

**CITY OF SANTA CLARA
MEASURE B**

Shall an amendment to the City Charter providing that the Chief of Police position be appointed by the City Manager be adopted?

Supporters: SudsJain,Councilman; KarenHardy,Councilwoman;
RajChahal,Councilman; JeffHouston,CharterReviewChair;
SeanAllen 3rd VP SJNAACP.

Opponents: Police Chief Nikolai; Anthony Pascoal,SC Firefighters
Assoc; Jeremy Schmidt,SC POA; Mayor Gillmor; Councilmember
Watanabe.

Yes
No

**CITY ATTORNEY'S IMPARTIAL ANALYSIS OF
MEASURE B**

Ballot Measure Summary

Under the City of Santa Clara Charter, the Chief of Police is an elected position with a four-year term. The City Council placed this measure on the ballot for voters to determine if the Charter should be amended to change the position from an elected position to a position appointed by the City Manager.

A "yes" vote on this measure means the Chief of Police position will become a position appointed by the City Manager.

A "no" vote means the Chief of Police will remain an elected position.

Current Provisions in the Charter

Since 1953, the City's Charter has provided that voters elect the Chief of Police for a term of four (4) years. [Charter Section 600] There is no limit on the number of four-year terms the elected Chief of Police can serve.

As with other elected positions, the Charter requires an elected Chief of Police to be a city resident and a registered voter. [Charter Section 600] The Charter further requires that candidates for Chief of Police meet minimum eligibility requirements imposed under state law upon candidates for sheriff. [Charter Section 701.1] Elected sheriff requirements are set forth in California Government Code Section 24004.3.

The powers and responsibilities of the Chief of Police are specified in the Charter as follows: (1) preserve the public peace; (2) execute and return all "process" (i.e., subpoenas) issued by legal authority; and (3) exercise all powers now or hereafter conferred upon sheriffs and police officers by state law. [Charter Section 906]

Proposed Revisions to the Charter

If approved, the proposed Charter amendments would remove provisions making the Chief of Police an elected position and replace them with provisions requiring that future Chiefs of Police be appointed by the City Manager. As a result, existing Charter provisions requiring City's elected officials be City residents and registered voters, would no longer apply. Existing Charter provisions that impose minimum eligibility requirements are proposed to be deleted. Instead, consistent with the City Manager's role as the appointing authority for department heads, it is expected that the City Manager will develop new job qualifications and standards. This new job specification would be added to the City's existing employee compensation and classification systems. Existing Charter provisions specifying Chief of Police powers and responsibilities would remain. The

**CITY ATTORNEY'S IMPARTIAL ANALYSIS OF
MEASURE B-Continued**

City Manager would have the authority to add to, but not contradict, these powers and responsibilities. As a City Manager appointee, the Chief of Police would be "at will" serving at the discretion of the City Manager.

If the proposed measure passes by majority vote, future Chiefs of Police will be appointed by the City Manager. In transition, the current Chief will serve the remainder of his term through December 17, 2024. Thereafter, or if a vacancy occurs before December 17, 2024, the City Manager will appoint the new Chief.

If the proposed measure does not pass by majority vote, the Chief of Police position will remain elected.

/s/ Glen R. Googins
City Attorney, City of Santa Clara

COMPLETE TEXT OF MEASURE B

Charter Amendment Measure
Proposed Additions Shown as Underline
Proposed Deletions Shown as ~~Strikethrough~~

That the citizens of the City of Santa Clara do hereby enact the following amendments to the City Charter.

Section 1. Section 600 of the Charter of the City of Santa Clara, entitled "City elected officers", is amended to be read as follows:

Sec. 600 City elected officers.

No person shall be eligible to hold the elective office of Mayor, ~~Chief of Police Department~~ or City Clerk, unless he or she is a resident and a qualified registered elector of the City. No person shall be eligible to hold the elective office of City Council Member, excepting the Mayor, unless he or she is a qualified registered elector of the City and a resident in the district represented by the Council Member office.

In order to hold the elective office of Mayor, ~~Chief of the Police Department~~ or City Clerk a person must have been a resident of the City of Santa Clara for at least thirty (30) days immediately preceding the last day specified by law for the filing of nomination papers with the City Clerk for such office or, if appointed, preceding the date of the person's appointment to fill a vacancy.

In order to hold the elective office of Council Member, excepting the Mayor, a person must have been a resident of the City of Santa Clara and of the District represented by the person as a Council Member for at least thirty (30) days immediately preceding the last day specified by law for the filing of nomination papers with the City Clerk for such office or, if appointed, preceding the date of the person's appointment to fill a vacancy.

