



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Toni J. Taber, CMC
City Clerk

**SUBJECT: REDISTRICTING COMMISSIONS
APPOINTMENTS**

DATE: January 4, 2020

RECOMMENDATION

(a) Appoint the following Commissioners designated by the Mayor and City Council and, to permit the public to submit comment on the Commissioners.

- (1) District 1 Seat: Appoint Jonathan Brun,
- (2) District 2 Seat: Appoint Enedina Cardenas,
- (3) District 3 Seat: Appoint Daisy Castro,
- (4) District 4 Seat: Appoint Kaitlyn Tran,
- (5) District 5 Seat: Appoint Ramon Martinez,
- (6) District 6 Seat: Appoint Andrew Ditlevsen,
- (7) District 7 Seat: Appoint Fred Sidbury,
- (8) District 8 Seat: Appoint Sylvia Alvarez,
- (9) District 9 Seat: Appoint BJ Fadem,
- (10) District 10 Seat: Appoint Lenka Wright,
- (11) Citywide Chair: Appoint Teresa Alvarado.

(b) Adopt a resolution establishing additional requirements for the Redistricting Advisory Commission, in accordance with Council direction from October 27, 2020, and establishing the timeline for the Commission to submit its report and recommendations to Council in accordance with Charter section 403.

OUTCOME

Approval of these appointments will begin process to seat the Redistricting Commission by February 1, 2021 and provides a timeline for the Redistricting Commission to submit its report and recommendations to Council in light of possible delays in the delivery of the results of the 2020 Census.

BACKGROUND

Pursuant to the City Charter section 403: Elections by Districts:

By no later than February 1 in the year following the decennial census, the Council shall appoint an Advisory Commission whose purpose shall be to study and make appropriate

recommendations with respect to such redistricting. This Advisory Commission shall consist of one (1) member from each District, who shall be appointed by the Council member from that District, and a Chairperson chosen from the City at large, who shall be appointed by the Mayor. The membership of the Commission shall be representative of the ethnic make-up of the City at large, to the extent practicable.

On October 27, 2020, the City Council directed the City Clerk to create a website which will allow members of the public to review and comment on Redistricting Commission applications. Those [applications were posted and linked on December 21, 2020](#). No comments were received at the time of this writing. Additional direction called for a provisional appointment of two weeks during which the City Clerk or City Attorney can provide an evaluation of whether the proposed appointees as a whole would compose a commission that is in fact racially/ethnically representative of the City. Require that the final appointments be made together at a noticed council meeting so that councilmembers can deliberate and make adjustments as needed to ensure diversity. 4. Enable public input on commissioner selections before they are final: Permit the public to comment on the proposed commissioners during this provisional period.

Because the nominated applicants did not provide information on ethnicity or gender, the City Clerk is unable to provide an analysis if the current nominations are ethnically representative of the City. Using information from the [Community Profile Fact Sheet](#), the chart, below, generally shows the ethnic makeup of the City:

Ethnicity	% of Population
African American	2.8%
Asian	34.2%
Hispanic	32.8%
White	26.7%
Other	3.5%

In addition, on October 27, 2020, the Council established additional criteria for the work of the Commission, as proposed in a memorandum from Mayor Liccardo, dated October 9, 2020, (revised by Council to strike paragraph 7) and a joint memorandum from Councilmembers Jimenez, Peralez, Carrasco, Esparza, and Arenas, dated October 21, 2020, (revised by the Council to strike portions of paragraph 2 regarding referring proposed changes to the Redistricting Commission to the Board of Fair Campaign and Political Practices and paragraph 4(a).) These memoranda and minutes from October 27 are attached for Council reference.

In light of Council direction, the additional criteria that would apply to the conduct of the Redistricting Commission include the following:

- Adopt the provisions for California's Citizens Redistricting Commission in Government Code section 8253(a)(3), which states: "Commission members and staff may not communicate with or receive communications about redistricting matters from anyone

outside of a public hearing. This paragraph does not prohibit communication between commission members, staff, legal counsel and consultants retained by the commission.”

- Require all communication with commissioners concerning redistricting from elected officials to be made orally during public comment at a commission meeting or in written comment submitted to the commission and published online.
- Permit removal of a commissioner by the appointing elected official for good cause only (e.g. health problems or moving out of San Jose) and with confirmation via a majority vote of the redistricting commission.
- At least one meeting in each Council District.
- Extensive and effective noticing for the public -- including ensuring that notices are placed in newspapers of record.
- Multiple meetings in all 3 common languages: Spanish, Vietnamese, English with notice provided in Vietnamese, Spanish, and English papers for language specific meetings.
- Hold an additional public hearing on the subject of redistricting principles.
- Direct the Redistricting Commission to create Districts that provide racial minorities with an equal opportunity to participate in the political process, and that do not dilute or diminish their ability to elect candidates of choice whether alone or in coalitions with others.

