

Kathleen Franco Simmons

From: Linda Davis <davislindar@yahoo.com>
Sent: Thursday, February 22, 2018 11:27 AM
To: Kathleen Franco Simmons
Cc: Melissa Tronquet; Amanda Richey; Carol Weiss; Melinda Hamilton
Subject: supplemental materials for CRC meeting tonight
Attachments: 2018-02-22_CRC_L.Davis-chart.pdf; 2018-02-22_CRC_L.Davis-notes.pdf

Good morning Kathleen,

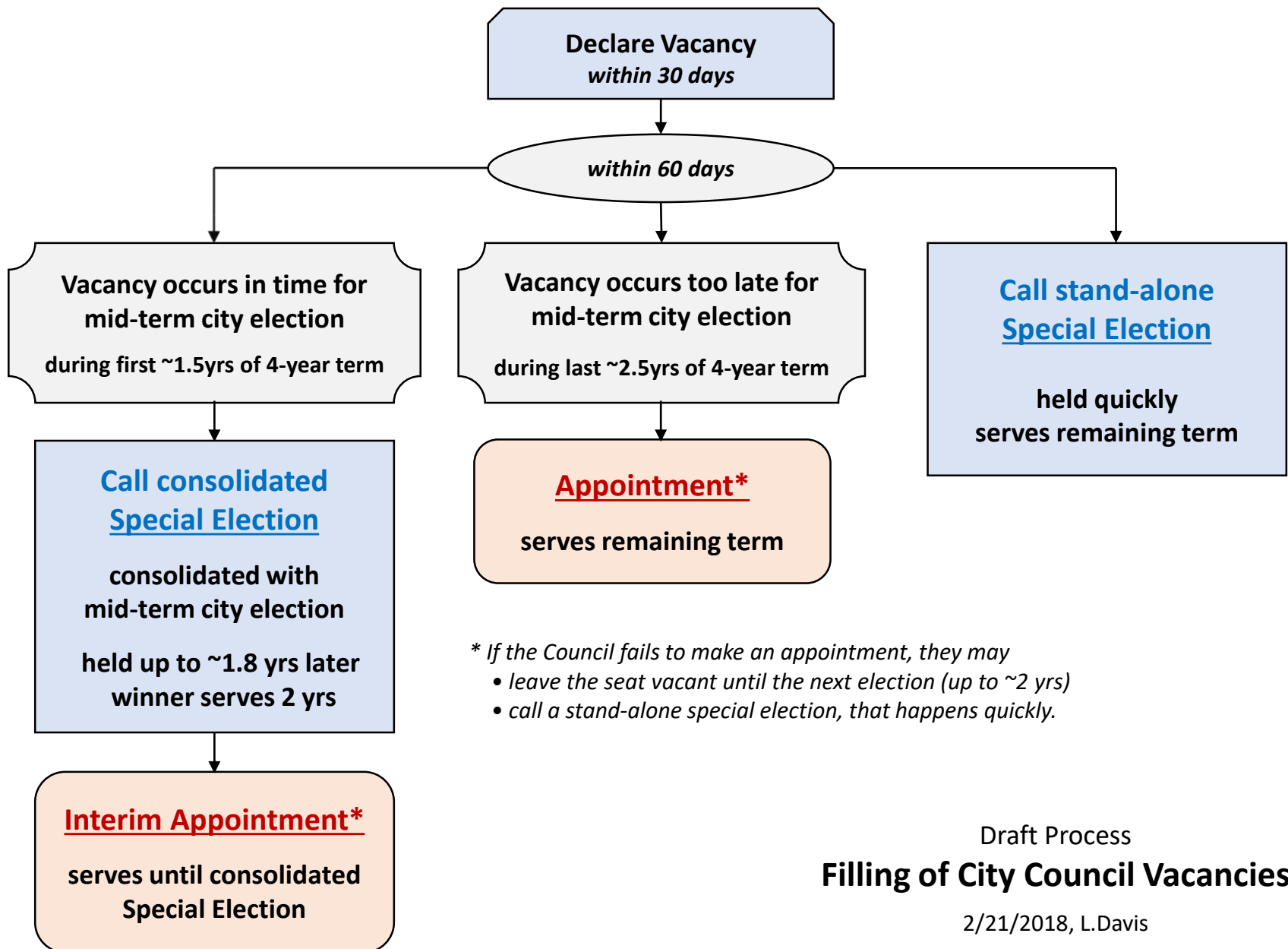
I have three pages to share as supplemental materials this evening, in the two attached documents. Can you make hardcopies? If not, please let me know how many copies I should bring. If you cannot print the "chart" page in color, please let me know and I'll bring that.

This material was developed as a continuation from the small group meeting we had last week, the committee discussions so far, and materials in tonight's meeting packet. I am not intending to offer any of this for discussion during tonight's meeting. Instead, I support the committee following the outline of discussion points provided in tonight's packet.

Why then am I offering these materials at tonight's meeting, if I don't intend for them to be discussed tonight? In short, I think my materials may be helpful as the committee decides on its next steps.

Apologies for putting this extra task on your plate so soon before the meeting. If it is an imposition, please let me know and I'll make the copies.

