

Memorandum

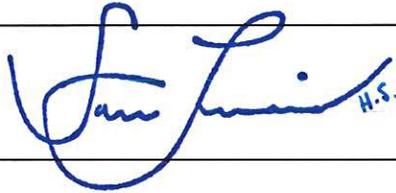
TO: CITY COUNCIL

FROM: Mayor Sam Liccardo

SUBJECT: POTENTIAL BALLOT
MEASURE TO AMEND THE
CITY CHARTER

DATE: July 27, 2020

APPROVED:



DATE: 07/27/20

DIRECTION

1. Return to Council for the appointment of a Charter Revision Commission, with the following requirements:
 - a. Such Commission shall issue recommendations to Council by January 2022 with recommendations for a ballot measure to be placed on the November 2022 ballot;
 - b. The Commission shall consist solely of a San Jose residents appointed in a manner similar to the appointment process of the 1986 Charter Revision Commission;
 - c. Such recommendations shall align with the general objectives outlined in 2., below;
2. Return to Council in the Spring of 2022 to place a ballot measure on the November 2022 ballot to amend the City Charter to do the following:
 - a. Align mayoral executive authority with residents' and local business' reasonable expectations for responsive and accountable democratic governance in a major U.S. city;
 - b. Require councilmembers to recuse themselves from voting if they have accepted campaign contributions from individuals and organizations directly benefiting from Council votes within a specified duration;
 - c. Halt political contributions and gifts to Council candidates from lobbyists, and halting gift-giving from for-profit City contractors;
 - d. Limit membership of City commissions from persons employed by for-profit entities with City contracts and lobbyists; and
 - e. Any other reasonable measures that the Council and Commission finds will enable City government to be more accountable, transparent, responsive, and inclusive.
3. Move forward with a November 2020 ballot measure to move the mayoral election to the presidential election cycle, to expand the number and diversity of voices heard at the ballot box.

DISCUSSION

Uniting In Crisis

In recent weeks, several organizations have urged that we slow the process of charter reforms designed to lead to a more effective, accountable, and representative government. Given what has become a highly contentious political environment surrounding these efforts - They're right. We need to slow this down, to enable more outreach and community engagement.

In this perilous moment, moreover, we need to unite as a city, not fight with each other. Over the last two decades, a divided Council is hardly newsworthy. A divided community is a different matter. We collectively face too many threats—COVID, a severe recession, looming risks of widespread evictions, growing homelessness, and deep-seated mistrust regarding racial injustice and policing—and we can't have our local community distracted by a deeply divisive political campaign.

Among the issues upon which we can find common ground is the move of the mayoral election to the presidential election cycle, to expand the number and diversity of voices at the ballot box. I have stated publicly on multiple occasions that I remain agnostic as to how terms are extended or altered as a result of any change. In any case, the events since the murder of George Floyd have many of us hearing with different ears, and seeing with different eyes—and our democratic process should reflect that.

The Path to This Decision

This proposed measure emerged through an 11th-hour effort to find a compromise that would unite several City stakeholders behind a single measure. Those of us busily pushing this spring for the passage of the affordable housing measure, Measure E, expected to be able to engage with the public more meaningfully regarding the government accountability measure immediately after the March 2020 election. The pandemic quickly descended upon us, however, depriving the advocates of any prospective measure from having sufficient time and opportunity for meaningful outreach to the community about issues of governance and accountability.

In late June, the failure of the labor-backed mayoral election measure to secure the requisite number of signatures opened the door for a potential compromise that could move a combined measure to the ballot for the voters' consideration. The prospect of a compromise appeared promising, with the agreement of representatives of several major labor organizations and business organizations, and the submission of dual memoranda from two councilmembers, Vice Mayor Jones and Councilmember Jimenez.

Obviously, consensus did not emerge from that compromise. Voter research over the past year repeatedly indicated strong support for a reform measure, and specifically for the notion of giving a mayor executive authority currently held by the city manager. The ballot statement that was prepared for voter surveys of this proposed measure, however, has proven to be confusing to many voters; they seemingly had difficulty interpreting the 75-word ballot statement in a manner consistent with their stated support for the individual components of that measure. That complexity and confusion may not be the fault of the City Attorney, but rather the result of summarizing a complex set of proposals in 75 words or less.

If political consensus emerged from a compromise measure, voter confusion about a complex ballot measure can be easily overcome. We've seen just that happen in several efforts that we've led, including Measure F in 2016, Measure C in 2018, and Measure T in 2018. Without consensus, however, we would need an aggressive ballot campaign to secure passage. A heavily contested campaign would distract our City and our community from the crises we currently fight on multiple fronts—particularly for too many of our families' health and economic survival.

Something as important as changing our governmental structure requires public support approaching consensus, and we don't have that. Working together under the current flawed system is better than working against each other for a different system.

Moving Forward

For that reason, I advocate moving forward with the Charter Revision Commission articulated in Vice Mayor Jones' and Councilmember Jimenez' first memoranda, and my June 16th memorandum. Over the next year or so, I urge that the Commission evaluate the best ways to address the fundamental irony of our local democratic process—that elected City officials held accountable by the voters for key decisions too rarely make those decisions.

Until we change the Charter, those individuals responsible for a host of critical decisions with broad public impact—such as hiring (or firing) key City department heads, warning (or not) residents of a potential flood, opening (or closing) a park during a pandemic, clearing (or creating) a 2,000 building permit backlog, halting (or allowing) the use of rubber bullets during a crowded protest, or disclosing (or withholding) video footage of potential police misconduct--will never be directly accountable to our voters. They may never become known to them, either.

San Jose continues to be an anomaly among large California cities—Los Angeles, San Diego, San Francisco, Fresno, Oakland, and the like— with a structure of government in which people elect a mayor who cannot be accountable to the people for decisions made by a City bureaucracy that is not accountable to the mayor. Indeed, even Sacramento—the last large city still saddled with an antiquated manager-council form of government—will move forward this November with a ballot measure to create an executive mayor.

At the end of the day, our city belongs to its residents. I believe now as much as ever that our residents deserve to have the power to hold their government accountable. Let's move forward together in 2022 with long-overdue reforms.