

## REPORT TO THE CITY COUNCIL



**DATE:** May 21, 2019

**TITLE:** Options to Fill City Council Vacancy Created by the Resignation of Council Member, Anayeli Zavala

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**Reviewed by:** Jennifer Mizrahi, City Attorney

### RECOMMENDATION

- 1) Direct Staff as to whether the City Council desires an appointment and interview process to fill the vacancy created by the resignation of Council Member, Anayeli Zavala; and
- 2) Adopt a Resolution of the City Council to appoint a qualified individual to fill the Office of City Council Member vacated by the resignation of Anayeli Zavala and waiving the option of a special election; OR
- 3) Direct the City Clerk to prepare a Resolution of the City Council giving call and notice of a special election for action at a future meeting.

### BACKGROUND

Council Member Anayeli Zavala has advised that she will resign from the Desert Hot Springs City Council effective July 2, 2019. The resignation requires the City Council to consider the available options under State law for filling the vacancy to complete the term of office ending in December 2020.

### DISCUSSION

Pursuant to Desert Hot Springs Municipal Code (DHSMC) Section 2.04.040 and CA Government Code Section 36512(b), within 60 days from the seat being vacated, the City Council may fill the vacancy through either of the following 2 options:

- 1) Appoint a qualified individual to complete the unexpired term of office until a new member is elected after the next General Municipal Election in November 2020; OR
- 2) Call a special election to fill the vacancy which "...shall be held on the next regularly established election date not less than 114 days from the call of the special election."

The CA Government Code does not provide for the option of leaving the office vacant. Each option is discussed further below.

#### ***Option 1 – Appointment***

Pursuant to CA Government Code § 36512, the City Council may decide to fill the vacancy by appointment. The person appointed to fill the vacancy shall hold office for the unexpired term of the former incumbent, which would be until December 2020. Should the City Council wish to fill the vacancy by appointment, Staff recommends the following schedule and approach:

	<b>Date</b>	<b>Description</b>	<b>Responsible</b>
1	May 21, 2019	Determine the application/interview process for filling the vacancy	City Council
2	May 22, 2019	Issue Press Release and post Vacancy Notice and all materials on City website and social media	City Clerk

3	May 23, 2019 through June 24, 2019	Application Period. To be eligible for appointment, applicants must be: <ul style="list-style-type: none"> <li>• 18 years of age or older;</li> <li>• A resident of the City of Desert Hot Springs;</li> <li>• A registered voter of the City;</li> <li>• Not on parole or serving time for a felony conviction; and</li> <li>• Certify that he/she meets the eligibility requirements and is willing to serve in the office for the remainder of the term.</li> </ul>	Applicants
4	June 24, 2019	Application deadline	Applicants / City Clerk
5	July 2, 2019	Interview candidates, Council deliberation, and appointment of Candidate	City Council

A sample application is attached hereto as Exhibit 2 for the City Council’s consideration and approval.

**Option 2 – Special Election**

The City Council may instead decide to call a special election to fill the vacancy. Within 60 days of the vacancy (or before August 31, 2019), the City Council shall adopt a resolution calling the special election. The special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. Accordingly, below are the available election dates pursuant to CA Elections Code §1000.

<b>Established Election Dates</b> <i>(E.C. § 1000)</i>	<b>Adopt a Resolution Calling the Election</b> <i>(E.C. § 12001)</i>	<b>Nomination Period</b> <i>Between these dates, candidates may obtain official nomination material and file completed nomination documents with the City Clerk (E.C. § 10220 et. seq.)</i>
November 5, 2019 <i>The first Tuesday after the first Monday in November of each year</i>	BEFORE July 14, 2019 <i>(This date falls within 60 days of July 2, 2019 and is not less than 114 days from call of election)</i>	July 15, 2019 thru August 8, 2019
April 14, 2020 <i>The second Tuesday of April in each even-numbered year</i>	BEFORE August 31, 2019 <i>(This date falls within 60 days of July 2, 2019 and is not less than 114 days from call of election)</i>	December 23, 2019 thru January 17, 2020

The Riverside County Registrar of Voters (ROV) estimates the cost for such election to the City would be between \$12,000 to \$22,000.

Once the election results are certified, the City Council would then adopt a resolution declaring the person elected. The person elected would hold office for the remainder of Council Member Zavala’s term, which expires in December of 2020 (CA Government Code Section 36512(b)(1)).

**FISCAL IMPACT**

To fill the vacancy through appointment, there are minimal costs associated for the City Clerk to collect applications and administer the selection process.

For a special election, the City would incur a general fund expenditure estimated between \$12,000 to \$22,000 by the ROV, including staff time for the City Clerk to administer the election. This cost is currently not budgeted for FY 2019-20. Therefore, a budget adjustment would be required.

**EXHIBITS:** 1) Resolution; 2) Sample Application