

MEASURE L

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE L

This ballot measure would amend Sunnyvale City Charter Section 604 to modify the way City Council vacancies are filled and was placed on the ballot by the City Council, on recommendation of a Charter Review Committee of eleven Sunnyvale residents appointed by the City Council.

Currently, Charter Section 604 requires the City Council to call a special election to fill a vacant City Council seat. The only exception to that election requirement is that the City Council may appoint a member to fill a remaining term if a vacancy occurs because of the death or involuntary removal of a Council Member and the unexpired term of the resulting vacant seat is one hundred eighty days or less. Otherwise, the existing Charter requires holding the special election to fill a vacancy within one hundred twenty days of the date the vacancy is declared, or one hundred eighty days of the declared vacancy if the special election can be consolidated with a general municipal or statewide election.

This measure would amend Section 604 to allow the City Council the choice of making an interim appointment or holding a special election to fill a vacancy. The proposed provisions would apply regardless of the reason for the vacancy, eliminating the current distinction between involuntary and voluntary vacancies. The City Council would be required to declare the seat vacant within thirty days of the vacancy, and within sixty days of that declaration choose to either (1) appoint someone or (2) call a special election to fill the vacancy.

An individual appointed would hold office until a successor is elected and qualified through the next general municipal election or a special municipal election consolidated with the next statewide election, whichever occurs earlier. However, no more than two appointed members could serve at one time.

If the City Council chose to fill the vacancy by special election or is required to have a special election, the election must occur within two hundred and forty days of the date the vacancy is declared.

Finally, the measure, if passed, will require the City Council to adopt an ordinance describing a public process for making appointments.

A "YES" vote is a vote to amend Charter Section 604 to allow the City Council to choose to appoint or call a special election to fill a vacancy.

A "NO" vote is a vote to retain the existing process in Charter Section 604 for filling City Council vacancies.

This Charter amendment will become effective if a majority of those voting on the measure vote "yes" for the amendment.

/s/ John A. Nagel
City Attorney

COMPLETE TEXT OF MEASURE L

The provisions of the City Charter of the City of Sunnyvale to be deleted are printed in ~~strikeout~~ type, and the new provisions to be added are printed in underscore type.

The City Charter of the City of Sunnyvale shall be amended by amending Sections 604 of Article VI (The Council) to read as follows:

Section 604. Vacancies.

(a) In addition to any other cause from which vacancies in the City Council may occur, the office of a member of the Council shall become vacant when a member:

- (1) Resigns or dies;
- (2) Is absent from all regular meetings of the Council for a period of sixty days consecutively from and after the last regular Council meeting attended by such member, unless by permission of the Council expressed in its official minutes;
- (3) Is convicted of a crime involving moral turpitude;
- (4) Ceases to be an elector of the City of Sunnyvale;
- (5) Ceases to maintain his/her principal place of residence within the City limits during such member's term of office; or
- (6) Is involuntarily removed pursuant to Article II of the Constitution of the State of California, as may be amended from time to time.

(b) In the event of a vacancy on the City Council, the Council shall officially declare the seat vacant within thirty days of the commencement of any vacancy.

(c) Within sixty days of the date the seat is officially declared vacant, the City Council shall, by affirmative vote of at least four of the remaining Councilmembers, elect to fill the vacancy by appointment or by calling an election.

(d) If the vacancy is filled by appointment, the appointee shall hold office until the next General Municipal Election or Special Municipal Election consolidated with the next statewide election, whichever occurs sooner, and a successor is elected and qualified. The Councilmember then elected shall serve for the remainder of any unexpired term, and until a successor is elected and qualified.

(e) The City Council shall adopt an ordinance establishing a public process for appointment.

(f) If the City Council elects to fill the vacancy by election or fails to fill the vacancy by appointment, it shall call an election to be held within two hundred and forty days of the date the vacancy is declared.

(g) Notwithstanding any other provision of this section, the City Council shall not make an appointment to fill a vacancy if the appointment would result in more than two of the members currently serving on the Council as appointees, and shall call a Special Municipal Election to be held within one hundred and eighty days from the date the Council declares the vacancy.

