



**2019 Charter Review Commission
Charter Amendment Proposal – Article IV sec. 404**

On September 18, 2017, the current City Council took the unprecedented step of appointing a representative to fill a vacant term on the City Council for over one year, with the possibility of the appointee serving two full years.

League of Women Voters Riverside (LWVR) believes Riverside’s City Charter “Article IV sec. 404 – Vacancies” must be amended to insure voters are not denied their right to a duly elected City Council representative for more than one year.

We are asking for your recommendation to support our amendment.

Background

With the resignation of Ward 7 Council Member John Burnard on August 8, 2017, the City Council was advised in a staff memorandum on the same date, “to determine whether to fill the Ward 7 vacancy by election or appointment.” (08-08-17 CC RPT 39) Staff’s direction was in accordance with the first and third paragraph of Sec. 404 of Riverside’s City Charter.

Mr. Burnard would have been up for re-election on June 4, 2019 with a possible run-off on November 5, 2019. This created a vacancy of at least one year and eight months or, in the event of a run-off election, two years and one month.

The majority of the Council insisted that the first paragraph of Charter Sec. 404 afforded them only one option – to fill the remainder of the term with an appointment.

The second option in the third paragraph, to fail to appoint and call a special election, was never seriously considered. The second option has been the chosen course of action by Riverside City Councils over the past 65 years.

A review of past vacancies demonstrates previous Councils’ willingness to call special elections, consolidate the elections with the nearest municipal or general election, and limit appointments to less than one year. (attached)

The current Council’s new interpretation of Sec. 404 signals a need to amend the section so that Riverside citizens’ basic right to representation on the City Council is not impeded by the will of the Council.

Since the Council's Ward 7 appointment, the Council has voted on issues including; allocation of Measure Z funds, an electric and water utility five-year rate plan, termination of the City Manager and selection of a new City Manager, funding for Housing First to address the homeless crisis, regulation of commercial cannabis use, funding for the Cheech Marin Center for Chicano Art and the Downtown Library, and development and passage of Fiscal Year 2018-2020 Two Year Budget.

All of Ward 7's votes on these issues were cast by the Council's appointed representative, not a representative duly elected by the people of Ward 7. As much as eight months of further Council action remains on the appointee's term.

More than state or federal laws, municipal statutes have the biggest impact on citizens' daily lives. Residents' choice for representation, a choice that reflects *their* priorities, is fundamental to the success of city governance.

Proposal

If a member of the City Council or the Mayor is absent from three consecutive regular meetings of the City Council, unless by permission of the City Council expressed in its official minutes, or is convicted of a crime involving moral turpitude, the office of such person shall become vacant.

A vacancy in an elective office, from whatever cause arising, except in the event of a successful recall, shall be filled by a special election in the ward from which such member was elected. The City Council shall declare the existence of any vacancy and the following procedures shall apply:

(1) If the vacancy occurs with one year or less remaining in the term, the Council may appoint a person to fill the vacant office within 30 days of the office being vacated. Any person appointed by the Council to fill a vacant office shall not be designated on any ballot or voter pamphlet as an incumbent, a member of the City Council, or other designation indicating incumbency for purposes of the next election for members of the City Council.

- a) In the event the Council shall fail to fill a vacancy by appointment within sixty days after such office shall have been so declared vacant, it shall cause an election to be held forthwith to fill such vacancy.

(2) If the vacancy occurs with more than one year remaining in the term, the Council shall call a special election to be held within 120 days of the vacancy, unless there is a general election scheduled to be held within 180 days of the vacancy. If there is a general election scheduled to be held within 180 days of the vacancy, the Council may consolidate the special election with that election. The candidate receiving the greatest vote in said election shall be elected to fill said office.

Process

Following the resignation of Ward 7's City Council representative in August 2017, LWVR began researching past City Councils' action for filling Council vacancies.

With the help of the City Clerk's document, "Terms in Office," (8-29-17 CC RPT 2 p. 112-119) we were able to identify members who did not serve full terms. We then searched City Council Minutes to define how vacancies were filled and the length of time that appointees served.

We believe the resulting document produced a clear pattern of past Councils' priority to call for special elections and limit appointments to under one year. This document was at the heart of our efforts during August and September of 2017 to persuade the Council to call for a special election to fill the vacant Ward 7 seat.

We were not successful and concluded that more definitive language was needed in Section 404 of the City Charter to protect the voting rights of future citizens who found their Council seat vacant.

