

SUBJECT: Suggested Modifications to Council Policy 7.3.10, Mayor and Vice Mayor Selection

Discussion

In January 2010, during the first multiple-candidate mayoral selection since the 2007 voter-approved charter change that increased the mayoral term to two years, several ambiguities and unintentional situations were discovered in the policy that had been prepared by a Council committee and approved by the full Council. The former committee members therefore submit the following alternatives to the policy for approval by the full Council. Some of the items are merely clean up items, while others are more substantive. These are presented as alternatives, not recommendations, because there is not consensus between the committee members on all items, and the committee members determined it would be best to simply present the alternatives and let the Council decide.

Items Recommended for Clarification

Item 1: 4D Voting

At the end of the first paragraph, add the following sentence:

No Councilmember shall refrain from voting during the selection of either the Mayor or Vice Mayor, or leave blank any of the choices if ranked-choice voting is used.

Rationale: Councilmembers are elected to make decisions, and there is no legitimate reason to create unnecessary ties by refusing to make a decision.

Item 2: 4D (II)b Teleconferencing

Delete the paragraph constituting the second bulleted item in the list.

Rationale: This is simply a typo and needs to be removed.

Item 3: 4D (II)b and equivalent change to (III)b Teleconferencing

Add a phrase to the end of the last sentence in the third bullet, so that the sentence reads:

...the newly-elected Mayor shall preside over the remainder of the meeting, including the election of the new Vice Mayor, unless a teleconferencing Councilmember is newly-elected, in which case the Mayor Pro Tempore shall continue to preside for the remainder of the meeting.

Rationale: It's unlikely, but possible, that someone phoning in gets elected Mayor. May not be necessary because someone phoning in cannot run the meeting in any case.

Item 4: 4D (III)a All Councilmembers present

In first bulleted item, delete the phrase "If there are three or more candidates"

Rationale: This is redundant; section (III) already refers to three or more candidates.

Item 5: 4D (III)a and equivalent change to (III)b All Councilmembers present

Replace the third bullet, second sentence, with the following:

If not, and one candidate has received the fewest first-choice votes, that candidate shall be eliminated, with his or her votes reassigned to the voters' second-choice candidates. If multiple candidates have tied for the fewest first-choice votes by receiving only one vote each, they shall be eliminated and their votes reassigned in the same manner. If multiple candidates have tied for the fewest first-choice votes by receiving two votes each, whichever one of them has received the fewest second-choice votes shall be eliminated and the votes reassigned. If multiple candidates have tied for the fewest first-choice votes by receiving two votes each, and have the same number of second-choice votes, the clerk shall call for a tiebreaker vote between those candidates, with the loser of the tiebreaker being eliminated and having his or her first-choice votes reassigned.

Rationale: This modification is to take care of the situation where one candidate gets three first-choice votes, and two other candidates each get two first-choice votes. The policy as currently written would eliminate both of the two, automatically electing the person with three first-choice votes, who might not be the consensus choice. That would defeat the whole purpose of ranked-choice voting.

Item 6: 4D (III)b Teleconferencing

In first bulleted paragraph, replace the first sentence with the following:

If a Councilmember participates by teleconference, all votes will be taken by roll call vote.

Rationale: this is redundant. Section (III)b refers to teleconferencing.

Item 7: 4D (III)b Teleconferencing

Relabel the bullet "Public Record for Written Ballots Cast" as Section 4E.

Rationale: It looks as if this was how it was supposed to be; the document as written appears to have an editing error.

Item 8: 4E Public Record for Written Ballots Cast

Delete the existing text, starting with "The City Clerk..." and including paragraphs (I) and (II), and replace with the following:

The City Clerk shall announce all electronic and voice votes cast by each Councilmember for the record. If written ballots are used, the written votes of each Councilmember shall be included in the minutes of the meeting.

Rationale: There is no reason to read out all the written ballots aloud. As long as the individual ranking sheets are recorded in the public record, that should suffice.

Item 9: 5 Nomination and Selection Process for Vice Mayor

Break the second paragraph into two bulleted items, as follows:

- A new Vice Mayor shall be elected every year.
- The incumbent Mayor, whether newly-seated or halfway through a two-year term, is ineligible to be nominated as Vice Mayor.

