

REPORT TO CHARTER REVIEW COMMITTEE

SUBJECT

Discussion of Alternatives to Filling Councilmember Vacancies and Amendments to City Charter Section 604, Including Adding an Appointment Provision, and Direction on Next Steps for Charter Review Committee Recommendation to City Council

REPORT IN BRIEF

This report provides a possible outline for discussion of filling vacancies by appointment and special as requested by the Charter Review Committee (CRC) at the February 8, 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

At the January 25 and February 8, 2018 meetings many CRC members expressed preliminary preferences toward some form of the “hybrid” option. Members seemed to favor the idea that an appointment to get to the next general election would minimize the special election costs, unless you can't get the appointment done.

On February 8, the CRC discussed possible elements and pros/cons of an appointment component of the hybrid option in more detail. The CRC requested that staff provide an outline of key decision points necessary to move forward with a recommendation from the CRC to the City Council on an amendment to Charter section 604 that includes appointment to fill a vacancy.

DISCUSSION

A. Outline of Key Discussion/Decision Points Related to Potential Charter Amendment to Include Appointment Option for Filling Council Vacancies

1. Should the timeframe for a seat to be declared vacant remain at 30 days?

Discussion/issues raised at prior meetings:

- Several members suggested at prior meetings that this time period to declare a vacancy is reasonable

2. What should the timeframe for appointing a new councilmember be after the vacancy is declared?

Discussion/issues raised at prior meetings:

- Sufficient time to allow for a meaningful process (such as applications, interviews,

public discussion, etc). Several members suggested 60 days to complete the appointment process was reasonable

- Details of process for appointment should not be included in charter, but CRC may include a recommendation to council on what that process should be and how it should be documented/codified
 - Current Council Policy adopted publicly for interim council appointments provides for application and interviews
 - Could also be adopted by resolution or ordinance (ordinances require longer periods for adoption)

3. If the Council is unable to appoint a member within the established period, should the council (a) choose whether to hold a special election, (b) wait until the next general municipal election, or (3) should a special election be mandatory?

- A special election could be held on any statewide election date (March, April, November, depending on year).
- General municipal elections occur in November of even numbered years.

4. If the Council does make an appointment, when should an election be required for that seat?

- For helpful visuals of election requirements, Attachment 1 contains flowcharts in of the current Sunnyvale process under Charter section 604 and the process under Government Code section 36512.
- Government Code section 36512, for example, does not require special elections for vacancies that occur in the second half of a term. If a vacancy occurs in the first half of a term, whether to call a special election or wait until the next general municipal election depends on when the vacancy occurs in relation to the next general election.

5. Should there be a limit on the maximum number of appointees?

- Government Code section 36512, for example, limits appointments to less than a majority of the Council. Sunnyvale could limit it to a lower number.

6. Should the City maintain or eliminate the current distinction between voluntary and involuntary vacancies?

Discussion/issues raised at prior meetings:

- Several members expressed that they were unsure whether the reason for a vacancy makes a real difference in determining whether to make an appointment

B. Sample Charter Sections with Appointment Provisions

Attachment 2 includes sample charter provisions that include appointment to provide the CRC examples of ways Charter section 604 might be rewritten to include appointment.

C. Informal Subcommittee Report

Less than a quorum of members worked together since the last meeting to analyze some of these issues and will present their information at the meeting. If materials are provided before the meeting, staff will make them available to members and the public.

D. Next Steps for CRC Recommendation

As the CRC moves toward a recommendation to the City Council, it may take any or all of the

following steps:

- Provide direction to staff on the issues outlined in subsection A above and request that staff prepare draft Charter language based on that direction.
- Determine how the CRC will report its recommendation to the Council. For example, past commissions have had members prepare majority and minority reports explaining recommendations.
- Provide direction to staff on future agendas and timing for the final recommendation, as agenda titles will need to reflect when the group is making its final recommendation to Council.
- Other direction as determined by the CRC.

PUBLIC CONTACT

Public contact was made by posting the 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.

The Committee may wish to provide staff direction on next steps in the CRC recommendation process.

Prepared and Approved by: Melissa C. Tronquet, Assistant City Attorney

ATTACHMENTS

1. Flowcharts: Charter Section 604 and Gov't. Code § 36512 election processes
2. Sample Charter Provisions with Appointment