The elective officers of the City shall consist of a City Council composed of seven members, ~~the Chief of the Police Department~~ and the City Clerk. The Mayor ~~and the Chief of the Police Department~~ and the City Clerk shall be elected from the City at large at the times and in the manner provided in this Charter. Except as otherwise herein provided, a person elected to an office for other than an unexpired term, shall serve a term of four years, and shall serve until a successor is elected and qualified. The term shall commence on the date the City Council certifies the canvass of the election returns submitted to it by the County Registrar of Voters.

The person receiving the most votes cast for a particular City office shall be declared duly elected. Ties shall be broken as provided from time to time by ordinance.

The office of Mayor shall be separately voted upon and is a separate office. The person elected at any election to the office designated "Mayor" shall be deemed elected, both as a Mayor and as a member of the Council. Although the Mayor is a Council member, his or her election does not change the number of Council members from seven.

No person shall be a candidate for both Mayor and a City Council office at the same election. However, an incumbent member of the City Council may run for the elective office of Mayor, and the Mayor may run for the separate office of Mayor or other City Council office.

COMPLETE TEXT OF MEASURE B-Continued

However, at no time shall a member of the Council, including the Mayor, hold more than one City elective office. Except as otherwise provided elsewhere in this Charter, no incumbent member of the City Council while serving in such office with an unexpired term of more than six months shall be a candidate for any Council office other than the one which he or she holds. (Added by electors at election held November 7, 1972, approved by Senate Concurrent Resolution (1973 Stats., Res. Ch. 10); Amended by electors at an election held March 7, 2000, Charter Chapter 11 of the State *Statutes of 2000*; Amended by electors at an election held June 7, 2022, Charter Chapter 17 of the State *Statutes of 2023*)

Section 2. Section 700.1 of the Charter of the City of Santa Clara, entitled "Qualifications for Chief of the Police Department", shall be deleted in its entirety.

~~**Sec. 701.1 Qualifications for Chief of the Police Department.**~~
~~Candidates for the office of Chief of Police shall meet the minimum eligibility and qualification requirements imposed by state law upon candidates for the office of sheriff. (Added by electors at an election held March 7, 2000, Charter Chapter 11 of the State *Statutes of 2000*)~~

Section 3. Section 703 of the Charter of the City of Santa Clara, entitled "Vacancies", is amended to be read as follows:

Sec. 703 Vacancies.

A vacancy in any elective office of the City, including Mayor, City Council, ~~Chief of Police Department~~, and City Clerk, from whatever cause arising, shall be filled by appointment by the City Council by a four-fifths (4/5) vote of the remaining members.

In the event the City Council shall fail to fill a vacancy by appointment within thirty (30) days after such office shall have been declared vacant, it shall forthwith cause an election to be held to fill such vacancy. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent, provided that if the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general municipal election, the person appointed to fill the vacancy shall hold office until the next general municipal election that is scheduled 130 or more days after the date the City Council is notified of the vacancy, and thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office. (As approved at election held November 5, 1968, approved by Joint Resolution of Legislature filed with the Secretary of State January 15, 1969; Amended by electors at an election held November 8, 2016, Charter Chapter 19 of the State *Statutes of 2017*)

Section 4. Section 802 of the Charter of the City of Santa Clara, entitled "Powers and duties", is amended to be read as follows:

Sec. 802 Powers and duties.

The City Manager shall be chief executive officer and the head of the administrative branch of the City government. He/she shall be responsible to the City Council for the proper administration of all affairs of the City and to that end, subject to the personnel provisions of this Charter, he/she shall have power and shall be required to:

COMPLETE TEXT OF MEASURE B-Continued

(a) Appoint and remove, subject to the Civil Service provisions of this Charter, all officers and employees of the City, including the Chief of Police, except as otherwise provided by this Charter, and except as he/she may authorize the head of a department or office to appoint and remove subordinates in such department or office. No person related to the City Manager by blood or by marriage shall be eligible for office or employment in the City.

(b) Prepare the budget annually and submit it to the City Council and be responsible for its administration after adoption.

(c) Manage the City-owned water and power departments in a business-like manner, charging equitable rates for the services furnished and building up the properties so as to conserve their value and increase their capacity as needed by the City.

(d) Prepare and submit to the City Council as of the end of the fiscal year a complete report on the finances and administrative activities of the City for the preceding year.

