



STAFF REPORT

Meeting Date: November 3, 2015
To: Honorable Mayor & City Council
From: David M. Snow, Interim City Attorney
Subject: Request by Mayor Gold to Discuss Process for Filling City Council Vacancies
Attachments: None

INTRODUCTION

Mayor Gold has requested that the City Council discuss the process for filling vacancies on the City Council.

BACKGROUND and DISCUSSION

When a city council vacancy occurs cities generally have the option of filling the vacancy by either appointing a person or holding a special election. A person appointed or elected to fill the vacancy holds office for the unexpired term of the former incumbent.

However, pursuant to Government Code Section 36512(c)(1), cities may enact an ordinance to require that a special election be called immediately to fill every city council vacancy. The City of Beverly Hills has adopted such an ordinance providing, in relevant part, as follows:

Beverly Hills Municipal Code Section 2-1-21. Within thirty (30) days after the commencement of a vacancy on the council, the council shall call a special election to fill the vacancy for the unexpired term of the former incumbent. Such election shall be held on the next regularly established election date not less than one hundred fourteen (114) days from the call of the special election.

When the timelines set forth in Section 2-1-21 would start to run, and when the special election could be held would depend on the date on which a vacancy occurs.

Elections Code Section 1000 establishes election dates in each year as follows:

- (a) The second Tuesday of April in each even-numbered year.
- (b) The first Tuesday after the first Monday in March of each odd-numbered year.
- (c) The first Tuesday after the first Monday in June in each year.
- (d) The first Tuesday after the first Monday in November of each year.

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The City Council could consider rescinding Municipal Code Section 2-1-21, in which case the general provisions of Government Code Section 36512 would apply, and the City Council would have sixty (60) days in which to either appoint someone to fill the vacancy, or call for a special election.

In addition to authorizing cities to require special elections to fill city council vacancies, as Beverly Hills has done, Government Code Section 36512 (c) also authorizes cities to enact an ordinance that:

“(2) Requires that a special election be held to fill a city council vacancy and the office of mayor designated pursuant to Section 34902 when petitions bearing a specified number of verified signatures are filed. The ordinance shall provide that the special election shall be held on the next regularly established election date not less than 114 days from the filing of the petition. A governing body that has enacted such an ordinance may also call a special election pursuant to subdivision (b) without waiting for the filing of a petition.”

or

“(3) Provides that a person appointed to fill a vacancy on the city council holds office only until the date of a special election which shall immediately be called to fill the remainder of the term. The special election may be held on the date of the next regularly established election or regularly scheduled municipal election to be held throughout the city not less than 114 days from the call of the special election.”

Pursuant to Government Code Section 36937 and Elections Code Section 9235, ordinances relating to an election take effect immediately upon adoption (after second reading), and are not subject to the typical 30-day delay in effective date that is applicable to ordinances.

FISCAL IMPACT

In the event that a special election is called to fill a vacancy, the City would incur costs associated with conducting the special election, which according to the City's election consultant, would be approximately \$80,000.00.

RECOMMENDATION

It is recommended that the City Council discuss the process for filling City Council vacancies, and provide direction as appropriate.



David M. Snow, Interim City Attorney