Regards,
Linda Davis



Draft Process
Filling of City Council Vacancies

2/21/2018, L.Davis

Section 604. City Council Vacancies

1. **Vacancy.** A council seat shall become vacant when a councilmember:
 - a. dies;
 - b. is absent from all regular meetings of the Council for a period of sixty consecutive days, unless Council permission is expressed in official minutes;
 - c. ceases to be an elector of the City of Sunnyvale or maintain a principle residence within Sunnyvale;
 - d. is removed from office pursuant to Article II, section 4 of the Constitution of the State of California;
 - e. is convicted of a crime involving moral turpitude; or
 - f. is removed from the Council under any other circumstance specified in this Charter .
2. **Declaring a Vacancy.** The City Council must declare a seat vacant within 30 days after the vacancy occurs.
3. **Filling Vacancies.** The options available to the Council depend on the timing of a vacancy relative to the regular Municipal Election midway through a standard four-year council term, which is referred to in this section as a “mid-term election.”
 - a. **Before mid-term election.** If a vacancy is declared before the nominations filing period opens for the mid-term election, the Council has up to 60 days after the vacancy is declared to take these actions:
 - i. The Council must call a Special Municipal Election to fill out the unexpired term and consolidate it with either the next municipal election or an earlier statewide election.
 - ii. The Council may also make an appointment to fill the vacant seat until the successor elected in the Special Municipal Election takes the oath of office.
 - b. **After mid-term election.** If a vacancy is declared after the time specified above in Section 604.3.a, the Council may make an appointment to fill the unexpired term within 60 days after the vacancy is declared. The Council may also choose to leave the seat vacant until the next regular election.
 - c. Notwithstanding the provisions in Sections 604.3.a and 604.3.b, the Council may call a stand-alone Special Municipal Election to fill a Council vacancy for the unexpired term, provided the date of the election satisfies these conditions:
 - i. It occurs within 180 days of the declaration of the vacancy.
 - ii. It accommodates the candidate nominations filing period prescribed by state law.
 - iii. It occurs at least 11 months before the next regular election for the relevant Council seat.
4. **Constraints on Appointments.** Council appointments in accordance with Sections 604.3.a.ii and 604.3.b must abide by these constraints:
 - a. An appointed councilmember may not take office within 60 days of the opening of the candidate nominations filing period for an election to that same seat.
 - b. No more than two councilmembers may serve concurrently in terms to which they were appointed.
 - c. The Council must follow an open and transparent process for seeking applications, interviewing applicants, receiving public input, and selecting the appointee.

Questions for Kathleen Franco-Simmons or Melissa Tronquet

Candidate Filing Period – Does the filing period of 113 to 88 days prior to Election Day apply to all elections in California? Or, can a charter city pick a different window for city council elections? *Note: Berkeley specifies a time window for special municipal elections that cannot accommodate the E-[113,88] window.*

130 days – Why does Government Code 36512 use 130 days before the election, instead of 114 or 120? Day 130 before the election is 27 days before the opening of the filing period. Is a cushion that big needed to insure that a short-term seat could be added to the election? Assume a vacancy occurred the day before the filing period opens. Would it be possible to get that seat onto the ballot in just one day?

Cancelling an Election – Say the Council calls for a consolidated special election that was about a year away, and then failed to make an interim appointment to fill a seat in the meantime, could the Council call off the consolidated special election and instead call an immediate stand-alone special election? (Assume these actions are allowed. I'm just asking whether an election once called can be cancelled.)

Time between election & oath of office – Councilmembers take office about two months after a regular city election. Is it safe to assume that that time is shorter for a stand-alone special election? For the August 2016 special election, the councilmember was sworn in about a month after the election, right? Would you expect it to usually take about one month to certify the results and swear in a special election winner?

Possible Committee Discussion Points

Minimum Elected Term – Should a special election be mandated when the winner would serve only a short time? Is there a minimum acceptable term for someone who is elected to office?

Appointments close to Elections – Should a vacancy be filled by appointment close to an election? Is it OK to appoint someone during the candidate filing period? Is there a minimum acceptable length of time before the candidate filing period for an appointee to be seated?

Note: If an appointee was seated about 2 months before the opening of the candidate filing period for a regular city election, then he/she would serve in an appointed term of about 8 months.

Scenario: A Council vacancy in seat #2 occurs June 5 of year 1 in the four-year term. Incumbents in seats #4, #5, and #6 are all serving their second 4-year term, and so are not allowed to run again in the next city election. An incumbent will be running for seat #7. This means there will be at least 3 new people joining the Council after the next regularly-scheduled city election.

Possible Council actions under a generic “hybrid” system for filling Council vacancies:

- 1) The Council calls a stand-alone special election that will occur about four months later in October of an odd year. The winner of the special election would probably be sworn into office in November, roughly a year before the next regular city election. The special election will be costly.
- 2) The Council adds a two-year term in seat #2 to the ballot of the next city election that will happen “mid-term” in seat #2's second year. (That's the ballot that will already have regular elections for seats #4-7.) The Council also appoints someone to fill seat #2 until that election happens. The appointed councilmember takes office by about August, well over a year before the next city election, and will serve for about 17 months before either being replaced by the winner of the two-year term or continuing in office as an elected councilmember.
- 3) The Council calls a special election for a short-term in seat #2, but consolidates that election with the statewide primary that will happen in June of the following year. Consolidating with the June election instead of the November election costs a bit more, but allows the seat #2 short term to be decided separately from the other four regular elections. The seat #2 winner would be sworn about August and serve a term of about 2 years and 5 months. The Council also appoints someone to fill seat #2 for about a year until the special election winner is sworn in.

Are any of these options unacceptable? Is one preferable? Should some other response be allowed?