



## Agenda Report

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**File #:** 18-2186

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### **AGENDA REPORT REQUEST FOR CITY COUNCIL ACTION**

**DATE:** 10/11/2018

**TO:** Honorable Mayor and City Council Members

**FROM:** Management Services Department

**SUBJECT:**

Discussion and possible action regarding the process (appointment or special election) by which to fill the vacancy created by Council Member Haley's resignation on October 4, 2018.

**RECOMMENDED ACTION:**

Provide direction regarding the City Council vacancy created by the resignation of Councilman Dick Haley.

**ANALYSIS:**

Councilman Dick Haley's was elected "At-Large" in 2016 to serve a 4-year term which was set to expire in November 2020. Unfortunately, Councilman Dick Haley tendered his resignation from the Corona City Council on October 4, 2018 and requested that the resignation be effective immediately. According to Government Code Section 1770, an elected office becomes vacant upon the resignation of the person holding such office.

Government Code Section 36512 states that when a vacancy occurs in an elected office the City Council must, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call for a special election. Accordingly, the statute requires the City Council to act by December 3, 2018.

As stated previously, per Government Code Section 36512, unless the City Council has adopted an ordinance to specify the process when a vacancy occurs in an elected office, the City Council must, within 60 days from commencement of the vacancy, either fill the vacancy by appointment or call a special election. The City of Corona does not have an ordinance in place that governs this process. In the absence of a specific ordinance dictating how vacancies on the Council will be filled, the statutory structure controls.

If City Council chooses to appoint a person to fill the vacancy, the process is at their discretion. Government Code 36512 does not mandate a process to fill a vacancy; however, the City Council decision must be made by December 3, 2018.

If the City Council prefers that the electorate chose Mr. Haley's replacement, then the Council may call for a special election. Government Code 36512 states that the special election must be held on the next regularly established election date that is not less than 114 days from the call of the special election; therefore, the soonest the special election could be held would be March 5, 2019.

Should the Council choose to make an appointment, some aspects for consideration are:

- Appointment must be made within 60 days of the Council seat becoming vacant (December 3, 2018)
- No legal requirement that the Council use any particular method of appointment
- Common in such situations for the Council to notice the vacancy and invite applications
- If the Council interviews applicants, the interviews must be done at a public meeting, although the meeting can be held at any time
- The appointment must be made in public - not a permitted closed session discussion or decision
- The Council may require additional criteria such as an interest statement and/or application

\*Potential Timeline of Appointment:

- Open Application Period: October 12, 2018
- Close Application Period: October 26, 2018 - noon
- Council review period: Oct. 26 - Nov. 2, 2018
- Interview questions to City Manager: November 2, 2018
  - Suggest 2 questions per seated Councilmember
- Candidate Interviews/Selection: Week of November 5, 2018
  - Suggest a Televised Public meeting

\*The proposed timeline is flexible if appointment is made on or before the December 3rd deadline. Please note that November 12, 2018 as well as November 22-23, 2018 are observed holidays during which time government offices will be closed.

Should the Council choose to call a special election, some aspects for consideration are:

Must be held "on the next regularly established election date not less than 114 days from the call of the special election."

- March 5, 2019 - next regularly established election date
- The Registrar of Voters estimates an At-Large special election would cost approximately:
  - \$275,000 - \$285,000 Polling Place Election
  - \$240,000 - \$250,000 Mail Ballot Election - Not Applicable
  - \*California Elections Code 4004 allows vacancies to be filled by a mail ballot election if the city population is less than 100,000*
- After Registrar of Voters certifies the election, the new councilmember would be seated to

serve the remainder of Councilman Haley's term until the November 2020 election.

**COMMITTEE ACTION:**

N/A

**STRATEGIC PLAN:**

This item supports the City's Strategic Plan Goal 6: Improve Communications with Our Community; Objective a: Commit to transparency in all City actions.

**FISCAL IMPACT:**

The fiscal impact would be related to staff time and other costs associated with an appointment process and staff time related to bringing the appointee into the City's system. The additional fiscal impact to hold a special election would be approximately \$275,000 - \$285,000 of general fund monies.

