City of Santa Clara

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Agenda Report

19-975	**Agenda Date: 9/4/2019**

REPORT TO COUNCIL

SUBJECT

Declaring the Vacancy for the Position of Elected Chief of Police and discussion on process for filling the vacancy by appointment <u>or</u> special election in March 2020

BACKGROUND

At the July 9, 2019 Council meeting staff informed the City Council of the Charter requirements for the upcoming vacancy in the elective office of the Chief of Police. Police Chief Seller's announced his retirement in June 2019 effective September 1, 2019. A copy of the Chief's letter of resignation is attached.

DISCUSSION

City of Santa Clara Charter - Vacancies & Elections

City Charter section 703 ("Vacancies") requires that any vacancy in an elective office of the City, including Mayor, City Council, Chief of Police, and City Clerk, from whatever cause arising, be filled by appointment by the City Council by a four-fifths vote. Accordingly, a vote of six of the seven Councilmembers will be required to make an appointment. If the Council fails to fill the vacancy by appointment *within thirty (30) days after the office is declared vacant*, the City must "forthwith" cause an election to be held to fill such vacancy. The Charter does not define the term "forthwith."

City Charter section 600.01 calls for a regular election (i.e. general municipal election) to be held on the first Tuesday following the first Monday in November of even numbered years. All other municipal elections that may be called under the Charter or CA Elections Code are referred to as a "special election".

City Charter section 700 adopts the provisions of the California Elections Code with respect to City elections except where the Charter otherwise provides.

Chief of Police Vacancy Appointment Process

Having received the Chief's letter of resignation the Council should declare his office vacant as of tonight's meeting and may choose to simply appoint a new Police Chief at a regular meeting or special City Council meeting scheduled any time before <u>October 4, 2019</u>. Council's appointment process could include accepting applications and holding interviews for the position, as long as an appointment is made before October 4, 2019.

Candidates for the office of Chief of Police shall meet the minimum eligibility and qualification requirements imposed by state law upon candidates for the Office of Sheriff and must be a resident

and a qualified registered elector of the City.

If the appointment approach is pursued, the recruitment process is a matter of City Council discretion because there is no prescribed process in the City Charter, City Code, or state law. It is recommended that the City Council utilize an appointment process similar to the current process for appointments to City Boards and Commissions, which involves applicant interviews conducted during a Council meeting. The City Council may choose to utilize that process with or without modifications.

It should also be noted that the Council may appoint without following the proposed Boards and Commission process, as long as an appointment is made before October 4, 2019 with the required number of votes.

Below is a proposed timeline in the event the Council would like to proceed with an appointment process:

September 5 - 16 2019   Accept applications from qualified applicants

September 24, 2019   Hold a special City Council meeting at 5:00 p.m. to interview and appoint one candidate to fill the vacancy for the balance of the unexpired term ending in November 2020

If the City Council chooses to not appoint someone to fill the Chief of Police vacancy or is unable to appoint a candidate with the required four-fifths vote (6 votes of a 7-member Council), the Council must forthwith call an election to fill the vacancy, i.e. on the next possible established election date. The next established election date is March 3, 2020, which is the date set for California's presidential primary election.

March 3, 2020 Special Election Schedule

The following is a table of the relevant dates for the March 3, 2020 election if the Council does not make an appointment.

Effective Date of Resignation	September 1, 2019
Council Declares Vacancy	September 4, 2019
Call Election and Request to Consolidate with the County	Last day for Council to adopt resolutions Council meeting October 8
Publish Notice of Election at least once in newspaper	October 28-November 11, 2019
Filing period for nomination papers and candidate statement opens	October 28, 2019
Last day to file nomination papers and candidate statement	December 6, 2019
Write in Candidacy Period	January 6, 2020 - February 8, 2020
Last day to register to vote for March Election	February 17, 2020
Last day to publish notice of nominees in newspaper	February 25, 2020
Election Day	March 3, 2020

FISCAL IMPACT

There is no fiscal impact to this informational report and there is no fiscal impact except staff time if the Council chooses to fill the vacancy by appointment, but there will be a fiscal impact if a special election is called.

COORDINATION

This report has been coordinated with the City Attorney's Office, the City Manager's Office, and the City Clerk.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov> or at the public information desk at any City of Santa Clara public library.

ALTERNATIVES

1. Appoint a New Chief of Police
2. Direct staff to conduct a special election March 3, 2020

RECOMMENDATION

Staff makes no recommendation.

Approved by:
Brian Doyle, City Attorney
Hosam Haggag, City Clerk

ATTACHMENTS

1. Police Chief Seller's Letter of Resignation