



CITY COUNCIL AGENDA REPORT

City of Anaheim OFFICE OF THE CITY ATTORNEY

DATE: FEBRUARY 27, 2018
FROM: OFFICES OF THE CITY ATTORNEY AND CITY CLERK
SUBJECT: PROPOSED BALLOT MEASURE AMENDING CITY CHARTER
TO PROVIDE FOR BY DISTRICT ELECTIONS TO FILL
VACANT COUNCIL SEATS

ATTACHMENT (Y/N): YES **ITEM # 24**

ACTION:

That the City Council i) consider a proposed measure amending City Charter Section 503 governing the filling of vacant by district Council seats from appointment by the Council to election by the voters of the respective district, and ii) if in favor of the proposed amendment, adopt the attached resolutions to place the measure on the ballot at the June 5, 2018 statewide primary election.

DISCUSSION:

Section 503 of the City Charter currently provides that a vacancy on the City Council (Mayor or Councilmember) will be filled by appointment by the City Council, with the appointee holding office until the first Tuesday following the next general municipal election, at which point a successor will be elected to serve out the remainder of the original term. If the Council fails to appoint someone to fill the vacancy within 60 days, it is required to cause an election to be held to fill the vacancy "forthwith."

At the February 6, 2018 Council meeting, Councilmember Murray requested that staff prepare a proposed ballot measure amending Charter Section 503 to change the method of filling vacant by district Council seats from appointment by the Council to election by the voters of the respective district. In the period prior to the election, the seat would remain vacant and the Council would consist of six members.

The proposed amendment provides that a vacant Council seat will be filled by special election to take place "forthwith" (to be consistent with current Charter language), unless the Council elects to consolidate the special election with a regularly scheduled election set to take place within 180 calendar days of the vacancy. The person so elected would serve out the remainder of the vacated member's original term. There is an exception to this rule if the vacancy occurs in the last year of the vacating councilmember's term; in that event, the City Council may appoint a successor to complete the term in lieu of calling a special election. Both the consolidation clause and the clause allowing appointment in the last year are designed to give the Council leeway to avoid i) the cost

of a special election, ii) calling a special election close in time to a regularly scheduled election, and/or iii) calling a special election to fill a vacancy for a short period of time.

In addition to the changes discussed above, there were several conforming changes made to the Charter. Most significantly: 1) the clause allowing consolidation of a special election to fill a vacancy with a regularly scheduled election was also added to the existing provision that requires the Council to call an election to replace the Mayor if it does not fill the office by appointment within 60 days (for the same reasons discussed in the preceding paragraph); and 2) a section was added clarifying that the two remaining at large seats will be filled at the November 2018 election by district and will remain vacant until that election if they are vacated between the time the Charter amendment takes effect and the November election. A redlined copy of Charter Section 503, reflecting these changes, is attached to this report.

The Orange County Registrar of Voters has estimated the cost of placing the proposed Charter Amendment measure on the June 2018 ballot between \$222,448 and \$283,575 (the range is based on a projection of total jurisdictional participation and an average cost per voter). The cost of placing the proposed measure on the November 2018 ballot would be approximately \$8,500. If it were to pass, the measure would not take effect until the election results are certified by the Orange County Registrar of Voters and the Charter Amendment is filed with the Secretary of State, which can take in excess of 60 days.

If the measure passes, the cost of a by district election to fill a vacant seat would vary depending on the district involved (*i.e.*, the number of registered voters in the district) and the timing of the election. If consolidated with a general municipal election, the cost is estimated to range between \$25,485 and \$32,435. If consolidated with a primary election, the cost is estimated to range from \$50,030 to \$64,324. If the special election is held as a stand-alone election, the cost is estimated to range from \$211,531 to \$229,399, again, depending on the district (number of registered voters) involved.

In order to place the measure on the June 2018 ballot, the Council must adopt the following five resolutions (attached to this report): 1) calling the election; 2) ordering the submission of the ballot measure; 3) consolidating it with the June 2018 election; 4) authorizing arguments regarding the measure and directing the City Attorney to prepare an impartial analysis of the measure; and 5) providing for rebuttal arguments. Staff requests that the Council adopt these resolutions if it wishes to place the Charter amendment measure on the June 2018 ballot.

IMPACT ON BUDGET:

Placing the proposed Charter Amendment measure on the June 2018 ballot is estimated to cost between \$222,448 and \$283,575. Thereafter, any vacancies filled via a by district election will cost between \$25,485 and \$229,399, depending on the timing of the election and the district involved.

Respectfully submitted,

Concurred by,

Kristin Pelletier
Acting City Attorney

Theresa Bass
Acting City Clerk

ATTACHMENTS:

1. Proposed Charter Amendment (redline)
2. Resolution Calling Election
3. Resolution Ordering Submission of Ballot Measure
4. Resolution Consolidating Election with June 2018 election
5. Resolution Authorizing Arguments and Directing Impartial Analysis
6. Resolution Providing for Rebuttal Arguments