

CHARTER REVIEW COMMITTEE
FINAL REPORT TO COUNCIL

MAY 24, 2022

CITY OF SANTA ROSA, CALIFORNIA

TABLE OF CONTENTS

| | <u>Page</u> |
|--|-------------|
| I. SUMMARY OF RECOMMENDATIONS | 1 |
| II. BACKGROUND | 3 |
| III. COMMITTEE RECOMMENDATIONS | 6 |
| A. Council Compensation | 6 |
| B. Directly Elected Mayor | |
| C. Ranked Choice Voting | 11 |
| D. Voting Rights for Noncitizens | 12 |
| E. District-Based Election of Council Members | 13 |
| F. Charter Update and Modernization | 14 |
| 1. Council Vacancy Procedures | 14 |
| 2. Frequency of Charter Amendments | 14 |
| 3. Responsibilities for Emergency Management | 14 |
| 4. Flexibility for City Operations | |
| a. Option for Two Year Budget | 15 |
| b. Confirm Scope of Board of Public Utilities | 15 |
| 5. Clarification of Ambiguities | 15 |
| a. City Attorney Required Experience | |
| b. Council Recall – Filling Vacancy | |
| c. Appointment of Deputy Officials | |
| 6. Gender and Citizenship Neutrality | 15 |
| IV. ADDITIONAL ISSUES CONSIDERED BUT NOT PRIORITIZED | 15 |
| V. CONCLUSION | 16 |

Appendices

| | |
|---|--|
| A | Proposed Charter Amendments in Redline |
| B | Committee Member Supplemental Comments |
| C | Charter Review Committee Roster |
| D | Equity Principles |
| E | Meeting Minutes |
| F | Summary of Votes |

I. SUMMARY OF RECOMMENDATIONS

The 2022 Charter Review Committee (Committee) submits the following recommendations to the City Council. A full discussion of each recommendation is set forth in Section III of this report. In addition, Committee members were provided an opportunity to submit additional comments for the Council's consideration and those comments are attached as Attachment B.

The Committee's recommendations are as follows:

- A. Council Compensation: The Committee recommends that the City Council submit to the voters a ballot measure to increase compensation of Mayor and Council members. The Committee found that increased compensation would open the door for a greater diversity of Council member candidates and more fairly reflect the work and responsibilities of membership on the Council. The Committee recommends as follows: (1) Mayor's compensation shall be set at Area Median Income (AMI) for a three-person household; (2) Council members' compensation shall be set at two-thirds of AMI for a three-person household; (3) Mayor and Council member compensation shall be permanently tied to AMI for a three-person household, with annual adjustments; and (4) Council to consider providing for reduction in compensation for specified circumstances (for example, unexcused absences, city-wide salary reductions, etc.).
- B. Directly Elected Mayor: The Committee recommends against a proposed ballot measure to move from a Council-appointed Mayor to a directly elected Mayor. The Committee was divided, but a majority of those present recommend that the City hold off on any changes to the structure of the Council at this time, given the recency of the City's transition to District-based election of Council members and this year's redistricting of the existing Council districts. Concerns about potential impacts on equity were paramount. A minority of Committee members recommended moving forward with a ballot measure at this time, finding that the benefits of a Mayor elected by City-wide vote and answerable to the full community outweighed any possible disruption. Several of those voting to move forward, however, conditioned their votes on the adoption of measures to mitigate potential impacts on equity.
- C. Ranked Choice Voting: The Committee considered, but ultimately rejected, a proposal to implement a system of ranked choice voting for the election of Council members. The Committee found that the high expense of instituting and operating the new system was not warranted, given the limited impact shown in recent elections in four Bay Area cities with ranked choice voting systems.
- D. Voting Rights for Noncitizens: The Committee recommends that the Council move forward to consider expanding local voting rights to noncitizens. The Committee urges the Council (a) to hold a study session to examine potential eligibility criteria, costs of the new system, options for implementation, the experience of other cities, and other key issues, and (b) to launch a robust community outreach and engagement to gauge the community's preferences and support.