More recently, we reviewed 'Vacancy' sections in seventeen California cities' charters. As the City of Riverside has precedent for allowing an appointment for up to one year, we searched for cities' vacancy sections that provided for one-year appointments. We looked closely at the City Charters of San Diego, Long Beach, Berkeley, Oakland, Sacramento, San Francisco and Santa Barbara. We sought advice on the timing of setting a special election after a vacancy is declared, any future restrictions on appointees, and the frequency of holding a second run-off election.

Going Forward

Soon after the Council made its Ward 7 appointment in the fall of 2017, the Council voted to enact California's Voter Participation Act. The law mandates that California cities consolidate odd-numbered year municipal elections with even-numbered year general elections. The League celebrates this law as it will increase voter participation in municipal elections. However, it will also limit the number of elections and thus the opportunities for Riverside to consolidate special elections.

Following the 2020 Mayoral Election, we will have one more odd-numbered municipal election in 2021, then we jump to 2024, 2026, and so on. The amended language in Section 404 will ensure that should there be a vacancy early in a future term, citizens will be able to elect a representative to fill the remaining term in 120 days and not have a Council appointment chosen for them for close to two years.

Moreover, improvements to Section 404 will demonstrate that the City of Riverside prioritizes the principles of representative democracy and values the judgement of its citizens under any circumstance.

League of Women Voters Riverside
March 30, 2019

Adjustments to the current Charter's Article IV sec. 404 and notation of California city charters with similar language.

Sec. 404. - Vacancies. A vacancy in an elective office, from whatever cause arising, except in the event of a successful recall, ~~shall be filled by appointment by the City Council, such appointee to hold office until the first Tuesday following the next general municipal election and until his successor qualifies. At the next general municipal election following any vacancy, a successor shall be elected to serve for the remainder of any unexpired term.~~ shall be filled by a special election in the ward from which such member was elected. (San Diego, Long Beach, Oakland, Sacramento, Berkeley, Riverside's Charter 1929-1953)

If a member of the City Council or the Mayor is absent from three (3) consecutive regular meetings of the City Council, unless by permission of the City Council expressed in its official minutes, or is convicted of a crime involving moral turpitude, the office of such person shall become vacant. (Moved from current Charter to become 1st paragraph)

The City Council shall declare the existence of any vacancy ~~in the event it shall fail to fill a vacancy by appointment within sixty days after such office shall have been so declared vacant, it shall cause an election to be held forthwith to fill such vacancy.~~ and the following procedures shall apply:

(1) If the vacancy occurs with one year or less remaining in the term, the Council may appoint a person to fill the vacant office within 30 days of the office being vacated. (San Diego, Berkeley, Sacramento, Santa Barbara) Any person appointed by the Council to fill a vacant office shall not be designated on any ballot or voter pamphlet as an incumbent, a member of the City Council, or other designation indicating incumbency for purposes of the next election for members of the City Council. (Long Beach, Santa Barbara)

a) In the event it shall fail to fill a vacancy by appointment within sixty days after such office shall have been so declared vacant, it shall cause an election to be held forthwith to fill such vacancy. (Moved from current Charter's third paragraph)

(2) If the vacancy occurs with more than one year remaining in the term, the Council shall call a special election to be held within 120 days of the vacancy, (Oakland, Long Beach, San Francisco) unless there is a general election scheduled to be held within 180 days of the vacancy. If there is a general election scheduled to be held within 180 days of the vacancy, the Council may consolidate the special election with that election. (San Diego) The candidate receiving the greatest votes in said election shall be elected to fill said office. (Sacramento, Oakland).

Charters referenced:

Long Beach Sec. 204, p.5 Oakland Sec. 205 San Diego Sec. 300
Berkeley Sec. 12, p.17 Sacramento Sec.28 Sec.154
San Francisco Article 13.101.5 Santa Barbara Sec.503 p.3

Riverside's City Charter went into effect in 1929. It required that all Council vacancies be filled by Special Elections from 1929 -1953. Stand Alone Special Elections (4) before 1953 are at the end of the page. Below are Appointments and Special Elections from 1953 - 2017.

