

Vacancies (Section 606)

Subcommittee #1 reviewed Section 606, which deals with City Council vacancies. This report addresses three substantive issues: 1. If a vacancy is filled by appointment, at what election should a successor for the position be elected? 2. How many Councilmembers may serve by appointment at any one time? 3. Whether the duration of appointments should be limited? In addition, the subcommittee recommends a non-substantive revision of the current language of Section 606 to avoid ambiguity about whether the Mayor may vote on filling vacancies.

Issue 1: If a vacancy is filled by appointment, at what election must a successor for the position be elected?

Introduction

The City Charter currently requires that appointees to vacant City Council seats be replaced at the time of the next state election. The next state election could be a primary election taking place shortly before the end of the vacant term. This might be followed in five to eight months by a general election during which the seat would be filled again for the next term. This could cause an awkward transition with a loss of efficiency as well as increased cost. The City Council directed the Charter Review Committee to study this issue and recommend a possible remedy.

The committee recommends that appointments be filled at the next regularly scheduled statewide general election rather than at the next primary election.

Background

In 2018 a previous Charter Review Committee fully studied the process of filling vacancies on the City Council. A resulting new section 606 of the City Charter was approved by 71% of the voters. The current language of Section 606 is contained in Exhibit 1.

In 2023 three members of the City Council submitted a Colleagues Memorandum requesting empanelment of a new CRC with a request to examine several issues. The issues included: “Allowing Councilmembers appointed to fill vacancies to serve until the next feasible November general election, as opposed to the next feasible election (i.e., appointees could no longer go up for election in a primary).”

Current Charter Language

Currently the charter requires that an appointee be replaced by election at the next general or special municipal election consolidated with the next statewide election. The 2018 CRC chose this option because it was a balance between democratic principles and reasonable cost when compared to stand-alone special elections.

There are some disadvantages of the current Charter language. An election for a council seat might be held twice in rapid succession – either March and November or June and November of the same year. That would occur if an appointee was replaced

during a primary election, then the same district held a regular election for the next full term of the same seat in the November general election. As a result:

1. The city would incur the cost of two elections, which are expensive
2. A candidate might have to run two expensive campaigns
3. The winner of the first election would serve a very short term: eight or five months depending on whether the primary election was in March or June.
4. The first election during the primary would likely have lower voter turnout, in which case the winner of the first election might not represent the consensus of the district's entire voting population and yet that first winner would have an incumbency advantage in the next election.

Committee Considerations and Analysis

The committee used the following table to assist in evaluating these variables:

Special Election Option	Cost for City	Cost for Candidates	Voter Turnout	Appointment Required	Appointment Duration
Consolidated with a November even-year election (general election)	Lowest Cost	Lowest cost	Highest voter turnout (~60%)	Most likely	Longest (5-8 months longer than a March or June election)
Consolidated with a March or June even-year election (primary election)	Intermediate, highly variable cost depending on whether two elections are required in one year	Depends on whether two elections are required in one year	Higher voter turnout (~40%)	More Likely	Longer
Standalone special election	Highest Cost	Depends on whether the candidate completes a partial or whole term	Lowest voter turnout (~25%)	Least Likely	Shortest

The Committee used information from staff to estimate the cost of various types of elections. (Exhibit 2). Predicting exact costs of elections is not possible because there are many variables. Even so, it is likely that costs of holding special municipal elections held without consolidation, and even special municipal elections consolidated with primary elections, can be much higher than holding elections during a general election in November.

There are several advantages to using only November elections for the replacement of appointees:

1. This eliminates the possibility of holding two elections for the same seat in rapid succession, with these benefits:
 - a. Much less cost for the city
 - i. Only one election
 - ii. A general election is less expensive than a primary election
 - b. Much less cost for candidates
 - c. Much higher voter turnout at the general election results in the winner better representing the will of the entire voting population
2. This eliminates the inefficiency caused by turnover if there is a short-tenured elected councilmember

There are some disadvantages of using only November elections for the replacement of appointees:

1. Appointments would be more likely because of the longer time of the vacancy before the November election
2. Appointments would be longer
 - a. 8 months longer if the next primary is in March
 - b. 5 months longer if the next primary is in June
3. Appointed and thus unelected Councilmembers may reflect the views of the other Councilmembers more than the views of their constituents

The Committee considered a hybrid option in which the primary election would be used to replace appointees if the next primary election would not require two elections for the same seat in the same year (i.e. if it is more than two years before the seat's term ends). The advantages of replacing an appointee during a primary election are: (1) a reduced chance of needing an appointment, and (2) a reduction in the time of the appointment by five or eight months depending on the time of the primary election. The disadvantages are: (1) the higher cost of holding the election during a primary, and (2) the lower voter turnout in that election. The committee noted that requiring different types of election in different years would require more complicated wording in a charter amendment but would be the least change in policy compared to the existing charter.