- E. District Elections: The Committee unanimously recommends that Council place a measure on the ballot to ratify the City's district-based Council elections. The ratification would bring the City into full compliance with the California Voting Rights Act.
- F. Charter Update and Modernization: The Committee considered a number of proposed revisions to update and modernize the City Charter, including the following:
1. Council Vacancy Procedures: Although the Committee recognized the need to update procedures for the filling of Council vacancies, the Committee determined that those updates are best pursued through Council policy or ordinance. The Committee recommends no revisions to the Charter.
 2. Frequency of Charter Amendments: The Committee strongly recommends that the Charter update include an amendment to Section 12 of the Charter to clarify 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.
 3. Responsibilities for Emergency Management: The Committee recommends that the Charter update include amendments to clarify the City Manager's and Public Safety's 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).
 4. Option for Two Year Budget: The Committee recommends 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.
 5. Confirm Scope of Board of Public Utilities: The Committee recommends that the Charter update include a revision to Section 25 (Board of Public Utilities) to clarify that the Board's responsibilities may, at the Council's discretion, include stormwater and "dry" utilities, including electricity, broadband and others.
 6. Clarification of Ambiguities: The Committee recommends minor revisions to Sections 19 (City Attorney), 32 (Council Member Recall) and 37 (Deputy Officials) to clarify City procedures.

7. Gender Neutrality: The Committee recommends that the Charter be revised as necessary to ensure all language in the Charter is gender-neutral.
8. Citizenship Neutrality: To strengthen inclusivity, the Committee recommends that the Charter be amended to replace the word “citizen” with the word “resident” throughout.

II. BACKGROUND

The City of Santa Rosa is a Charter City formed pursuant to the provisions of the California Constitution. The City’s Charter is adopted by the voters and provides the fundamental framework for the City’s governance. It is, in essence, the City’s “constitution.”

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 placed on the November 2012 ballot. Ten years have now passed and on August 17, 2021, by Resolution No. RES-2021-147, the City Council directed the establishment of a new Charter Review Committee and the initiation of a new review.

In accordance with Resolution No. RES-2021-147, the City Council appointed a Charter Review Committee composed of twenty-one individuals. Each Council member appointed three Committee members and the result was a diverse group of Santa Rosa residents, including diversity in age, race, gender, geography, interests and backgrounds. The Committee was charged with reviewing the entirety of the Charter and recommending to the Council whether any amendments should be made. A full roster of the Committee is attached as Attachment D to this report.

Committee Task and Meetings:

The Council proposed twelve issues for the Committee’s consideration:

- Directly elected Mayor
- Ranked choice voting
- Police oversight
- Council compensation
- Climate change
- Diversity, equity and inclusion
- Excise tax
- Regulation of rental properties
- Procurement policy reforms
- Board and commission quorums
- Removal of mayor or Council members for misconduct
- Two year budget.

The Council further encouraged the Committee to consider such other issues as the Committee determined appropriate.

The Committee met every other week from November 17, 2021 through May 11, 2022, with adjustments for holidays. The written information provided to the Committee is available at <https://santa-rosa.legistar.com/Calendar.aspx>. Recordings of the meetings are available at <https://santa-rosa.legistar.com/Calendar.aspx>.

The Committee voted on issues as the issues were presented and debated. Tallies were taken sometimes by straw vote, sometimes by final vote. At its last meeting on May 11, 2022, the Committee determined to ratify all prior votes as final votes.

This Report seeks to present a full picture of the Committee's deliberations on each issue. Time and space constraints, however, necessarily limit the scope of the discussion. To ensure that all Committee members views are heard, members of the Committee were provided an opportunity to provide additional written comments if they wished to state a minority position or provide other information for the Council's consideration. As noted above, the Committee members' comments are attached as Attachment B.

Chair and Staffing:

Mayor Chris Rogers appointed Patti Cisco as the Chair of the Committee, responsible for setting agendas and presiding over the meetings. The Committee elected Ernesto Olivares as Vice Chair to serve in the absence of the Chair.

The City Attorney, Sue Gallagher, and her office provided legal advice, agenda preparation, information gathering, presentations and arrangement for guest speakers. The City Clerk, Stephanie Williams, and her office provided staff support for agenda preparation, meeting notification, meeting minutes, and clerical support.

