

CITY OF SANTA ROSA  
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL  
FROM: SUE GALLAGHER, CITY ATTORNEY  
CITY ATTORNEY'S OFFICE  
SUBJECT: PROPOSED CHARTER AMENDMENTS

AGENDA ACTION: MOTION

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RECOMMENDATION

It is recommended by the Charter Review Committee that the Council, by motion, introduce three measures to be placed on the November 2022 ballot for the voters' consideration: (1) a ballot measure to amend Charter Section 4 to increase Council compensation, by tying Mayor and Council compensation to a percentage of the County's Area Median Income; (2) a ballot measure to amend Charter Section 4 to align with the City's district-based election of Council members; and (3) a ballot measure to update and modernize the language of the Charter, including provisions to remove ambiguities, to provide additional flexibility in City operations, and to ensure gender and citizenship neutrality.

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EXECUTIVE SUMMARY

The Council will consider the recommendations of the 2021/2022 Charter Review Committee, including recommendations that three measures be placed on the November 2022 ballot for the voters' consideration. The three recommended measures include: (1) a measure to amend the Charter to increase Council compensation, by tying Mayor and Council compensation to a percentage of the County's Area Median Income; (2) a measure to amend Charter Section 4 to align with the City's district-based election of Council members; and (3) a measure to update and modernize the language of the Charter, including provisions to remove ambiguities, to provide additional flexibility in City operations, and to ensure gender and citizenship neutrality. The Council may also give direction to staff on additional or alternative Charter amendments.

BACKGROUND

Section 12 of the City Charter requires a review of the Charter not less than every ten years, with the review to be conducted by a committee to be appointed by the City Council. The last Charter review began in 2011 and resulted in proposed revisions

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placed on the November 2012 ballot. Ten years have now passed and, last August, 2021, the Council directed the establishment of a new Charter Review Committee and the initiation of a new review.

The Charter Review Committee met every other week for more than six months (with adjustments for holidays) and issued its final report on May 24, 2022. The Committee's final report was presented to Council in a study session held on that date.

The Committee recommended that three ballot measures be placed on the ballot for the voters' consideration in November 2022: (1) a ballot measure to amend Charter Section 4 to increase Council compensation, by tying Mayor and Council compensation to a percentage of the County's Area Median Income; (2) a ballot measure to amend Charter Section 4 to align with the City's district-based election of Council members; and (3) a ballot measure to update and modernize the language of the Charter, including provisions to remove ambiguities, to provide additional flexibility in City operations, and to ensure gender and citizenship neutrality.

The Committee also recommended that at least one additional measure, to expand voting rights in local elections to noncitizens, be further evaluated and researched for possible action in the future. Further information on that recommendation will be brought to the Council at a later date.

The Committee considered, but did not recommend at this time, proposals to shift from an appointed to a directly elected Mayor and for adoption of ranked choice voting in local elections.

#### PRIOR CITY COUNCIL REVIEW

On August 17, 2021, Council adopted Resolution No. RES 2021-147, establishing the 2021-2022 Charter Review Committee and initiating Charter review.

On May 24, 2022, Council held a study session to receive the Charter Review Committee Final Report.

#### ANALYSIS

The Committee recommended that three ballot measures be placed on the ballot for the voters' consideration in November 2022: (1) a ballot measure to amend Charter Section 4 to increase Council compensation; (2) a ballot measure to amend Charter Section 4 to align with the City's district-based election of Council members; and (3) a ballot measure to update and modernize the language of the Charter. At the study session on May 24th, the Council generally expressed support for the three proposed measures, recognizing, however, that some possible revisions may be appropriate.

The three proposed measures are set forth below.

**A. Ballot Measure to Increase Council Compensation**

i. Current Charter Provision

Section 4 of the City Charter currently provides that Council compensation will be established by ordinance in accordance with formulas set forth in state law. For a city the size of Santa Rosa, state law allows for Council member salary up to \$800 per month. Although state law allows for periodic increases in that salary, the Council has not taken advantage of that statutory allowance, and Council member salary has remained at \$800 per month since 2005.

