

From: [Melissa Tronquet](#)
To: [Melinda Hamilton](#); [Kathleen Franco Simmons](#)
Cc: [Carol Weiss](#); [Amanda Richey](#); [Linda Davis](#)
Subject: RE: question about unexpired terms
Date: Thursday, February 22, 2018 11:21:29 AM

Hi Melinda,

I'm going to suggest that we discuss your question at the meeting tonight, because I am not sure I fully understand your question.

My initial thought is that I don't have a concern about a conflict between section 601 and 604. Section 604 is really a carveout to the standard terms of office defined in section 601 that addresses how we handle unanticipated vacancies that occur during one of those standard 4-year terms. Filling a vacancy (through appointment or whatever means the CRC chooses to recommend) wouldn't alter the standard term of office for each seat set by section 601, it would simply address how the city places someone in the seat during that term if the person elected to that seat at the general municipal election vacates. The general elections would still occur at the 4 year intervals required for each seat under section 601 regardless of how vacancies are filled.

Kathleen will share this and your message below with the committee for discussion at the meeting tonight.

Best,
Melissa

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From: Melinda Hamilton [mailto:council@melinda.org]
Sent: Wednesday, February 21, 2018 6:45 PM
To: Melissa Tronquet <MTronquet@sunnyvale.ca.gov>; Kathleen Franco Simmons <kfrancosimmons@sunnyvale.ca.gov>
Cc: Carol Weiss <carolrlweiss@gmail.com>; Amanda Richey <amanda.r.richey@gmail.com>; Linda Davis <davislindar@yahoo.com>
Subject: question about unexpired terms

Hi Melissa & Kathleen,

Amanda, Carol, Linda and I met last week and had a lively discussion. As a result, I am looking for clarification on unexpired terms. I'm sorry I didn't get this to you earlier, but I'm on vacation this week and it has been difficult to get work done. I know it may not be possible to have an answer by tomorrow (tonight), but Kathleen, could you forward this out to the rest of the committee, and Melissa, could you research this for our next meeting? I suspect we're

close to a recommendation, but I'm not sure the recommendation to be finalized by tomorrow (tonight), so hopefully we can incorporate it into the discussion at some point soon.

One of the scenarios the committee is discussing is as follows:

Say Person A in seat 7 (that's my favorite) is elected in Nov. 2020 and sworn in in Jan. 2021. According to Sec. 601 of the charter, referenced below, Person A's term of office will last until Nov. 2024, with a Jan 2025 swearing in.

Something happens, and Person A resigns the seat in April 2021. The charter has been changed to allow appointments, and the council appoints Person B, but specifies that the appointment will last only until the next municipal election, which is Nov. 2022, at which point seat 7 will be up for a special election for a two year term. Person B has not resigned but is forced to run for reelection in order to attempt to keep the seat. Seat 7 would then be up for election again in Nov. 2024 for a four year term.

Then I started thinking about how terms are defined in Sec. 601 of the charter, and the meaning of unexpired terms. I've included the entire section below for reference, but the relevant bit is excerpted here:

"Commencing in 2016, Seats numbered 4, 5, 6, and 7 shall be filled at the General Municipal Election held in 2016, and every fourth year thereafter, and Seats numbered 1, 2, and 3 shall be filled at the General Municipal Election held in 2018, and every fourth year thereafter. "Notwithstanding the four year City Councilmember term limit set forth above, City Councilmembers in Seats 4, 5, 6 and 7, whose term of office would have expired in January 2016 when their successors were elected and qualified, shall continue in their offices an additional year until their successors are elected and qualified at the first regular meeting in January 2017."

Here are the questions I have:

1. Under Sec. 604 ****as currently written****, the seat 7 scenario proposed above is not possible, right? Because once someone is sworn in, they are subject to Sec. 604, which means the council would have to declare the seat vacant under the few situations outlined in the section to hold the election in Nov. 2022. At the moment, there is no other way to force an election without declaring the seat vacant or having an involuntary resignation. Does that line up with your interpretation of the situation?
2. So to make that scenario above possible, we would have to somehow incorporate a method of ending a councilmember's term prior to the regularly scheduled election laid out in Sec. 601 into our rewrite of Sec. 604. Correct?
3. This could be achieved perhaps by creating distinct type of councilmember — the appointed councilmember — who could be appointed for a limited period of time, tied to when the next municipal election takes place. I'm sure there are other possibilities, but the upshot is that we would somehow have the ability to appoint someone who would not be allowed to fill a seat for more than two years without an election. Am I correct that the committee would have to create that appointment limitation to achieve that result?
4. If the committee did decide to take such an action and incorporate such a limitation, would that put Sec. 604 in conflict with Sec. 601 with regard to the length of council member terms?

I look forward to your answer. I would also request that you or Kathleen forward the original email with your response out to the whole committee. Thank you. I won't be at the meeting tomorrow (tonight), but I'm confident that Amanda, Linda and Carol can do a great job representing my point of view. :)

-mel

Section 601. Term and Election.

Each member of the City Council shall be elected from the City at large at the General Municipal Election for a term of four years. The term shall commence at the first regular meeting in January, at which the City Council shall certify the election results, and shall continue until a successor is elected and qualified.

The office of each member of the Council is a separate elective office to be separately filled at any election.

The person receiving the highest number of all the votes cast for a particular elective office at any election shall be deemed and declared elected to that office.

Each Council seat shall be designated by a number from 1 through 7 and shall be known as "Councilmember Seat Number_____." The designation given to each elective office shall be used in all elections, nomination papers, certificates of election, and all other papers pertaining to such office, and to designate the incumbent of such office.

Seats numbered 1, 2, and 3 shall be filled at the General Municipal Election held in 1977 and every fourth year thereafter. Seats numbered 4, 5, 6, and 7 shall be filled at the General Municipal Election held in 1979 and every fourth year thereafter.

Commencing in 2016, Seats numbered 4, 5, 6, and 7 shall be filled at the General Municipal Election held in 2016, and every fourth year thereafter, and Seats numbered 1, 2, and 3 shall be filled at the General Municipal Election held in 2018, and every fourth year thereafter.

Notwithstanding the four year City Councilmember term limit set forth above, City Councilmembers in Seats 4, 5, 6 and 7, whose term of office would have expired in January 2016 when their successors were elected and qualified, shall continue in their offices an additional year until their successors are elected and qualified at the first regular meeting in January 2017.

Notwithstanding the four year City Councilmember term limit set forth above, City Councilmembers in Seats 1, 2, and 3, whose term of office would have expired in January 2018, when their successors were elected and qualified, shall continue in their offices an additional year until their successors are elected and qualified at the first regular meeting in January 2019. (Amended effective January 14, 1955, July 8, 1968, December 31, 1975, December 21, 1976, January 17, 1992, November 30, 1995, November 28, 2007 and December 16, 2013: previously Section 700)