discussions occur at the City even earlier in the process, and that expectations regarding City staff time and services be more explicitly set and agreed to at the outset by both the affected department and the Commission. This should be addressed particularly for the following departments: the City Attorney's Office, CityTV, Communications and Purchasing & Contracting.

The Commission suggests that City departments continue to track costs associated with their work completed for the Commission, even if the Commission will not be formally billed, so that an accurate report of all costs can be publicly provided.

V. HIRING AND CONTRACTING

The Commission, Commission staff, and Purchasing and Contracting staff worked under extremely constrained timelines to procure professional services needed to complete the Commission's work. The Commission suggests that the City assign a dedicated staff person from the Purchasing and Contracting Department to the Commission to assist until all procurements are complete, and ensure the staff person does not have to take on Commission work in addition to a full workload. The Commission also suggests that Purchasing and Contracting present the full range of contracting options to the Commission and its sub-committees involved in hiring and contracting, to ensure the parties understand the full range of City procurement options, timelines, and limitations.

For the mapping consultant, the Commission suggests beginning the contracting process as early as possible, recognizing that redistricting is a specialized area, that there are a limited number of professional firms providing this service, and that other jurisdictions undergoing redistricting at the same time will be chasing the same resources.

VI. COMMISSION STAFF

The Commission began meeting in October 2010, but the Chief of Staff began work in February 2011. The Commission suggests beginning the hiring process as soon as possible so the Chief of Staff can more fully participate in Commission start-up tasks, including budget development, the timeline, and discussions regarding City department and staff time.

The position announcement for the Chief of Staff is attached to this memorandum. The Commission took care to avoid hiring any individual too closely tied to local political parties, political officials or organizations. The Commission recommends that the next panel do the same and suggests hiring an individual with knowledge and experience with municipal rules, regulations and procurement procedures.

VII. VOTING RIGHTS ACT COUNSEL

The City Attorney's Office provided legal support to the Commission under San Diego City Charter section 40. The City Attorney's Office assigned a deputy to the Commission, who provided legal guidance throughout the process, conducted numerous training sessions on all aspects of redistricting law for the Commission and the public, and who served as a daily resource to the Commission and staff. The Commission suggests that future Commission continue to work with the City Attorney's Office in this regard.

This year, the City Attorney's Office also contracted with a Voting Rights Act specialist from the Nielsen Merksamer law firm, who provided review of the Commission's preliminary and final plans, was available to consult with the City Attorney's Office, and gave a Voting Rights Act presentation to the Commission and the public. The Commission suggests that future Commissions retain outside counsel for the limited purpose of providing Voting Rights Act guidance, as this is a highly specialized area of law. The Commission suggests that such counsel be from out of town, with as little connection to San Diego as possible, in order to ensure there is no bias or legal conflicts.

VIII. GENERAL COMMENTS

The Commission suggests that the next Appointing Authority consider composing the Commission of members who live in different Council districts, who will know different areas of the City.

The Commission also suggests that an Executive Secretary position be added or otherwise submitted for approval by the City's Civil Service Commission or City Council, so the next Commission has a full range of hiring options available.

IX. ACKNOWLEDGEMENTS

The Commission would like to recognize the following firms, departments, facilities, and staff for their assistance during the 2010 redistricting process.

Consultants Assisting the Commission

A Star Staffing
ESRI
Humanability, Inc.
National Demographics Corporation
Nielsen Merksamer Parrinello Gross & Leoni LLP
SanGIS
Translation Solutions

Departments of the City of San Diego

Business Office
City Attorney's Office
City Clerk's Office
City Planning & Community Investment
CityTV
Communications
Financial Management
IT & IT Web Team
Library
Park and Recreation
Police
Print Shop
Purchasing and Contracting
Real Estate Assets

Facilities Used for Meetings

Balboa Park Club
Bayside Community Center
Forum Hall at Westfield UTC
Jacobs Center for Neighborhood Innovation
Joan B. Kroc Center
La Jolla Woman's Club
Logan Heights Branch Library
Metro Operations Center
Otay Mesa-Nestor Branch Library
Point Loma/Hervey Branch Library
Regional Transportation Center
San Diego Concourse
Qualcomm Headquarters
Tierrasanta Recreation Center
Thurgood Marshall Middle School
Valencia Park/Malcolm X Branch Library

The Commission wishes to acknowledge the Year 2000 Redistricting Commission for its final report, which served as a resource to 2010 Commissioners and staff.

The Commission also would like to thank the many members of the public for their participation and input throughout the redistricting process.

Attachments:

1. Final Redistricting Plan (adopted August 25, 2011)
2. Preliminary Redistricting Plan (adopted July 21, 2011)
3. Redistricting Charter (San Diego City Charter)
4. Commissioner and Staff Biographies
5. Commission Bylaws
6. Commission Budget
7. Commission Timeline
8. Position Announcement - Chief of Staff
9. Public Participation Plan

Attachment C

THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: September 12, 2012 **IBA Report Number:** 12-34

Rules Committee Meeting Date: September 19, 2012

Item Number: 3

Response to Grand Jury Report Titled "City of San Diego 2010 Redistricting Commission"

OVERVIEW

On June 21, 2012, the San Diego County Grand Jury filed a report with the San Diego Mayor, City Council, and the City Clerk entitled "City of San Diego 2010 Redistricting Commission." The Grand Jury's report evaluated the selection process for the 2010 City of San Diego Redistricting Commission and how it might be improved.

The Grand Jury Report included five findings and eight recommendations. Of the eight recommendations, four were directed to the City Council and four were directed to the Mayor and City Clerk. The City Council, Mayor, and City Clerk are required to provide comments to the Presiding Judge of the San Diego Superior Court on each of the findings and recommendations relating to their respective items in the Grand Jury Report within ninety days of the release of the report (August 29, 2012). Due to the timing of the Council's summer recess, the Council President requested an extension to the due date for the City's response to this report to November 1, 2012. On June 27, 2012 the Presiding Judge of the Superior Court granted this extension.

Since the City Clerk's Office oversaw the Redistricting Commission application process and the City Attorney's Office provided legal support to the Commission, both have had a substantial role in crafting the proposed responses to the Findings and Recommendations on behalf of the City Council.

In responding to each Grand Jury finding, the City is required to either (1) agree with the finding or (2) disagree wholly or partially with the finding. Responses to Grand Jury recommendations must indicate that the recommendation (1) has been implemented; (2) has not yet been implemented, but will be in the future; (3) requires further analysis; or (4) will not be implemented because it is not warranted or is not reasonable. Explanations for responses are requested when applicable.

It should be noted that typically the IBA has not included background on issues or corrections to facts in its recommended responses to Grand Jury reports. However, in this case we felt it was warranted to ensure that accurate and updated information was provided regarding the City's selection process for the Redistricting Commission.

