



CITY OF SANTA BARBARA

ORDINANCE COMMITTEE AGENDA REPORT

AGENDA DATE: April 24, 2018

TO: Ordinance Committee

FROM: City Attorney's Office

SUBJECT: Draft Charter Amendments To Implement District Elections Under The California Voting Rights Act And Even-Numbered Year Elections Under The California Voter Participation Rights Act

RECOMMENDATION: That the Ordinance Committee:

- A. Review and consider two proposed Charter amendments relating to district elections and even-numbered year voting;
- B. Provide direction to the City Attorney on the amendments; and
- C. Recommend that the City Council place these proposals before the voters in November 2018.

DISCUSSION:

District Elections Under the California Voting Rights Act

On March 10, 2015, the City entered into a California Voting Rights Act ("CVRA") litigation settlement agreement under which it moved from at-large voting for Council Members to by-district elections. As a result of the settlement, the City Council approved six Council geographically-distinct election districts of roughly equivalent population, including two Latino majority electoral districts (1 and 3). Council Members from Districts 1, 2 and 3 were elected in November 2015. Council Members from Districts 4, 5 and 6 were elected in November 2017.

The pre-litigation Charter relating to at-large elections has not yet been amended to conform to the CVRA settlement. Accordingly, we have been required to interpret some Charter sections in order to implement the district election process. For example, the process for mayoral succession (when a council member is elected to the office of Mayor) became an issue in January 2018 following Mayor Murillo's election and her resulting obligation to vacate her District 3 Council seat. The City Council ultimately

decided to conduct a special election, despite there being no express authority for such an election in the City Charter.

The attached CVRA settlement Charter amendments (Attachments 1 & 2) address the implementation of district elections. In addition, the proposal touches on two “clean-up” issues related to district elections. First, consistent with the Council’s actions in January 2018, the proposal allows the Council to call a special election to replace council members who leave office to become the Mayor. In addition, given the ongoing confusion relating to the consecutive term limits applicable to Council Members and the Mayor (as the issue arose with former Council Member and Mayoral Candidate Conklin), we have proposed an amendment to Charter Section 500.1 relating to term limits to make it clear that it forbids only two sets of consecutive four year terms in office as a mayor or council member, or vice versa. This interpretation was the Council’s choice when the issue was originally raised in the 1990’s, and is consistent with the former City Attorney’s view of the section.

Two of the *Banales* CVRA litigation plaintiffs (Ms. Jacqueline Inda and Mr. Sebastian Aldana) are represented by the Honorable Frank Ochoa, a retired superior court judge. They believe special elections should be an option for any Council vacancy, not just those resulting from a council member being elected mayor. Council may consider their proposal (Attachment 3).

The California Voter Participation Rights Act: Even-Numbered Year Elections

In November 2017, the City Council enacted an even-numbered year election consolidation plan pursuant to the California Voter Participation Rights Act (Attachment 4). Council will recall that this state law purports to require local agencies to use even-numbered year elections when historically odd-years have turned out substantially fewer voters. While we do not believe this legislation applies to chartered cities like Santa Barbara, in order to avoid the risk of litigation the City Council adopted a resolution establishing a consolidation plan to move the City to even-numbered year elections (Attachment 5). The plan is somewhat limited by the CVRA settlement which requires that the Council Members elected in 2015 and 2017 serve full four year terms.

Accordingly, Council directed and the attached proposal reflects a plan, which if approved by the voters in November 2018, would cause District 1, 2 and 3 candidates to run for one-time 5 year terms in 2019, so that their successors would be elected in 2024 (Attachment 6). Likewise, Districts 4, 5 and 6 candidates would run for one-time 5 year terms in 2021, with their successors elected in 2026. The mayor elected in 2021 would serve an initial five (5) year term as well. The plan also allows a one-time extension of the existing two-4 year term limits to accommodate one-time 9 year periods of service that would result from the consolidation to even-numbered years.

BUDGET/FINANCIAL INFORMATION:

We are advised that the November 2018 election will cost about \$180,000 for assistance from the County of Santa Barbara.

- ATTACHMENT(S):**
1. Draft California Voting Rights Act Settlement Charter Amendments
 2. Draft Voter Participation Rights Act Charter Amendments
 3. Letter dated March 23, 2018 from Frank Ochoa
 4. November 14, 2017 CAR re even year election consolidation plan
 5. Resolution 17-106 establishing a consolidation plan
 6. Banales Settlement Agreement

PREPARED BY: Ariel Pierre Calonne, City Attorney

SUBMITTED BY: Ariel Pierre Calonne, City Attorney

APPROVED BY: City Administrator's Office