

**Council Meeting: April 30, 2013**

SUBJECT: Consider Whether to Submit a Charter Amendment to the Voters to Change the Mayoral Appointment from a Two-Year Term to a One-Year Term and Provide for Selection of the Mayor by Seniority Rotation

BACKGROUND

Currently, Charter section 605 provides: "At the first regular meeting in January, at which the City Council shall certify the election results, following each General Municipal Election, and at the first regular meeting in January every two years thereafter, the City Council shall select one of its members as its presiding officer, who shall have the title of Mayor. Such selection shall be by motion of the City Council." At the March 19, 2013 Council Meeting, a majority of Councilmembers requested an item be placed on the agenda to consider the possibility of placing a Charter amendment on the November 5, 2013 ballot to change the two-year mayoral term to a one-year term, and to provide for selection of the Mayor by rotation based on seniority.

EXISTING POLICY

The paragraph of Section 605 of the Sunnyvale City Charter pertaining to the mayoral term currently reads as follows:

Section 605. Presiding Officer. Mayor.

At the first regular meeting in January, at which the City Council shall certify the election results, following each General Municipal Election, and at the first regular meeting in January every two years thereafter, the City Council shall select one of its members as its presiding officer, who shall have the title of Mayor. Such selection shall be by motion of the City Council. The Mayor shall have a voice and vote in all its proceedings. He/she shall be the official head of the City for all ceremonial purposes. He/she shall perform such other duties as may be prescribed by this Charter or as may be imposed by the City Council consistent with his/her office. The Mayor shall serve in such capacity for a term of two years from and after which the appointment is made, and until a successor is selected; provided, that a person can continue to serve in the capacity of Mayor only while that person remains as a member of the City Council. In the event of a vacancy in the office of Mayor, the City Council shall select one of its members to serve as Mayor for the remainder of the unexpired term.

The Council-adopted policy on “Mayor and Vice Mayor Selection” (Policy 7.3.10; see attachment A) incorporates the above charter provision and provides guidance on the specific process used for selecting the Mayor and Vice Mayor. Generally, it provides that Councilmembers shall select a Mayor for a two-year term based on leadership, executive skills, integrity and commitment.

DISCUSSION

The original City Charter, adopted in 1949, did not have a term limit for the Mayor. It provided that “the City Council shall select one of its members as its presiding officer, who shall have the title of Mayor...the Mayor shall serve in such capacity at the pleasure of the City Council.” It is our understanding that the traditional mayoral term under this provision was for one year. In 1987, the voters approved a Charter amendment making the term of the mayor two years. We do not have records discussing why the change was made at the time. In 1991, a Charter Review Committee reviewed the question of whether to return to a one-year term, and recommended that the City retain the two-year term to allow each mayor an opportunity to more fully implement her/his ideas. In May 1994 the City Council considered alternative methods for selecting the Mayor and Vice Mayor, but chose to maintain the then existing system – two year Mayor, one year Vice Mayor, both selected by majority vote of Council. The next change to the Charter mayoral term provision took place at the November 1995 special election. The change was initiated by Council, and voters approved a Charter amendment returning to the one-year mayoral term. The current two-year term was approved by the voters at the November 2007 special election, following a recommendation by a 2006 Charter Review Committee to extend the term to two years. In the 2011 special election, voters rejected a ballot measure proposing a directly elected Mayor with a four-year term.

Change to a One-Year Term

The possible advantages of a one-year term are:

- more Councilmembers could have the opportunity to serve as the ceremonial leader of the City
- less “jockeying” for the position of Mayor
- a shorter term could give more equal authority to the full Council
- if the Mayor’s position is not perceived to be well-represented by the incumbent, it would only be for one year instead of two
- Mayoral duties are very time consuming, and Councilmembers might not want to make that commitment for two years.

The possible disadvantages of a one-year term are:

- it takes time to adjust to the role of Mayor and to get up to speed on its requirements
- a two-year mayor may become more experienced functioning as the ceremonial leader and representing the City in the community and in intergovernmental roles; the two year term provides more time to build relationships with peers at the county, regional, and state levels

- a two year Mayor could provide more continuity and stable leadership
- a two year term gives staff more familiarity with the style and leadership of the Mayor thus enhancing the ability to develop materials for the Mayor more effectively.