In addition to the proposed City Council's responses to the Grand Jury Report, we have also included the City Clerk's proposed responses to Recommendations 12-54 – 12-57 as an attachment to this report. Per a June 11, 2010 City Attorney's Report to the Audit Committee, California Penal Code section 993(c) requires that the "governing body of the agency" comment on matters "under control of the governing body." The "governing body" of the City of San Diego is the City Council. Thus, the City Clerk does not have the authority under California Penal Code section 993(c) to respond directly and independently to the Grand Jury on the City's behalf. As a result, the City Council is required to approve the City Clerk's responses to the Grand Jury Recommendations. The City Clerk, Liz Maland, will be available at the September 19, 2012 Rules Committee meeting to discuss her responses.

Jeff Sturak
Deputy Director

APPROVED: Andrea Tevlin
Independent Budget Analyst

Attachments:

1. Recommended City Council Responses to Findings and Recommendations (12-50 – 12-54) in San Diego County Grand Jury Report entitled "City of San Diego 2010 Redistricting Commission"

2. Recommended City Clerk Responses to Recommendations (12-54 – 12-57)

3. San Diego County Grand Jury Report entitled "City of San Diego 2010 Redistricting Commission"

PROPOSED CITY COUNCIL RESPONSE TO GRAND JURY REPORT "CITY OF SAN DIEGO 2010 REDISTRICTING COMMISSION"

Pursuant to California Penal Code section 933.05(a), (b), and (c), the City of San Diego provides the following responses to the findings and recommendations included in the Grand Jury Report referenced above. Background information and clarifications to some facts presented in the Grand Jury Report are also included in this response.

Background

The Redistricting Commission of the City of San Diego (Redistricting Commission) is vested with sole and exclusive authority to adopt plans that specify the boundaries of districts for the San Diego City Council. San Diego City Charter sections 5 and 5.1 were enacted by the voters in 1992 to create an independent Redistricting Commission to draw City Council districts in compliance with the law.

Appointments to the Redistricting Commission

The process of appointing citizens to the Redistricting Commission is governed by City Charter section 5.1 and can be summarized as follows:

1. The City Clerk solicits nominations for appointments to the seven-member Redistricting Commission. The clerk distributes to the news media the announcement of a 30-day nomination period that begins on July 1 of the year a decennial census is taken. Individuals or organizations may nominate individuals for appointment to the Redistricting Commission during those dates.

2. Upon the close of the nomination period, the City Clerk transmits the names and information regarding all nominees to the Presiding Judge.

There are several ways the members of the Redistricting Commission may then be appointed:

1. Section 5.1 first states that the Presiding Judge of the "Municipal Court, San Diego Judicial District," will make the appointments. (Note: The Municipal Court no longer exists as a separate entity.)

2. In the event that the Presiding Judge declines to make the appointments, the appointments "shall be made by a Municipal Court Judge selected by vote of the Judges of the Municipal Court, San Diego Judicial District." (As stated above, the Municipal Court no longer exists as a separate entity.)

3. In the event that the Judges of the Municipal Court decline to act, the Commission "shall be appointed by a panel of three retired Superior Court Judges drawn at random by the City Manager in a fashion described by Penal Code sections 900(a) and 902."

4. In the event that all of the preceding individuals decline to act, the Commission shall be appointed by a majority vote of the City Council.

The Presiding Judge (or other appointing authority, as detailed in section 5.1) must appoint the seven members of the Commission by November 1. The Commissioners are to represent geographic, social and ethnic diversity, and, in the judgment of the Presiding Judge (or other appointing authority), have a high degree of competency to carry out the Commission's responsibilities. Within 60 days after Commission members are appointed, the Commission must adopt a budget and submit it to the Presiding Judge (or other appointing authority) for approval. If approved, it is forwarded to the City Council for consideration.

Commission members serve until the redistricting plan becomes effective and any and all legal and referendum challenges have been resolved.

If a vacancy occurs on the Commission after it is constituted, the Presiding Judge (or other appointing authority) must fill the position within seven calendar days, using the same procedure and criteria as the original appointments. Any vacancy must be filled by someone in the same pool of individuals who were given consideration for appointment when the Commission was constituted.

Presiding Judges in both 2000 and 2010 informed the City Attorney's Office that an active Presiding Judge could not serve as the Appointing Authority: The Ethics Committee of the California Judges Association informally opined that an active judge could *not* act as the Appointing Authority because of ethics rules, despite the Charter's language. However, the Ethics Committee also opined that *retired* judges could sit as the Appointing Authority for the Redistricting Commission as long as they did not have a temporary assignment in any way related to the same subject.

Thus, in both 2000 and 2010, the Presiding Judge of the Superior Court gathered a list of retired Superior Court judges who expressed an interest in potentially serving on the three-member nominating panel. The Presiding Judge gave this list to the City Attorney's Office, which then provided the list of retired judges to the City Clerk, who oversaw the random selection of the judges to sit as the Appointing Authority.

In 2010, the City's Chief Operating Officer, Jay Goldstone (See discussion on City Manager below), randomly drew out of a hat the names of the retired judges provided by the Presiding Judge, in a public meeting attended by the City Clerk's Office and City Attorney's Office. The first three judges whose names were drawn became the Appointing Authority and agreed to serve. The Appointing Authority was provided with the applications and police background checks for each applicant, and studied them before the public meeting in which Commissioners were selected. On the date of the public hearing to select Commissioners, one of the three judges had a family emergency that prevented her from attending. The remaining two judges asked the City Attorney's Office whether they could proceed. After receiving the opinion that they represented a quorum of the three-judge panel and could proceed, the two judges held the public hearing and made the appointments.

<u>The 2010 Redistricting Commission</u>

The 2010 Redistricting Commission convened a total of 45 public hearings, noticed in accordance with the Ralph M. Brown Act and attended by hundreds of people. On August 25, 2011, the Redistricting Commission voted 7-0 to adopt a Final Plan. The Final Plan divides the

City's population of 1,301,617 into nine City Council districts of approximately equal population. The Final Plan complies with the redistricting criteria and legal requirements of San Diego City Charter sections 5 and 5.1; the U.S. Constitution; the federal Voting Rights Act of 1965; and related cases and statutes. The Redistricting Commission considered and relied upon traditional redistricting criteria in drawing and adopting new City Council district boundaries. The Redistricting Commission also added a new Ninth Council District, as directed by the voters of the City of San Diego in a Charter amendment enacted in 2010. The Plan became effective without any legal or referendary challenge.

After the Redistricting Commission completed its work, the Grand Jury inquired about the process. The Grand Jury focused primarily on the process to appoint Commissioners.

Clarification of Facts

Fact: The City Charter and Municipal Code specify the 30-day nomination period for Redistricting Commissioners begins July 1 in every census year.

San Diego Municipal Code section 27.1404 specifies 30 calendar days; however, if July 1 is a Saturday, Sunday or holiday, then the nomination period shall commence on the next business day following July 1. Similarly, if the 30th calendar day following the day the nomination period commences falls on a Saturday, Sunday or holiday, then the nomination period shall end on the next business day following the 30th calendar day.

In 2010, the nomination period began July 1. The 30th calendar day following July 1 was July 31, which fell on a Saturday. Consequently, the nomination period ended on Monday, August 2, the next business day. This means that the nomination period in 2010 was 32 days long.

Fact: The City Clerk may only advertise the nomination period beginning 30 days before July 1.

