

RESOLUTION NO. 2024-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA SETTING FORTH THE TIMELINE AND PROCESS TO FILL A CURRENTLY VACANT SEAT ON THE CITY COUNCIL WITH THE APPOINTEE TO SERVE FOR THE REMAINDER OF A FOUR-YEAR TERM, THAT IS, UNTIL A SUCCESSOR IS QUALIFIED AT THE NOVEMBER 2024 GENERAL MUNICIPAL ELECTION

WHEREAS, the City Council finds it necessary to fill a vacancy on the City Council; and

WHEREAS, in order to fill such a vacancy in a timely manner the City Council desires to adopt a timeline and process.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Marina that the following timeline and process be used to fill the City Council vacancy:

1. Filing period from: February 7, 2024, to February 21, 2024.
2. The application shall include the same information as is used on the application for appointment to a City commission. The Deputy City Clerk shall format an application which includes the same and make it available to the public on the City's website and to any individual who requests the application by e-mail or by mail or otherwise. The applications, as submitted, shall be made available for public review.
3. Persons from the City of Marina 2019 District 3 Map shall be invited to apply to the Deputy City Clerk, by e-mail or as necessary, during the application period, up until 5:00 p.m. on the last day of the application period.
4. Applications shall be provided to the City Council by February 22, 2024, and a City Council special meeting shall be set for Wednesday, February 28, 2024, at 7:00 P.M. for the Council to vote and appoint a new Councilmember.
5. Applicants are invited to attend the Special City Council meeting and make presentations in support of their application of 10 minutes if there are 5 or less candidates and if there's more than 5 at the mayor's discretion to determine the amount of time. The City Council may ask questions of the applicant, with no time limit set for the question period.
6. The public will be allowed public comment after all of the applicants have made their presentations and have been questioned by the City Council. Public comment will be limited to three minutes per person.
7. Upon the conclusion of the Public Comment Period, the City Council shall commence voting by paper ballot.
8. Each City Council member will complete the first-round ballot by checking the name of only one applicant, signing and dating the ballot.
9. Each City Council member will record their candidate selection, sign their ballot and provide to the Deputy City Clerk,
10. The Deputy City Clerk will count the ballots submitted and will announce the votes for each applicant.
11. Balloting will continue until an applicant receives a majority vote (at least 3 votes) of the

City Council.

12. Balloting for ten rounds will be included in the packet for each City Council member.
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13. The original signed ballots will be returned to the Deputy City Clerk as soon as possible by the City Council member and will become part of the official record.

Following the announcement of the official canvas of ballots by the Deputy City Clerk, that is, the vote tally for the applicant receiving a majority vote, the new City Council member will be sworn into office and will serve until a successor is qualified at the November 2024 General Municipal Election

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 6th day of February 2024 by the following vote:

AYES, COUNCIL MEMBERS: McCarthy, Biala, Visscher, Delgado
NOES, COUNCIL MEMBERS: None
ABSENT, COUNCIL MEMBERS: None
ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

February 2, 2024

Item No. **13a**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of February 6, 2024

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2024-,
ADOPTING A TIMELINE AND PROCESS TO FILL A CURRENTLY
VACANT SEAT ON THE CITY COUNCIL, WITH THE APPOINTEE
TO SERVE FOR THE REMAINDER OF A FOUR-YEAR TERM, THAT
IS, UNTIL A SUCCESSOR IS QUALIFIED AT THE NOVEMBER 2024
GENERAL MUNICIPAL ELECTION.**

RECOMMENDATION:

It is recommended that the City Council:

1. Consider adopting Resolution No. 2024-__, setting forth the timeline and process to fill a currently vacant seat on the City Council with the appointee to serve for the remainder of a four-year term, that is, until a successor is qualified at the November 2024 General Municipal Election.

BACKGROUND:

On or about January 16, 2024, Council Member Cristina Medina-Dirksen submitted a letter of resignation effective January 28, 2024. The City Charter (Section 1.03) states that "A vacancy in the elective office of council member shall be filled by appointment by the council, such appointee to hold office until the next general municipal election and until a successor is elected and installed." The council has a 40-day period within which to fill the vacancy.

The City has general municipal elections in November of even-numbered years. (MMC 2.06.010). Consequently, the next general municipal election is on November 5, 2024. The deadline for placing a seat on the general election ballot is 113 days prior to the election date of November 5, or on or about July 15, 2024.

As you know, the City transitioned to district elections in 2019 and adopted a district map ("2019 District Map"). In 2021, the City went through a redistricting process after the 2020 census was complete and adopted a new district map for the 2022 election ("2022 District Map"). Council Member Medina-Dirksen was elected to serve District 3 in November 2020 based on the 2019 District Map. The law provides that the boundaries in place when a city council position is elected are the boundaries that must be used if the position becomes vacant. *See* 97 Ops.Cal.Atty.Gen. 12, 4-5 (2014) Therefore, the appointment must be filled by a candidate from District 3 as shown on the 2019 District Map (attached).

ANALYSIS:

As the Council has been previously made aware, there are no requirements in the City Charter or general law as to how an appointment to fill a vacancy in a council member seat shall be made by the Council. Thus, the Council is free to set its own process and procedures, so long as they are generally reasonable.

It is noted that if the Council does not appoint a replacement for the vacant seat within 40 days of the effective date of the vacancy (or cannot agree to the appointment within the time period), the Mayor can make the appointment. Based on the resignation's effective date of January 28, 2024, the 40th day is March 8, 2024.

Previously, when seeking to fill a vacancy of a council member seat, this council has provided notice and set a procedure to receive applications from members of the public. Set forth below is a process that the Council has previously followed in filling a Council vacancy, most recently in 2020.

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4. Applications shall be provided to the City Council by February 22, 2024, and a City Council special meeting shall be set for Wednesday, February 28, 2024, at 7:00 P.M. for the Council to vote and appoint a new Councilmember.
5. Applicants are invited to attend the Special City Council meeting and make presentations in support of their application of up to five minutes. The City Council may ask questions of the applicant, with no time limit set for the question period.
6. The public will be allowed public comment after all of the applicants have made their presentations and have been questioned by the City Council. Public comment will be limited to three minutes per person.
7. Upon the conclusion of the Public Comment Period, the City Council shall commence voting by paper ballot.
8. Each City Council member will complete the first-round ballot by checking the name of only one applicant, signing and dating the ballot.
9. Each City Council member will record their candidate selection, sign their ballot and provide to the Deputy City Clerk,
10. The Deputy City Clerk will count the ballots submitted and will announce the votes for each applicant.
11. Balloting will continue until an applicant receives a majority vote (at least 3 votes) of the City Council.
12. Balloting for ten-rounds will be included in the packet for each City Council member.

13. The original signed ballots will be returned to the Deputy City Clerk as soon as possible by the City Council member and will become part of the official record.

Following the announcement of the official canvas of ballots by the Deputy City Clerk, that is, the vote tally for the applicant receiving a majority vote, the new City Council member will be sworn into office and will serve until a successor is qualified at the November 2024 General Municipal Election.

FISCAL IMPACT:

None

CONCLUSION:

This request is submitted for City Council consideration and action.

Respectfully submitted,

René Alejandro Ortega
City Attorney's Office

Layne Long
City Manager
City of Marina

