

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: SUE GALLAGHER, CITY ATTORNEY
CITY ATTORNEY'S OFFICE
SUBJECT: PROPOSED CHARTER AMENDMENTS – 2022

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Charter Review Committee that the Council, by resolution, place three measures on the November 8, 2022 ballot for the voters' consideration: (1) a ballot measure to amend the City Charter to increase Council compensation, 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 reflect 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.

EXECUTIVE SUMMARY

The Council will consider a resolution to place three measures on the November 2022 ballot for the voters' consideration: (1) a ballot measure to amend the City Charter to increase Council compensation, 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 reflect 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.

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 placed on the November 2012 ballot. Ten years have now passed and, on August 17, 2021, the Council directed the establishment of a new Charter Review Committee and the initiation of a new review.

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The Charter Review Committee met for more than six months and issued its final report on May 24, 2022. After lengthy discussions and deliberations, 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 the City Charter to increase Council compensation, 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 reflect 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 Charter Review Committee recommended that the Council consider at least one possible additional measure in future years.

On June 21, 2022, the Council met and considered the Committee's recommendations. The Council directed staff to return with the three proposed ballot measures, but to allow for flexibility for the Council to determine the specifics for increased Council compensation. To set the context for that discussion, Council members currently receive an annual salary of \$9,600 (\$800 per month), with the Mayor receiving \$14,400 annually (\$1200 per month.) The Charter Review Committee recommended that the Mayor's salary be set equal to the area median income for a three-person household, currently \$101,500 per year. The Committee recommended that Council members' salary be set at 2/3 of the area median income for a three-person household, currently equal to \$66,990. Other options have also been proposed as discussed below.

Staff will also present to the Council a draft resolution calling an election for the purpose of submitting to the voters the three proposed ballot measures, all three measures to be placed on the ballot at the consolidated election to be held on November 8, 2022.

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's Final Report and Recommendations.

On June 21, 2022, Council considered and discussed the Committee's recommendations. The Council directed staff to return with the three proposed ballot measures, but to allow for flexibility for the Council to determine the specifics for increased Council compensation.

ANALYSIS

Pursuant to the recommendation of the Charter Review Committee and the direction given by the Council, three ballot measures are presented for possible placement on the ballot for the voters' consideration in the November 2022 election. The three proposed measures are:

A. Ballot Measure to Increase Council Compensation

i. Current Charter Provision

Section 4 of the City Charter currently provides that the Council may provide for compensation for its members 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 \$19,400 to \$33,700 per year.

ii. Committee Recommendation

After extensive discussion, a strong majority of the Charter Review Committee recommended that Santa Rosa pursue a model similar to that adopted in Berkeley and that: (1) the Mayor's salary be set at Sonoma County's Area Median Income (AMI) for a three person household as determined by the U.S. Department of Housing and Urban Development; (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 \$101,500, meaning the Mayor would receive an annual salary of \$101,500 and Council members would receive an annual salary of \$66,990. Those salaries would increase or decrease each year in alignment with the County's Area Median Income for a three person household. Benefits would continue to be provided in accordance with City policy.

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. At its June 21st meeting, the Council directed that the proposed measure include a provision for the establishment of penalties or salary reductions by ordinance.

A proposed ballot measure reflecting the Committee's recommendation and Council direction is attached as Ballot Measure No 1.

iii. Committee Rationale for Recommendation

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 to 30 hours per week.

The Committee 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 concluded 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.

iv. Council Discussion

At its June 21st meeting, Council supported placing a measure on the ballot for the voter's consideration of increased Council compensation.

Some Council members voiced support for placing a measure on the ballot consistent with the Committee's recommendation.

Some Council members voiced support instead for a single salary for the Mayor and all Council members, all set at 100% of the County's area median income for a three person household. Under this proposal, the Mayor and all Council members would all receive an annual salary of \$101,500, which would rise or fall in alignment with changes in the Area Median Income over time.

Council members also differed in opinions as to an appropriate effective date of the salary increase:

- The Charter Review Committee generally understood that the new salaries would go into effect upon certification of the November 2022 election, although no formal recommendation was made with respect to the measure's effective date.

