



# CITY COUNCIL STAFF REPORT



September 19, 2023

## ITEM TITLE

City Attorney Special Election: Report by the City Clerk Regarding the Potential Need for a Special Runoff Election and Options for the Date and Format of the Election, and Possible Direction from the City Council

**Report Number:** 23-0237

**Location:** No specific geographic location

**Department:** City Clerk

**Environmental Notice:** The activity is not a “Project” as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(C)(3) no environmental review is required.

## Recommended Action

Hear the report and provide direction regarding the format and date for a special runoff election for the City Attorney, if a runoff is required following the November 2023 special election certification.

## SUMMARY

A special election to fill the City Attorney vacancy will be held on November 7, 2023. A special runoff election will be required if none of the three qualifying candidates receives a majority of the votes cast (i.e., 50% + 1). This item is for the City Council to hear a report from the City Clerk and provide direction on the election date and format for a special runoff election, should a runoff be required.

## ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that this activity is not a “Project” as defined under Section 15378 of the State CEQA Guidelines because it will not result in a physical change to the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

## BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

## DISCUSSION

### BACKGROUND

The City Council called a special Vote Center model election to be held on November 7, 2023, to fill a vacancy for the elected City Attorney seat. Three candidates have qualified to appear on the ballot in the November election. If no candidate receives a majority of the votes cast (i.e., 50%+1), the Charter requires a special runoff election for the top two candidates (*Charter Sections [303\(C\)](#) and [503\(G\)](#)*).

***The need for a runoff election is not known at this time and will not be determined until the November election is certified.*** Certification of the results will occur within 30 days of the November election.

Due to the timing of election actions and required election noticing, the City Clerk is requesting direction from the City Council on the date and format for a possible runoff election now, even though the need for a runoff election is not currently known.

The following report provides details and a timeline for special runoff election options. The City Clerk will receive direction from the City Council and return at a future meeting with an item to call the special runoff election and other necessary actions.

### ***City Council Decisions to be Made***

In accordance with the options provided for in the City Charter, a summary of the decisions to be made by the City Council are as follows and more fully explained in the balance of this report.

#### **1. Election format options**

- a. Vote Center model (in-person)
- b. All-Mail Ballot election

#### **2. Election date options**

- a. Vote Center model (in-person) election
  - i. March 5, 2024
  - ii. March/April 2024 (the actual date is to be determined; the runoff election would be held within 120 days of the date the November election results were certified)
  - iii. April 9, 2024, if the City Council finds that a March 5, 2024 election is not practical
  - iv. November 5, 2024, if the City Council finds that a March or April 2024 election is not practical
- b. All-Mail Ballot election
  - i. May 7, 2024

**DECISION #1: FORMAT OF THE SPECIAL RUNOFF ELECTION, IF ONE IS NEEDED**

A special runoff election to fill the City Attorney vacancy may be conducted using the Vote Center model (in-person voting) or all-mail ballot. The following table presents options and considerations for both.

	VOTE CENTER MODEL	ALL-MAIL BALLOT
<b>Possible Election Dates</b>	<ul style="list-style-type: none"> <li>• 3/5/2024 (consolidated with the primary)</li> <li>• March/April 2024 (within 120 days of certification of the November election)</li> <li>• 4/9/2024</li> <li>• 11/5/2024 (consolidated with the general)</li> </ul>	5/7/2024
<b>Basic Process</b>	All voters receive a ballot in the mail and can vote in person at Vote Centers located throughout Chula Vista or can return their ballot by mail or ballot drop box.	All voters receive a ballot in the mail and can return it by mail or ballot drop box.
<b>Estimated Cost</b>	<ul style="list-style-type: none"> <li>• \$225,000 if consolidated with the 3/5/2024 or 11/5/2024 election</li> <li>• \$1.5 - \$2.0M for all other dates</li> </ul>	\$1.0 - \$1.5M
<b>Physical Locations</b>	Vote Centers and ballot drop boxes located in the City.  Ballots may also be returned by mail.	Ballot drop boxes located in the City.  Ballots may also be returned by mail.  In-person voting would only be available at the Registrar of Voters’ office during regular business hours.

**DECISION #2: ELECTION DATE**

City Charter Section [303\(C\)\(2\)\(b\)](#) allows a special runoff election to be held on one of the dates identified below. In determining which election date is practical, the City Council may want to consider the costs, when the City Attorney would take office, potential confusion due to the timing of election notices for this and other elections, and other factors.

*Special Runoff Election Dates Provided by the City Charter*

1. The next established election date, as specified in Charter Section 901 and the California Elections Code, or
2. Within 120 days following the certification of the special election results, whichever is practical.
3. If there is a federal, State, or local election scheduled to be held within 180 days following the certification of the special election results, the City Council may consolidate the runoff with that election.