**ENVIRONMENTAL ANALYSIS:**

No environmental analysis necessary.

**PREPARED BY:** MICHELE NISSEN, ASSISTANT CITY MANAGER

**REVIEWED BY:** DEAN DERLETH, CITY ATTORNEY

**REVIEWED BY:** KERRY D. EDEN, ASSISTANT CITY MANAGER/ADMINISTRATIVE SERVICES DIRECTOR

**SUBMITTED BY:** DARRELL TALBERT, CITY MANAGER

**ATTACHMENT:** PROPOSED COUNCIL CANDIDATE APPLICATION - DRAFT



**APPLICATION  
FOR APPOINTMENT TO  
CITY COUNCIL VACANCY (AT-LARGE)**

**Qualification Requirements:**

**Citizen of the United States  
Registered voter and resident of the City of Corona  
18 years of age or older**

The City of Corona operates under the Council/City Manager form of government. Legislative power is held by the publicly-elected five-member City Council. Commencing with the election in November of 2018, the voters in District 1, District 4 and District 5 will elect their City Council Members by-district. In November of 2020, the voters in District 2 and District 3 will elect their City Council Members by-district.

The City Council selects one of its members as Mayor and one of its members as Vice Mayor. Both the Mayor and Vice Mayor serve one-year terms. The Mayor presides over City Council meetings, signs official documents, and performs ceremonial functions. As the Legislative Branch of Municipal Government, the City Council adopts laws and makes policy decisions for the City of Corona.

City Council meetings are held the first and third Wednesday of each month in the Council Chambers at 4:30 p.m. (or thereafter as posted) for closed session matters followed by the regular open meeting at 6:30 p.m. Additional meetings may be called as required and in accordance with the Brown Act.

Council Members receive compensation of \$800 per month, pursuant to Section 2.08.120 of the CMC, and benefits as provided for in Resolution No. 2017-133.

**PLEASE TYPE OR PRINT**

Name

Years lived in Corona

Home Phone

Cell Phone

Home Address

City

Zip Code

Email

**Background and qualifications (attach resume if desired):** \_\_\_\_\_

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**Please describe any community involvement and/or participation on Boards, Committees, or Commissions:**

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**What do you feel are the most important issues facing the City of Corona:**

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**Ideas for addressing these issues:**

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I attest to the following:

1. I am a legal resident of the City of Corona.
2. I am a registered voter with a City of Corona address.
3. I am able to attend City Council meetings that are regularly scheduled on the 1st and 3rd Wednesdays of each month.
4. I understand that I will be obligated to comply with applicable conflict of interest laws, including the Political Reform Act, and that such obligations will include filing Statements of Economic Interests – Form 700.
5. I understand this application is a Public Record, and may be made available to members of the public upon request, with certain personal contact information redacted.
6. I understand that if I am chosen as the appointee, I will only serve on the City Council until my successor is seated following the November 5, 2020 general municipal election. At that time, the office will become a representative of District 2 (see CMC Section 2.08.170). Accordingly, if I wish to represent District 2, I would need to be a qualified candidate in District 2 to run for that office at the November 5, 2020 general municipal election.

The information provided in this application is true and accurate.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Please mail or return your completed application (attach printed resume if desired) to:**

City of Corona  
Attn: City Clerk's Office  
400 S. Vicentia Ave. Suite 155  
Corona, CA 92882

Or you may email your completed application to [sylvia.edwards@coronaca.gov](mailto:sylvia.edwards@coronaca.gov) or via fax to (951) 736-2399

**Deadline to file is 12:00 p.m. on October 26, 2018. LATE SUBMISSIONS WILL NOT BE ACCEPTED**



# FILLING A CITY COUNCIL VACANCY

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SPECIAL CITY COUNCIL MEETING

OCTOBER 11, 2018, 3:30 P.M.