San Diego Municipal Code section 27.1405 requires the Clerk to publish a specific notice in the City Official Newspaper no earlier than 30 calendar days before, and no later than 14 calendar days before, the beginning of the nomination period. However, in 2010 the Clerk's outreach regarding the upcoming nomination period and creation of the Redistricting Commission began months before the notice was published.

On January 22, 2010, the Clerk distributed a memo entitled "Preparation for the 2010 Redistricting Commission" to the Mayor and Councilmembers, with a copy to the City Attorney, Independent Budget Analyst (IBA), Chief Operating Officer, Chief Financial Officer, Financial Management Director and the Planning Director. This memo included a timeline for the 2010 process, the pertinent sections of the City Charter, Municipal Code, and the 2000 Redistricting Commission Recommendations for the 2010 Commission.

In February/March 2010, the City Clerk met with staff from the Council President's Office, the City Attorney's Office, the IBA, and the Mayor's Office to answer questions about the 2000 process and discuss potential steps to ensure that the city was ready for the 2010 process.

In mid-April, the Clerk was contacted by Common Cause to present information on redistricting at the group's May 29 meeting; the Clerk complied with the request.

On May 5, the Clerk presented information regarding the Commission and upcoming nomination period to members of the City Council, during a televised public meeting.

During the month of May, staff involved in the nomination process reported seven unsolicited contacts related to redistricting. These contacts were from individuals outside the Clerk's Office.

Also in May 2010, the Clerk developed a brochure for distribution, with the application packet, at community presentations and in the Office of the City Clerk (2nd floor, City Administration Building).

On May 26, 2010, the Clerk was contacted by the San Diego County Young Democrats to make a presentation at their June 28 meeting.

In June 2010, the following steps were taken to publicize the application process:

- Public notice of the Redistricting Commission process was posted on the City's website and published in the City Council Docket (which was set to run through the nomination period);
- Public notice was published in the *San Diego Daily Transcript* (the city's paper of record);
- Application packets were sent to every branch library;
- A news release was sent to 79 media outlets;
- Application packets were mailed to 123 community organizations;
- Application packets were sent to each elected official as well as all individuals who had requested one from the Office of the City Clerk.

In June/July 2010, presentations were provided to any community group requesting one, including the Asian Pacific American Coalition, the Human Resources Commission, the League of Women Voters, and, as noted earlier, Common Cause (May 2010) and the Young Democrats.

In addition, the Clerk used social media such as LinkedIn and Twitter to get out the word about the application period and upcoming deadlines.

Members of the public had an opportunity to be, and were, aware of the upcoming creation of the Redistricting Commission, even prior to the official publication of the notice required by San Diego Municipal Code section 27.1405.

Fact: The City Clerk received only 52 applications, of which 50 were accepted.

San Diego Municipal Code section 27.1407 directs the Clerk to accept as filed those nomination papers which the Clerk determines to be in substantial compliance with Municipal Code requirements; and to not accept those nomination papers which are not in substantial compliance. In 2010, the Clerk received 52 applications, of which 51 were accepted. Of these, one was later withdrawn by the applicant, leaving 50 applications.

Based on the number of applications received for potential appointment to other City boards and commissions, and given the level of detail required by the application form for the Redistricting Commission, the Clerk appreciates that 52 applications were received for this single entity.

In June 2010, more than 40 boards and commissions were active in the City of San Diego. Members of the public who wish to apply for a seat on any of these entities do so by printing and mailing an application form to the Clerk's Office, or by applying online through the Clerk's website. In Fiscal Year (FY) 2008, the Clerk's staff processed a total of 54 applications for all appointments. In FY 2009, the number of applications rose to 111, but it declined to 58 in FY 2010 (not including the Redistricting Commission applications). In FY 2011, 35 applications were received, in addition to the 52 submitted for potential appointment to the Redistricting Commission. As of June 2012, with one month remaining in FY 2012, 40 applications for all boards and commissions had been received for that fiscal year.

Consequently, during the 32-day nominating period for the Redistricting Commission, the Clerk received almost the same number of applications for the Redistricting Commission as for all other boards and commissions combined in FY 2008 and again in FY 2010; nearly half the number for all other boards and commissions combined in FY 2009; and well over the number for all other boards and commissions combined in FY 2011.[1]

Fact: The current Charter establishes an order of precedence for the Appointing Authority for Redistricting Commissioners: (1) Presiding Judge of the Municipal Court, then (2) a Municipal Judge selected by a vote of the Judges of the Municipal Court, then (3) three retired Superior Court Judges drawn at random by the City Manager.

The Fact as reflected in the Grand Jury's Report is incomplete. The order established by the Charter is as follows: (1) the Presiding Judge of the Municipal Court; (2) a Municipal Court Judge selected by vote of the Judges of the Municipal Court; (3) ***a panel of*** three retired Superior Court Judges drawn at random by the City Manager; and (4) the City Council, by majority vote.

It is important to note that in (3) the words ***"a panel of"*** were left out of the Grand Jury's Fact and these words are critical. It is not three "separate" judges who are appointed, but "a panel of" judges that is required by the Charter. The "panel" is an entity. Thus, a quorum of the panel is sufficient to conduct Appointing Authority business. Two judges may hold meetings.

Fact: In 2000, the Court determined it would be unethical for sitting judges to serve.

It was not the Court, but an ethics committee that made the determination. In August 2000, Superior Court Presiding Judge Wayne Peterson informed the Mayor and City Council that he had been advised by the Ethics Committee of the California Judges Association that, in its unanimous opinion, his serving as Appointing Authority for the San Diego Redistricting Commission would violate the Code of Judicial Ethics. He thus declined to serve. In 2010, the Presiding Judge of the Superior Court declined to serve after making a similar inquiry and receiving the same opinion.

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[1] It should be noted that in FY 2007, some 262 timely applications for potential appointment to the new Independent Rates Oversight Committee (IROC) were received in a span of five weeks (April-May, 2007). This was far out of the norm for City boards and commissions. IROC is an eleven-member advisory body nominated by the Mayor and confirmed by the City Council, representing all ratepayer classes and a set of defined professional disciplines. Ratepayers were provided information about the new entity and an application form in their water billing notice. The application form was also on the City's website, and the Mayor asked City Councilmembers to refer candidates for consideration. The Clerk used similar outreach strategies regarding the Redistricting Commission, but did not include an application form and information in water billing notices.

Fact: The position of City Manager was eliminated in 2008.

In November 2004, San Diego voters approved Proposition F, which added Article XV to the City Charter, changing the City's Council-Manager form of governance to a Mayor-Council ("Strong Mayor") form of governance on a five-year trial basis. The trial period began January 1, 2006 and ended December 31, 2010. San Diego voters made permanent the new Strong Mayor Form of Governance by approving Proposition D on June 8, 2010.

Under the Mayor-Council form of governance, Charter section 265(b) provides for the Mayor to exercise the authority, power and responsibilities formally conferred upon the City Manager as described in section 260, along with additional rights, powers and duties set forth in that section.

Fact: The 2010 Appointing Authority approved Redistricting Commissioners by a two vote quorum.

