



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Councilmember Sergio Jimenez
Councilmember Dev Davis
Councilmember Sylvia Arenas

SUBJECT: SEE BELOW

DATE: December 2, 2022

Approved:

DATE: 12/02/2022

SUBJECT: PROCESS FOR FILLING COUNCIL VACANCIES IN D8 AND D10

RECOMMENDATION

1. Implement a process to make interim appointments that includes the following:
 - a. Shortly after the special meeting on December 5, 2022, initiate the recruiting process for the expected Council vacancies in Districts 8 and 10, including the release of an application for interested candidates. The application should be similar to that for the Planning Commission, along with City Attorney review for potential conflicts of interest, and include the following questions:
 - i. Why are you interested in representing this district on the City Council?
 - ii. Please list your past community experience and other qualifications for the role.
 - iii. Do you plan to run for the full term of this seat?
 - iv. What do you think is the biggest challenge the city faces? What is the biggest challenge specific to the council district you aspire to be appointed to represent?
 - b. Provide a minimum of 3 weeks for candidates to file their applications;
 - c. Schedule a special Council meeting before the end of January 2023 for the Council to interview qualified candidates and make the appointments;
 - d. The final appointments shall require a 2/3 vote of the council for approval.
2. Direct the City Manager to work with outgoing Councilmembers in assigning staff to continue constituent services in their offices during the recruitment process.
3. The appointment will stand until a candidate has been duly elected in the next regularly scheduled election and the results have been officially certified.

BACKGROUND

The long-perpetuated idea of a labor/business divide is dead. No longer can we as a city fall for the crude and lazy analysis that all things originate from pure political interest. Or, that power and direction come from any one person, party, or entity. We must demand better from our politicians and our news sources that seemingly perpetuate this at every opportunity. We must rise above this. Therefore, this memorandum serves as prelude to a new approach. It is signed by councilmembers from diverse political leanings and views that share one thing in common: an interest in moving our city forward as quickly, cost effectively, and non-politically as possible.

The November 2022 election resulted in two current Councilmembers moving to other offices before the end of their terms. One of the most important orders of business for the Council moving forward is to determine the process for filling the two vacancies. Unfortunately, history shows that conducting a special election ends up being less democratic and deprives districts of representation during the interim period. While recent city decisions have been to hold elections, two things have changed, making the process less desirable. One is the significantly escalated cost of holding a standalone special election. The other is the expanded timeline for holding an election and the fact that primary elections in Presidential election years are held in March.

Special elections are notoriously less democratic than regular Council elections, since voter turnout is always less than half of what it is during a general election. That means that somewhere between 15% and 27% of the electorate would be deciding who sits on the Council, likely for the next 5+ years. With such low voter turnout, special interest money (IEs) have an even more potent impact in swaying voter sentiment and can, in the truest sense of the phrase, buy an election.

If a special election were held, the soonest the primary could occur would be mid-May 2023. The runoff would then be in early August 2023 and the election certified 30 days later would put us in September 2023 by the time someone took office. The special election period would bleed into the normal election cycle whereby the winner, immediately following the special election, would need to begin raising money for the election in March 2024. This would mean that a candidate who wins in the special election would likely be continuously running for office from January 2023, possibly all the way through November 2024, essentially precluding Council Districts 8 and 10 from having a Councilmember fully committed to the day-to-day operations of the office. The last time a vacancy was filled by special election, District 4 ended up with 3 different Councilmembers over a two-year period. All of us on Council know of the steep learning curve that comes with the role. New Councilmembers must hire staff, learn procedures, and begin planning community meetings.

Add in the cost consideration, and it becomes clear that appointing a qualified replacement early in the year is a much better way to ensure residents get the representation they deserve. A pair of elections (including both the primary and general) would cost between \$7.6 million and \$11.4 million. Given our need to hire more police officers, maintain our parks, ensure our employees are compensated at a level that makes our city competitive, building interim housing for the unhoused, and providing enhanced services to our residents, that expenditure wouldn't be fiscally responsible, especially as we look to be heading into a recessionary period where cuts to our city's services may ultimately be required. The money is best spent maintaining or enhancing the city services we provide our residents, not utilizing taxpayer money to allow politicians to play kingmaker via campaign committees.

Just this week Mayor Liccardo warned “...*the next Council, I should say, is going to be challenged with this next budget. You know, California saying they got a twenty-five billion dollar deficit, probably going to be twice that. And we know one thing about every state budget [that’s] in deficit, [that] makes the state grab money from local governments. And so we’re all going to be doing anything we can to just look for savings.*” (Council Meeting, November 29, 2022)

As Councilmembers who have served our city for many years, we agree with Mayor Liccardo- in times of economic and political uncertainty, we must focus on providing the essential services expected by our public. This requires fiscal prudence and discipline. Multi-million-dollar discretionary expenditures, however noble the cause, are simply irresponsible in this financial climate. We echo Mayor Liccardo’s warning in his budget message dated June 7, 2022: “***our worst suffering often comes by our own hand.***”

We recognize the skepticism that exists among the public about the fairness of Councilmembers from other districts selecting replacements for the two-year remainder of the terms. That is why it is very important that it is handled in a thoughtful, transparent, and deliberative process. All candidates will have to complete public questionnaires, all Council deliberations will be done in public, and adequate time will be given to make sure all interested candidates are given the time they need to prepare.

We are proposing that the appointment itself be done by the incoming Council as opposed to a Council with six members who will be leaving office. It is important to note that mayor-elect Mahan will have a say in who is selected to represent District 10. Similarly, supervisor-elect Arenas is having a say by co-authoring this memo, which is an expression of her desire for her District 8 community. Furthermore, Councilmember Jimenez represented for many years a vast area that is now part of District 10, he is very knowledgeable of the desires and needs of this community.

Lastly, as there is an election scheduled in March 2024, making an interim appointment means that the seat can be filled by an elected candidate as soon as a candidate is certified by the Registrar of Voters as having received 50% of the vote in either the primary or general election. If a candidate receives 50% of the vote in the primary, they could be seated by April 2024. Otherwise, an elected candidate would be seated by December 2024

For all the reasons described above, utilizing a robust, open, public appointment process to fill the vacancies by the end of January makes the most sense for our city during this period of transition. In the meantime, the city should make sure the residents of the two districts are able to receive services they need. Therefore, the City Manager’s Office should work with outgoing Councilmembers to make sure there are staff to monitor district email and phones and connect residents to the appropriate city departments as needs and issues arise. We join Mayor-elect Mahan in his desire to get to work as soon as possible in solving many of the issues he highlighted during his campaign. To this end, his time and our time should be spent governing, not in the messiness of elections which we are sure residents are tired of.

The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City Council, or that member’s staff, concerning any action discussed in the memorandum, and that each signer’s staff members have not had, and have been instructed not to have, any such conversation with any other member of the City Council or that member’s staff.