Rationale: This change is suggested for clarification and readability.

Other Alternatives for Council to Consider

Item 10: Eliminate Ranked Choice Voting and Return to the Former Method of Up or Down Voting for Mayor and Vice Mayor

Pro: Unlike ranking study issues, selecting a Mayor and a Vice Mayor is a binary question that results in only one Mayor and one Vice Mayor. Because of the small number of Councilmembers, using ranked choice voting creates an extremely complex policy to arrive at a simple outcome. We do not use the process unless there are three or more candidates, but even in the study issues process, we don't use ranked choice voting unless we are ranking at least ten items.

If there is a 3-2-2 tie among three candidates, simply hold a vote to break the tie and then vote between that person and the person who received three votes in the first round.

Con: Using ranked-choice voting allows the Council to come closer to consensus when selecting the Mayor or Vice Mayor. Using an up or down method may require Councilmembers to vote on someone who is their second or third choice before voting on their first choice. Using ranked choice voting allows the Council to vote on all candidates at the same time. Furthermore, discarding this option before ever having tried it would be inadvisable.

Item 11: 2. Agenda for Selection of Mayor and Vice Mayor

Before section A, create a new section A as follows:

Between Election Day and the first meeting in January, Council shall schedule a study session during which Councilmembers and Councilmembers-elect shall have the opportunity to express interest in the positions of Mayor and Vice Mayor.

Relabel sections A-E as B-F.

Pro: This method allows Councilmembers to express interest directly to other Councilmembers without violating the Brown Act. It also allows Councilmembers to discuss their goals and vision for the position so that all the Councilmembers hear the same information.

Con: Councilmembers may not want to publicly express interest if they later decide not to pursue the position for whatever reason or may be concerned with being embarrassed if a nomination is not forthcoming. Conversely, someone who may decide to pursue the position after the meeting — perhaps as a result of what he or she heard at the meeting — would be handicapped. Since no one really knows for sure who is in the running until the nominations happen on the dais, the meeting could lose its effectiveness.

One alternative could be to let the Council choose whether to have the meeting every time or not. That allows each Council the flexibility to do what is appropriate for it.

Item 12: 4B. Nominations

Replace the second sentence (“Any of the other...”) with the following:

Any Councilmember other than the Mayor Pro Tempore may nominate someone other than himself or herself (including the incumbent and the Mayor Pro Tempore) for the position. Each Councilmember making a nomination may nominate more than one colleague if desired.

Pro: To eliminate the need for multiple private conversations to request nominations, and because the ranked-choice option involves support of more than one candidate, it should be made easier to be nominated. A nomination is not supposed to be a commitment to a first-choice vote, but simply support for a candidate being considered by the group.

Con: The whole reason for disallowing someone to nominate him- or herself was to demonstrate that anyone who is nominated has the support of at least one other Councilmember. Allowing a Councilmember to nominate multiple people to either of these positions undermines that principle. It is unclear why it needs to be easier to be nominated to order to facilitate the ranked choice option. If Council chooses to eliminate the ranked-choice voting option, then multiple nominations would not make sense.

ALTERNATIVES

1. Adopt the changes listed under “Items for Clarification.”
 - Item 1:* 4D Voting
 - Item 2:* 4D (II)b Teleconferencing
 - Item 3:* 4D (II)b and equivalent change to (III)b Teleconferencing
 - Item 4:* 4D (III)a All Councilmembers Present
 - Item 5:* 4D (III)a and equivalent change to (III)b All Councilmembers Present
 - Item 6:* 4D (III)b Teleconferencing
 - Item 7:* 4D (III)b Teleconferencing
 - Item 8:* 4E Public Record for Written Ballots Cast
 - Item 9:* 5 Nomination and Selection Process for Vice Mayor
2. *Item 10:* Retain the ranked-choice voting process for the case where three Councilmembers are nominated.
3. *Item 10:* Eliminate the ranked-choice voting process. If this option is chosen, items 5 becomes a moot point and should be eliminated.
4. *Item 11:* Create a policy to hold a study session to allow Councilmembers to indicate a preference for the positions and discuss aspects of the position.
5. *Item 11:* Allow each Council to determine whether or hold a study session to discuss the positions.
6. *Item 12:* Allow Councilmembers to nominate more than one colleague if ranked-choice voting remains a possibility.
7. *Item 12:* Restrict Councilmembers to one nomination per person.
8. Make no changes.

