



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### REPORT TO CHARTER REVIEW COMMITTEE

#### **SUBJECT**

Discussion of Alternatives to Filling Councilmember Vacancies and Possible Amendments to City Charter Section 604

#### **REPORT IN BRIEF**

This report provides supplemental information requested by the Charter Review Committee (CRC) at the January 25, 2018 meeting.

#### **BACKGROUND**

At the January 25, 2018 meeting, the CRC discussed three broad options for filling vacancies in city council seats:

1. Election
2. Appointment
3. Hybrid election/appointment

Many members expressed general interest in option #3. Members raised some key themes for further discussion on this option, including:

- How to determine the appropriate balance between the financial burden of a special election and ensuring that voters have a say in choosing their representatives?
- Should the distinction between voluntary and involuntary resignations in the current provision be maintained?
- Is there a way to give the council more flexibility in calling a special election (especially by expanding the window of time during which a special election could be called)?
- If the city adopts a hybrid election/appointment approach:
  - Should the number of appointed officials be capped? If so, at what number?
  - Should there be a defined process for appointment?

#### **DISCUSSION**

##### **A. Information Requested from Staff**

The CRC requested that staff provide additional information on the following items to help facilitate discussion at the February 8, 2018 meeting:

1. Election history related to the 1991 Charter amendment adding the voluntary/involuntary resignation distinction.

The election materials for the 1991 Charter amendment did not include any ballot arguments, and the impartial analysis does not discuss the reasoning for the proposed change. However, it appears that

the 1991 Charter amendment followed the resignation of a council member in 1990, which resulted in a special election to fill the vacancy in January 1991 that preceded a regular election in November 1991 to fill the same seat. The same individual won both elections. Ballot information for the Charter amendment is included in attachment 1.

2. Policies from other cities related to appointment processes to fill council vacancies.

Staff surveyed other cities for policies, procedures, or other council-defined processes used to fill council vacancies. Many cities reported that although their charters provided generally for appointment, they generally do not contain specific provisions on the exact process for making appointments beyond, in a few cases, a requirement on the number of votes to appoint.

The trend in many cities in recent years appeared to shift from “direct” appointment by the council toward more formal appointment processes that involved applications and interviews. This trend is probably reflective of the enhanced focus on transparency and openness in local government over the past 10-15 years.

In addition, while not all cities adopted appointment policies, ordinances, or resolutions in advance of a vacancy, those that decided on an appointment process at the time of a vacancy used similar approaches to those cities with pre-established processes.

Common approaches in appointment processes included:

- Applications from interested individuals
- Interviews of interested individuals
  - One city reported that it chose to interview all 26 applicants for a vacancy, and held follow up interviews with the top 3
  - Several cities opted to follow existing application, interview and appointment processes used for board and commission members
- Final appointment vote

Sample policies, resolutions and related documents are included in attachment 2 to give CRC members a sense of the possible approaches and terms for appointment processes.

3. Allowed ballot titles for appointed council members.

Elections Code section 13107 would allow an appointed incumbent seeking election to use one of the following ballot designations:

- his or her current profession, vocation or occupation (Elect. Code § 13107(a)(3), or
- the title “appointed incumbent” (Elect. Code § 13107(a)(4), see attachment 3).

B. Information Provided by CRC Members

1. Committee Member Mehlinger developed a simple web app version of the vacancy calendar for 2019-2020, available at <https://sunnyvale-election-calculator.firebaseio.com/>. Those interested in the source code can find it at <https://github.com/rmehlinger/election-calendar-sunnyvale>. Contact [rmehlinger+charter@gmail.com](mailto:rmehlinger+charter@gmail.com) with any questions, notice anything wrong, or would like him to include any other features.

2. Committee Members Weiss and Hopkins reported to staff that they have done some "deep

digging" into what other cities and states do to fill unexpected vacancies on their city councils and would like to report back to the group on their findings. As a charter city, Sunnyvale has broad discretion to determine how it wants to fill council vacancies. Thus, while the alternatives the CRC has discussed to date have focused on California cities, Sunnyvale is not limited to those options.

### **PUBLIC CONTACT**

Public contact was made by posting the CRC 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.

### **RECOMMENDATION**

Staff makes no recommendation.

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Kathleen Franco Simmons, City Clerk

Reviewed and Approved by: Teri Silva, Assistant City Manager

### **ATTACHMENTS**

1. 1991 Election information
2. Sample appointment policies and procedures
3. Elections Code 13107(a)(4) Appointed Incumbent