This is correct. A two-judge quorum of the three-judge Appointing Authority made the appointments at a public hearing. It is also important to note, however, that the entire Appointing Authority participated in the process up until that Council hearing and thereafter. The full panel participated in the preparation and vetting of applicants, review of their background materials and police investigative checks, and in public hearings related to the Commission's budget. Due to last-minute and unforeseen circumstances, one member of the Appointing Authority panel was unable to attend the publicly noticed appointment meeting. The City Attorney confirmed that the appointment process could proceed, as a quorum of the panel was present to conduct business.

Fact: The Charter does not provide for an alternate in the event a member of the appointing authority is unavailable.

This is correct, but may not be significant. There is nothing in the Charter that indicates that all three members of a three-judge panel must be present to conduct business at a meeting. As with other public boards and commissions, a quorum of the panel may conduct business. Moreover, this "fact" does not consider whether it would be wise for an alternate to fill in for a given meeting when someone was absent, or whether this would require the resignation of a member and replacement by another member for all purposes. As stated above, there was a significant time period during which the appointed judges reviewed the applications and background materials, so it would not have been prudent for someone to step in at the last minute to replace an absent judge.

Findings

Finding 01: The number of nominees for Redistricting Commissioner is limited by the short June-July announcement and nominating window.

Proposed City Council Response: ***Partially disagree.*** Based on responses to the facts above, the number of nominees for Redistricting Commissioner does not appear to be constrained by current requirements of the Charter and Municipal Code. It is possible that extending the amount of time to solicit applicants could increase the number, but not certain.

***Finding 02:* Many residents are on vacation in June and July.**

Proposed City Council Response: ***Partially disagree*** and this may be immaterial given that publicity about the upcoming appointment process began much earlier in the year and the application may be accessed online and filled out earlier. Application materials were available online and thus could be accessed by potential applicants from other locations, even if on vacation. The redistricting process is widely publicized, providing ample time to submit materials by the deadline.

Finding 03: The Charter is not current as to the structure and ethical constraints of the San Diego Court system and City Government.

Proposed City Council Response: ***Agree,*** but this may not be of great significance. The Charter is not "current" in many of its sections, but the redistricting sections of the Charter provide alternatives. While it is correct there is no longer a "Municipal Court," the Charter provides for alternatives so someone else can perform the same duties. The "ethical constraints" cited by Presiding Judges were offered in informal opinions of a sitting judicial ethics committee. Here, too, however, the Charter provides for replacements if a judge declines to serve.

Finding 04: The 2010 Redistricting Commission process could have been subject to challenge because only two members of the three-judge panel were available.

Proposed City Council Response: ***Disagree.*** The two judges who made the appointments formed a quorum of a three-judge panel. Moreover, it is speculative to consider what might lead to a "challenge" and whether the challenge would have merit.

Finding 05: The City took no action on the recommendations made by the 2000 Redistricting Commission with regard to office needs and support staff.

Proposed City Council Response: ***Partially disagree.*** The City was aware of the 2000 Redistricting Commission's recommendations. On June 14, 2010, the Council approved the City's FY 2011 budget, which included $500,000 for the Redistricting Commission. The Assistant Chief Operating Officer assigned a Supervising Management Analyst from his office to be the City staff liaison to work with the Redistricting Commission. The analyst attended the Appointing Authority meeting to meet with the Commissioners from the day they were appointed, was responsible for securing and setting up office space and served as a daily liaison between the Commission and City departments. The City Attorney's Office also worked for approximately 18 months as a liaison between the Redistricting Commission and City departments, assisting the Commission's Chief of Staff on a daily basis and coordinating with many other City departments to meet the Commission's needs.

Recommendations

12-50: ***Sponsor an amendment to the City of San Diego Charter Article II, Section 5 and Section 5.1 before the 2020 census to expand the nomination period for Redistricting Commissioners to at least 90 days.***

Proposed City Council Response: This recommendation requires further analysis. The City Council agrees that an extended nomination period should be studied. The Grand Jury notes in their report that a reason for extending the nomination period was that "interviewees frequently told the Grand Jury the application window for nominations was too narrow and limiting because it occurred during a summer month when many people are on vacation." However, as noted above in the "Clarification of Facts" section, in 2010 the City Clerk's outreach regarding the upcoming nomination period for Redistricting Commission began months before the official notice was published, enabling prospective candidates time to prepare to submit an application during the designated period.

It is also important to note that it is settled law that one legislative body, by its legislative enactments, cannot limit or restrict the power of succeeding boards. This rule is clearly stated by the Supreme Court in *In re Collie*, 38 Cal.2d 396, 398 (1952), as follows: 'It is the general rule that one legislative body cannot limit or restrict its own power or that of subsequent Legislatures and that the act of one Legislature does not bind its successors.' (See also *Thompson v. Board of Trustees*, 144 Cal. 281, 283 (1904); *Briare v. Matthews*, 202 Cal. 1, 6 (1927).) Thus, the City Council cannot act to commit a future City Council to place an item on a future ballot.

12-51: ***Sponsor an amendment to the City of San Diego Charter Article II, Section 5 and Section 5.1 before the 2020 Census to update the Court's current structure and require the appointing authority be made up of three retired Superior Court Judges drawn at random by the City Chief Operating Officer.***

Proposed City Council Response: This recommendation will not be implemented. The City Attorney has interpreted section 5.1 to provide for successor courts to handle this procedure. In 2010, the names of retired Superior Court judges were drawn at random by the City's Chief Operating Officer, who assumed that responsibility in the Article. Accordingly, the current version of the Charter was not an impediment to the selection of the panel of three retired judges.

It is also important to note that every other calendar year the City Council's Rules Committee reviews proposed ballot measures submitted by citizens. As they review the proposed charter amendments submitted by citizens, the Rules Committee weighs the impacts of the proposed ballot measures against the cost of putting a measure on the ballot and the City's overall financial condition. Due to the City's recent financial condition, it has been very rare for the Rules Committee to recommend putting a measure on the ballot. However, the Rules Committee has expressed interest in exploring a number of charter changes proposed by citizens, City Boards, and Departments, and possibly integrating these into a comprehensive "clean up" of language throughout the charter. The Grand Jury's proposed charter changes could be considered by a future Council in the context of an overall "clean up" of the charter but this would be dependent on the City's financial condition and also weighed against other budget priorities.

12-52: ***Modify the San Diego Municipal Code chapter 2, article 7, division 14, Section 27.1401 et seq. to be consistent with the Charter and current Court and City government structure.***

Proposed City Council Response: This recommendation requires further analysis. The Council agrees that the Municipal Code should be updated to be consistent with the charter and

will analyze and consider amendments to reflect the changes in the Court and City government structures.

12-53: ***Modify the San Diego Municipal Code chapter 2, article 7, division 14, Section 27.1405 to require an alternate be named to the appointing authority if one of the three judges is unable to participate in the Redistricting Commissioner selection process.***

Proposed City Council Response: This recommendation will not be implemented. The City does not have any boards or commissions that use alternates. It is often difficult to find volunteers, so requiring a fourth retired judge to be available and informed to step in on short notice could be difficult. Further, the circumstance resulting in the unavailability of the retired judge for the selection of the 2010 Commissioners was highly unusual. Also, there is nothing in the Charter that indicates that all three members of a three-judge panel must be present to conduct business at a meeting. As with other public boards and commissions, a quorum of the panel that is present may conduct business. Nonetheless, the Council may consider an amendment to the Municipal Code to recommend the three-judge panel reschedule any meeting if necessary to ensure all three members can be present unless rescheduling would result in missing Charter deadlines.