Appointed Council Members (7)		Appointed	Length of Appointment	Predecessor	Reference
Appointed/Next Election		Appointed/Next Election	Appointed/Next Election	Appointed/Next Election	Appointed/Next Election
Steve Adams (Ward 7)	9/19/2017	9/19/2017 - in office	9/19/2017 - 8/8/2017	John Burnard - Resigned	CC Minutes 9/18/2017 p.1
Ken Gutierrez (Ward 3)	1/7/2013	1/7/2013 - 11/5/2013 (10 mos)	1/7/2013 - 11/5/2013 (10 mos)	Rusty Bailey - Elected Mayor 11/6/2012	CC Minutes 1/7/2013 p.1
John Tavaglione (Ward 4)	1/9/1993	1/9/1993 - 11/2/1993 (10 mos)	1/9/1993 - 11/2/1993 (10 mos)	Bob Buster - Elected Riv Co BoS 11/3/1992	CC Minutes 1/9/1993 p.1
Sam Digati (Ward 6)	1/4/1977	1/4/1977 - 1/17/1978 (1 year)	1/4/1977 - 1/17/1978 (1 year)	Wait Abraham - Resigned 12/28/1976	CC Minutes 1/4/1977 p.19
Harvey Oster (Ward 7)	12/10/1974	12/10/1974 - 4/29/1975 (5 mos)	12/10/1974 - 4/29/1975 (5 mos)	Robert Macomber - Resigned 11/30/1974	CC Minutes 12/10/1974 p.144
William Sullivan (Ward 4)	9/6/1966	9/6/1966 - 4/11/1967 (7 mos)	9/6/1966 - 4/11/1967 (7 mos)	John Bergin - Resigned 8/6/1966	CC Minutes 9/6/1966 p.62
Charles Johnson (Ward 1)	1/3/1957	1/3/1957 - 4/9/1957 (3 mos)	1/3/1957 - 4/9/1957 (3 mos)	Curtis Chamberlain - Resigned 11/31/56	CC Minutes 1/3/1957 p.4
Stand Alone Special Elections (1)	Elected	Seat Vacant/Special Election	Predecessor/ Council Term Remaining	References	
Rosanna Scott (Ward 4)	3/2/1971	9/29/1970 - 3/2/1971 (6 mos)	Norton Younglove elected Riv Co BoS. Retires 9/29/1970 (3 years)	CC Minutes 3/9/1971 p.9 Resolution No.11619	
Special Election Consolidated with Regular Municipal Election - Seat Left Vacant (1)	Elected	Seat Vacant/Next Election	Predecessor/Council Term Remaining	Reference	
Arden Anderson (Ward 3)	6/5/1973	10/31/1972 - 6/5/1973 (8 mos)	Art Pick resigned 10/31/72 (2 1/2 years)	CC Minutes 6/12/1973 p. 81	
Special Election Consolidated with California State General Election - Seat Left Vacant (3)*	Elected	Seat Vacant/Next Election	Predecessor/Council Term Remaining	Reference	
Jim Manning (Ward 7)	12/21/1976	7/20/1976 - 12/21/1976 (6 mos)	Don Garretson resigned 7/20/1976. (2 1/2 years)	CC Minutes 1/4/1977 p.3 Resolution No. 12878	
Laura Pearson (Ward 7)	7/24/1990	1/9/1990 - 7/24/1990 (7 mos)	Terry Frizzel elected Mayor 1/9/1990 (2 years)	CC Minutes 8/7/1990 p.1 Resolution No. 17360	
Chuck Beatty (Ward 1)	6/7/1994	1/18/1994 - 6/7/1994 (6 mos)	Ron Loveridge elected Mayor 1/18/1994 (2 years)	CC Minutes 6/28/1994 p.4 Resolution No.18415	

* The current City Council has stated that it is illegal to consolidate Municipal Elections with State Elections. It has been done three times (above) by three different Council administrations in order to expedite citizens' right to elect a City Council representative.

Special Elections/1929 -1953 (4)		Election date	Seat Vacant/Special Election	Predecessor	Reference
Vera Barger (Ward 4)	3/7/1939	1/6/1939 - 3/7/1939 (2 mos)	Dr. Joe Taylor - deceased 1/6/1939	CC Minutes 3/14/1939 Vol. 25 p.56	
Ross Carter (Ward 3)	2/2/1934	12/14/1933 - 2/2/1934 (2 mos)	J A Taylor - deceased 12/14/1933	CC Minutes 2/6/1934 Vol. 22 p.579	
Mary Carter (Ward 3)	8/7/1945	6/14/1945 - 8/7/1945 (2 mos)	Ross Carter - deceased 6/14/1945	CC Minutes 8/14/1945 Vol. 28 p.405	
William Slape (Ward 2)	9/23/1947	6/18/1947 - 9/23/1947 (4 mos)	Don Allbright - resigned 6/18/1947	CC Minutes 9/30/1947 Vol. 30 p.479	