



City Manager's Report
August 28, 2018 City Council Meeting
Prepared By: M. Cleve Morris
Item#: 12.2

Subject: Direct staff on how to proceed to fill the vacant City Council seat due to the resignation of Councilmember Wilkins.

Purpose: To provide direction to staff on how to fill the vacant City Council seat made available due to the resignation of Councilmember Wilkins.

Background: At the City Council Meeting on August 14, 2018, Councilmember Trisha Wilkins resigned her seat on the City Council effective August 15, 2018. Due to the resignation, California Government Code Section 36512 establishes procedures and timelines to fill the vacant seat.

Discussion:

California Government Code Section 36512 (attached) provides for the process to replace a Council Seat that becomes vacant prior to the end of the term for that seat. In this case, Councilmember Wilkins' resignation has created a vacant seat. Councilmember Wilkins' term of office would not end until November of 2020.

Section 36512 defines two procedures for filling the vacant seat, appointment or special election. If the vacancy occurs in the first half of the term, in this case in the first two years, and at least 130 days prior to the next general municipal election, an appointment shall be made to fill the seat and the seat is also added to the next general election. Since the resignation fell less than 130 days from the November election, this procedure does not apply.

Since the resignation came in the first half of the term, but less than 130 days from the next general municipal election, the Council has the choice to either appoint someone to fill the seat, or to call for a special election.

1. Appointment: Must occur within 60 days of the resignation. The resignation occurred on August 15, 2018 and therefore the appointment must be made by October 14, 2018. The process for the appointment is left up to the City. In the past, the City has advertised for the position and accepted applications. The Council then does an interview of potential candidates and then makes the appointment. If the Council decides to make an appointment, Staff recommends the following schedule:
 - a. Announce the opening of the position: August 28, 2018
 - b. Accept Applications: August 28 – September 27
 - c. Interview: October 4
 - d. Appointment and swearing in: October 9

2. Special Election: The decision must be made and the date for the special election set within 60 days of the resignation or by October 14, 2018. The date for the election must be no sooner than 114 days from the date the decision is made. There is no maximum listed, only a minimum. However, it would be in the City's best interest to proceed as soon as possible in order to get a full council seated.
 - a. The cost for a special election is estimated at \$10,000
 - b. There is a potential that the state may call a special election Spring of 2019, if Senator Gaines is successful in being elected to the State Board of Equalization.
 - c. The cost for administering a special election would be reduced if a special election is held in conjunction with another special election.
 - d. If the Council wants to use a special election to fill the position, we should attempt to select the same date in the Spring as the State Special Election. However we do not know what that date will be. It may be possible to get that information.

The question has been asked why this could not be added to the November election? The provisions of Section 36512 state that if the resignation occurs less than 130 days from the next general municipal election, then you cannot use that general election to fill the seat. In this case, the announcement of resignation came on August 14, 2018, 83 days before the November election.

Staff is looking for direction from Council on how to proceed with filling the vacant seat.


Options:

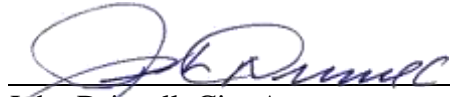
1. Direct staff to proceed with the procedure for appointment.
2. Modify dates and direct staff to proceed with the procedure for appointment.
3. Set the date for a special election not less than 114 days from the date of this meeting.
4. Direct staff to confirm the date for a potential special election of the state and to bring back a recommendation for the special election date.

Cost: If decision is made to appoint the position, there will be some costs however it will be minimal. If a stand-alone special election is called, the estimated cost is \$10,000. If a special election is called in conjunction with a state special election, the estimated cost is \$5,000.

Budget Impact: No budget impact if appointment is made. If a special election is called a budget appropriation could be made at mid-year.

Recommendation: Direct staff on how to proceed to fill the vacant City Council seat due to the resignation of Councilmember Wilkins.


M. Cleve Morris, City Manager


John Driscoll, City Attorney

Attachment: Government Code Section 36512