PROPOSED CITY CLERK RESPONSES TO THE GRAND JURY REPORT "CITY OF SAN DIEGO 2010 REDISTRICTING COMMISSION"

Per the City Attorney's Report to the Audit Committee dated June 11, 2010, California Penal Code section 993(c) requires that the "governing body of the agency" comment on matters "under control of the governing body." The "governing body" of the City of San Diego is the City Council. Thus, the City Clerk does not have the authority under California Penal Code section 993(c) to respond directly and independently to the Grand Jury on the City's behalf.

In addition, the recommendations that were directed to the City Clerk were also directed to the Mayor, who will be responding separately.

RECOMMENDATIONS:

12-54: ***Establish a process in anticipation of the 2020 Redistricting Commission that would begin recruitment of a candidate pool for the Redistricting Commission Chief of Staff 90 days prior to selection of the appointing authority.***

Response: This recommendation requires further analysis by a future Redistricting Commission, consistent with the San Diego City Charter section 5.1 which states, "The Commission shall elect a chair and a vice chair and shall employ a chief of staff, who shall serve at the Commission's pleasure, exempt from Civil Service, and shall contract for needed staff, technical consultants and services, using existing City staff to the extent possible."

Thus, decisions about a chief of staff are to be made solely by the Commission, and not by other City officials.

12-55: ***Establish a process in anticipation of the 2020 Redistricting Commission that would ensure an appropriately equipped office suite and staff are available at the time of the 2020 Redistricting Commissioner selection.***

Response: This recommendation requires further analysis of office space and staff resources by a future administration.

12-56: ***Establish a process in anticipation of the 2020 Redistricting Commission that would ensure a candidate pool of outside consultants is available for selection by the Redistricting Commission.***

Response: This recommendation requires further analysis by a future Redistricting Commission, consistent with the San Diego City Charter section 5.1 which states, "The Commission shall elect a chair and a vice chair and shall employ a chief of staff, who shall serve at the Commission's pleasure, exempt from Civil Service, and shall contract for needed staff, technical consultants and services, using existing City staff to the extent possible."

Thus, decisions about technical consultants are to be made solely by the Commission, and not by other City officials.

12-57: ***Assign the Redistricting Commission Chief of Staff as liaison between the City staff and services and the Redistricting Commission.***

Response: This recommendation requires further analysis by a future administration in collaboration with a future Redistricting Commission.

CITY OF SAN DIEGO 2010 REDISTRICTING COMMISSION

SUMMARY

In June 1992 the citizens of San Diego voted to amend the City Charter to require a Redistricting Commission. Following each Federal census, the Commission adjusts City Council district boundaries to ensure appropriate population balances. In 2010, this Commission also was tasked to establish a ninth Council district.

Both the 2000 and 2010 Redistricting Commissions published final reports recommending changes for subsequent Commissions. Each Commission requested the City set up and staff an office earlier in the Redistricting process. The 2011/2012 San Diego County Grand Jury recommends the Mayor establish a process that will ensure staffing and office needs are addressed in a timely manner prior to the 2020 redistricting.

The current City Charter lists three options for appointing Commissioners. These are stated in order of priority:

1. Presiding Judge of the Municipal Court.
2. Sitting Municipal Court Judge elected by the other judges.

[Note: Neither of these two options is applicable today. Municipal and justice courts were consolidated into the County Superior Court in 1998. Further, the Superior Court determined in 2000 it would be unethical for sitting judges to participate.]

3. Three retired Superior Court Judges drawn at random by the City Manager [Note: This is also out of date because the City Manager position was eliminated in 2008.]

The City Charter needs to be amended to bring it in line with today's political reality.

INTRODUCTION

The Grand Jury evaluated the selection process for the 2010 City of San Diego Redistricting Commission and how it might be improved.

PROCEDURE

The Grand Jury reviewed the San Diego City Charter, San Diego Municipal Code, and reports published by the 2000 and 2010 Redistricting Commissions. Interviews were conducted with representatives of these groups:

- Office of the San Diego City Clerk,
- Office of the San Diego City Attorney,
- The three-judge appointing panel,

- The 2010 Redistricting Commission, and
- The commissioner nominee pool.

DISCUSSION

In June 1992 voters amended the San Diego City Charter to require a Redistricting Commission after every federal census.[1] The Commission maps new City Council districts that provide fair and effective representation for all citizens. This Charter amendment replaced language that specified how City Council members should set their own districts.

The Charter amendment specifies qualifications for serving as a Commissioner, how Commissioners are nominated and selected and standards the Commission should follow in adopting redistricting plans, and requires the City Council to appropriate funds adequate to carry out the Redistricting Commission's duties.

The Charter also contains provisions relating to how districts are to be established, public meetings, and challenges to the new maps.

The redistricting commission selection process, as established in the City Charter and related Municipal Codes, contains several elements that act to limit the number of nominees. Everyone the Grand Jury interviewed was disappointed that only 50 people were nominated; the City Clerk's office was hoping to recruit 100.

First, the City Charter limits the nomination period for commissioners to 30 days, beginning July 1 in each federal census year. Interviewees frequently told the Grand Jury the application window for nominations was too narrow and was limiting because it occurred during a summer month when many people are on vacation.

Second, under the San Diego Municipal Code, the City Clerk may only begin to advertise the nomination period 30 days before July 1.[2] For the 2010 Redistricting Commission, the City Clerk began an extensive outreach campaign in January, but was unable to advertise officially until the beginning of June and could not accept nominations until July 1.

The City Charter specifies three appointment processes for the Redistricting Commission in order of priority:

- Seven members are appointed by the Presiding Judge of the Municipal Court, or
- The Municipal Court Judge, selected by vote of all active members of the Municipal Court, makes the appointments, or
- Three retired Superior Court Judges, drawn at random by the City Manager, choose the Commissioners.

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[1] San Diego City Charter, article II, sections 4 and 5.
[2] San Diego Municipal Code, chapter 2, article 7, division 14, section 27.1405.

The municipal and justice courts were consolidated into the County Superior Court in 1998. In addition, in 2000 the Court determined it would be an ethical breach for sitting judges to make the appointments. The position of City Manager was eliminated in 2008. In 2010, the Presiding Judge of the Superior Court nominated a pool of retired Superior Court Judges. Three judges were then drawn at random by the City Chief Operating Officer to serve as the appointing authority. The Charter and Municipal Code should be brought up to date.

In 2010, the three retired judge option was used. Unfortunately, one member of this three-judge panel was unavailable at the last minute. The City Attorney's office determined that a quorum of two of the three-member panel was sufficient to proceed with selection of Commissioners. The Grand Jury believes a retired Superior Court Judge should be named as an alternate to ensure three judges are present at all stages of the selection process.