The committee considered the results of the public survey, which included this question: "How should Sunnyvale City Council vacancies be filled?" A majority of the survey respondents (65%) preferred filling the position at the next feasible November election, while a minority (23%) favored a special election.

The survey did not include an option to select a hybrid option, so the results do not provide much guidance on respondents' opinions on this option. It should be noted that 7% of respondents selected "other" and wrote in a hybrid option and another 5% of respondents checked "other" and wrote in a different comment.

Even without the concern for two elections in one year, the potentially much lower cost and much higher voter turnout of the general election compared to a primary election outweighs the disadvantages of a longer appointment duration or increased chance of requiring an appointment. Using only the November election is a better option than using primary elections to fill vacant seats even when the use of a primary election would not result in two elections in the same year.

The estimates of the cost of stand-alone Special Elections provided by staff (Exhibit 2) indicate that a stand-alone election may cost the city ten times more than a November election. This cost varies because of many factors, including whether the Special Election can be consolidated with a State or County election. The committee considered an option that would eliminate free-standing Special Elections by requiring that all vacancies be filled at a November election whether there is an appointee or not. As indicated in the table above, the advantages include lower cost and higher voter turnout, but disadvantages include the higher likelihood of requiring an appointment that is of longer duration.

The committee used a graph (Exhibit 3) to assist in evaluating the duration of vacancies and appointments depending on when a vacancy is declared. The graph shows that the duration of an appointment varies dramatically depending on when the vacancy begins in the election cycle.

An additional disadvantage of requiring that all elections be held in November is that it removes flexibility that the City Council has in determining when the election should be held. City Council flexibility was a key factor in the deliberations of the 2018 CRC. As an example, we cannot know now if a future special election can be consolidated with another State or County election, what the City's financial situation will be at the time, or how the future political climate might affect the decision. At the time of the vacancy, the Council may know some of these variables. If the Council has flexibility, it could still choose to avoid a free-standing special election, but it could also choose to hold a special election consolidated with another municipal election if that better serves the City's needs at that time. The Committee concluded that it is best to leave discretion in choosing an election type and time up to the City Council, so no change in the charter is recommended for this matter.

Committee Recommendations

The committee concludes that the advantages of replacing appointees only at the next general election outweigh the disadvantages. The committee does not recommend the hybrid option (using primary elections when they would not result in two elections in the same year) or removing discretion from the City Council regarding the choice of election type to fill vacancies.

The committee recommends that paragraph (d) of the City Charter be amended as follows:

(d) If the vacancy is filled by appointment, the appointee shall hold office until the next General Municipal Election or regularly scheduled Special Municipal Election ~~consolidated with the next~~ statewide general election, whichever occurs sooner, and a successor is elected and qualified. The Councilmember then elected shall serve for the remainder of any unexpired term, and until a successor is elected and qualified.

Issue 2: How many Councilmembers may serve by appointment at any one time?

Introduction

Filling vacancies with appointees eliminates the cost of a special election but degrades the democratic process as described in the “Committee Considerations” section below. The 2018 CRC limited the number of appointees to two at any one time in order to strike a balance between the financial cost versus the democratic cost of the two methods.

The committee recommends no change in the current Charter language on this topic.

Background

In 1975 the Charter was amended in part specifically to limit the number of appointees to the City Council. In the words of the 2018 CRC report: “Prior to 1975, with no term limits, an incumbent Council member could resign shortly before retiring, allowing the remaining Council to appoint a replacement. The appointee would have a significant advantage of incumbency in the next election and, therefore, it was extremely rare for an appointee incumbent to be defeated prior to 1975. In April 1975, this practice resulted in four of the seven Council members originally joining the Council as appointees.”