Policy 7.3.10 Mayor and Vice Mayor Selection

POLICY PURPOSE:

Section 605 of the City Charter provides that the City Council shall select one of its members to be presiding officer and have the title of Mayor. The Mayor can be removed by super majority (five) votes of the Council. Further, the Charter provides that the Council shall select a Vice Mayor to serve in the absence of the Mayor. The Vice Mayor serves at the pleasure of the Council. The Charter does not specify the method of selection. Section 613 of the Charter provides that the Council shall establish rules of conduct of its proceedings. This policy specifies the time and method of Mayor and Vice Mayor selection. It is intended to supplement Sections 605, 606, and 613 of the City Charter and in no way conflict with those provisions.

POLICY STATEMENT:

The City Charter provides the terms of office and certain procedural requirements for the selection and removal of the Mayor, and these Charter provisions are incorporated into this policy. The City Council recognizes the need to establish a term of office for the position of Vice Mayor as well as an orderly process of selection of both positions.

1. Terms of Office. The Mayor shall have a two year term of office, with the term of office beginning with the meeting at which a general municipal election is certified (typically in January of even numbered years) and shall serve until a successor is selected.

The Vice Mayor shall serve a one year term with the term beginning concurrently with the Mayor and shall serve until a successor is selected. Should the Mayor and/or Vice Mayor's office become vacant during a term for whatever reason (i.e. resignation, death, disability, Council vote), the Councilmember selected to fill the vacancy shall serve the remainder of the unexpired term.

2. Agenda for Selection of Mayor and Vice Mayor
 - A. Between Election Day and the first meeting in January, Council shall schedule a study session during which Councilmembers and Councilmembers-elect shall have the opportunity to express interest in the positions of Mayor and Vice Mayor. *[ITEM 11]*
 - B. At the first regular meeting in January of even-numbered years, the City Council shall certify the election results following each General Municipal Election.
 - C. The certification of the election results shall directly follow approval of minutes as a Special Order of the Day.
 - D. After results are certified, Councilmembers leaving office shall be excused and newly elected members shall be seated.
 - E. The next item of business shall be selection of the Mayor and Vice Mayor.
 - F. The selection of Mayor shall precede the selection of Vice Mayor, except in the case where only the Vice Mayor office is vacant.
3. Presiding Officer

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- A. The officer presiding over the selection process shall serve as Mayor Pro Tempore and preside over Council meetings until a Mayor is selected.
 - B. The individual functioning as presiding officer for the selection of Mayor shall be in the following order:
 - (I) The incumbent Mayor if still on the Council.
 - (II) The incumbent Vice Mayor if still on the Council.
 - (III) The Councilmember with the longest period of continuous service.

Should there be two members of equal length of service, a drawing conducted by the City Clerk prior to the meeting shall be used to determine the presiding officer.
 - C. The newly selected Mayor shall preside over the selection of the Vice Mayor.
4. Nomination and Selection Process for Mayor.
- A. Councilmembers shall select a Mayor who best exhibits the following criteria:
 - (I) Leadership. The candidate has a vision for the City and clearly defined goals that other Councilmembers support. The candidate recognizes Sunnyvale's role in regional issues as well.
 - (II) Executive skills. The candidate can run public hearings efficiently so that as many members of the public as possible are able to provide input on Council decisions. The candidate delegates tasks appropriately to the Vice Mayor, to subcommittees, and to Councilmembers. The candidate works well with city staff but does not take direction from staff.
 - (III) Integrity. The candidate maintains the highest possible ethical standards, works well with all Councilmembers, has the courage to take an unpopular position if it is best for the City, rises above petty disputes, remains calm in a crisis, and seeks recognition for the City more than personal acclaim.
 - (IV) Commitment. The candidate is willing and able to devote sufficient time to the role of Mayor in order to perform it properly, is supportive of the community and is supported by the community. The candidate's past actions have been for the City's benefit rather than being self-serving.