Mayor Chosen Based on Seniority

As part of considering a change to a one-year term, Council also requested information on whether the process to select the Mayor should be revised so that the most senior member of Council who has not previously served would be selected as Mayor. It should be noted that Council Policy 7.3.10 formerly contained a variation of this selection process. It was changed to the current qualification-based system in 2007, after the most recent change of the mayoral term to two years was approved by the voters. As formerly written, it provided that the most senior council member who had not previously served would automatically be nominated to the position of mayor, but the appointment had to be confirmed by at least four affirmative votes. If the person next in line did not receive four votes, the nomination automatically went to the next senior person, and the process was repeated until someone was selected. (see Attachment B)

Selecting a mayor by seniority has the advantage of providing a simple and clear policy, and removes subjectivity from the selection process. Disadvantages may be that the most senior member may not be perceived by the community or Council as being the best choice for Mayor, or the most senior person, for personal reasons, may not be interested in serving as Mayor. Also, there may be times when more than one Councilmember have equal seniority.

If the Council wishes to have the most senior member serve as Mayor, this could be achieved through a Charter amendment, or through Council policy. If it were implemented through Charter language, text for the new provision might read as follows: "...The City Council shall select the most senior member who has not previously served as its presiding officer, who shall have the title of Mayor..."

The advantage of placing this language in the Charter is that the process for selecting the Mayor would be clear to Councilmembers as well as the public; it could not be changed without public debate and a vote. This is also the disadvantage: putting it in the Charter eliminates flexibility and precludes Council from exercising discretion in the selection. The number of times issues related to the selection and term of the mayor have come up over the past twenty years demonstrates that this is a topic of deep interest to the Council and community, and that prevailing viewpoints on the subject change regularly. It might be more efficacious to address the issues through Council policy rather than the more costly option of Charter amendments. Along these same lines – flexibility versus a more “locked-in” process, Council could also consider a measure to change the Charter back to its original language, which

provided that “the City Council shall select one of its members as its presiding officer, who shall have the title of Mayor...the Mayor shall serve in such capacity at the pleasure of the City Council.” The process for selection and term length would be set by Council policy. Although this would provide the most flexibility to Council, it also has the potential to create uncertainty because the process could change frequently.

Whether implemented through the Charter or Council Policy, if Council wants to have its most senior member serve as Mayor, it should also consider including a tie-breaker provision to determine who will become Mayor when two or more members have equal seniority. Options for a tie-breaker provision include, in no particular order: alphabetical, reverse alphabetical, highest vote getter in most recent election, previous service to the City (Board or Commission member), seat number (lowest/highest) or random selection (drawing straws).

FISCAL IMPACT

A Charter amendment to change the length of the mayoral term and/or the selection process will require a ballot measure in the upcoming election. The County Registrar of Voters charges the City for the costs of handling the ballot measure, and actual costs depend on the number of other ballot measures by the City and other cities on the general election ballot. The Registrar of Voters currently estimates the cost per ballot measure for the November 5, 2013 election to be approximately \$43,195.

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 Web site.

ALTERNATIVES

1. Direct staff to draft the necessary Charter amendment language and related resolutions to call a special election and place a measure on the November 5, 2013 ballot to consider changing from a two-year mayoral term to a one-year term, **including** a provision for selection of Mayor based on seniority.
2. Direct staff to draft the necessary Charter amendment language and related resolutions to call a special election and place a measure on the November 5, 2013 ballot to consider changing from a two-year mayoral term to a one-year term, **not including** a provision for selection of Mayor based on seniority.
3. Do not pursue a ballot measure.
4. Other action as determined by Council.

RECOMMENDATION

Staff makes no recommendation.

