



# City of Sunnyvale

## Meeting Minutes - Final

### Charter Review Committee

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Thursday, February 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 Stone called the meeting to order at 6 p.m.

#### **ROLL CALL**

**Present:** 10 - Chair Lawrence Stone  
Vice Chair Carol Weiss  
Member Linda Davis  
Member Hannalore Dietrich  
Member Melinda Hamilton  
Member Dawn Hopkins  
Member John Howe  
Member Marc Ketzel  
Member Richard Mehlinger  
Member Amanda Richey

**Absent:** 1 - Member Jack Walker

Committee Member Hamilton arrived at 6:05 p.m.

#### **ORAL COMMUNICATIONS**

Steve Scandalis spoke in appreciation for Larry Stone's letter of January 25 and in support of the decision of the committee at the last meeting to meet as a whole, rather than breaking into subcommittees.

#### **CONSENT CALENDAR**

- 1      [18-0127](#)      Approve Charter Review Committee Meeting Minutes of January 25, 2018

MOTION: Committee Member Howe moved and Committee Member Weiss seconded the motion to approve the Charter Review Committee Meeting Minutes of January 25, 2018 as submitted.

The motion carried by the following vote:

**Yes:** 10 - Chair Stone  
Vice Chair Weiss  
Member Davis  
Member Dietrich  
Member Hamilton  
Member Hopkins  
Member Howe  
Member Ketzel  
Member Mehlinger  
Member Richey

**No:** 0

**Absent:** 1 - Member Walker

## **GENERAL BUSINESS**

### **2      [18-0128](#)      Discussion of Alternatives to Filling Councilmember Vacancies and Possible Amendments to City Charter Section 604**

Committee Members Carol Weiss and Dawn Hopkins provided a report of research they conducted among twenty different cities and states, some outside of California, on how they fill unexpected city council vacancies, and described some of the advantages and disadvantages of handling them by either appointment or special election. Committee Members Weiss and Hopkins' recommendations included:

- Support for an appointment process;
- Support for avoiding a stand-alone special election;
- Support for combining the special election with a General or Municipal Election, with the ballot clearly marked Special Election; the appointment should run through the next Statewide or General Municipal Election and certification of results, unless less than a year remains of the original term;
- The only situation allowing for a special election would be by citizens' petition based on a required percentage of registered voters as of a certain date;
- A short timeline is recommended for deciding on an appointee; no more than 60 days in most cases, from official declaration of vacancy to selection of appointee;
- The city clerk would publish in various venues and on various media, a notice of the vacancy and invite applications with general questions to be returned by a certain date;
- City Council would develop a more specific questionnaire to be filled out by the qualified applicants;

- In a public session, City Council would select three to seven qualified applicants;
- City Council would then develop questions to ask each of the applicants in a public forum;
- City Council would vote in public on an appointee.

Committee discussion, questions, comments or requests for information included:

- Discussion of some of the benefits of the appointment process, included: people who could not afford to run for election would be able to apply, leads to more diversity, the cost is less than a special election, appointment would be less onerous for a citizen, it would be faster to fill the vacancy and a partial council would be for less time;
- Support for having a special election when a council doesn't choose any applicants or when the council vote is split evenly;
- Discussion of the initial applicant questionnaire, as compared to the analysis voters make, and more specific questions the council might ask separately;
- Comments regarding some of the sample cities provided in the report, in which there is typically an option for a default to a special election if the council fails to make the appointment;
- Discussion of City of Belmont's recent all-mail ballot election with a cost of \$58,000;
- Suggestion to check to see if there have been changes to the law on all-mail ballot elections;
- Discussion of why it would make a difference if an appointee could not afford the cost of running in an election; comments that a council would want to consider whether an appointee couldn't later win an election due to the cost of running;
- Comments that the appointment process should be more accessible for everybody who has the ability and desire to serve; individuals can draw money from the community as a sign of support from the community;
- Request to have the candidates of the 2016 election testify to the committee about the impact the special election had on their campaigns and their lives;
- Comments that special elections are expensive because of the cost of communicating with the voters, support for publicly funded elections, and comments that the affordability quotient, when available to everybody, shouldn't be an issue in the decision of the type of structure for re-election;
- Comments that the appointment process may not foster diversity when a Council tends to appoint people like themselves;
- Discussion of having the candidates testify to the committee, to get a sense of the burden of the cost and time commitment of the special election process; suggestion to have the people on the committee who have run elections speak to the issues;