# BACKGROUND

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- Councilman Dick Haley was elected in 2016 “At-Large” to serve a 4-year term (term expires in 2020)
- Councilman Haley tendered his resignation on **Thursday, October 4, 2018 at 11:13 a.m.**
- Resignation was specified as immediate due to serious health related issues resulting from a fall
- Government Code Section 1770: an elected office becomes vacant upon resignation of the person holding such office
- Councilman Haley’s At-Large seat has 2 years of service remaining (expires in 2020)
- Passage of Measure N in **November 2016** changed the system for electing City Council Members from “at-large” to a “by-district” system, effective for 3 offices at the upcoming November 2018 election and 2 offices at the November 2020 election. Councilman Haley’s seat is currently “at-large” and does not expire until 2020
- In recent memory, the City of Corona has not appointed a Council Member to fill a remaining term of office



# DISCUSSION

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- Unless the City Council has adopted an ordinance to specify the process, which the City has not done, when a vacancy occurs in an elected office the City Council must, within **60 days** from commencement of the vacancy, either fill the vacancy by appointment or call a special election - **Government Code Section 36512**
- Accordingly, the City Council must act by **December 3, 2018**
- If City Council chooses to appoint a person to fill the vacancy, the process is at their discretion
- Government Code 36512 does **NOT** mandate a particular process to fill a vacancy; determining the process is the purpose of our meeting today
- Should the Council choose a Special Election, the Government Code Sec. 36512 states that the special election must be held on the next regularly established election date that is not less than 114 days from the call of the special election
- In the absence of a specific ordinance dictating how vacancies on the Council will be filled, the statutory structure controls

# DISCUSSION - CONTINUED



- Consolidated General Election - **November 6, 2018**
- Per the Riverside County Registrar of Voters: It is too late to add the vacancy to the November 6, 2018 election; the city council should decide if they want to appoint or call a special election
- City Council must take action by **December 3, 2018** (60 days from date of vacancy)
- Next Regular City Council Meeting – **December 5, 2018**
- The deadline for the Riverside County Registrar of Voters to certify the consolidated general election is **December 6, 2018**

December 6 (+30)	Registrar of Voters	<i>SEND STATEMENT OF RESULTS (E.C. §§ 15372, 15374)</i>  As soon as the canvass is completed, no later than this date, the Registrar of Voters shall mail a statement of results of the election to the district and to the County Superintendent of Schools. The Registrar of Voters will also deliver to each person elected a certificate of election.
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# OPTION 1 – APPOINT A SUCCESSOR FOR THE REMAINDER OF THE TERM

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- Appointment must be made within 60 days of the Council seat becoming vacant (**December 3, 2018**)
- No legal requirement that the Council use any particular method of appointment
- Common in such situations for the Council to notice the vacancy and invite applications
- If the Council interviews applicants, the interviews must be done at a public meeting, although the meeting can be held at any time
- The appointment must be made in public - not a permitted closed session discussion or decision
- The Council may require additional criteria such as an interest statement and/or application

# OPTION 1

## PROPOSED TIMELINE – APPOINTMENT

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### ACTION

### PROPOSED DATE

Open Application Period

October 12, 2018

Close Application Period

October 26, 2018 - noon

Council review period

Oct. 26 – Nov. 2, 2018

Interview questions to City Manager

November 2, 2018

- Suggest 2 questions per seated Councilmember

Candidate Interviews/Selection

**Week of November 5, 2018**

- Suggest a Televised Public meeting

*\* The proposed timeline is flexible as long as appointment is made on or before the **December 3<sup>rd</sup> deadline***

# OPTION 2 – CALL A SPECIAL ELECTION TO ELECT A SUCCESSOR FOR THE REMAINDER OF THE TERM

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- Must be held “on the next regularly established election date not less than 114 days from the call of the special election.”
- **March 5, 2019** – next regularly established election date
  - The Registrar of Voters estimates that an At-Large special election would cost approximately:
    - \$275,000 - \$285,000 Polling Place Election**
    - \$240,000 - \$250,000 Mail Ballot Election – Not Applicable**
    - \*California Elections Code 4004 allows vacancies to be filled by a mail ballot election if the city population is less than 100,000*
- It would take several weeks for the Registrar of Voters to certify the election afterward the new councilmember would be seated to serve the remainder of Councilman Haley’s term until the November 2020 election



# QUESTIONS & ANSWERS

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[CoronaCA.gov](https://CoronaCA.gov)

