



# City of Sunnyvale

## Meeting Minutes - Draft

### Charter Review Committee

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Thursday, March 8, 2018

6:00 PM

Human Resources Training Room, 505 W.  
Olive Avenue, Suite 202, Sunnyvale, CA  
94086

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#### **CALL TO ORDER**

Chair Lawrence Stone called the meeting to order at 6 p.m.

#### **ROLL CALL**

**Present:** 9 - Chair Lawrence Stone  
Member Linda Davis  
Member Hannalore Dietrich  
Member Melinda Hamilton  
Member Dawn Hopkins  
Member John Howe  
Member Marc Ketzel  
Member Richard Mehlinger  
Member Jack Walker

**Absent:** 2 - Vice Chair Carol Weiss  
Member Amanda Richey

#### **ORAL COMMUNICATIONS**

Serge L. Rudaz encouraged the committee to take enough time to carefully tie up any loose ends to avoid unintended consequences and to generate its own report to present to the City Council.

Steve Scandalis spoke regarding a letter he sent to the committee.

#### **CONSENT CALENDAR**

- 1      [18-0224](#)      Approve Charter Review Committee Meeting Minutes of February 22, 2018

City Clerk Kathleen Franco Simmons reported a correction to the minutes due to a technological error and stated copies of the corrected version have been provided to the committee.

Public comment opened at 6:08 p.m.

Zachary Kaufman commented that the minutes did not accurately reflect his comments and stated that what he was getting at was possibly enabling having a secondary body approve whatever the City Council's choice is.

Public comment closed at 6:10 p.m.

MOTION: Committee Member Mehlinger moved and Committee Member Davis seconded the motion to amend the minutes of the Charter Review Committee Meeting Minutes of February 22, 2018 to indicate as Mr. Kaufman said, that he wanted the Neighborhood Associations to approve the appointment rather than to make the appointment.

The motion carried by the following vote:

**Yes:** 8 - Chair Stone  
Member Davis  
Member Dietrich  
Member Hopkins  
Member Howe  
Member Ketzel  
Member Mehlinger  
Member Walker

**No:** 0

**Absent:** 2 - Vice Chair Weiss  
Member Richey

**Abstain:** 1 - Member Hamilton

## **GENERAL BUSINESS**

2      [18-0225](#)      Review of Draft Amendment to Charter Section 604

Assistant City Attorney Melissa Tronquet provided the report.

The committee reviewed the proposed Charter language from the 2/22/2018 meeting. Discussion, questions, comments and consensus included:

- Comments on section (d):
- Question of the rationale for why section (d) doesn't specify that the appointment

would be until the next election, rather than the next general municipal election;

- Comment that it wasn't clear that it was absolutely settled as that;
- Support for the general municipal election approach as that allows the voters to consider all the City Council races together, the primary may have less voter turnout, and that the possibility of a five-seat election when the vacancy is among the three seats not up for election is about a 20% chance of that being the case;

- Comments on section (a)(6):

- Comment relating to involuntary removal, with a suggestion to phrase it in such a way as to identify one or two things that people generally think of, such as mental incapacity;
- Comment that there are too many options and it would be better to leave it up to common sense;

- No additional comments on sections (a) or (b);

- Comments on section (c):

- Suggestion to include up front that the City Council can explicitly choose to call a special election, not just as a failure mode if they can't decide on an appointment after 60 days;
- Comment that Council should also be able to choose from the outset to leave it vacant;
- Comment that having the three options listed here may be more flexible;
- Recommendation to strike the leave vacant option because it may not mathematically make sense to have the option to leave it vacant; so, in this section there would be only the two options, by special election or by appointment;
- Support for including the vacant option;
- Support for adding to "... by appointment by affirmative vote of at least four of the remaining council members..." the phrase: "...or the Council may call a special election."
- Suggestion to resolve the question by increasing the 120 days from the date of calling a special election to 180 days; that would allow for striking the language about consolidation because the periods are the same; it could be left vacant for 6 months or up to 8 months because of the 60-day period;
- Discussion of pros and cons with a 180-day vacancy;
- Comments that a lengthy vacancy can result in ties and is a disservice to constituents;
- Suggestion to list section (c) as an option to appoint, (d) is an option to elect, etc.;
- Comment that the vote to appoint shouldn't have to be higher than four;