- Discussion of the cost savings of switching from odd-year to even-year elections;
- Discussion of the number of votes by Council to make the appointment;
- Comments regarding the cost of elections: the cost is lower for the City in even-numbered years, but the cost is higher for the candidates who are competing with many other offices and propositions to get their message out to the voters;
- Comments regarding the cost of democracy and the limits on campaign contributions;
- Comments regarding diversity of the voters as compared to the makeup of the City Council;
- Discussion of the issues of other cities changing to district elections;
- Comments regarding diversity and chaos when officeholders represent more than their districts;
- Comments in support of a representative democracy and disagreement with earlier comments regarding chaos when representation is diverse;
- Comments in support of the value of an appointment encouraging and fostering diversity; it would open doors and provide women and people of color opportunities for public speaking, meeting people, and finding mentors and sponsors;
- Comments regarding the availability of campaign contribution statements;
- Comments by committee members on their experiences of running for election, how a candidate runs, the time and energy they spend running, who they choose to run against, how mailed materials are targeted, campaign contribution limits, and communication through media and social media;
- Comments regarding the parameters for looking at some hybrid models.

Committee Member Mehlinger provided a presentation of a web application that shows a map of dates that would force a special election in contrast to dates an election could be consolidated with a Statewide election, based on the current 180-day window. Mehlinger concluded that the best solution would be a hybrid approach as discussed at the last meeting, with the option for Council to fill a seat by appointment or by special election at its discretion, and a 60-day window for making the appointment as an option to consider.

Committee discussion and comments included:

- Comments on having a time frame for calling a special election, determining whether it would be at the Council's discretion to leave the vacancy and possibly have a three-three split, or having some kind of force to trigger a special election;
- Discussion of whether to handle a vacancy different during odd-numbered years;
- Discussion of example cities as presented in the report as to how they chose the dividing line;

- Discussion of the 60-day window from the declaration of the vacancy to make an appointment or call a special election;
- Comments that from the viewpoint of the voter, there is also an extra burden of having a special election, and should be avoided;
- Comments in support of setting the time based on the amount of the unexpired term left for differentiating whether a special election should be held or the vacancy should be filled by appointment; the cost of a special election is much more justifiable if there is a two-year unexpired term left;
- Comments that City Council should be given an opportunity to be able to work with whatever they need to do before the clock starts ticking on a resignation;
- Comments that there would need to be rules that aren't manipulative based on the political composition of the people left on the Council;
- Support for an appointment process with a window during which the appointment must be made, and if no appointment is made, a special election is automatically triggered;
- Discussion of the appointment procedure; recommendation that it shouldn't be written into the charter;
- Comment that with the General Law cities the dividing line is two years, and 114 days before the election; if filled before that, the seat should go to the next General Election as a special election that gets consolidated with the next General Election; if filled after that, the seat is filled for the rest of the term;
- Comment that an election to fill a two-year term would be an added and unnecessary expense;
- Comment that an appointed person should serve for a shorter time and would have to stand for election at the next General Election to serve the remainder of the unexpired term;
- Comment that having five people [seats] running in a General Election would result in a lot of institutional knowledge potentially in turnover;
- Discussion regarding the importance of having a process or policy in place for making appointments;
- Information request to describe the difference between an ordinance and a policy;
- Suggestion that if the recommendation is that if less than half of the term remains, the appointment would stand for that period, rather than a special election; suggestion to decide what a reasonable time is, if less than two years remain, or if less than one year remains, the appointment will stand for the remainder of that term; that would do away with the really short periods of time;
- Comment that over 180 days or six months is a long time to be without a full council; if it is closer to a General Election, it should just be part of the General Election; if it is not close enough to the General Election, give the Council flexibility

to do what they want.

