



OFFICE OF THE CITY CLERK

REPORT

REPORT TO THE CITY COUNCIL

REPORT NO.: 15-09

DATE: November 13, 2015 for the December 8, 2015 City Council Meeting

SUBJECT: Proposed Changes to the Charter Related to Redistricting

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.

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. In February 2015, the Clerk presented an informational report related to redistricting, gathered feedback and information and worked with the City Attorney in order to return in November 2015 with specific recommended changes. This report was crafted using the feedback gathered from that February and November Committee presentations, as well as information and recommendations from both the 2000 and 2010 Commissions, a 2012 San Diego County Grand Jury Report, and community and participant feedback in order to cast as wide a net as possible for potential input.

A summary of the more notable proposed changes to the Charter is outlined below. Each section considered was also edited for stylistic changes in order to create clarity and/or consistency and, where appropriate, use “plain English” to promote accessibility to the material. A strike-out version of the Charter was prepared by the City Attorney’s Office and is attached for your consideration.

Charter Section 4: Districts Established

- Since the ninth Council district was created in 2010, outdated language that anticipated the addition of the ninth district has been removed.

Charter Section 5: Redistricting

- Procedures for handling a split voting precinct have been clarified. In addition, the term “Federal Decennial Census” has been defined.

Charter Section 5.1: Redistricting Commission

- The number of Redistricting Commission members has been increased from seven to nine members. The following language has been added, “The Appointing Authority shall attempt to appoint one Commission member from each of the nine Council districts to the extent practicable, given the other requirements of this Charter Section, and considering the extent of the applicant pool and an individual’s qualifications to serve. The Appointing Authority shall also attempt to appoint Commission members who possess working knowledge of the geography and neighborhoods of The City of San Diego.”

The increase to the number of Commissioners, with an attempt to select one Commissioner from each Council district, was suggested by various community groups and members of the public during outreach and overview presentations by the City Clerk. In addition, Councilmember Cate’s February 2, 2015 Charter Review Committee Priority Memo also suggests that the Council consider language that includes representation from each Council district.

The recommended change is to select one Commissioner from each Council district to the extent practicable, and not to require district-specific representation. Requiring district-specific representation could place the Appointing Authority in a difficult or even impossible situation if there were no applicants from a particular Council district, or a small number of applicants who fail to meet the requirements as outlined in the Charter in terms of demonstrated capacity to serve.

Despite significant outreach efforts by the City Clerk to expand and diversify the applicant pool, the 2000 redistricting process resulted in a range in the number of candidates per Council district from one candidate to thirteen. In 2010, the range in the number of candidates ran from two (in several Council districts) to twelve.

- The Appointing Authority process has been updated to reflect current practices in keeping with judicial ethics prohibitions and the Court's response to 2000 and 2010 requests for assistance in the appointment process. Language has been added to clarify that the Appointing Authority will consist of "a panel of three retired judges who served in any of the following courts: the Superior Court of the State of California, an appellate court of the State of California or a U.S. District Court located within California." The recommendation to update the language related to the selection of the Appointing Authority was included in Councilmember Gloria's January 26, 2015 memo on Charter Review Priorities, as well as in the 2012 San Diego County Grand Jury Report.

The term "Appointing Authority" has been defined.

In addition, Language has been added to allow for the random selection of an alternate retired judge to serve on the Appointing Authority in the event of an absence: "The City Clerk shall also draw at random the name of one additional retired judge to be designated as an alternate, who will be appointed to serve on the panel if another member is unable or unwilling to serve."

The issue of the two-member quorum was raised in the 2012 Grand Jury Report.

- Outdated language that referenced the Penal Code has been eliminated. An outdated reference to the City Manager has been replaced with the City Clerk for random selection of Appointing Authority members to create a panel of three.
- The option for the City Council to appoint the Commission as a last resort to the appointment process has been removed in order to eliminate the perception of a conflict of interest.