Submitted by:

Joan A. Borger
City Attorney

Attachments

- A. Council Policy 7.3.10 Mayor and Vice Mayor Selection (Amended 4/27/10)
- B. Council Policy 7.3.10 Mayor and Vice Mayor Selection (Amended 7/2005)

COUNCIL POLICY MANUAL

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 the Councilmembers and Councilmembers-elect shall have the opportunity to express interest in the positions of Mayor and Vice Mayor.
 - 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.

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3. Presiding Officer
 - 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. 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

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appears that no further nominations will be made, the Mayor Pro Tempore shall announce that the nominations are closed.

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.

(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) More than One Candidate

- (a) 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. The order of roll call vote shall be determined by random drawing by the City Attorney. Councilmembers calling in will state their vote according to the order determined by random drawing.
- (b) Each Councilmember is entitled to vote for only one candidate. If more than one Councilmember has 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.
- (c) In the case of a tie, a vote shall be held among all seven Councilmembers to break the tie. For example, in the case of three candidates, if candidate A gets three votes, candidate B gets two votes, and candidate C gets two votes, all seven Councilmember vote on Candidates B and C. If candidate C gets the most votes, the final vote will be held between Candidates A and C.
- (d) The election process shall continue until one candidate has at least four votes and is declared to be elected.
- (e) 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 remainder of the meeting, including the election of the new Vice Mayor, unless a teleconferencing Councilmember is newly-elected, in which case

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the Mayor Pro Tempore shall continue to preside for the remainder of the meeting.

E. Public Record for Ballots Cast

The City Clerk shall announce all votes cast by each Councilmember for the record. The votes of each Councilmember shall be included in the minutes of the meeting.

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

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; Amended 4/27/2010)

Lead Department: Office of the City Manager

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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 one year term of office, with the term of office beginning with the meeting at which a general municipal election is certified (in odd numbered years) or the second regularly scheduled meeting in November (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/Presiding Officer
 - A. During odd numbered years, the City Clerk shall place the certification of election results on the agenda for the first regular meeting after the official results are available from the County. The certification shall directly follow approval of minutes as a Special Order of the Day. After results are certified, Councilmembers leaving office are excused and newly elected members are seated. The next item of business shall be selection of the Mayor and Vice Mayor. The individual functioning as presiding officer for the selection of Mayor shall be in the following order:
 1. The incumbent Mayor if still on the Council.
 2. The incumbent Vice Mayor if still on the Council.
 3. The Councilmember with the longest period of continuous service.

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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.

- B. The officer presiding over the selection process shall serve as Mayor Pro Tempore and preside over Council meetings until a Mayor is selected.
 - C. The newly selected Mayor shall preside over the selection of the Vice Mayor.
 - D. 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.
3. Nomination and Selection Process.

- A. The selection of Mayor shall precede the selection of Vice Mayor, except in the case where only the Vice Mayor office is vacant.
- B. Mayor Selection. The most senior member of the Council who has not previously served as Mayor will be selected as Mayor, subject to ratification of at least four affirmative votes. Should two members have equal seniority, the highest vote getter in the most recent election would be selected, subject to at least four affirmative votes. If the most senior member does not receive at least four affirmative votes, the next most senior member would be selected Mayor, subject to at least four affirmative votes.

In furtherance of this policy, the City Clerk shall report to the Council the seniority order of Councilmembers. The presiding officer shall request a vote for election of the most senior member first. If such member does not receive at least four affirmative votes, the presiding officer shall request a vote of the next most senior member. This process shall continue until a member receives at least four affirmative votes.

- C. Vice Mayor Selection. The Mayor shall preside over the selection of Vice Mayor. Should the selection of Mayor be continued, the selection of Vice Mayor shall also be continued and the selection shall not occur until a Mayor is selected.

The most senior member of the Council who has not previously served as Vice Mayor and is not selected as Mayor will be selected as Vice Mayor, subject to ratification of at least four affirmative votes. Should two members have equal seniority, the highest vote getter in the most recent election would be selected, subject to at least four affirmative votes.

If the most senior member does not receive at least four affirmative votes, the next most senior member would be selected Vice Mayor, subject to at least four affirmative votes.

(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))

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Lead Department: Office of the City Manager