The 1975 Charter revision was approved by 51% of voters. Opponents of the 1975 charter revision were concerned about the considerable costs of special elections that were required in order to limit appointments.

The 2018 Charter revision allowed for more appointments and reduced the likelihood of special elections, along with many other changes. The 2018 Charter revision was approved by 71% of voters.

Currently, the Charter does not allow the City Council to “make an appointment to fill a vacancy if the appointment would result in more than two Council members or one Councilmember and the Mayor currently serving on the Council as appointees.”

Members of the public commented at this year’s CRC meetings that:

1. Two simultaneous vacancies are too many
2. If there are already two appointees and an additional councilmember is called to military duty, then the Council is obligated to appoint a temporary replacement that would result in a third appointee

Current Charter Language

“(g) Notwithstanding any other provision of this section, the City Council shall not make an appointment to fill a vacancy if the appointment would result in more than two Council members or one Councilmember and the Mayor currently serving on the Council as appointees, and shall call a Special Municipal Election to be held within one hundred and eighty days from the date the Council declares the vacancy.”

Committee Considerations and Analysis

The major argument against reducing the limit to one is that this would increase the likelihood of having to hold special elections, which are costly and have low voter turnout. The major argument for a limit of one appointee is that this reduces the likelihood that four Council members (the required number for approval of an appointee) could capture the Council through appointments and also bestow the advantages of incumbency on appointees who then run for election.

The committee asked for and received information from staff about the cost of elections (Exhibit 2). The cost information that is available is not conclusive, because Sunnyvale has not conducted a special election for a single Council seat.

The majority of respondents to the public survey (51%) would rather keep the number of appointed Council members at two.

Recommendation

The committee recommends no change to the Charter on this topic.

Issue 3: Whether the duration of appointments should be limited?

Introduction

Term limits for appointees might increase the democratic fairness of the City Council.

The committee does not recommend a limit to the duration of appointments.

Background

To the knowledge of the committee, term limits for appointed City Council members have not been previously discussed.

A member of the public recommended that appointments be limited to 10 months or less in order to:

1. Decrease the potential cost of increased benefits if the appointee also completed one term as a councilmember
2. Decrease the incumbency advantage of the appointee

Current Charter Language

The City Charter does not mention term limits for appointed City Council members.

Committee Considerations and Analysis

The committee considered that a short appointment might decrease both the likelihood that the appointee would be controlled by the other Councilmembers and the incumbency advantage in a future election but might result in inefficiency because of turnover.

The committee concluded that changing appointees in the middle of a term would be disruptive and inefficient and that this disadvantage outweighs the possible advantages.

Recommendation

The committee does not recommend a limit to the duration of appointments.

Additional Matter: Non-substantive revision of the current language of Section 606(c) to avoid ambiguity about whether the Mayor may vote on filling vacancies.

The current language of Section 606, paragraph (c) creates an ambiguity concerning the Mayor's voting on filling vacancies. The committee recommends that this be corrected by a non-substantive amendment of paragraph (c) if any other amendment of Section 606 is placed on the ballot.

The current language of Section 606(c) is:

“(c) Within sixty days of the date the office is officially declared vacant, the City Council shall, by affirmative vote of at least four of the remaining Councilmembers, elect to fill the vacancy by appointment or by calling an election.”

Charter Section 600(b) defines “City Council” and “Council” to include the Mayor and six City Council members. Section 606(b) provides that “the Council shall officially declare the office vacant” when a vacancy occurs “in the office of Mayor or Councilmember.” Based on the definitions in Section 600(b), the Mayor and the six City Council members would vote to declare the vacancy.

Section 606(c) provides that “the City Council shall ... elect to fill the vacancy by appointment or by calling an election.” But the supermajority provision of this sentence (“by affirmative vote of at least four of the remaining Councilmembers”), when used in the context of the earlier reference to “City Council,” arguably creates a negative implication that only votes of “remaining Councilmembers” and not the Mayor may constitute the supermajority. While this interpretation is nonsensical, the potential ambiguity can be corrected with a simple amendment.

This ambiguity could be eliminated by amending paragraph (c) as follows:

“(c) Within sixty days of the date the office is officially declared vacant, the City Council shall, by ~~affirmative vote of~~ at least four affirmative votes ~~of the remaining Councilmembers~~, elect to fill the vacancy by appointment or by calling an election.”