Section 4 of the City Charter provides that the Mayor shall receive 150% of Council member salary. Pursuant to that provision, the Mayor currently receives \$1200 per month.

The Mayor and Council members also receive City benefits, including health, vision, dental, life insurance, long-term disability, retirement and other benefits. The value of those benefits range from approximately \$19,000 to \$33,000 per year.

ii. Committee Recommendation and Rationale

As the Charter Review Committee stated in its Final Report to Council, the Committee heard evidence of the workload of the Mayor and Council members, of the difficulties of balancing private employment, child care, family and the responsibilities of Council membership. There was no doubt that the Mayor has full time responsibilities, with the responsibilities of the Council members easily requiring 20 - 30 hours per week.

The Committee also received information on Council member compensation in other Northern California cities, including (a) eleven comparable cities used by the City to evaluate employee salaries, (b) eleven North Bay cities, including cities in Sonoma, Napa and Marin Counties, and (c) a variety of cities in Northern California, including several larger jurisdictions. The Committee also was provided information regarding the recent Measure JJ, adopted by the voters in Berkeley in 2020, in which the Mayor and Council member salaries in Berkeley were set at a percentage of the Alameda County's area median income (AMI) (Mayor at 100% of AMI, Council members at 63% of AMI).

The Charter Review Committee unanimously agreed that Council compensation should be increased (a) to enable a greater diversity of membership (including those with young families, those with lower paying occupations and those without independent means of wealth), (b) to ensure continued strong commitment and professionalism, and (c) as a matter of fairness and respect for the extensive work performed by Council members.

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The Committee considered various options for compensation, including maintaining the current Charter provision, tying the Council's compensation to the salary of County Supervisors or Superior Court Judges, tying Council compensation to either the lowest wage or average salary of City workers, setting Council compensation at the average of compensation in comparable cities, or tying Council compensation to the City's area median income.

After extensive discussion, a strong majority of the Committee recommended that Santa Rosa pursue a model similar to that adopted in Berkeley and that (1) the Mayor's salary be set at the Area Median Income (AMI) for a three person household as determined by the U.S. Department of Housing and Urban Development (HUD); (2) the Council members' salary be set at two-thirds of the AMI for a three person household; and (3) the Mayor and Council member salaries be permanently tied to the AMI for a three person household, rising or falling with annual adjustments in the AMI. Currently, AMI for a three person household in Santa Rosa is \$92,950, meaning the Mayor would receive an annual salary of \$92,950 and Council members would receive an annual salary of \$61,347.

The Committee also recommended that the Council consider building in a penalty or reduction in salary for unexcused absences, or to parallel a city-wide reduction in City salaries, or other circumstances as the Council deems appropriate.

A proposed ballot measure reflecting the Committee's recommendation is attached as Attachment 1.

### iii. Alternatives

At the study session on May 24, 2022, some questions were raised regarding alternative formulas for Council compensation. Alternatives include:

- Tying Council Compensation to AMI, but Providing for a Different Percentage or Household Size

A strong majority of the Charter Review Committee urged adoption of the recommended AMI percentages (100 percent for Mayor and 2/3 for Council members). Indeed, many of the Committee members recommended application of a higher percentage of the three-person household AMI -- 140% for the Mayor's compensation and 100% for Council member compensation.

That being said, the Council could decide to adopt a different percentage of AMI, or could decide to tie Council compensation to AMI for a different household size. A chart of current AMI for Sonoma County is attached as Attachment 5.

- Council Could Independently Adopt Increases Currently Allowable under State Law

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As noted above, Section 4 of the Charter currently ties Council compensation to state law. State law sets forth a schedule of Council compensation based on city population. (See Government Code section 36516.) For cities of comparable size – cities with populations between 150,000 and 250,000 – state law provides for a Council member's salary of \$800 per month. State law allows the \$800 per month salary to be increased up to 5% per year, provided that any such increase must be adopted by ordinance and made effective only when at least one Council member begins a new term. The allowable 5% increase is a flat rate, not compounded, and thus, for purposes here, equals a \$40 increase in monthly salary for each calendar year. The increase may accumulate if not immediately applied.