B. Nominations:

The Mayor Pro Tempore shall ask the Council for nominations for the position of the new Mayor. Any of the other Councilmembers may nominate someone other than himself or herself (including the incumbent or the Mayor Pro Tempore) for the position. **Each Councilmember making a nomination may nominate more than one colleague if desired. [ITEM 12]** The Mayor Pro Tempore shall ask each nominated Councilmember if he or she is willing to serve before declaring that person nominated. If there are no nominations, the Mayor Pro Tempore may make a nomination. When it appears that no further nominations will be made, the Mayor Pro Tempore shall announce that the nominations are closed.

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C. Candidate Statements

If more than one Councilmember has been nominated, the Mayor Pro Tempore shall allow each nominated candidate to speak briefly on his or own behalf. Nominees shall speak in the order in which they were nominated.

D. Voting:

All Councilmembers are strongly urged to be present for this vote. If for some reason a Councilmember cannot be present, they will be allowed to teleconference and vote, as prescribed below, and to voice their opinion in regards to the candidate. ~~No Councilmember shall refrain from voting during the selection of either the Mayor or Vice Mayor, or leave blank any of the choices if ranked-choice voting is used. [ITEM 1] OR~~

All Councilmembers are strongly urged to be present for this vote. If for some reason a Councilmember cannot be present, they will be allowed to teleconference and vote, as prescribed below, and to voice their opinion in regards to the candidate. ~~No Councilmember shall refrain from voting during the selection of either the Mayor or Vice Mayor, or leave blank any of the choices if ranked-choice voting is used. [ITEM 1 + ITEM 10]~~

(I) Only One Candidate

If only one Councilmember has been nominated, the Mayor Pro Tempore shall declare that individual to be elected Mayor by unanimous consent.

(II) Two Candidates

(a) All Councilmembers present:

- Each Councilmember is entitled to vote for only one candidate. If two Councilmembers have been nominated, the Mayor shall call for a vote of the first one nominated. If that candidate has received four or more votes, the Mayor shall declare that candidate elected and the voting concluded. If not, the Mayor shall call for a vote for the second candidate in the same manner. The candidate receiving four or more votes shall be declared the Mayor.
- If one candidate receives four or more first-choice votes, that candidate shall be declared to be elected. If not, the candidate(s) receiving the fewest first-choice votes shall be eliminated, with their votes reassigned to the voters' second-choice candidates. The counting process shall continue until one candidate has at least four votes and is declared to be elected

(b) Teleconferencing:

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- Each Councilmember is entitled to vote for only one candidate. If two Councilmembers have been nominated, the Mayor shall ask for a roll call vote for the first one nominated. The City Attorney shall determine the order of roll call voting via random drawing. Councilmember(s) calling in will state their vote via voice vote according to the order determined by random drawing. If the first candidate has received four or more votes, the Mayor shall declare that candidate elected and the voting concluded. If not, the Mayor shall ask for a roll call vote for the second candidate in the same manner.
- ~~If one candidate receives four or more first choice votes, that candidate shall be declared to be elected. If not, the candidate(s) receiving the fewest first choice votes shall be eliminated, with their votes reassigned to the voters' second choice candidates. The counting process shall continue until one candidate has at least four votes and is declared to be elected. [ITEM 2]~~
- When the City Clerk announces the result of the voting, the incumbent Mayor, if not reelected, shall relinquish the chair, and the newly-elected Mayor shall preside over ~~the election of the new Vice Mayor~~; the remainder of the meeting, including the election of the new Vice Mayor, unless a teleconferencing Councilmember is newly-elected, in which case the Mayor Pro Tempore shall continue to preside for the remainder of the meeting. [ITEM 3]

(III) Three or More Candidates

(a). All Councilmembers present:

- ~~If there are three or more candidates, the~~ The Mayor shall ask each Councilmember to rank the candidates from first choice to last choice on a written ballot. [ITEM 4]
- The Mayor may choose to recess the meeting while the City Clerk counts the ballots.
- If one candidate receives four or more first-choice votes, that candidate shall be declared to be elected. ~~If not, the candidate(s) receiving the fewest first choice votes shall be eliminated, with their votes reassigned to the voters' second choice candidates.~~ If not, and one candidate has received the fewest first-choice votes, that candidate shall be eliminated, with his or her votes reassigned to the voters' second-choice candidates. If multiple candidates have tied for the fewest first-choice votes by receiving only one vote each, they shall be eliminated and their votes reassigned in the same manner. If multiple candidates have tied for the fewest first-choice votes by receiving two votes each, whichever one of them has received the fewest second-choice votes shall be eliminated and the votes reassigned. If multiple candidates have tied for the fewest first-choice votes by receiving two votes each, and have the same number of second-choice votes, the clerk shall call for a tiebreaker vote between those candidates, with the loser of the tiebreaker being