### ***Vote Center Model Possible Special Runoff Election Dates***

	<b>MARCH 5, 2024</b>	<b>MAR/APR 2024**</b>	<b>APRIL 9, 2024</b>	<b>NOVEMBER 5, 2024</b>
<b>Deadline to Publish Notice of Election</b>	11/13/2023*	Late November – Early December 2023**	12/18/2023	7/15/2024
<b>Deadline for Candidates to Change Ballot Designation</b>	11/28/2023*	December 2023**	1/2/2024	7/30/2024
<b>Candidate Statement Filing</b>	11/13/2023* – 12/8/2023	Late Nov 2023 – Early Jan 2024**	12/18/2023 – 1/12/2024	7/15/2024 – 8/9/2024
<b>Ability to Consolidate</b>	Yes	Unlikely	Unlikely	Yes
<b>Election Results Certified By</b>	4/4/2024	Mid-Apr – Early May 2024**	5/9/2024	12/5/2024
<b>City Attorney Seated</b>	April 2024	April - May 2024**	May 2024	December 2024
<b>Cost Estimate</b>	\$225,000	\$1.5 – \$2 million	\$1.5 – \$2 million	\$225,000

\* *These actions may occur before the November election certification and the confirmation of whether a runoff will be necessary.*

\*\* *The actual election date and associated deadlines would be determined based on the date the November 2023 election results are certified.*

### ***Timing Considerations for a Special Runoff Election Consolidated with the March 2024 Primary Election***

The November election must be certified by the Registrar of Voters no later than 30 days after the election, December 7, 2023, although it could be certified sooner. Until the election is certified, the need for a runoff election will not be known.

If the City Council desires to consolidate a possible runoff election with the March 2024 primary election, the runoff election would need to be called, and other deadlines may occur *before* the November 2023 election is certified (i.e., before the need for a runoff election is confirmed).

If a runoff election is called for March 2024 and, following certification of the election results, a runoff is unnecessary because a candidate received a majority of the votes in the November election, an item would be brought to the City Council to cancel the runoff election.

### ***All-Mail Ballot Possible Special Runoff Election Date***

	<b>MAY 7, 2024</b>
<b>Deadline to Publish Notice of Election</b>	1/15/2024
<b>Deadline for Candidates to Change Ballot Designation</b>	1/30/2024
<b>Candidate Filing Period</b>	1/15/2024 – 8/9/2024
<b>Ability to Consolidate</b>	Unlikely
<b>Election Results Certified By</b>	6/6/2024
<b>City Attorney Seated</b>	June 2024
<b>Cost Estimate</b>	\$1.0-\$1.5 million

## **CITY COUNCIL DIRECTION**

If the City Council would like a special runoff election, if required, to take place in March or April 2024, the City Clerk recommends direction be provided at this time to allow preparation and required actions to be fulfilled. The City Clerk would return at a future meeting with resolution(s) to implement the City Council's direction.

If the City Council prefers to wait until the November election results are certified to discuss and act on a special runoff election, the City Clerk will present an item with the remaining options available. Consolidating the runoff with the March 2024 primary election would no longer be an option at that time.

## **DECISION-MAKER CONFLICT**

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Councilmembers do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Councilmember, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

## **CURRENT-YEAR FISCAL IMPACT**

As explained in more detail throughout this report, the fiscal impacts for the current year will depend on whether a runoff is required and, if a runoff is necessary, which election date and format options are desired.

Possible scenarios and associated current-year fiscal impact estimates:

- A majority winner is declared in the primary, and no runoff is required: There would be no fiscal impact.
- Vote Center model special runoff election consolidated with the March 2024 primary election: \$225,000
- Vote Center model special runoff election held in March (not consolidated) or April 2024: \$1.5 – \$2.0 million
- All-mail ballot special runoff election in May 2024: \$1.0 – \$1.5 million
- Vote Center model special runoff election in November 2024: No current-year fiscal impact; associated budget, currently estimated at \$225,000, would be requested as part of the City's annual budget process for Fiscal Year 2024/25.

An updated estimate for the November 2023 election reflects a reduction of \$600,000 from the original amount budgeted due to a runoff election for the County Supervisor District 4 seat being scheduled on the same date. If a runoff election for the City Attorney is scheduled for the current fiscal year, those funds could be used towards the runoff election costs.

The estimates are the best available at this time, as provided by the Registrar of Voters. Actual costs may vary. County of San Diego Administrative Code Section 439.1 requires that the City provide a deposit of the estimated election cost at least 60 days before the election. Upon the Registrar's reconciliation, typically within six months of the election, a final bill (if costs were higher than anticipated) or a refund (if costs were lower than anticipated) is issued to the City.

## **ONGOING FISCAL IMPACT**

Possible scenarios and associated ongoing fiscal impact for fiscal year 2024-25:

- Special runoff election is not required or is held before July 2024: There would be no ongoing fiscal impact.
- Vote Center model special runoff election in November 2024: \$225,000

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## **ATTACHMENTS**

None.

*Staff Contacts: Kerry K. Bigelow, MMC, City Clerk, and Cristina Hernandez, CMC, Deputy Director, City Clerk Services*