The Santa Rosa Council's compensation of \$800 per month was set in accordance with state law in 2005 and has not been adjusted since that time -- a total of seventeen years without an increase. Thus, under the current Charter provision, the Council has the authority to increase its monthly compensation by \$40 x 17, for a total monthly increase of \$680. With that increase, Council annual salary would move from \$9,600 to \$17,760. The Mayor would receive 150% of that salary, for a total annual salary of \$26,640. The adjustment could be made by ordinance and no Charter amendment would be required.

- Tie Council Compensation to the Lowest Wage or Average Salary of City Employees

The average annual salary of City employees is approximately \$95,000. The lowest City employee wage is \$15.85 per hour. Council could determine to set Council compensation at some percentage of average or lowest City employee salary. This proposal, however, did not gain traction with a majority of the Committee.

- Set Council Compensation at the Average Compensation of Santa Rosa's Comparable Cities

A list of comparable cities has been developed by the Human Resources Department for use in comparing employee salaries. During Committee discussions, it was suggested that Mayor and Council compensation be set at the average of those cities. Currently, that average is approximately \$31,000 for Mayors and \$20,150 for Council members. This proposal, however, also did not gain traction with a majority of the Committee.

### **B. Ballot Measure to Align Charter with District-Based Election of Council Members**

In 2017, the City faced legal challenge under the California Voting Rights Act to its at-large election of Council members. The California Voting Rights Act prohibits at-large election of Council members if a city experiences racially polarized voting. An independent analysis of multiple City elections revealed that racially polarized voting had historically combined with the City's at-large election system to impair the ability of

Latino voters to elect candidates of their choice or to influence the outcome of an election.

The California Voting Rights Act preempts all local laws and applies equally to General Law and Charter cities. Given the evidence of racially polarized voting, the Council determined to transition the City to district-based election of Council members to bring the City into compliance with the California Voting Rights Act. On April 17, 2018, by Ordinance No. ORD-2018-007, the Council defined the seven Council districts and set a sequencing for the transition. The first district-based elections were held in 2018 for Council members in Districts 2, 4 and 6. The transition was completed in 2020, with the election of Council members for Districts 1, 3, 5, and 7.

Although the City has fully transitioned to district-based election of Council members, Section 4 of the Charter still references at-large elections. The Charter Review Committee, by unanimous vote of all members present, recommended placing a measure on the November 2022 ballot to ratify the City's district-based elections and ensure compliance with the California Voting Rights Act.

A proposed ballot measure, amending Section 4 of the Charter to align its language with the City's district-based election of Council members, is attached as Attachment 2.

### **C. Ballot Measure to Update and Modernize City Charter**

The Charter Review Committee considered a number of proposed revisions intended to update and modernize the City Charter. The proposed revisions will clarify existing ambiguities, give greater flexibility in City operations, and modernize language to ensure gender and citizenship neutrality. All of the revisions are anticipated to be non-controversial and the Committee recommends that they can be included in a single ballot measure. Similar "clean-up" measures were presented to the voters in 2002 and 2012 and passed with strong support.

Elements of this year's proposed update include:

1. Frequency of Charter Amendments: The Committee strongly recommended that Section 12 of the Charter be revised to allow for more frequent Charter amendments. The importance of allowing revisions to the Charter in the period between decennial reviews was highlighted by the Committee's discussion of the proposals for an at-large Mayor and for extension of voting rights to noncitizens. In both of those instances, the Committee felt that the proposals, for different reasons, might be better considered in a few years. The Committee recommended that Section 12 be revised to confirm that the Charter shall be reviewed every ten years, but that nothing in that section precludes additional amendments placed on the ballot by voter initiative or by Council ordinance at such other times as deemed necessary.

The proposed revisions are set forth in the draft ballot measure attached as Ballot Measure No. 3.