This proposed amendment is based on the supermajority language of Section 701 Emergency Ordinances.

Exhibit 1

Current Charter Section 606

Section 606. Vacancies.

(a) In addition to any other cause from which vacancies in the City Council may occur, the office of the Mayor or Councilmember shall become vacant when that official:

- (1) Resigns or dies;
- (2) Is absent from all regular meetings of the Council for a period of sixty days consecutively from and after the last regular Council meeting attended by such member, unless by permission of the Council expressed in its official minutes;
- (3) Is convicted of a crime involving moral turpitude;
- (4) Ceases to be an elector of the City of Sunnyvale;
- (5) Ceases to maintain his/her principal place of residence within the City limits, and/or within the applicable District boundaries for a member elected by District, during such official's term of office; or
- (6) Is involuntarily removed pursuant to Article II of the Constitution of the State of California, as may be amended from time to time.

(b) In the event of a vacancy in the office of Mayor or Councilmember, the Council shall

officially declare the office vacant within thirty days of the commencement of any vacancy.

(c) Within sixty days of the date the office is officially declared vacant, the City Council shall, by affirmative vote of at least four of the remaining Councilmembers, elect to fill the vacancy by appointment or by calling an election.

(d) If the vacancy is filled by appointment, the appointee shall hold office until the next General Municipal Election or Special Municipal Election consolidated with the next statewide election, whichever occurs sooner, and a successor is elected and qualified. The Councilmember then elected shall serve for the remainder of any unexpired term, and until a successor is elected and qualified.

(e) The City Council shall adopt an ordinance establishing a public process for appointment.

(f) If the City Council elects to fill the vacancy by election or fails to fill the vacancy by appointment, it shall call an election to be held within two hundred and forty days of the date the vacancy is declared.

(g) Notwithstanding any other provision of this section, the City Council shall not make an appointment to fill a vacancy if the appointment would result in more than two Council members or one Councilmember and the Mayor currently serving on the Council as appointees, and shall call a Special Municipal Election to be held within one hundred and eighty days from the date the Council declares the vacancy.

Amended effective December 31, 1975, December 21, 1976, December 23, 1982, January 17, 1992, December 21, 2018 and May 7, 2020 and May 7, 2020: previously Section 703)

Exhibit 2



Connie Verceles

RE: election cost

To: David Newswanger, Cc: David Carnahan

Inbox - D...@gmail.com June 17, 2025 at 6:26 PM

[Details](#)

Hello David,

Thank you for your patience as we gathered this information.

Staff is unable to provide exact costs—only estimates based on past expenses. Sunnyvale has not held a standalone special election since the Aug. 16, 2016 Special Election for At-Large Council Seat 4, which cost \$794,978.

Following former Councilmember Fong's resignation from Council ([RTC No. 21-0937](#)), the Registrar of Voters provided these estimates:

- April 12, 2022, estimated cost between \$1,937,773 and \$3,148,882
- June 7, 2022, estimated cost of \$227,188

Recent Registrar of Voters costs for Sunnyvale elections:

- Nov. 5, 2024, \$629,998 – Districts 2, 4 and 6, Office of Mayor, two Ballot Measures (E & F)
- Nov. 8, 2022, \$76,727 – Districts 3 and 5
- Nov. 3, 2020, \$262,201 – Districts 2, 4 and 6, Office of Mayor
- March 3, 2020, \$236,292 – Measure B – transition to district based elections
- Nov. 5, 2018, \$257,805 – Seats 1, 2 and 3
- Nov. 8, 2016, \$375,987 – Seats 4, 5, 6 and 7, two Ballot Measures (M & N)
- Aug. 16, 2016, \$794,978 – At-Large Seat 4

Please note that an election for the at-large mayor's office costs significantly more than any of the district council seats due to the large number of voters citywide versus in each council district.

For more precise estimates, the Registrar of Voters will need the specific office (mayor or council district) and proposed election date. The Registrar of Voters can take up to six weeks to prepare an estimate, although typically responds sooner than 6 weeks.

Please let us know if you have any further questions.

Thanks,
Connie

Exhibit 3

[illegible]