- Discussion of the phrase “from time to time”;
- Discussion of the phrase “which may include, but is not limited to...” and suggestion to end the sentence at “public process for appointment”;
- Discussion of replacing the word “policy” with “an ordinance” so that the process is in place before a vacancy occurs;
- Preliminary motion or straw vote: Should section (c) language be modified to eliminate the words “from time to time” and the last clause “...which may include...” to the end of the sentence? 8 - 0 - 1 (8 in favor; 0 opposed, 1 abstention by Committee Member Dietrich)

Public hearing opened at 7:01 pm

Steve Scandalis spoke to the process of taking public comment. Scandalis recommended on section (c), in the last sentence, the word “may” should become “shall”; he reiterated that the charter should narrow the options, and not leave things up to changes later; reiterated support for it to be vacant for an extended period of six to nine months, questioned how an abstention would affect the four affirmative votes needed to appoint. Regarding section (d), the first paragraph, Scandalis recommended the phrase “through the next General Municipal Election” be “the next available consolidated election” to have somebody serve until the next cost-effective point. Scandalis indicated that the clause as written appears to allow two-plus years’ appointment which the committee tried to make shorter. Regarding section (g), Scandalis advocated for no more than one of the members is a better option, both for appearances, and for acceptance by the public. Scandalis spoke in support of the addition of section (h).

Public hearing closed at 7:10 p.m.

Chair Stone facilitated continued discussion and motions on section (c):

PRELIMINARY MOTION: Committee Member Davis moved and Committee Member Howe seconded the motion that the following changes be made to the second sentence in part (c), subject to review by the City Attorney’s office strike the words “from time to time” and the final clause that begins with “which” and ends with “appointee.”

The motion carried by the following vote: Unanimous

PRELIMINARY MOTION: Committee Member Howe moved and Committee Member Mehlinger seconded the motion that the word “policy” be changed to “an

ordinance”.

The motion carried by the following vote: 5 - 4 (5 in favor by Committee Members Mehlinger, Dietrich, Davis, Howe, Hopkins; 4 opposed by Committee Members Ketzel, Stone, Hamilton, Walker)

Chair Stone facilitated continued discussion and motions on section (d):

- Clarification that section (d) as written indicates an appointment would be to fill a vacancy only until the next general municipal election, not the next general municipal election for that seat;
- Discussion regarding how this section interacts with term limits; any modification to term limits would require a separate charter amendment;
- Discussion regarding an appointment made during a period that is too late to file for an upcoming election and would result in an appointee serving over two-and-a-half years;
- Discussion regarding including more options such as the appointee would serve until any upcoming consolidated election or statewide election, such as a March or June primary;
- Suggestion to change “General Municipal Election” to “the next consolidated election”

PRELIMINARY MOTION: Committee Member Howe moved and Committee Member Hamilton seconded the motion to change “General Municipal Election” to “the next consolidated election”.

The motion carried by the following vote: 8 - 0 - 1 (8 in favor; 0 opposed; 1 abstention by Committee Member Mehlinger)

PRELIMINARY MOTION: Committee Member Walker moved and Committee Member Dietrich seconded the motion to amend the section to say that the appointment should be no longer than one year.

The motion failed by the following vote: 2 - 7 (2 in favor by Committee Members Walker and Dietrich; 7 opposed by Committee Members Mehlinger, Davis, Hopkins, Ketzel, Stone, Hamilton, Howe)

PRELIMINARY MOTION: Committee Member Howe moved and Committee Member Walker seconded the motion to strike the phrase “commencing 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.”

FRIENDLY AMENDMENT: Committee Member Hamilton suggested inclusion of the

phrase “and until a successor is elected and qualified.”

The friendly amendment was accepted by the makers of the motion and second.

The motion carried by the following vote: Unanimous

Chair Stone facilitated continued discussion and motions on section (e):

PRELIMINARY MOTION: Committee Member Mehlinger moved and Committee Member Hamilton seconded the motion that section (e) be struck.

AMENDED MOTION: Committee Member Mehlinger amended the motion to include that the other half of this motion would be to say that the special election timeframe would be 240 days from the date the vacancy is declared.