The three-judge panel must appoint the seven Redistricting Commissioners no later than November 1 in the census year. Within twenty days the Commission must hold its first meeting at a time and place designated by the City Clerk. The Commission then elects a chair and a vice chair, hires a chief of staff, and contracts for staff, technical consultants and services, using existing City staff to the extent possible. Both the 2000 and 2010 Commissions requested the chief of staff selection process be accelerated. They also recommended more timely availability of support staff, office supplies, and equipment.[3]

The Grand Jury commends the San Diego City Clerk and the 2010 Redistricting Commission for completing its work ahead of schedule. The resultant plan was accepted without challenge.

FACTS AND FINDINGS

Fact: The City Charter and Municipal Code specify the 30-day nomination period for Redistricting Commissioners begins July 1 in every census year.

Fact: The City Clerk may only advertise the nomination period beginning 30 days before July1.

Fact: The City Clerk received only 52 applications, of which 50 were accepted.

Finding 01: The number of nominees for Redistricting Commissioner is limited by the short June-July announcement and nominating window

Finding 02: Many residents are on vacation in June or July.

Fact: The current Charter establishes an order of precedence for the Appointing Authority for Redistricting Commissioners: (1) Presiding Judge of the Municipal Court,

[3] www.sandiego.gov/redistricting

then (2) a Municipal Judge selected by a vote of the Judges of the Municipal Court, then (3) three retired Superior Court Judges drawn at random by the City Manager.

Fact: In 2000, the Court determined it would be unethical for sitting judges to serve.

Fact: The Municipal Court was merged into the Superior Court in 1998.

Fact: The position of City Manager was eliminated in 2008.

Finding 03: The Charter is not current as to the structure and ethical constraints of the San Diego Court system and City Government.

Fact: The 2010 Appointing Authority approved Redistricting Commissioners by a two vote quorum.

Fact: The Charter does not provide for an alternate in the event a member of the appointing authority is unavailable.

Finding 04: The 2010 Redistricting Commission process could have been subject to challenge because only two members of the three-judge panel were available.

Fact: The 2000 Redistricting Commission made recommendations related to the timely availability of staff and office space and supplies.

Fact: The recommendations were part of the 2000 Redistricting Commission final report and were presented to the Mayor and City Council by the City Clerk by memorandum January 22, 2010.

Fact: The 2010 Redistricting Commission also made recommendations related to the timely availability of staff and office space and supplies.

Finding 05: The City took no action on the recommendations made by the 2000 Redistricting Commission with regard to office needs and support staff.

RECOMMENDATIONS

The 2011/2012 San Diego County Grand Jury recommends the San Diego City Council:

12-50: **Sponsor an amendment to the City of San Diego Charter Article II, Section 5 and Section 5.1 before the 2020 census to expand the nomination period for Redistricting Commissioners to at least 90 days.**

12-51: **Sponsor an amendment to the City of San Diego Charter Article II, Section 5 and Section 5.1 before the 2020 Census to update the Court's current structure and require the appointing authority be made up of three retired Superior Court Judges drawn at random by the City Chief Operating Officer.**

12-52: **Modify the San Diego Municipal Code chapter 2, article 7, division 14, Section 27.1401 et seq. to be consistent with the Charter and current Court and City government structure.**

12-53: **Modify the San Diego Municipal Code chapter 2, article 7, division 14, Section 27.1405 to require an alternate be named to the appointing authority if one of the three judges is unable to participate in the Redistricting Commissioner selection process.**

The 2011/2012 San Diego County Grand Jury recommends the Mayor of the City of San Diego and the City Clerk work together to:

12-54: **Establish a process in anticipation of the 2020 Redistricting Commission that would begin recruitment of a candidate pool for the Redistricting Commission Chief of Staff 90 days prior to selection of the appointing authority.**

12-55: **Establish a process in anticipation of the 2020 Redistricting Commission that would ensure an appropriately equipped office suite and staff are available at the time of the 2020 Redistricting Commissioner selection.**

12-56: **Establish a process in anticipation of the 2020 Redistricting Commission that would ensure a candidate pool of outside consultants is available for selection by the Redistricting Commission.**

12-57: **Assign the Redistricting Commission Chief of Staff as liaison between the City staff and services and the Redistricting Commission.**

COMMENDATION

The Grand Jury commends the Office of the San Diego City Clerk, the Office of the San Diego City Attorney, and the 2010 Redistricting Commissioners, their Chief of Staff and other support staff for a job well done. They worked together and completed the important task of creating nine City Council Districts from the previous eight in a timely and professional manner.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

(a) As to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

Responding Agency	Recommendations	Date
San Diego City Council	**12-50 through 12-53**	**8/29/12**
San Diego City Mayor	**12-54 through 12-57**	**8/29/12**
San Diego City Clerk	**12-54 through 12-57**	**8/29/12**

Filed: May 31, 2012

Attachment D

ARTICLE II

NOMINATIONS AND ELECTIONS

Section 4: Districts Established

For the purpose of electing members of the Council the City shall be divided into eight Districts as nearly equal in population as practicable. A ninth Council district shall be created in the redistricting following the 2010 national decennial census, at which time the City shall be divided into nine (9) council districts as nearly equal in population as practicable. Thereafter the boundaries of such districts shall be subject to alteration and change under the provisions of this Charter.

In any redistricting plan adopted by the Redistricting Commission pursuant to Section 5.1 or ordinance adopted by the Council establishing, changing or altering the boundaries of any Council district, the redistricting plan or ordinance may describe the new boundaries by reference to a map on file in the office of the City Clerk; a metes and bounds description of the new boundaries need not be contained in said redistricting plan or ordinance.
(Amendment voted 03-10-1953; effective 04-20-1953.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 11-06-1990; effective 02-19-1991.)
(Amendment voted 06-02-1992; effective 07-13-1992.)
(Amendment voted 06-08-2010; effective 07-30-2010.)
Prior Language

Section 5: Redistricting

In the event that any voting precinct which may be established at the time this Charter takes effect or which may be thereafter established is partly within two or more such districts, said precinct shall be allocated to the District in which a majority of the voters within such precinct resides, and said district boundaries shall be changed accordingly. The City shall be redistricted pursuant to Section 5.1 of this Charter at least once in every ten (10) years, but no later than nine months following the receipt of the final Federal Decennial Census information.

Any territory hereafter annexed to or consolidated with The City of San Diego shall at the time of such annexation or consolidation be added to an adjacent District or Districts by an ordinance of the Council. However, if any territory annexed, deannexed or

consolidated upsets the approximate equality of the populations of the established districts, a redistricting shall be conducted pursuant to Section 5.1 of this Charter, except that the nomination period for appointment to the Redistricting Commission shall commence on the July 1 immediately succeeding the annexation, deannexation or consolidation and the Redistricting Commission shall be constituted no later than the next November 1.

