

REPORT TO COUNCIL

SUBJECT

Adopt a Resolution Calling a General Municipal Election to be Held in the City of Sunnyvale on Tuesday, November 6, 2018, for the Purpose of Submitting to City Voters a Ballot Measure Concerning an Amendment to the City Charter to Amend Section 604 Relating to Council Vacancies; Requesting Consolidation with the Statewide General Election and Election Services from Santa Clara County; Directing the City Attorney to Prepare an Impartial Analysis; and Setting Priorities for Ballot Arguments

BACKGROUND

In late 2017, the City Council established a Charter Review Committee (CRC) to analyze alternatives and propose a recommendation to the Council for amending City Charter Section 604 related to vacancies in Council seats. The CRC met eight times between January and April 2018. It developed proposed language amending Charter Section 604 over the course of those meetings and prepared a report explaining the recommended amendment.

On May 22, 2018, the CRC presented its recommendation for amending Section 604. Amending Charter Section 604 requires voter approval. The Council approved the CRC's recommendation and directed staff to return with appropriate actions to place the measure on the November 2018 ballot.

EXISTING POLICY

To fill a vacancy on the City Council, existing City Charter Section 604 requires that the City call a special municipal election within 120 days of the date the vacancy is declared, with two limited exceptions: (1) the special election may be consolidated when a general or statewide election is scheduled within 180 days from the date that the vacancy is declared; and (2) if the vacancy is due to death or involuntary removal of a councilmember and the unexpired term of the vacant seat is less than 180 days, the Council may fill the vacancy by appointment.

ENVIRONMENTAL REVIEW

This action is exempt from review under the California Environmental Act (CEQA) in that it involves fiscal and administrative activities that will not result in direct or indirect changes to the environment, and which do not commit the City to any specific project that may result in a potentially significant impact on the environment. (CEQA Guidelines Sections 15378(b)(4) and (b)(5).)

DISCUSSION

Consistent with Council direction, this report details the necessary steps required to place the proposed Charter measure on the November 6, 2018 general election ballot. A thorough discussion of the CRC recommendation approved by the Council for submission to the voters was provided in the May 22, 2018 Report to Council (RTC No. 18-0414).

The attached draft resolution provides for the following:

1. Approval of the ballot question language to be presented to Sunnyvale voters.
2. "Calling" a General Election to be held on November 6, 2018 and requesting the services of the Registrar of Voters to conduct the election.
3. Direction to the City Attorney to prepare an impartial analysis for the measure.
4. Direction on ballot arguments to the City Clerk to be printed in the Sample Ballot.
5. Approval of a draft amendment to the Charter to incorporate the proposed changes if the measure is approved by a majority of voters.

Ballot Question Language

The State Elections Code Section 9051 requires a ballot measure not exceed 75 words and be presented in the form "Shall the ordinance (stating the nature thereof) be adopted?" The proposed ballot question is as follows:

Shall Sunnyvale City Charter section 604 be amended to allow the City Council to decide whether to fill a City Council vacancy by calling a special election, or by making an appointment, with the person appointed to fill the vacancy holding the office until a successor is elected at the next regularly scheduled municipal or statewide election that can be consolidated?

Calling of an Election

As required by State Elections Code, the Council must adopt a resolution calling an election, requesting consolidation with the Statewide General Election and requesting the Registrar of Voters to provide election services. The draft resolution provides for these requirements.

Impartial Analysis by the City Attorney

The State Elections Code Section 9280 authorizes Council to direct the City Attorney to prepare an impartial analysis of the measure. The draft resolution provides this direction to the City Attorney.

Ballot Arguments

The State Elections Code Section 9282(b) provides for the filing of ballot measure arguments by the following: City Council or any member(s) of the Council authorized by the Council, any individual voter eligible to vote on the measure, bona fide association of citizens or any combination of voters and associations.

If the Council decides to submit an argument in favor of the ballot measure or authorize certain members to submit an argument, then pursuant to Election Code Section 9287(a) that argument will be given preference over any other argument submitted in favor of the ballot measure. If the Council chooses not to submit an argument, the City Clerk will follow the priorities described in Elections Code Section 9287(a) in selecting an argument to be printed in the Sample Ballot.

The resolution is drafted with three options for the Council's consideration regarding the submission of the argument in favor or against the measure:

- a. Authorize the City Council as a body to submit a written argument [in favor] or [against] the measure;

- b. Authorizes [#] member(s) of the City Council to submit a written argument [in favor] or [against] the measure: [one or more name(s)] . At [Name(s)] discretion, the argument may also be signed by other members of the City Council, bona fide associations, or individual voters who are eligible to vote on the measure. In the event that an argument is filed against the measure [Name(s)] is also authorized to submit a rebuttal argument on behalf of the City Council, which, at [Name(s)] discretion, may also be signed by members of the City Council, bona fide associations, or individual voters who are eligible to vote on the measure. Signatures on the rebuttal argument may be different from those who signed the primary argument, OR
- c. Take no action with regard to authorizing the Council, or member or members of the Council to submit a written argument [in favor] or [against] the measure.

The deadline for submitting arguments for and against the measure will be 14 days from the adoption of the Resolution Calling the Election (Elections Code Section 9286). Rebuttal arguments may then be filed by the author(s) of the primary arguments no later than 10 days after the final filing date for primary arguments (Elections Code Section 9285(4)). If Council selects Option A, a special Council meeting would need to be held for the Council to consider and approve the written argument.

Draft Amendment to Sunnyvale Charter Section 604

The proposed amendment to Charter Section 604 is Exhibit A to the attached resolution.

FISCAL IMPACT

The cost associated with placing a ballot measure and requesting the services of the Registrar of Voters of Santa Clara County to conduct the election is approximately \$101,000. The FY 2018/19 Budget includes funding in the City Manager's Office budget for up to three ballot measures.

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 a resolution calling a General Municipal Election to be held in the City of Sunnyvale on Tuesday, November 6, 2018, for the purpose of submitting to City Voters a ballot measure concerning an amendment to the City Charter to amend Section 604 relating to Council Vacancies; requesting consolidation with the Statewide General Election and Election Services from Santa Clara County; directing the City Attorney to prepare an impartial analysis; and setting priorities for ballot arguments.
2. Do not adopt the resolution placing the Charter measure on the ballot, provide further direction to staff, and return with the appropriate actions no later than July 31, 2018 to submit the measure for the November 6, 2018 election.

STAFF RECOMMENDATION

Alternative 1: Adopt a resolution calling a General Municipal Election to be held in the City of Sunnyvale on Tuesday, November 6, 2018, for the purpose of submitting to City Voters a ballot measure concerning an amendment to the City Charter to amend Section 604 relating to Council Vacancies; requesting consolidation with the Statewide General Election and Election Services from

Santa Clara County; directing the City Attorney to prepare an impartial analysis; and setting priorities for ballot arguments.

Prepared by: Kathleen Franco Simmons, City Clerk

Reviewed by: John A. Nagel, City Attorney

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENT

1. Resolution Calling a General Municipal Election to be Held in the City of Sunnyvale on Tuesday, November 6, 2018, for the Purpose of Submitting to City Voters a Ballot Measure Concerning an Amendment to the City Charter to Amend Section 604 Relating to Council Vacancies; Requesting Consolidation with the Statewide General Election and Election Services from Santa Clara County; Directing the City Attorney to Prepare an Impartial Analysis; and Setting Priorities for Ballot Arguments.