Committee Member Hamilton declined to accept the amendment of the motion.

Committee Member Mehlinger withdrew the amended motion.

FRIENDLY AMENDMENT: Committee Member Hamilton offered a friendly amendment to add to section (e) to give the Council the ability to choose to call a special election instead of an appointment.

Committee Member Mehlinger accepted the friendly amendment.

RESTATED MOTION: Committee Member Mehlinger restated the amended motion is to strike all the existing text of section (e), and adding the choice that at any point during the 60-days when the Council is considering an appointment, they may instead by four affirmative votes call a special election.

The motion carried by the following vote: Unanimous

Chair Stone facilitated continued discussion and motions on section (f):

PRELIMINARY MOTION: Committee Member Mehlinger moved and Committee Member Davis seconded the motion that the phrase “within one hundred and twenty days” be struck and re-written to “within two hundred and forty days of the date when the vacancy has been declared.”

AMENDED AND RESTATED MOTION: Committee Member Mehlinger amended and restated the motion that, with the previous clause allowing the City Council to call a special election without a failure, or alternatively, “If the City Council fails to fill the vacancy by appointment or decides to call a special election, it shall be within two hundred and forty days” or “If the City Council chooses to call a special election or fails to fill the vacancy by appointment, it shall be within two hundred and forty

days.”

FRIENDLY AMENDMENT: Chair Stone offered a friendly amendment to say that if the City Council “elects” to call a special election.

Committee Member Mehlinger accepted the friendly amendment.

The first reading of the votes, the motion carried by the following vote: 6 - 3 (6 in favor by Committee Members Mehlinger, Dietrich, Davis, Stone, Walker, Howe; 3 opposed by Committee Members Ketznel, Hamilton, Hopkins)

Following a request to change a vote, the motion carried by the following vote: 5 - 4 (5 in favor by Committee Members Mehlinger, Davis, Stone, Walker, Howe; 4 opposed by Committee Members Ketznel, Hamilton, Hopkins, Dietrich)

Chair Stone facilitated continued discussion and motions on section (g):

PRELIMINARY MOTION: Committee Member Howe moved and Committee Member Walker seconded the motion to amend section (g) to change “two” to “one” for the number of appointments in the last sentence.

The motion failed by the following vote: 2 - 5 (2 in favor by Committee Members Howe and Walker; 5 opposed by Committee Members Mehlinger, Davis, Ketznel, Stone, Hopkins; 2 abstained by Committee Members Dietrich and Hamilton)

PRELIMINARY MOTION: Committee Member Mehlinger moved and Committee Member Davis seconded the motion that on section (g) strike “one hundred and twenty” and replace with “one hundred and eighty”.

The motion carried by the following vote: 8 - 1 (8 in favor by Committee Members Mehlinger, Dietrich, Davis, Stone, Walker, Howe, Ketznel, Hopkins, Dietrich; 1 abstention by Committee Member Hamilton)

Chair Stone facilitated continued discussion and motions on section (h):

PRELIMINARY MOTION: Committee Member Mehlinger moved and Committee Member Howe seconded the motion to strike section (h).

The motion carried by the following vote: Unanimous

**3**        [18-0243](#)        Determine Report Preparation and Date for Charter Review Committee Final Recommendation to City Council on Amendment of Charter Section 604

Assistant City Attorney Melissa Tronquet provided a brief report and suggested the item could be continued to the next meeting. City Clerk Kathleen Franco Simmons

provided additional information.

Public hearing opened at 8:22 pm

Steve Scandalis spoke in support of continuing today's discussion until the March 22 meeting to bring back the formalized wording, set April 12 as a target date to have a report draft, and then April 26 to approve the report. Scandalis recommended the report format include a breakdown similar to the attachment in the report.

Public hearing closed at 8:24 pm

MOTION: Committee Member Mehlinger moved and Committee Member Howe seconded the motion to continue Item 3 to the next meeting.

The motion carried by the following vote: Unanimous

**INFORMATION ONLY ITEMS**

[18-0244](#)

Calendar Screenshots - Provided by Committee Member Mehlinger

**ADJOURNMENT**

Chair Stone adjourned the meeting at 8:25 p.m.