In any redistricting, the districts shall be comprised of contiguous territory and made as equal in population as shown by the census reports, and as geographically compact as possible, and the districts so formed shall, as far as possible, be bounded by natural boundaries, by street lines and/or by City boundary lines.
(Amendment voted 06-02-1992; effective 07-13-1992.)
Prior Language

Section 5.1: Redistricting Commission

The members of the City Council shall be elected by districts, as follows:

> Subject to the provisions of the City Charter relating to referendum and initiative powers of the people, the sole and exclusive authority to adopt plans which specify the boundaries of districts for the City Council is vested in the Redistricting Commission, to be established by this Section.

Commencing in the year following the year in which the national decennial census is taken under the direction of the United States Congress at the beginning of each decade, the Redistricting Commission shall adopt plans that redistrict the City into nine (9) Council districts designated by numbers 1 to 9 inclusive. Those districts shall be used for all elections of Council members, including their recall, and for filling any vacancy in the office of member of the Council, subsequent to the effective date of this Section (and until new districts are established).

No change in the boundary or location of any district by redistricting as herein provided shall operate to abolish or terminate the term of office of any member of the Council prior to the expiration of the term of office for which such member was elected.

Districts formed by the Redistricting Commission shall each contain, as nearly as practicable, one-ninth of the total population of the City as shown by the Federal census immediately proceeding such formation of districts.

Each redistricting plan shall provide fair and effective representation for all citizens of the City, including racial, ethnic, and language minorities, and be in conformance with the requirements of the United States Constitution and Federal statutes.

To the extent it is practical to do so, districts shall: preserve identifiable communities of interest; be geographically compact-populous contiguous territory shall not be bypassed to reach distant populous areas; be composed of whole census units as developed by the United States Bureau of the Census; be composed of contiguous territory with reasonable access between population centers in the district, and not be drawn for the purpose of advantaging or protecting incumbents.

The Redistricting Commission shall be composed of seven (7) members who shall be appointed by the Presiding Judge of the Municipal Court, San Diego Judicial District. In the event that the Presiding Judge declines to make the appointments, they shall be made by a Municipal Court Judge selected by vote of the Judges of the Municipal Court, San Diego Judicial District. Should the Judges of the Municipal Court decline to so act, then the Redistricting Commission shall be appointed by a panel of three retired Superior Court Judges drawn at random by the City Manager in the fashion described in Penal Code sections 900(a) and 902. In the event that all of the preceding individuals decline to act, then the Redistricting Commission shall be appointed by a majority vote of the City Council in the fashion set forth below. The term "Presiding Judge," as used herein below, shall include any person or any body acting to appoint the Redistricting Commission pursuant to the provisions of this paragraph.

The City Clerk shall solicit nominations for appointment to the Redistricting Commission in accordance with this Section and shall distribute to the news media the announcement of a thirty (30) day nomination period (which shall commence on July 1, 2000, and on July 1 of every year in which a national decennial census is taken) and the guidelines for selection of Commission members.

Individuals or organizations desiring to nominate persons for appointment to the Commission shall do so in writing to the City Clerk within the nominating period. The City Clerk shall transmit the names and information regarding all nominees with the names of nominating individuals and organizations to the Presiding Judge immediately upon the close of nominations. The Presiding Judge shall appoint the members constituting the Commission no later than November 1, 2000, and on November 1 of every year in which a national decennial census is taken. The Presiding Judge shall appoint women and men who will give the Redistricting Commission geographic, social and ethnic diversity, and who, in his or her judgement, 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 nonpartisan role.

Each member of the Commission shall be registered to vote in The City of San Diego.

Persons who accept appointment to the Commission, at the time of their appointment, shall file a written declaration with the City Clerk stating that within five (5) years of the

Commission's adoption of a final redistricting plan, they will not seek election to a San Diego City public office. The members of the Redistricting Commission shall serve until the redistricting plan adopted by the Commission becomes effective and any and all legal and referendum challenges have been resolved.

Any vacancy in the Redistricting Commission which occurs after the Commission is constituted shall be filled within seven (7) calendar days by the Presiding Judge of the San Diego Municipal Court, San Diego Judicial District, following the same procedure and using the same criteria established with this Section and making the selection from the same pool of individuals given consideration for appointment when the Commission was constituted.

Within twenty (20) days after the membership of the Commission is appointed, it shall hold its first meeting at a time and place designated by the City Clerk.

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, for a reasonable fee, to any interested person.

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

Aye votes by 5 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 and a majority vote of the Commission 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.

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 (4) public hearings in various geographic areas of the City before the preparation of a preliminary redistricting plan.

At least thirty (30) 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 (30) day period after such filing, the Commission shall hold at least three (3) 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 (30) 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 Sections 5 and 5.1.

Within sixty (60) days after the members of the Commission are appointed, the Commission shall adopt a budget and submit it to the Presiding Judge. If he or she approves it, it shall be forwarded to the City Council for its consideration. The City Council shall appropriate funds to the Commission and to the City Clerk adequate to carry out their duties under this Section.

If any part of these amendments to Sections 4 or 5 of the Charter or the addition of Section 5.1 to the Charter or their application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications which reasonably can be given effect without the invalid provision or application.
(Addition voted 06-02-1992; effective 07-13-1992.)
(Amendment voted 06-08-2010; effective 07-30-2010.)
Prior Language

Section 6: Qualified Electors

The qualifications of an elector at any election held in the City under the provisions of this Charter shall be the same as those prescribed by the general law of the State for the qualification of electors at General State Elections. No person shall be eligible to vote at such City election until he has conformed to the general State law governing the registration of voters.

Section 7: Elective Officers Residency Requirement

An elective officer of the City shall be a resident and elector of the City.

In addition, every Council member shall be an actual resident and elector of the district from which the Council member is nominated. Any Council member who moves from the district of which the Council member was a resident at the time of taking office forfeits the office, but no Council member shall forfeit the office as a result of redistricting.

The Council shall establish by ordinance minimum length of residency requirements for candidacy to elective office, whether by appointment or election.

Attachment E

M[illegible]Y JO LANZAFAME
[illegible]ISTANT CITY ATTORNEY

SHARON B. SPIVAK
DEPUTY CITY ATTORNEY

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

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June 17, 2010

RECEIVED
CITY CLERK'S OFFICE
10 JUN 18 AM 10: 39
SAN DIEGO, CALIF.

Honorable Kevin Enright
San Diego Superior Court
220 West Broadway, Dept. P
San Diego, CA 92101

Dear Judge Enright:

San Diego Redistricting Commission

The City of San Diego will soon begin its decennial redistricting process. The San Diego City Charter includes a potential role in the process for the Presiding Judge of the San Diego Superior Court. Chief Deputy City Attorney Catherine Bradley and I have scheduled a meeting to discuss this issue with you on June 22, 2010 at 10 a.m. We are sending this letter to provide you with helpful information in advance of our meeting.

San Diego City Charter section 5.1 details the process for redistricting of San Diego's City Council districts. Voter approval of Proposition D, the Strong Mayor ballot measure, means that the City will now need to be divided into nine separate City Council districts following the 2010 U.S. Census. The City's redistricting process, which includes potential input from the Presiding Judge of the Superior Court, can be summarized as follows:

1. The City Clerk solicits nominations for appointments to the seven-member Redistricting Commission. The clerk conducts a 30-day nomination period. Application materials have already been posted on the City's website. The nomination period runs from July 1, 2010 through August 2, 2010. Individuals or organizations may nominate individuals for appointment to the Redistricting Commission only during those dates.

