

DATE: June 10, 2014
TO: Mayor and City Council
FROM: City Manager
SUBJECT: Review of Options for Filling Short-Term City Council Vacancy

RECOMMENDATION

That Council receives and reviews this report and provides general direction to staff on the process and timeline for filling the short-term vacancy on the Council created as a result of the recent June election.

BACKGROUND

The recent June 3, 2014 general municipal election encompassed two races for vacancies for positions on the Hayward City Council: Mayor and Council Member. Council Member Barbara Halliday ran for Mayor and won the election. Ms. Halliday takes her seat as Mayor effective July 8, 2014, which creates a mid-term vacancy on the Council, as Ms. Halliday's term as Council Member runs from July 10, 2012 through the date the next Council is seated in early July 2016.

Section 501 of the Charter of the City of Hayward ("Vacancy in Elective Office") provides guidance when an elective office becomes vacant: "*A vacancy in an elective office 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 is elected and qualified. At the next General Municipal Election following any such appointment, the person so elected shall serve for the remainder of any unexpired term.*

No appointment to fill a vacancy in an elective office shall be made during such time prior to a General Municipal Election that nomination papers may be filed for candidates seeking office at said election.

In the event that Council shall fail to fill a vacancy by appointment within thirty days after such office shall have become vacant, it shall forthwith cause an election to be held to fill such vacancy. (AMENDED: STATS. 1964 CH. 41)"

The purpose of this report is to provide Council with process options and timelines for filling the vacancy on Council created by the election of Ms. Halliday for Mayor. Council last experienced the

need to engage in a similar process in 2006 upon the untimely death of Council Member Matt Jimenez shortly after his election to the City Council: a link to that report can be found [here](#).

DISCUSSION

There are two possible sequential steps to filling the current vacancy on Council as directed by Section 501 of the Charter: first, for Council to go through an appointment process; and second, to call for a special election if the appointment process is unsuccessful. In order to protect the second possible step for Council, the appointment process must either be concluded or declared unsuccessful and a formal call by Council for a “Special Election” well ahead of August 8, 2014, which is the final filing date for candidates in the upcoming November General Election.¹

The timeline is very tight given that Council is traditionally “dark” in the month of August, with many Council Members and key staff taking long-planned vacations during that period. For reference, the following table identifies all upcoming Council meetings as currently planned and their scheduled focus.

TABLE 1

<u>MONTH</u>	<u>DATE</u>	<u>CURRENTLY SCHEDULED FOCUS of MEETING</u>
June	10	Last work session on FY 2015 budget; general business
	17	Public Hearing on the FY 2015 budget; general business
	24	Adoption of the FY 2015 budget; general business
July	1	Last session of currently seated Mayor & Council; general business
	8	Certification of Election; seating of new Mayor & Council; election of Mayor Pro Tem; ceremonial matters
	15	General Business
	22	Boards & Commission interviews
	29	5 th Tuesday – no planned meeting

Appointment Process: It is assumed that the new in-coming Mayor and Council will define the appointment process and timeline. However, given that timelines are very tight as described above, staff is providing the following process and timeline for Council discussion – the suggestions are based on review of the process Council used in 2006, and consistent with Council’s tradition of being transparent and inclusive in such an important process.

¹ NOTE: November is a Statewide General Election and is not a “General Municipal Election” as defined by the Charter because Hayward has determined to hold our “General Municipal Elections” in June of each applicable year; with the next one being in June of 2016.

The 2006 process included an application period for those interested in serving on Council; a process whereby Council determined who and how many applicants they wanted to consider; a public interview process; and a public action to appoint the selected candidate. The selected candidate was seated that same night. With this in mind, a calendar of the appointment process might look something like the following with modifications shown in the shaded area starting with the July 8 meeting of the new Mayor and Council:

TABLE 2

<u>MONTH</u>	<u>DATE</u>	<u>MODIFIED SCHEDULE for APPOINTMENT PROCESS</u>	
June	10	Last work session on FY 2015 budget; general business	
	17	Public Hearing on the FY 2015 budget; general business	
	24	Adoption of the FY 2015 budget; general business	
July	1	Last session of currently seated Mayor & Council; general business	
	8	Certification of Election; seating of new Mayor & Council; election of Mayor Pro Tem; ceremonial matters; general business in which process and timeline of Council appointment process are defined and agreed upon; call for applications	
	15	General Business; completed applications are due to the City Clerk by 5:00 pm	
	Thurs	17	Special public meeting of Council to select and announce candidates to interview
		22	Council holds public interviews and appoints new Council Member; new Council Member takes his/her seat; OR Council calls for a Special Election and consolidation with the November election.
	29	Boards & Commission interviews	

The application instrument, review of applications, and candidate selection processes can all be done many different ways. These are decisions that the in-coming Mayor and Council could make at their July 8, 2014 meeting, and with which staff stands ready to assist.

Special Election: Should Council be unable to achieve a majority vote to appoint someone, the Charter requires that the matter go to election. In order for Council to accomplish that in a timely and fiscally responsible manner, Council would have to call for a Special Election to be consolidated with the upcoming November election. The deadline for doing this is also August 8, 2014, with a public notice deadline of July 14. However, in order to give all potential candidates a reasonable opportunity to file and prepare for such an election, the decision to call for a Special Election should be made as early as possible: Filing opens July 14, 2014. Both this deadline and the requirement that Council make a solid attempt to appoint a new member per the Charter before going to election put pressure on the July 22 action date as captured above in Table 2.

Should Council not be successful in the appointment process and miss the deadline for consolidating with the November election, the option would remain to call for a stand-alone Special Election, which would be at a time specified by Council after the November 2014 election. This would be very expensive and should be considered only as a last and remote possibility.

ECONOMIC AND FISCAL IMPACT

There is no economic impact of the appointment process. There is potentially significant fiscal impact to the General Fund if Council chooses the alternative of calling for the Special Election consolidated with the November election. Per the Alameda County Registrar of Voters, Hayward has 62,823 registered voters. The estimated cost per voter per the County Registrar for a Special Election consolidated with the November election is \$3-\$5 per voter, which provides a possible cost range of \$188,469 - \$314,115.

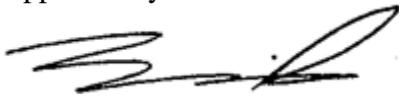
Should Council choose to call for a Special Election not consolidated with the November 2014 Statewide Election, the cost will be even greater: estimated at \$12 to \$15 per registered voter or a regular election and \$7 to \$9 per registered voter for an all vote-by-mail election.

NEXT STEPS

While it is clear the in-coming Mayor and Council will determine the specifics of the timeline and process, it would be helpful to staff and the interested community if Council could provide some general feedback on both the draft timeline and outline of a process so that staff could begin our work to support this important task within such a tight timeframe.

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Approved by:



Fran David, City Manager

Attachments: None.