Instead of the Council, it has been proposed that the City Clerk serve as the Appointing Authority in the event that the retired judges are unable or unwilling to serve as the Appointing Authority. After a ministerial review of applications to ensure compliance with City Charter requirements and procedures set forth in the San Diego Municipal Code, the Clerk will notify the qualified candidate pool and randomly select applicants in a public location for appointment to the Redistricting Commission.

- The nomination (or application) period has been expanded from thirty days to sixty, with a start date of May 1st rather than July 1st. This would provide the City Clerk more time to conduct outreach in order to generate a sizeable pool of applicants. It also provides applicants additional time to fill out the required application and gather necessary paperwork to comply with the application

requirements. The earlier nomination period also avoids the heart of the summer months, during which many individuals vacation.

This expansion of the nomination period was suggested in the 2012 Grand Jury Report, which suggested that the number of nominees for the Commission was limited by the current 30-day nomination period. In addition, Councilmember Cate's Charter Review Committee Priority Memo suggested expanding the nomination period in order to draw from a wide pool of qualified applicants.

- Language has been added to outline a process for selecting alternate Commissioners, as follows: "The Appointing Authority shall also appoint two alternate Commission members from the same applicant pool, who will be available to serve if a Commission member cannot serve or resigns. The alternates shall have a duty to remain informed of Commission business so they are prepared to serve if called upon to do so."

Both the 2000 Redistricting Commission Recommendations and the 2012 Grand Jury Report suggested providing guidance on the selection of alternate Commissioners.

- Service of the Commission members and alternates has been clarified to last until the redistricting plan adopted by the Commission becomes effective and the referendary deadline for the Final Redistricting Plan has passed. If the Final Redistricting Plan is rejected by referendum or by legal challenge, the Commission shall resume service and create a new plan as outlined in the City Charter.
- The time by which Commission members shall hold their first meeting upon appointment has been extended from twenty to thirty days to give the members time to set a day, time and location and to understand noticing and other pertinent Brown Act requirements related to a public meeting.
- With the proposed increase in the number of Commissioners, the votes required to appoint the Commission's chief of staff has been increased from five to six in order to maintain a majority vote.
- The number of required public hearings prior to the preparation of a preliminary redistricting plan has been increased from four to nine in order to facilitate geographical diversity and coverage.

In addition, the number of public hearings during the 30-day period after the filing of the preliminary redistricting plan with the City Clerk has been increased from three to five in order to expand public participation.

The 2000 Redistricting Commission recommended that pre-map hearings be conducted in each of the Council Districts. The 2010 Redistricting Commission noted that it held “far more meetings than the number required by the City Charter and suggest[ed] that future Commissions do the same...”

- Language has been added to clarify that although the Final Redistricting Plan document, including all maps, will be final as set forth in the City Charter, the boundaries of the Council districts in the Final Redistricting Plan shall not be adjusted and effective until after the next regularly scheduled general election for Council seats following the redistricting. This clarifies what is already the applicable redistricting law.

Other Impacts/Issues

Charter Section 12(d): This section has been clarified as follows: “Upon any redistricting pursuant to the provisions of this Charter, incumbent Council members will continue to represent the district they were elected to serve for the remainder of their current term.”

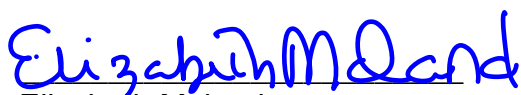
Charter Section 270: The Council: Since the ninth Council District was created in 2010, the City Attorney has removed outdated language that anticipated the addition of the ninth district, and cleaned up extraneous language.

Municipal Code Chapter 2, Article 7, Division 14: Procedure for Making Appointments to the Redistricting Commission: This entire Division will be expanded and updated contingent upon changes to the Charter. Some additional information would include:

- Details related to City hiring practices for the appointment of the chief of staff.
- Information about the City’s budget timeline and process to facilitate the creation and submission of the Commission’s budget.
- Specific information related to the City Clerk’s ministerial review of Redistricting Commission applications.

Recommendation

Approve the proposed changes to the City Charter to go forward to the appropriate Committee for consideration as a ballot measure for the June 7, 2016 Primary Election.



Elizabeth Maland
City Clerk