The provisional appointments were approved on January 12, 2021.

ANALYSIS

The redacted applications of all candidates are attached for final appointment.

A draft Resolution is also recommended for adoption to establish the Redistricting Commission and incorporate the Council direction from October 27, 2020. In addition, the draft Resolution would establish the timeline for the Redistricting Commission to submit its report and recommendations as permitted under Charter Section 403, as amended by Measure G.

1. Conduct of the Commission.

Per Council direction, the draft Resolution if adopted would direct the Redistricting Commission to conduct at least one meeting in each Council District, to the extent practicable and consistent with public health orders and guidelines considering the COVID-19 pandemic. Notices for these meetings will be placed in newspapers of record in the City, and at least one meeting will be on

the subject of redistricting principles. Multiple meetings are to be conducted in Spanish, Vietnamese, and English with noticed provided in newspapers specific to those languages.

Furthermore, per Council direction, the Resolution prohibits Commissioners and City staff from communicating with or receiving communications about redistricting matters from anyone outside of a public meeting, except for communication between Commissioners, City staff, legal counsel and consultants retained by the Redistricting Commission that would be otherwise permitted by law outside of a public meeting. City staff would also be allowed to receive communications about redistricting matters from anyone for the purpose of disseminating it at a public meeting of the Redistricting Commission. All communication with Commissioners concerning redistricting from elected officials shall be made orally during public comment at a Redistricting Commission meeting or in written comment submitted to the Redistricting Commission and published online. Commissioners would also only be able to be removed by the appointing elected official for good cause with confirmation by majority vote of the Redistricting Commission.

Lastly, in addition to any requirements under the City Charter and State and federal law, the Redistricting Commission, to the extent practicable, should also recommend Districts to the Council that provide racial minorities with an equal opportunity to participate in the political process and do not dilute or diminish their ability to elect candidates of choice whether alone or in coalitions with others.

2. Commission Timeline.

With regard to the Commission's timeline, it is important to consider when the Census will be delivered. The statutory deadline under Federal law to provide redistricting data for the 2020 Census is March 31, 2021. However, the results of the Census could be delayed because of operational adjustments from the COVID-19 pandemic as well as legal and political challenges to the sufficiency of the results.

To account for this possibility, the Council proposed and the voters passed Measure G. Among other things, Measure G amended the Charter to allow the Council to prescribe the time for the Redistricting Commission to submit its report and recommendations on redistricting, instead of the prior requirement of 120 days from appointment, and to allow the Council to deviate from the requirement that it adopt the redistricting ordinance by October 31 if the Census results are not delivered by April 1.

Because of the uncertainty in the timely delivery of the Census, we recommend that Council adopt a resolution setting the deadline for the Redistricting Commission to submit its report and recommendations within 120 days after the Census results are actually delivered. Therefore, if the Census results are delivered by March 31, 2021, the report will be due by July 29, 2021, but if the Census is delivered after the statutory deadline, the deadline will be extended accordingly.

And if the Census results are delivered late, staff may need to return to Council recommending an ordinance adjusting the Charter deadline to adopt the new boundaries. In 2020, the State passed AB 849 related to redistricting of cities. While a number of the requirements do not apply to charter cities with their own redistricting processes, the public hearing requirements, under Section 21627.1 of the Elections Code, do apply to charter cities. Under this Section, a city council must hold at least four public hearings before adopting a final map where the public is invited to provide input regarding the composition of one or more council districts. One hearing, which may be conducted by an advisory commission created by the council, must be held before the map is drawn. At least two public hearings must be held after the map is drawn, and at least one hearing must be held on a Saturday, Sunday, or after 6 p.m. on a weekday Monday through Friday. In light of the hearings that the Council must conduct, it will be challenging to effectively and thoughtfully complete redistricting by October 31 as required under the Charter if the Census is not timely delivered.

EVALUATION AND FOLLOW-UP

Redistricting is required under the Charter and must be completed every ten years following the United States Census.

PUBLIC OUTREACH

The Office of the City Clerk notified all Council Districts of the vacancies, and created an advertisement for Council offices to run in their newsletters. The recruitment ended on December 13 and was extended to December 24th. Provisional Appointments were made on January 12, 2021.

The memorandum has been posted on the City Clerk's website as part of the January 26, 2021 City Council Meeting Agenda.

COORDINATION

This memorandum has been coordinated with the Office of the City Attorney.

CEQA

Not a Project, File No. PP17-010, City Administrative Activities, resulting in no changes to the physical environment.



TONI J. TABER, CMC

HONORABLE MAYOR AND CITY COUNCIL
January 26, 2020
Subject: Boards and Commissions Appointments
Page 6

City Clerk

For questions, please contact Toni Taber, City Clerk, at (408) 535-1260.