2. Upon the close of the nomination period, the City Clerk will transmit the names and information regarding all nominees to the Presiding Judge of the Superior Court.

3. There are several ways that the Redistricting Commission may then be appointed:

    a. Section 5.1 first asks that the Presiding Judge of the Superior Court, San Diego Judicial District, make the appointments.

b. In the event that the Presiding Judge declines to make the appointments, the appointments shall be made by a Superior Court Judge selected by vote of the Judges of the Superior Court.

c. In the event that the Judges of the Superior Court decline to act, the Commission shall be appointed by a panel of three retired Superior Court judges drawn at random by the City Manager in a fashion described by Penal Code sections 900(a) and 902. (This is the process that was used in the 2000 redistricting.)

d. In the event that all of the preceding individuals decline to act, the Commission shall be appointed by a majority vote of the City Council.

4. The Presiding Judge (or other appointing authority, as detailed above) shall appoint the seven members of the Commission by November 1, 2010. The Commissioners are to represent geographic, social and ethnic diversity and have a high degree of competency to carry out the Commission's responsibilities.

5. Within 60 days after the Commission members are appointed, the Commission shall adopt a budget and submit it to the Presiding Judge for approval. If approved, it shall then be forwarded to the San Diego City Council for consideration.

6. Commission members serve until the redistricting plan becomes effective and any and all legal and referendum challenges have been resolved.

7. If a vacancy occurs on the Commission after it is constituted, the Presiding Judge is to fill the position within seven calendar days, using the same procedure and criteria as the original appointments. Any vacancy is to be filled by someone in the same pool of individuals who were given consideration for appointment when the Commission was constituted.

During the last redistricting in 2000, the Presiding Judge began the process by gathering a list of retired Superior Court judges who expressed an interest in potentially serving on the three-member nominating panel. The Presiding Judge gave this list to the City Attorney's Office, which then worked with the City Clerk to ensure that the list of retired judges was used for the random selection of the appointing committee by the City Manager.

Our understanding from prior correspondence is that the Ethics Committee of the California Judges Association offered an informal opinion in 2000 that retired judges could sit on the Appointing Authority for the Redistricting Commission so long as they have no temporary assignments that are in any way related to the same subject. We understand, however, that the Ethics Committee also informally opined that the Presiding Judge could not act as the Appointing Authority, despite the Charter's language. Correspondence confirms, however, that then-Presiding Judge Wayne Peterson surveyed available retired judges to ascertain their willingness to have their names submitted as possible selectees to the Appointing Authority.

(I have attached a copy of two related letters from then-Presiding Judge Wayne Peterson for your review.)

We have scheduled an appointment to meet with you about your role in this process. We would like to talk to you about our understanding of the role the Presiding Judge played in 2000 and which level of appointment may occur (as listed in No. 3 above). We are part of the Government Affairs Unit of the City Attorney's Office and have a role in ensuring the process meets all legal requirements. We will also be serving as counsel to the Redistricting Commission when it begins meeting this fall.

To further assist, we have included a copy of a brochure published by the San Diego City Clerk regarding the Redistricting Commission, as well as a memorandum written by the clerk about the process. We look forward to meeting with you next week.

JAN I. GOLDSMITH, City Attorney

By Catherine Bradley
Sharon B. Spivak
Deputy City Attorney

SBS:CB:jdf:sc
cc: Elizabeth Maland, City Clerk

Attachment F

Article 7: Elections, Campaign Finance and Lobbying

Division 14: Procedure for Making Appointments to the Redistricting Commission

("Procedure for Making Appointments to the Redistricting Commission" added 5-1-2000 by O-18792 N.S.)

§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.
("Purpose and Intent" added 5-1-2000 by O-18792 N.S.)

§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*.

("Appointing Authority" added 5-1-2000 by O-18792 N.S.)

§27.1403 Redistricting Commission Members

Pursuant to San Diego City Charter Section 5.1, the Redistricting Commission shall be composed of seven members, each of whom shall be registered to vote in the City of San Diego. 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.
("Redistricting Commission Members" added 5-1-2000 by O-18792 N.S.)

§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.

("Period for Filing Application Forms" added 5-1-2000 by O-18792 N.S.)

§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 the City Official Newspaper 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 (insert dates in accordance with Section 27.1404). 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 (insert date in accordance with Section 27.1404).

("Notice to be Published by Clerk" added 5-1-2000 by O-18792 N.S.)

§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 residence address, including City Council district.

(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) Educational background including high school and any college credits. Information shall include the name of each educational institution attended and any degree or diploma received. For each college degree or diploma listed, a copy of transcripts or other proof of degree shall accompany the nomination. A contact name and phone number at the college or other educational

institution shall also be included for the highest degree 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) Memberships in professional, technical, or other 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 300 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 300 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 acknowledging that he or she must be a registered voter of the City of San Diego in order to serve as a Commission member.

(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.

(f) On forms provided by the City *Clerk*, the date of birth and social security number of the applicant or nominee, for the purpose of conducting the police check pursuant to Section 27.1408(d).

(g) A list of three individual references who can attest to the applicant or nominee's ability to serve as a member of the Redistricting Commission. The information provided shall include a current address and phone number for each reference. An e-mail address, if any, may also be provided.

("Application Forms and Requirements" added 5-1-2000 by O-18792 N.S.)

§27.1407 Acceptance or Rejection of Nomination Papers as Filed

(a) If the City *Clerk* determines that the nomination papers are in substantial compliance with this division, the City *Clerk* shall accept the nomination papers as filed.

(b) If the City *Clerk* determines that the nomination papers are not in substantial compliance with this division, the City *Clerk* shall not accept the nomination papers as filed.

("Acceptance or Rejection of Nomination Papers as Filed" added 5-1-2000 by O-18792 N.S.)

§27.1408 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) The City *Clerk* shall cause a police check to be conducted on each applicant. Each applicant shall be informed by the City *Clerk* that a

police check will be made on the applicant and that the appointing authority will be informed of the results thereof.

(e) 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 within ten business days after the close of the nomination period.

(f) 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.

("Additional Responsibilities of the City Clerk" added 5-1-2000 by O-18792 N.S.)

§27.1409 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.

("Public Hearing" added 5-1-2000 by O-18792 N.S.)

§27.1410 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 demonstrated 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.

("Public Hearing and Appointment" added 5-1-2000 by O-18792 N.S.)

§27.1411 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 demonstrated 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.

("Optional Second Public Hearing and Appointment" added 5-1-2000 by O-18792 N.S.)

§27.1412 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.

("Deadline for Completion of Appointments" added 5-1-2000 by O-18792 N.S.)

§27.1413 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 within five years of the Commission's adoption of a final redistricting plan.
("Election of Redistricting Commissioner Prohibited" added 5-1-2000 by O-18792 N.S.)

§27.1414 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.
("Length of Service on Redistricting Commission" added 5-1-2000 by O-18792 N.S.)

§27.1415 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.
("Vacancy on Redistricting Commission" added 5-1-2000 by O-18792 N.S.)