Except as otherwise provided herein, in the event of a vacancy in the City Council, from whatever cause arising, within thirty days of the commencement of any vacancy the City Council shall officially declare the seat vacant and call a Special Municipal Election for the purpose of filling such

COMPLETE TEXT OF MEASURE L-Continued

~~vacancy. In the event of a vacancy in the City Council created by the death or other involuntary removal of a member, pursuant to Article II, Section 4, of the Constitution of the State of California, where the unexpired term of the deceased or removed member does not exceed one hundred eighty days, the City Council shall, within sixty days after such office shall have been declared vacant, fill such vacancy by appointment. Should the Council fail to fill the vacancy within the sixty day period, it shall treat such vacancy in the same manner as one created by a cause other than death or involuntary removal.~~

~~Any Special Municipal Election called to fill an unexpired term shall be held within one hundred and twenty days from the date the Council declares the vacancy to exist except that no election shall be held on the day before, day of, or day after a state holiday. The Council shall promptly declare or take the required steps to declare the existence of the vacancy. Such special election shall be consolidated with a general municipal or statewide election if a municipal or statewide election is scheduled within one hundred and eighty days from the date that the vacancy is declared. As used herein, the next general municipal or statewide election means the next such election at which it is legally possible to place the matter on the ballot and elect a successor.~~

~~Any person elected or appointed to fill a vacancy shall serve for the remainder of the unexpired term and until his/her successor is elected and qualified.~~

~~In addition to any other cause from which vacancies in the City Council may occur, the office of a member of the City Council shall become vacant and it shall be so declared by the Council where such member is absent from all regular meetings of the Council for a period of sixty days consecutively from and after that last regular Council meeting attended by such member, unless by permission of the Council expressed in its official minutes; or such member is convicted of a crime involving moral turpitude; or he/she ceases to be an elector of the City of Sunnyvale or ceases to maintain his/her principal place of residence within the City limits during his/her term of office.~~

ARGUMENT IN FAVOR OF MEASURE L

Elections matter. Representation matters. Fiscal prudence matters.

In August 2016, Sunnyvale held a special election to fill a 4-month Council vacancy after a council member unexpectedly resigned. The City Council could not wait until the November 2016 election to fill the seat, because a decades-old City Charter amendment required a special election, due to the timing of the resignation. As a result, August voter turnout was only 23%, and the election cost Sunnyvale almost \$800,000—money meant for police, fire, library, parks, and roads.

The City formed a Charter Review Committee and instructed it to study the problem and propose Charter changes to prevent future expensive special elections. Working with the City Attorney, the Committee studied other cities and considered multiple election scenarios, including vacancies occurring near and far from primaries and general elections. The Committee stressed the importance of voter-elected council members and taking advantage of the next available (cost-effective) election.

Every Charter Review Committee member voted to recommend Measure L, which modifies the City Charter as follows:

- The City Council can call a special election, leave a seat vacant, or, in limited circumstances, appoint an interim replacement.
- The length of vacancies is increased to improve timing and reduce the need for special elections.
- No more than two vacancies can be filled by appointment at the same time.

The Committee's recommendation gives the council more flexibility in filling vacancies and managing the associated costs. The Committee also recommended that should voters approve these changes, Council must **immediately** develop and adopt an ordinance creating **an open and transparent Council appointment process**, which doesn't currently exist.

The City Council unanimously accepted the Committee's recommendations, creating Measure L without any changes.

Citizen participation matters. We ask you to support the residents' recommendations, and vote YES on Measure L.

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/s/ Lawrence E. Stone
Charter Review Committee Chair

/s/ Amanda Richey
Charter Review Committee Member

/s/ Melinda Hamilton
Charter Review Committee Member

/s/ Dianne McKenna
Former Sunnyvale Mayor

/s/ Glenn Hendricks
Mayor

NO ARGUMENT AGAINST MEASURE L WAS SUBMITTED