A point of personal privilege was raised to ask for a 5-minute recess.

Committee recessed at 7:30 p.m.

Committee reconvened at 7:38 p.m.

Committee discussion included:

- Comment to look at a 60-day timeframe to make an appointment, and the timeframe should be up to the next General Election;
- Comment that it would be up until a qualified person is elected and installed in the seat;
- Comment that this would be if the vacancy occurs before the filing period for the next General Election; after that, it would go to the following General Election two years out;
- Comment that if in the 60 days, an appointment is not made, then a special election is mandatory, or they can choose to call a special election if they choose not to appoint;
- Comment that the time frame would be 60 days from when the seat is declared vacant; the Council would have to declare the seat vacant within 30 days;
- Comment that it would be the next Statewide or General Election;
- Comment that if the Council decides to have a special election, it is back to the cost.

Public comment opened at 7:43 p.m.

Steve Scandalis expressed concerns regarding discussion of appointments going out to two-and-a-half years and commented on the difficulty of meeting 30-day deadlines for filing a citizen petition to challenge an appointee, the potential for manipulation of the application process, issues with mail-only special elections. Scandalis suggested all 2016 candidates should be asked to testify to the committee, and inquired as to how many votes of the Council would be required to appoint.

Public comment closed at 7:48 p.m.

MOTION: Committee Member Howe moved and Committee Member Hamilton seconded the motion that the committee agrees in general that up to 60 days after the seat is declared vacant, the City Council would be able to either appoint or call

for a General Election during that time frame; at the end of the 60 days, it would be mandatory to go to a special election; the appointment serves to the next General Election; and in general, the committee needs to come up with a maximum number of appointees before a special election is required, whether it is one or two, for discussion at the next meeting.

Committee discussion of the motion included:

- Clarification that if the 60 days falls within the filing period of the General Election, it would go to the General Election;
- Comments and clarification regarding consolidation with June elections, or the March election, depending on whether it is an even-numbered year or an odd-numbered year;
- Acknowledgement that the number of appointees is yet to be decided;
- Suggestion to give consideration of the length of the term and how much time is remaining in the term before it goes to a General Election;
- Agreement with the construct of resignation as day one, 30 days to declare the vacancy, and an additional 60 to 90 days to appoint or designate a special election; but disagreement that the construct should apply if there is a vacancy in the first half of a 4-year term; consideration should be given to prioritizing special elections if there is a vacancy within the first two years of a 4-year term;
- Comments that the motion was that if the vacancy occurred in the first half of a 4-year term, it would go to the next General Election for a split 2-year term; disagreement that this was included in the motion.

Chair Stone offered a clarification to the motion that an appointment would not go by a General Election. Committee Member Howe accepted the clarification of the motion.

Committee continued discussion of the motion included:

- Request for more time to consider the details and to meet in a sub-group to dig in to that framework and bring back clear choices and possible alterations;
- Suggestion to look at the section referring to appointment when a vacancy is caused by involuntary removal or by a death;
- Request for a summary of the construct and the parameters presented in the most logical order for a discussion outline;
- Concerns regarding a provision which might result in five Council seats up for election at one time;
- Question of when the clock starts ticking when a vacancy by various means occurs.

The motion failed by the following vote:

**Yes:** 5 - Chair Stone  
Member Dietrich  
Member Howe  
Member Ketzel  
Member Mehlinger

**No:** 5 - Vice Chair Weiss  
Member Davis  
Member Hamilton  
Member Hopkins  
Member Richey

**Absent:** 1 - Member Walker

Final comments by committee members included:

- Request for a discussion outline for the next meeting;
- Offer to meet in a subcommittee outside of the regular meeting;
- Request to those who voted no to come back with specific proposals for consideration;
- Suggestion for the next meeting, to have a white board to write the ideas;
- Offer to provide sample language;
- Request for copies of flow charts of the current process and the General Law Cities provision for filling vacancies

### **ADJOURNMENT**

Chair Stone adjourned the meeting at 8:03 p.m.