Education and Training:

As the Committee began its work in the fall of 2021, it received foundational training on the requirements of the Brown Act and the Public Records Act. In addition, the City Attorney provided the Committee with background on the nature and scope of the current City Charter, as well as the complementary role of City ordinances and Council resolutions.

As the Committee considered individual issues, staff made best efforts to provide relevant background information and presentations to enable well-informed decision-making.

Opportunities for Public Participation:

All meetings of the Committee were open to the public. Meetings were held via Zoom from 5:00 – 7:00 p.m. every other Wednesday, with adjustments in the schedule for holidays. Public notice of each meeting, including directions for participation by phone or internet, was provided in

accordance with the Brown Act. At each meeting, the public was provided an opportunity to comment on each agenda item, as well as an opportunity at the beginning of each meeting to speak to issues within the Committee's jurisdiction but not on the agenda.

A webpage was created for the [Charter Review Committee](#). Agendas, minutes and information provided to the Committee were posted at <https://santa-rosa.legistar.com/Calendar.aspx>. An email account was established for the Committee to receive additional community input. All written communications received were provided to the full Committee.

Commitment to Diversity, Equity, Inclusion and Belonging:

As it began its work, the Committee considered the prominent role it envisioned for principles of diversity, equity, and inclusion. Socorro Shiels, the City's Diversity, Inclusion and Equal Employment Officer joined the meetings to provide guidance. She told the Committee of the City's on-going diversity, equity and inclusion work with SEED Collaborative, she provided important initial definitions of terms, and she introduced the concepts of belonging and of Targeted Universalism. Ms. Shiels provided samples of Equity Principles adopted by others, including the County's Redistricting Commission, and encouraged a robust discussion.

The Committee recognized that principles of diversity, equity, inclusion and belonging would govern both the Committee's own internal processes *and* its substantive recommendations for Charter revisions. Internally, the principles would help to ensure that the Committee would be a safe space, a space for open and frank discussions where all felt welcome and comfortable to speak. Facing outward, the principles would help frame the Committee's decision-making to ensure that all recommendations to Council would foster and support diversity, equity, inclusion and belonging in the City's governance and in the broader community.

At its meeting on December 15, 2021, the Committee unanimously adopted a statement of Equity Principles to govern its work, both procedurally and substantively. A copy of that statement of Principles is attached as Attachment C. Those Equity Principles (including diversity, equity, inclusion and belonging) were affirmed at the beginning of each meeting and were woven into the discussions of all proposals. Issues of equity were particularly integral to the Committee's consideration of Council compensation, of a directly elected Mayor, and of the expansion of voting rights to noncitizens. The clarification of Charter Section 12 to expressly allow for more flexibility in the timing of Charter amendments also had significant relevance to expanding the City's opportunities for strengthening diversity, equity, inclusion and belonging. A strong focus on Equity Principles ran throughout the Committee's work.

III. COMMITTEE RECOMMENDATIONS

A. COUNCIL COMPENSATION

i. Existing Charter Provisions

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.

ii. Committee Discussion and Deliberations

The Charter Review 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 area's median income (Mayor at 100%, Council members at 63%).

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.

The Committee considered options for compensation over the course of three meetings (December 15, 2021, January 5, 2022 and April 27, 2022). A range of options were discussed, 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.

iii. Committee Recommendation

After extensive discussion, the Committee determined, on a vote of 14 to 5, with two members absent, to recommend 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; (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; and (4) 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 strong majority of the Committee believes that such compensation appropriately reflects the nature and extent of the Councils' responsibilities and time commitments, that it will ease the burdens of service that currently prevent a greater diversity on the Council, and that it is easy to understand and will be readily accepted by the community. 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.

It should be noted that a strong minority of the Committee urged a higher level of compensation. A motion was made to recommend setting the Mayor's salary at 140% of AMI for a three person household and Council members at 100% of AMI for a three person household. That motion was narrowly defeated on a vote of 8 in favor, 11 opposed and 2 absent.