- Some Council members recommended that the new salaries apply only to newly elected or reelected Council members. Council members who are in the middle of their four year term would continue to receive \$800 per month (or \$1200 per month for the Mayor) until the end of their term.
- Some Council members supported selection of a date certain at which point the new salaries would apply equally to all Council members. For example, the new salaries might go into effect upon certification of the election in 2024.

v. Potential Fiscal Impacts

Questions were raised as to whether the increases in Council salary might have fiscal impacts on the City's budget. The fiscal impacts of the proposed increases in Council salary are discussed below under Fiscal Impacts.

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) a city experiences racially polarized voting, and (b) that racially polarized voting results in the impairment of the voting strength of a protected class of voters. Racially polarized voting exists if voters in a protected class generally prefer candidates and electoral choices that are different from those preferred by voters in the rest of the electorate. No finding of racial animus or intent to discriminate is required to find a violation of the California Voting Rights Act.

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 in Districts 1, 3, 5, and 7.

Although the City has now 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 amend the Charter to reflect 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 Ballot Measure No. 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 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. Such measures are expressly authorized by state law.

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 proposal to extend voting rights to noncitizens in local elections and its discussion of a proposal to consider a transition to a directly elected Mayor. In both of those instances, the Committee felt that the proposals, for very different reasons, were not ready for consideration in November 2022, but might be better considered in a few years. The Committee recommended that Section 12 be revised to confirm that the Charter will continue to be reviewed every ten years, but that nothing precludes additional amendments placed on the ballot by voter initiative or by Council ordinance at such other times as deemed necessary or appropriate.
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 and outdated language. The amendments will include revisions to Sections 15 (Mayor), 18 (City Manager), 21 (Police Chief) and 22 (Fire Chief).
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.

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.
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).
6. Gender Neutrality: The Committee recommended that the Charter be revised as necessary to ensure all language in the Charter is gender-neutral.
7. Citizenship Neutrality: The Committee recommends that the Charter be amended to replace the word "citizen" with the word "resident" throughout.

Note: 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.

FISCAL IMPACT

At the Council's June 21st meeting, questions were raised as to whether the proposed increases in Council salary might have significant fiscal impacts on the City's budget. While the proposed increases in Council salaries appear likely to increase projected deficits in the coming years, the increases will represent only a small percentage of the overall General Fund budget, likely less than one-third of one percent.

For example, if adopted, the Charter Review Committee's proposal (setting the Mayor's salary at 100% of Area Median Income for a three person household, and the Council members salary at two-thirds of that Area Median Income) would result in an increase in expenditures, in its first year, of approximately \$426,000 in additional direct salary costs (the difference between the existing and proposed salaries). Benefit costs will also increase, given that some benefit levels are tied to salary.

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Alternatively, if adopted, the proposal to set all salaries at 100% of Area Median Income for a three person household would result, in its first year, of approximately \$638,500 in additional direct salary costs, plus the increase in benefit costs.

It is anticipated that area median income will continue to increase in future years and thus continue to impact City finances, although such increases in AMI are not assured.

Finance has provided estimates of fiscal impact. Those estimates indicate that although the City adopted a balanced budget for FY 22-23, deficits are currently projected for FY 23-24, FY 25-26, and FY 26-27. The proposed Council salary increases would increase those projected deficits, and trigger a likely deficit in FY 24-25 as well. The deficit increase, however, is small, representing only about 0.34% of the overall General Fund budget. The Council could determine that, given the benefits of increased Council compensation, budget adjustments would be appropriate to address those impacts.

The two other proposed ballot measures – to reflect District-based election of Council members and to update and modernize the City Charter -- have no known fiscal impacts 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 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

- 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

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- Attachment 6 – Charter of the City of Santa Rosa (rev. 2012)
- Resolution
 - Exhibit A - Ballot Measure No. 1 (Council Compensation)
 - Exhibit B - Ballot Measure No. 2 (District Elections)
 - Exhibit C - Ballot Measure No. 3 (Charter Update and Modernization)

CONTACT

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