(e) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him/her desirable.

(f) Make investigations into the affairs of this City, or any department or division thereof, or any contract, or the proper performance of any obligation to the City.

(g) Submit to the City Council at each meeting for its approval, the list of all claims and bills approved for payment by him/her.

(h) Perform such other duties as may be prescribed by this Charter or required by him/her by the City Council, not inconsistent with this Charter. (Amended by electors at an election held March 7, 2000, Charter Chapter 11 of the State *Statutes of 2000*)

Section 5. Section 900 of the Charter of the City of Santa Clara, entitled "Officers to be appointed by the City Council and by the City Manager", is amended to be read as follows:

Sec. 900 Officers to be appointed by the City Council and by the City Manager.

In addition to the City Manager, the City Council shall appoint and affix the compensation for the City Attorney and City Auditor who shall serve at the pleasure of the City Council and may be removed by motion of the City Council adopted by at least four affirmative votes.

All other officers and department heads of the City, including the Chief of Police, shall be appointed by the City Manager and shall serve at the pleasure of the City Manager at compensation fixed by the City Council. (Amended by electors at an election held March 7, 2000, Charter Chapter 11 of the State *Statutes of 2000*)

Section 6: Effective Date. The currently-seated Chief of Police will serve out the remainder of their term through December 17, 2024, unless vacated earlier. If a vacancy of the elected Chief of Police occurs prior to December 17, 2024, the position shall be appointed by the City Manager.

Section 7: City Clerk Authority to Make Minor Corrections. The City Clerk shall be authorized to make minor amendments to the Charter to correct

COMPLETE TEXT OF MEASURE B-Continued

typographical errors or to make other similar non-substantive corrections, subject to ratification by the City Council and approval as to form by the City Attorney.

ARGUMENT IN FAVOR OF MEASURE B

Vote "YES" on Measure B for a highly qualified, educated, and experienced Police Chief.

Our city is the **LAST** to still have an elected Police Chief in all of California.

Every other city in California appoints their Police Chief using a rigorous hiring process to ensure their Police Chiefs meet the highest standards in training, experience, and professionalism.

Our City Charter requires that candidates running for Police Chief only be registered voters in Santa Clara and be sworn police officers. That's it. The residency requirement makes our available candidate pool only 10 out of 153 sworn Santa Clara officers. Of these ten, only two have management experience. Neither of our two current Assistant Police Chiefs lives in Santa Clara.

The fantasy of "choice by the voters" falls apart when, in 6 of the last 9 elections, only one Police Chief candidate was on the ballot. By comparison, Santa Clara's Fire Chief is appointed and is doing a great job.

In other cities with appointed Chiefs, the City Manager and Chief work together to establish goals by which the Chief is evaluated annually. Not so in Santa Clara. Our elected Chief is accountable to no one except the electorate every 4 years when there is another election. Usually the chief runs unopposed so there is actually no real accountability.

No Chief or Council Member has ever been recalled in Santa Clara because the bar to recall is simply too high.

By appointing a Chief, Santa Clara will save hundreds of thousands of dollars by avoiding ballot costs every four years. The savings could be redirected to more meaningful priorities. Also, the Chief would not be distracted from their demanding duties by time spent campaigning and raising money.

YES on B for a better process for selecting the Police Chief.

Sudhanshu "Suds" Jain
Santa Clara Councilmember

Karen Hardy
Santa Clara Councilmember

Raj Chahal
Santa Clara Councilmember

Jeff Houston
Former Chair, Charter Review Committee

Sean Allen
3rd Vice President, San Jose Silicon Valley Branch NAACP

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE B

PROTECT OUR VOTER RIGHTS TO ELECT OUR POLICE CHIEF

Measure B was devised by the "City Council Majority" that a 2022 civil grand jury reported does not always act in Santa Clara's best interest. (Source: "Unsportsmanlike Conduct")

The Grand Jury reported the "City Council Majority" fired a City Manager and a City Attorney at the request of a special interest.

The "City Council Majority" could pressure the City Manager to select their choice for a Police Chief.

Then the "City Council Majority" could cut funds for police patrols to help special interests.

Measure B eliminates Santa Clarans' right to elect a Police Chief—a privilege enshrined in our City Charter.

Santa Clarans count on our Police Chief to keep Santa Clara safe.

Who do you trust to select him or her?

Measure B rewrites the charter, takes away voters' rights, and gives them to a city bureaucrat who is not accountable to voters.

Measure B risks public safety by dramatically altering police leadership.