At least two other Committee members voiced preference that Council simply utilize its existing authority under current Charter provisions and state law to increase Council compensation.

iv. Additional Options

For the Council's information, the following is a brief summary of other options considered by the Committee and the reasons for their rejection:

- a. Maintain Existing Charter Language and Encourage Council to Adopt Increases Currently Allowable under State Law

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.

Although this option provides the easiest path to increase compensation, a strong majority of the Committee did not believe that this minor increase was sufficient to address the Committee's concerns.

- b. Tie Council Compensation to the Salary of the Board of Supervisors or the Sonoma County Superior Court Judges

Members of the County Board of Supervisors each earn approximately \$161,000 in annual salary. A Sonoma County Superior Court Judge currently earns approximately \$182,000 annually.

The Committee discussed the differences in scope of responsibilities between the City Council and the Board of Supervisors, including population levels, number of departments and employees supervised, size of the organizational budget, and the nature and scope of services provided. The proposal did not gain traction with a majority of the Committee.

- c. 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. This proposal also did not gain traction with a majority of the Committee.

- d. 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. 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 also did not gain traction with a majority of the Committee.

B. DIRECTLY ELECTED MAYOR (AT-LARGE MAYOR)

- i. Existing Charter Provisions

Pursuant to Section 15 of the City Charter, the Mayor and Vice Mayor are currently selected by the Council members themselves. Section 15 provides that, following each general or special

municipal election and at any time that there is a vacancy in the office of Mayor, the Council shall meet and elect one of its members to serve as Mayor for a two year term. Section 15 further provides that, at the time the Council selects a Mayor and during each November in odd numbered years, the Council shall elect another of its members to serve as Vice Mayor for a one year term.

ii. Committee Discussion and Deliberations

The Charter Review Committee met twice (January 19, 2022 and February 2, 2022) to discuss a possible Charter amendment to provide for the direct election of the Mayor by a city-wide vote. The Committee heard a presentation on the current structure of the City governance, the roles and responsibilities of the Mayor, some of the key reasons for the proposal for a directly elected Mayor, and some of the key concerns raised about the proposal. The Committee received data on the structure of Councils in other Northern California cities and heard from two directly elected Mayors, the Mayor of San Rafael, Kate Colin, and the Mayor of Petaluma, Teresa Barrett, both of whom spoke to what they saw as the virtues of a Mayor at large. The Committee also had the benefit of comments from two former Santa Rosa Mayors, Scott Bartley and Ernesto Olivares, both of whom were familiar with and spoke to the pros and cons of our existing practice of selection of the Mayor by Council members.

At its meeting on February 2, 2022, the Committee took a straw vote in which it determined, on a 10 – 7 vote with four members absent, to recommend against a transition to a directly elected Mayor.

Those in favor of transitioning the City to a directly elected Mayor were persuaded by the following:

- A directly elected Mayor is a powerful symbol, a focal point for the community;
- A directly elected Mayor would speak for the entirety of the community with “one voice”;
- A directly elected Mayor would encourage greater voter engagement;
- A directly elected Mayor may be better regarded by legislators, state and federal authorities and at conferences of mayors, by virtue of being elected by the City as a whole;
- A directly elected Mayor would give voters the chance to vote for two representatives, their own district council representative as well as the Mayor;
- In times of emergencies (i.e. fires, natural disasters) it may be more advantageous to have a Mayor elected by the entire community.

Many of those who expressed support for a directly elected Mayor, however, recognized that a directly elected Mayor could have negative impacts on diversity, equity, inclusion and belonging and conditioned their support on what they hoped would be some form of mitigation for those potential impacts. Potential mitigation measures included term limits or a two year Mayoral term to provide more opportunities. Some expressed that they were in favor of the change only if it came with a dramatic increase in compensation for the Mayor and all Council members, so

as to encourage candidacies of greater diversity. Some also thought that equity concerns posed by an at-large election might be offset by amending the City Charter to allow noncitizens to vote in City elections.