2. Responsibilities for Emergency Management: The Committee recommended that the Charter update include amendments to confirm that the City Manager and Public Safety hold the responsibility for leadership during emergencies and to remove possible ambiguities. The amendments will include revisions to Sections 15 (Mayor), 18 (City Manager), 21 (Police Chief) and 22 (Fire Chief).

The proposed revisions are set forth in the draft ballot measure attached as Ballot Measure No. 3.

3. Option for Two Year Budget: The Committee also recommended that the Charter update include a revision to Section 28 (Budget) to clarify that the City Manager may propose a multi-year budget. All other provisions of Section 28 would remain unchanged.

The proposed revisions are set forth in the draft ballot measure attached as Ballot Measure No. 3.

4. Confirm Scope of Board of Public Utilities: The Committee recommended that the Charter update include a revision to Section 25 (Board of Public Utilities) to clarify that, in addition to water-related utilities, including water, wastewater and stormwater, the Board's responsibilities may, at the Council's discretion, include "dry" utilities, including electricity, broadband and others. This clarification will confirm the existing language and intent of Section 25.

The proposed revisions are set forth in the draft ballot measure attached as Ballot Measure No. 3.

5. Clarification of Ambiguities: The Committee recommended minor clarifications to Section 19 (City Attorney – to clarify that City Attorney must have at least three years of practice in California, but that those three years need not immediately precede appointment); Section 32 (Council Member Recall – to clarify that a vacancy created by recall shall be filled in the same manner as any other vacancy); and Section 37 (Deputy Officials – to clarify that the City Manager and City Attorney may select their own deputies without need for Council consent).

The proposed revisions are set forth in the draft ballot measure attached as Ballot Measure No. 3.

6. Gender Neutrality: The Committee recommended that the Charter be revised as necessary to ensure all language in the Charter is gender-neutral.

The proposed revisions are set forth in the draft ballot measure attached as Ballot Measure No. 3.

7. Citizenship Neutrality: The Committee recommends that the Charter be amended to replace the word “citizen” with the word “resident” throughout.

This revision affects Sections 10 and 11 of the Charter, and the proposed revisions are set forth in the draft ballot measure attached as Ballot Measure No. 3.

#### **D. Other Issues Considered, But Not Recommended for Action at this Time**

As noted above, the Charter Review Committee also recommended that the Council move forward with consideration of expansion of voting rights to noncitizens in local City elections. The Committee recognized, however, that additional study, community outreach and logistical preparations would be required and that preparation of a ballot measure for the November 2022 election was not feasible. The Committee urged the Council to pursue the proposal as soon as practicable.

The Charter Review Committee also considered several other potential Charter amendments, but recommended that those amendments not move forward at this time. These included a proposal to move to a directly elected Mayor and a proposal for adoption of ranked choice voting in City elections. A majority of the Committee felt that these proposals were not ripe for consideration at this time.

#### FISCAL IMPACT

Unknown at this time.

#### ENVIRONMENTAL IMPACT

The proposed action is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3) and 15378 in that there is no possibility that the implementation of this action may have significant effects on the environment, and no further environmental review is required.

#### BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

The Charter Review Committee was formed in the fall of 2021 and worked diligently over the course of six months to research, discuss and deliberate on a series of



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potential amendments to the City Charter. The Committee issued its Final Report to Council on May 24, 2022. A copy of that Final Report is attached as Attachment 1.

### NOTIFICATION

Not applicable.

### ATTACHMENTS

- Draft Ballot Measure No. 1 – Council Compensation
- Draft Ballot Measure No. 2 – Proposed Ballot Measure – Align Charter with District Based Elections
- Draft Ballot Measure No. 3 – Proposed Ballot Measure – Update and Modernize Charter
- Attachment 1 – Charter Review Committee’s Final Report to Council, dated May 24, 2022
- Attachment 2 – Attachments to the CRC Final Report to Council
- Attachment 3 – Links to Documents Presented to the Charter Review Committee
- Attachment 4 – City of Berkeley, Measure JJ (2020)
- Attachment 5 – 2022 Sonoma County Area Median Income, by Household Size
- Attachment 6 – Charter of the City of Santa Rosa (rev. 2012)

### CONTACT

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