



# Charter Review Committee

*City of Arts & Innovation*

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**TO: CHARTER REVIEW COMMITTEE MEMBERS      DATE: OCTOBER 21, 2019**

**FROM: CITY CLERK      WARDS: ALL**

**SUBJECT: APPOINTMENTS TO AND ELECTIONS FOR A VACANT SEAT IN ELECTED OFFICE**

## **ISSUE:**

To consider draft language implementing the proposal by the League of Women Voters for a proposed amendment to City Charter section 404 for appointments to and elections for a vacant seat in elected office.

## **RECOMMENDATION:**

That the Charter Review Committee confirm the draft Charter amendment language for filling of vacancies in elected office.

## **BACKGROUND/LEGISLATIVE HISTORY:**

At several prior meetings, members of the Charter Review Committee considered the attached proposal from the League of Women Voters with respect to the filling of vacancies in the offices of Mayor and/or Member of the City Council. On September 9, 2019, the Committee, with Members Clymer and Irving voting no, directed staff to prepare draft Charter amendment language to provide:

1. The City Council shall appoint to fill vacancies in elected office with up to one year remaining on the term;
2. Vacancies in excess of one year shall be filled by special election;
3. The candidate receiving the highest number of votes at a vacancy election shall be elected without a run-off election and even if receiving less than a majority of all votes cast; and
4. Appointed officials shall not be permitted to reference "incumbent", "member of the City Council", or other designation indicating incumbency in a future election for the same seat.

## **Current Charter Provision**

Section 404 of the Riverside City Charter specifically addresses vacancies and the process by which a successor is identified for the elected office. Section 404 provides in pertinent part:

**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.

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.

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.

Consequently, the City Council, after declaring a vacancy, has two options in which to fill a vacancy:

1. Within 60 days after declaring a vacancy, appoint a successor who would then hold office until the first Tuesday following the next general municipal election and or subsequent run-off election; or until a successor qualifies. The Charter is silent as to the specific process to be followed for appointment and therefore such a determination would be left to the discretion of the City Council, provided that the appointment is made within 60 days after the office has been declared vacant.
2. Not make an appointment within 60 days of declaring a vacancy but call for an election for that vacant seat. In the event that the City Council fails to fill the vacancy by appointment within 60 days after the office has been formally declared vacant, the City Council would be required to call a special election to be held forthwith to fill the vacancy.

Draft Language – September 9, 2019, Direction

**Sec. 404. Vacancies.**

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.

The City Council shall declare the existence of any vacancy in elected office, from whatever cause arising, except in the event of a successful recall.

For vacancies in elected office with up to one year remaining on the term, the City Council shall appoint to fill the vacancy for the remaining term within sixty days after such office shall have been declared vacant. In the event the City Council fails to fill such vacancy by appointment within sixty days after such office shall have been so declared vacant, it shall cause an election to be held within one hundred twenty days to fill such vacancy.

For vacancies in elected office with one or more years remaining on the term, the City Council shall call a special election for the purpose of filling the vacancy for the remainder of the term. Such special election shall be held within one hundred twenty days after such office shall have been so declared vacant. If there is a local or statewide election scheduled within one hundred eighty days after such office shall have been declared vacant, the City Council shall consolidate the special election with such local or statewide election.

Notwithstanding the provisions of Sec. 400(c), for any vacancy filled by special election, the candidate receiving the highest number of votes in said election shall be declared elected to fill said office, without a run-off election.

Appointed officials shall not be permitted to reference “incumbent”, “member of the City Council”, or other designation indicating incumbency in the subsequent election for the same seat.

### **FISCAL IMPACT:**

Conduct of a special election in lieu of appointment for vacancies on the City Council may incur additional costs. Such costs are estimated to vary from \$60,000 to \$150,000 per special election, depending upon the number of voters and whether the special election is consolidated with other elections. Elimination of run-off elections when filling vacancies will result in a cost savings, in the event no one candidate receives a majority of all votes cast.

Prepared by: Colleen J. Nicol, City Clerk  
Approved as to form: Gary G. Geuss, City Attorney

Attachment: League of Women Voters Letter