Those opposed to a transition to a directly elected Mayor were persuaded by the following:

- Equity concerns were paramount:
 - Because of the high cost of a city-wide campaign for Mayor, some residents, particularly those of less advantage, would be prevented or discouraged from running, thus working against the City's goals of diversity, equity, inclusion and belonging;
 - Because of the high costs of a city-wide campaign for Mayor, the system would favor those who can fund a campaign with the backing of those in wealthier parts of town;
 - The eastern portions of town traditionally have had higher voter turn-out, so returning, even in part, to an at-large election could be a step backward, refocusing election efforts to historically powerful areas;
 - The current system may afford a better opportunity for selection of a Mayor from the historically disadvantage neighborhoods and backgrounds; (Council may be more likely to select a diverse Mayor from their own ranks, with whom they are familiar, than voters at large);
- This is a "solution in search of a problem." Current Council members selected by their peers to be Mayor have properly balanced their dual role, speaking effectively both for their district and the City as a whole;
- Timing is problematic; we have seen positive change across the City from district elections, and the district-based system should be given a chance to mature; perhaps better to revisit this proposal after the district-based election system has had time to settle and the voters have had a few years to assess if any problems have emerged;
- Timing is problematic as converting to a Mayor at large is likely to require another re-districting, the third districting in five years, which might be a "bridge too far" for voters;
- Increased risk of an inexperienced candidate being elected to office of Mayor;
- Risk of Council and Mayor being less collegial and possibly even antagonistic toward one another, is greater than when selected by peers.

iii. Committee Recommendation

The Committee, in a straw vote at its February 2, 2022 meeting, determined to recommend against placing a measure on the ballot for a directly elected Mayor. Four Committee members were absent, but of the 17 members who were present, 7 voted in favor of amending the Charter to provide for a directly elected Mayor elected at large, and 10 voted against it. Several of the members that voted in favor of the amendment expressed significant caveats on their vote.

The proposal for a directly elected Mayor did not move forward, and at its final meeting on May 11, 2022, the Committee, by unanimous vote of the 19 members present, accepted the straw vote as its final vote.

C. RANKED CHOICE VOTING

i. Proposed Amendment

The Charter Review Committee met on February 16, 2022, to consider a possible amendment to the City Charter to provide for ranked choice voting in Council member elections. Ranked choice voting allows voters to rank candidates in order of their preferences on the ballot rather than voting simply for a single candidate. Ballots are gathered and to begin, only first choice votes are counted. If no candidate wins a majority among those first choice votes, the candidate with the fewest votes is eliminated from the race. The ballots of the eliminated candidate are reexamined and those voters' second choices are applied to the tallies of the remaining candidates. The process continues until one candidate achieves a majority of votes and thus wins the election.

ii. Committee Discussion and Deliberations

The Committee heard presentations from Deva Marie Proto, the Sonoma County Registrar of Voters, and from the City Attorney. Ms. Proto provided a thorough explanation of the ranked choice voting process. She outlined the equipment and software required for its implementation and provided an estimate of initial and on-going costs. Estimated costs included a one-time investment of approximately \$350,000 for the purchase and installation of needed software and approximately \$70,000 in annual processing costs. Additional costs would also likely be incurred for required printing, ballot design, and educational materials. The City Attorney provided data on ranked choice voting results in four Bay Area jurisdictions in the 2018 and/or 2020 election cycles. The data indicated that, out of 32 elections reviewed, ranked choice voting resulted in a different result in one race. In all other races, the candidate leading in the initial vote prevailed in the final round as well.

After a thorough discussion, a straw poll was conducted in which the Committee voted 17 to 3 against a Charter amendment. Those opposed to an amendment expressed that:

- Ranked choice voting seems a “solution in search of a problem”; a possible answer to a possible problem in the future, but not yet warranted for Santa Rosa City Council elections;
- The complexity of a ranked choice voting ballot may discourage voting and add to voter skepticism of election outcomes;
- The financial burden to the City outweighs the marginal benefits;
- Because of the relatively small size of district elections, and the fact that in other jurisdictions ranked choice voting has rarely changed the election outcome, a change to the current system is not needed.