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eliminated and having his or her first-choice votes reassigned. *[ITEM 5]*

- The counting process shall continue until one candidate has at least four votes and is declared to be elected.
- When the City Clerk announces the result of the voting the incumbent Mayor, if not reelected, shall relinquish the chair, and the newly-elected Mayor shall preside over ~~the election of the new Vice Mayor.~~ the remainder of the meeting, including the election of the new Vice Mayor, unless a teleconferencing Councilmember is newly-elected, in which case the Mayor Pro Tempore shall continue to preside for the remainder of the meeting. *[ITEM 3]*

(b). Teleconferencing:

- ~~Votes will be taken by electronic vote unless a Councilmember participates via teleconference, in which case all votes will be taken by roll call vote.~~ If any Councilmembers participates by teleconference, all votes will be taken by roll call vote. The order of roll call vote shall be determined by random drawing by the City Attorney. *[ITEM 6]*
- If there are three or more candidates, the Mayor shall ask each Councilmember present to rank the candidates from first choice to last choice on a written ballot.
- Any Councilmember(s) calling in will also rank candidates and wait for direction to announce their ranked choices on the record.
- The Mayor may choose to recess the meeting while the City Clerk counts the ballots.
- If one candidate receives four or more first-choice votes, that candidate shall be declared to be elected. If not, the candidate(s) receiving the fewest first-choice votes shall be eliminated, with their votes reassigned to the voters' second-choice candidates.
- The counting process shall continue until one candidate has at least four votes and is declared to be elected.
- Councilmembers calling in will state their vote according to the order determined by random drawing.
- When the City Clerk announces the result of the voting the incumbent Mayor, if not reelected, shall relinquish the chair, and the newly-elected Mayor shall preside over the election of the new Vice Mayor.

- ~~Public Record for Written Ballots Cast~~

E. Public Records for Written Ballots Cast *[ITEM 7]*

~~A. The City Clerk shall announce all votes cast by each Councilmember for the record.~~

~~(1) All Councilmembers present:~~

~~(a) Written ballots shall be read in random order as determined by the City Attorney.~~

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~~(H) Teleconferencing:~~

~~(b) Written ballots shall be read in order of the random drawing conducted by the City Attorney. Any Councilmember(s) calling in shall state their votes in the order determined by random drawing.~~

The City Clerk shall announce all electronic and voice votes cast by each Councilmember for the record. If written ballots are used, the written votes of each Councilmember shall be included in the minutes of the meeting. *[ITEM 8]*

5. Nomination and Selection Process for Vice Mayor.
The Vice Mayor election shall be carried out in the same manner as the election of the Mayor, with two exceptions:

~~A new Vice Mayor shall be elected every year, and the incumbent Mayor, whether newly seated or halfway through a two-year term, is ineligible to be nominated as Vice Mayor.~~

- ~~• A new Vice Mayor shall be elected every year.~~
- ~~• The incumbent Mayor, whether newly seated or halfway through a two-year term, is ineligible to be nominated as Vice Mayor. *[ITEM 9]*~~

6. Mid-Term Vacancies.

If either position becomes vacant during the course of the Mayor or Vice Mayor's term, the City Clerk shall place an agenda item to select a new Mayor or Vice Mayor on the agenda of the meeting when such vacancy is declared to exist. The Mayor or Vice Mayor, whoever is appropriate, shall preside over the selection.

(Adopted: RTC 81-602 (10/6/1981); Amended: 87-593 (11/10/1987), 95-165 (5/16/1995), 96-041 (2/27/1996); (Clerical/clarity update, Policy Update Project 7/2005); New Policy Adopted 12/11/2007))

Lead Department: Office of the City Manager