Measure B proponents' arguments are deceptive. They don't tell you that:

- Many California cities (like Oakland, Richmond, and San Francisco) where City Managers select a Police Chief have terrible controversy and high turnover. Santa Clara doesn't.
- At least 64 officers who live in Santa Clara are eligible to run for Police Chief, including 5 top command staff members of the Santa Clara Police Department. They use incorrect and low numbers to scare voters.
- Any outstanding Police Officer may move to Santa Clara to run and serve as Police Chief.

Please vote **NO** on Measure B.

Pat Nikolai
Chief of Police, Santa Clara

Lisa M. Gillmor
Mayor, Santa Clara

Kathy Watanabe
Councilmember, Santa Clara

Satish Chandra
Charter Review Committee Member, Police Citizens Advisory Committee

Jeremy Schmidt
President, Santa Clara Police Officers Association

ARGUMENT AGAINST MEASURE B

PROTECT VOTER RIGHTS TO ELECT POLICE CHIEF

Measure B eliminates Santa Clarans Right to elect a Police Chief—a privilege enshrined in the city's charter for decades.

The Police Chief is Santa Clara's top law enforcement officer who keeps the city safe. It's the person Santa Clarans count on to make sure we have safe neighborhoods.

Whom do you trust to select him or her?

Santa Clara voters have chosen the Police Chief for decades—and should continue to do so, even if it's a unique privilege.

Politicians and bureaucrats should not take away Santa Clara voters' rights to give themselves more power. They could force decisions that jeopardize neighborhood safety to help political allies and special interests.

An elected Police Chief must answer to voters and is accountable to all Santa Clarans.

Measure B rewrites the charter, taking away voters' rights—giving those important rights to an unelected, city bureaucrat who is not accountable to voters.

Santa Clara has an outstanding police department and a safe city.

Measure B risks public safety by dramatically altering police leadership.

Measure B was devised by the "City Council Majority" that a 2022 civil grand jury reported does not always act in Santa Clara's best interest. (Source: "Unsportsmanlike Conduct")

The "City Council Majority" could pressure the City Manager to select their choice for a Police Chief.

Then the "City Council Majority" could cut police funding, making our neighborhoods, businesses, and residents less safe.

ARGUMENT AGAINST MEASURE B-Continued

Please vote **NO** on Measure B:

- Santa Clarans should continue to elect the Police Chief
- An unelected city bureaucrat should not select the city's top law enforcement officer
- A "City Council Majority" should not be able to pressure the City Manager to pick their favored candidates for Police Chief
- For this important decision, voters are more trustworthy and capable than politicians and bureaucrats

Pat Nikolai
Chief of Police, Santa Clara

Lisa M. Gillmor
Mayor, Santa Clara

Kathy Watanabe
Councilmember, Santa Clara

Satish Chandra
Charter Review Committee Member, Police Chief Advisory Committee

Teresa O'Neill
Former Santa Clara Unified School Board Trustee

REBUTTAL TO ARGUMENT AGAINST MEASURE B

Vote Yes on Measure B to have an appointed police chief.

Santa Clara is the last city in California to elect its police chief.

By appointing a Police Chief, Santa Clara would recruit from a wider pool of candidates who would meet the highest professional qualifications, not just residency and the willingness to mount a political campaign. They would be hired and regularly evaluated by the City Manager.

History shows that an appointment process leads to better police chiefs. This is our chance for reform. We deserve a professional, transparent, accountable Police Department—**Vote Yes on Measure B**

Santa Clara's highly regarded fire department is led by an appointed Fire Chief.

The City Charter is a living document that voters change as needed. In the past few year's residents have voted to change the charter for the betterment of the city; we did so four times in 2016. Nothing in the charter is enshrined.

In 2023, an independent Charter Review Committee consisting of educators, business executives, and members of the community conducted extensive research concluding that an appointed police chief would provide better accountability and responsiveness to the community.

Appointing a police chief helps to insulate the position from political pressures, allowing the chief to focus on making decisions based on professional judgment rather than electoral considerations. Conversely, the election of a police chief can introduce elements of politics into law enforcement decisions.

VOTE YES on Measure B

Visit: appointpolicechief.com

Sudhanshu "Suds" Jain
Santa Clara Councilmember

Michele Ryan
Trustee, Santa Clara Unified School District

Karen Hardy
Councilmember, City of Santa Clara

Christine Koltermann
Former Member Charter Review Committee

Clysta Seney
Former Member, Charter Review Committee