Those in support of an amendment expressed that:

- Ranked choice voting ensures a broadly-accepted winning candidate;
- Ranked choice voting encourages voters to look more closely at the entire slate of candidates and not simply focus on their initial candidate of choice;

- Ranked choice voting, while perhaps not needed now, may prove important in the future.

iii. Committee Recommendation

At its meeting on February 16, 2022, the Committee conducted a straw vote, in which the Committee members voted 17 to 3 against pursuit of a Charter amendment for ranked choice voting. The proposal for ranked choice voting did not move further, and at the Committee's final meeting on May 11, 2022, the Committee, by unanimous vote of the 19 members present, accepted that straw vote as its final vote.

D. VOTING RIGHTS FOR NONCITIZENS

i. Proposed Amendment

At the suggestion of Committee members, the Committee, at its April 13, 2022 meeting, explored avenues for expanding voting rights in local elections to noncitizens. Committee members expressed that people who live, work and pay taxes in the community should have a say in how the City is governed -- granting noncitizens the right to vote is simply fair and just.

Although federal and state laws require U.S. citizenship for all voters in federal and state elections, nothing in federal or California law expressly precludes local jurisdictions from expanding the right to vote in their own local elections. Currently across the nation, fifteen local jurisdictions allow for noncitizen voting in local elections, including New York City, San Francisco (school board only), eleven cities in Maryland and two cities in Vermont.

ii. Committee Discussion and Deliberations

Those that support extension of voting rights for noncitizens also emphasized that:

- Allowing noncitizens to vote strengthens communities and promotes engagement, investment and belonging;
- Without voting rights, noncitizens are subject to taxation without representation;
- When a segment of the community is excluded from voting, there is a heightened risk of discriminatory public policies;
- Given the high costs and long waiting periods for naturalization, prohibiting noncitizens from voting is unjust and unnecessary.

Although nationally, opponents to noncitizen voting often argue that people should accept the duties of citizenship before being grant the right to vote and that granting the right to vote may discourage individuals from seeking citizenship and the obligations that attach, those concerns were not voiced by Committee members. The few concerns raised by Committee members centered on practical logistics, as described below.

The Committee invited Deva Marie Proto, Sonoma County Registrar of Voters, to speak to the logistics of noncitizen voting. Ms. Proto explained that, due to several legal and practical

reasons, the County Registrar of Voters would not be available to assist in noncitizen voting in City elections. The City would need to create its own independent voting system, including a voter registration system (including development of eligibility criteria, forms for registration, standards and procedures to confirm eligibility, and on-going maintenance and update of voter database), the development, publication and distribution of a separate ballot or ballots (containing only City elections), establishment of polling places or mail-in voting, and a system for counting and certifying the vote. Ms. Proto confirmed that the County voting system would remain available to provide for citizen voting in City elections, but the City's voting system for noncitizens would be fully independent.

To the extent that Committee members expressed any concerns about expanding the right to vote to noncitizens, virtually all of those concerns centered on the costs and difficulties of establishing that parallel voting system. A few additional concerns were voiced regarding the risks of legal challenge as well as the risks of potential immigration implications for individuals choosing to participate. One Committee member also cited to the experience in San Francisco (school board elections only), in which noncitizen voter turnout in 2018 was relatively low, with 81 noncitizens registering to vote and 30 noncitizens voting.

iii. Committee Recommendation

A motion to recommend that the Council study the issue and place a proposal for noncitizen voting on the 2026 ballot received substantial support, but, with a 9 – 9 vote and two absences, it was just shy of a majority. Those voting against the proposal expressed concerns with setting a deadline for action, noting the need for substantial additional information and work in crafting a proposal.

Ultimately, on a unanimous vote of the 18 members present, the Committee recommended that the Council move forward with consideration of expanding voting rights to noncitizens, including (a) setting a study session to examine potential eligibility criteria, costs of the new system, options for implementation, the experience of other cities, and related issues, and (b) launching a robust community outreach and engagement to gauge the community's preferences and support.

E. DISTRICT ELECTIONS

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. At its meeting on March 30, 2022, the Committee, by unanimous vote of all members present, recommended a ballot measure to ratify the City's district-based elections and its compliance with the California Voting Rights Act.

