



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: July 6, 2021

TO: Christine Daniel, City Manager

FROM: Sheri Hartz, City Clerk

SUBJECT: **Resolution Of The City Council Of The City Of Emeryville Calling For A Municipal Election To Be Held On November 2, 2021, To Fill A City Council Vacancy; Requesting That Said Special Municipal Election Be Consolidated with A Statewide Election And/Or Any Other Election Held By Other Jurisdictions Within the Territory Of The City Of Emeryville, Should Another Election(s) Be Held On That Date; Requesting the County Registrar of Voters To Perform Specified Services In Connection with Said Municipal Election; Authorizing The City Manager On Behalf Of The City Of Emeryville To Reimburse The County Registrar Of Voters For Election Services Performed; And Determining How a Successful Candidate Will Be Selected If A Tie-Vote**

RECOMMENDATION

Staff recommends that the Council approve the above-entitled Resolution of the City Council of the City of Emeryville related to calling for a special Municipal Election to be held on November 2, 2021, to fill a Council Member vacancy.

BACKGROUND

The City of Emeryville's General Municipal Election to elect City Council Members is typically held on the Tuesday following the first Monday in November of even numbered years. The last regularly held Council election was set for November 3, 2020 to fill three seats with expiring terms. However, as of the close of the nomination period on August 7, 2020, only the three incumbents – John J. Bauters, Ally Medina and Christian R. Patz – had been nominated for the three City Council Member seats, and their filings found to be sufficient.

Pursuant to Section 10229 of the California Elections Code, in the event that there are not a greater number of candidates than at-large offices to be elected; and if there are also no qualified ballot measures, the City Council may take action to appoint to the office the persons who have been nominated. The Council, therefore, cancelled the election and appointed Council Members Bauters, Medina and Patz because the election was uncontested. (Resolution No. 20-87).

At the Council Meeting on May 4, 2021, Council Member Patz indicated his intention to resign from his seat on the Council. Mayor Martinez then requested a future agenda item for staff to advise the Council on its options to fill the potential vacancy. On May 18, 2021, staff presented the item and, subsequently, Council Member Patz submitted his letter of resignation to the Mayor, with an effective date of June 20, 2021.

Although the Elections Code provides that the appointed councilmembers serve exactly as if they were elected, for purposes of filling a vacancy under Government Code section 36512, the three Council Members are considered to have been appointed. Government Code section 36512(d) provides that the Council is not allowed to make an appointment to fill a city council vacancy if the “appointment would result in a majority of the members serving on the council having been appointed.” As the City Council has three Council seats that were filled by appointment, the Council’s options to fill the vacancy were limited to either calling an election to fill the vacancy, to be held on the next regularly established election date not less than 114 days after the call or, if the City Council does not call an election, the vacancy shall be filled at the next regularly established election date. (Government Code Section 35612, subsections (d)(2); (d)(3).)

As of the date of this staff report, the date of the next regularly established election, which is not less than 114 days following the call of the election if that call is approved at the July 6, 2021 meeting, is November 2, 2021.

DISCUSSION

A City Council vacancy has been created by the resignation of Council Member Patz. The vacancy to be filled is an at-large City Council seat for the remainder of Council Member Patz’ term, expiring in 2024.

Should the Council approve the resolution calling the election and approving all other requested actions, it will be submitted to the Alameda Board of Supervisors for approval. The nomination period for the November 2, 2021 election opens at 9:00 a.m. on July 13, 2021 and closes at 5:00 p.m. on August 6, 2021.

During the nomination period, any eligible and qualified Emeryville elector interested in running for City Council may request nomination papers for candidacy by making an appointment with the City Clerk. At this appointment, the Clerk will review the Candidate’s Guide with the potential candidate and will issue all of the forms required for a City Council candidacy. There is a \$25.00 filing fee charge to all candidates, due and payable upon filing of their documents.

A candidate may, but is not required to, file a 200-word Candidate’s Statement of Qualifications for inclusion in the voters’ information pamphlet. The City will pay the costs associated with the printing, handling, translating, and mailing of candidates’ statements in the sample ballot.

FISCAL IMPACT

The Alameda County Registrar of Voters provides cost estimates for elections on its website. For a stand-alone special election, the costs are estimated at \$19-\$21 per voter. For Emeryville that would mean costs ranging from \$138,358 to \$152,922 based on 7,282 registered voters.

PREPARED BY: Sheri Hartz, City Clerk

**APPROVED AND FORWARDED TO THE
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



Christine Daniel, City Manager

ATTACHMENTS

- Draft Resolution