

REPORT TO COUNCIL

SUBJECT

Adopt two Resolutions: (1) Declaring Councilmember Seat Number 4 Vacant and (2) Calling a Special Municipal Election to be held on Tuesday, August 16, 2016 for the Purpose of Filling the Vacancy in Councilmember Seat Number 4 for the Unexpired Term, Requesting Election Services from the Santa Clara County Registrar of Voters, Providing Regulations for Candidates' Statements and Determining to Levy Costs of Candidates' Statements

DISCUSSION

On April 4, 2016, City Councilmember David Whittum formally submitted a letter of resignation to the City Clerk, effective April 4, 2016.

Councilmember Whittum was elected to serve as Councilmember Seat Number 4 on November 7, 2007. He began his first term in January 2008, and was re-elected November 8, 2011. After Sunnyvale voters approved a charter amendment in November 2013 to change from odd-year to even-year elections and extending current terms by one year to accommodate the change, his second term was scheduled to end January 10, 2017. Mr. Whittum would not have been eligible to run for an additional term in the November 8, 2016 election due to the two-term limit specified in the Sunnyvale City Charter.

Pursuant to Sunnyvale City Charter Section 604, when a Council vacancy occurs, the Council must officially declare the seat vacant within 30 days and call a Special Municipal Election to fill the vacancy for the unexpired term. Other provisions apply when the vacancy is created by the death or other involuntary removal of the member. The Charter allows for the special municipal election to be consolidated with a general municipal or statewide election, if such an election is scheduled within 180 days of the declaration of the vacancy. However, in this instance, an election to fill the vacancy does not qualify for either of the two upcoming Statewide General Elections. The date by which the Council must have consolidated the special municipal election with the June 7, 2016 Statewide Election was March 11. The November 8, 2016 Statewide General Election is over 180 days beyond the latest possible date (May 4, 2016) by which the Council is required by Charter to declare the vacancy within 30 days of the resignation. Therefore, the only option available to fill this vacancy in accordance with the City Charter is to hold a special election. A special election must be held within 120 days from the date Council declares the vacancy.

Staff recommends the following Council actions required by the City Charter and in compliance with the California Elections Code:

- Adopt a Resolution Declaring Councilmember Seat Number 4 Vacant (Attachment 1);
- Adopt a Resolution Calling a Special Municipal Election for Tuesday, August 16, 2016 for the purpose of filling the vacancy in Councilmember Seat Number 4 for the Unexpired Term,

requesting election services from the Santa Clara County Registrar of Voters, providing regulations for Candidates' Statements and determining to levy costs of Candidates' statements (Attachment 2).

If Council takes action at this time, the Nomination Period for the Special Municipal Election to be held August 16, 2016 will open Monday, April 25, 2016 and close at 5 p.m. Friday, May 20, 2016. The Special Municipal Election to fill the vacancy for the unexpired term will be held in all respects in the same way as a regular Municipal Election for filling officeholder seats on the City Council. The candidate elected will be sworn in and take their seat at the Council meeting following the receipt of the Certification of the Election Results from the County Registrar of Voters, on or before September 20, 2016 and will serve through the remainder of the unexpired term to January 10, 2017.

The Resolution Calling the Special Municipal Election for August 16, 2016 (Attachment 2) requests the County of Santa Clara Registrar of Voters (SCCROV) to provide services to conduct the City's election. The City will be responsible for issuing, receiving and processing candidate nomination papers and statements; forwarding candidates' statements to the County for translation, printing and mailing to the voters; forwarding any vote by mail applications and write-in declarations received by the Office of the City Clerk to the Registrar of Voters; and publishing notices of the election and nominees.

EXISTING POLICY

As discussed above, Sunnyvale Charter Section 604 "Vacancies" provides the process for declaring and holding special elections for vacancies in councilmember seats.

Charter Section 1403 "Procedure For Holding Elections" provides that "all municipal elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exist or may hereafter be amended, for the holding of elections in cities organized under the General Law of the State of California, insofar as the same are not in conflict with this Charter."

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

FISCAL IMPACT

The County Registrar of Voters estimates the cost of publishing candidate statements for a stand-alone Special Municipal Election at \$2,337 for each candidate, plus the cost of ballot printing in five languages. This cost is generally paid by each candidate who elects to have their candidate statement published in the voter information pamphlet. However, Sunnyvale Municipal Code (Chapter 2.28) allows for the fee to be waived if the candidate submits 250 valid signatures, and prorated if fewer valid signatures are submitted. For candidates who submit qualifying signatures, the City of Sunnyvale pays in full (for 250 signatures) or in part (pro-rated at \$9.00 per signature) for the cost of publishing candidate statements.

The estimated cost of conducting the Special Municipal Election by the County of Santa Clara Registrar of Voters is estimated to be \$767,590, plus the cost per candidate statement of \$2,337. The forthcoming FY 2016/17 recommended budget will include the estimated costs for the November 8

General Election in the amount of \$452,158 as well as the estimated cost for the August 16 Special Election in the amount of \$767,590 for a total cost of \$1,219,748.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

ALTERNATIVES

1. Adopt two Resolutions: (1) Declaring Councilmember Seat Number 4 Vacant and (2) Calling a Special Municipal Election to be held on Tuesday, August 16, 2016 for the Purpose of Filling the Vacancy in Councilmember Seat Number 4 for the Unexpired Term, Requesting Election Services from the Santa Clara County Registrar of Voters, Providing Regulations for Candidates' Statements and Determining to Levy Costs of Candidates' Statements.
2. Provide direction to staff and continue this item to May 3, 2016 for final action pursuant to the Charter.

RECOMMENDATION

Alternative 1: Adopt two Resolutions: (1) Declaring Councilmember Seat Number 4 Vacant and (2) Calling a Special Municipal Election to be held on Tuesday, August 16, 2016 for the Purpose of Filling the Vacancy in Councilmember Seat Number 4 for the Unexpired Term, Requesting Election Services from the Santa Clara County Registrar of Voters, Providing Regulations for Candidates' Statements and Determining to Levy Costs of Candidates' Statements

Prepared by: Kathleen Franco Simmons, City Clerk

Reviewed by: John Nagel, City Attorney

Reviewed by: Tim Kirby, Acting Finance Director

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Resolution Declaring Councilmember Seat Number 4 Vacant
2. Resolution Calling a Special Municipal Election to be held on Tuesday, August 16, 2016 for the Purpose of Filling the Vacancy in Councilmember Seat Number 4 for the Unexpired Term, Requesting Election Services from the Santa Clara County Registrar of Voters, Providing Regulations for Candidates' Statements and Determining to Levy Costs of Candidates' Statements
3. Resignation Letter from David Whittum