F. CITY CHARTER UPDATE AND MODERNIZATION

At its meetings on March 16 and March 30, 2022, the Committee considered a number of proposed revisions to update and modernize the City Charter. The proposed revisions are intended to clarify ambiguities, harmonize current and best practices and modernize language. The Committee anticipates that these revisions can be included in a single ballot measure.

Final votes were taken at the March 30th meeting with 19 members present. The proposed revisions included the following:

1. Procedures for Council Vacancy: Although the Committee recognized the need to update procedures for the filling of Council vacancies, the Committee determined that those updates are best pursued through Council policy or ordinance. On a vote of 17 -1, the Committee recommends no revisions to the Charter. The Committee strongly recommends that the Council review and consider revisions to the vacancy procedures currently set forth in Council Policy No. 000-23.
2. Frequency of Charter Amendments: The Committee strongly recommends that the Charter update include an amendment to Section 12 of the Charter to allow for more frequent amendments to the Charter. 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. On a vote of 15-4, the Committee recommends 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. Those Committee members that voted no, preferred that Section 12 be revised to provide for a comprehensive review of the Charter every five years.
3. Responsibilities for Emergency Management: By unanimous vote, the Committee recommends 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 language is included in the redlined Charter attached as Attachment A.

4. Option for Two Year Budget: By unanimous vote, the Committee recommends 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 language is included in the redlined Charter attached as Attachment A.
5. Confirm Scope of Board of Public Utilities: By unanimous vote, the Committee recommends 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. The proposed language is included in the redlined Charter attached as Attachment A.
6. Clarification of Ambiguities: By unanimous vote, the Committee recommends minor revisions to Sections 19 (City Attorney), 32 (Council Member Recall) and 37 (Deputy Officials) to clarify City procedures. The proposed language is included in the redlined Charter attached as Attachment A.
7. Gender Neutrality: By unanimous vote, the Committee recommends that the Charter be revised as necessary to ensure all language in the Charter is gender-neutral. Proposed language is included in the redlined Charter attached as Attachment A.
8. Citizenship Neutrality: By unanimous vote, the Committee recommends that the Charter be amended to replace the word "citizen" with the word "resident" throughout.

IV. OTHER ISSUES CONSIDERED, BUT NOT PRIORITIZED

Throughout its work, the Committee was careful to prioritize its time and resources.

To be most impactful, the Committee focused its work on those items that would *require* an amendment to the Charter, leaving aside for the moment, those that could potentially be accomplished through ordinance, resolution or City initiative. Some of the key issues – many of which are indeed actively being pursued through new ordinances, resolutions and City initiatives – include the critical issues of climate change, diversity, equity, inclusion and belonging and police oversight, as well as regulation of rental housing and Board and Commission quorums. These items thus did not require an immediate Charter amendment at this time.

Three additional items were identified by Committee members or members of the public:

- **Community Advisory Board (CAB):** Several individuals suggested proposed reforms for the CAB, including potential conversion to a form of Neighborhood Council, modifications to quorum threshold, and adjustments to CAB districts. The Committee generally felt that revisions to the CAB should be considered only after comprehensive community engagement and careful thought, and that such process was beyond the resources of the Committee at this time.
- **Strong Mayor:** One member of the public and several Committee members suggested consideration of a transition to a strong mayor system of governance. The proposal did not gain traction with the Committee.
- **Lower threshold for Ballot Initiatives:** One member of the public recommended that the signature threshold for ballot initiatives be lowered so as to make it easier for residents to place measures on the ballot. The proposal did not gain traction with the Committee.

V. CONCLUSION

The Charter Review Committee has worked diligently, creatively and collaboratively over the last seven months in reviewing the Charter and proposed revisions. Critical issues have been explored, debate has been lively, significant and recommendations have been made. The Committee expresses its deep appreciation for the opportunity to work together in these efforts.

Respectfully submitted,

SANTA ROSA CHARTER REVIEW
COMMITTEE 2022

By: _____
Patti Cisco, Chair

Attachment A – Proposed Charter Amendments in Redline
Attachment B – Committee Member Supplemental Comments
Attachment C – Charter Review Committee Roster
Attachment D – Equity Principles
Attachment E – Meeting Minutes
Attachment F – Summary of Votes