



Legislation Text

File #: 18-2186, Version: 1

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