



City of Colusa California

STAFF REPORT

DATE: December 26, 2023
TO: Mayor Vaca and Members of the City Council
FROM: Jesse Cain, City Manager, and Ryan Jones, City Attorney

AGENDA ITEM:

Council member vacancy: Council to pass a resolution to call for an appointment or a special election

Recommendation: Listen to public comment and decide whether to appoint a new council member or call for a special election

BACKGROUND ANALYSIS:

On December 19, 2023, Council Member Julie Garofalo announced her resignation from the City Council. Council Member Garofalo was elected in November 2022, and her term expires November 2026.

Government Code (GC) Section 36512 sets forth the procedures for filling elected city office vacancies in general law cities. Specifically, GC Section 36512(b) states: "If a vacancy occurs in an elective office provided for in this chapter, the council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy." Regardless of whether the vacancy is filled by appointment or special election, the person elected/appointed only holds office for the unexpired term of the former incumbent.

If the Council wants to make an appointment, the Council can determine what the process looks like. For example, they can take applications and conduct interviews, or perhaps set up an ad hoc committee. The new Council Member would then be appointed by motion, majority vote, and resolution of the Council to hold office until the next general municipal election in November 2024. GC Section 36512(b)(2)(A) If the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general municipal election, the person appointed to fill the vacancy shall hold office until the next general municipal election that is scheduled 130 or more days after the date the council is notified of the vacancy, and thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

GC Section 36512(1) states: "If the council calls a special election, the special election shall

be held on the next regularly scheduled regularly established election date not less than 114 days from the call of the special election. A person elected fill a vacancy holds office for the unexpired term of the former incumbent.”

The next regularly established election date not less than 114 days from the call of the special election would be November 2024. Therefore, if the Council votes to fill the vacant seat by calling a special election, the practical effect will be to leave the seat vacant until a new Council Member is elected at the November 2024 regular election. If the Council votes to appoint someone to fill the vacancy, that appointee would serve until November 2024, and then at that point an election would be held for the person elected to serve the remaining two years on the term of office – which is until November 2026

BUDGET IMPACT:

There are no costs to appoint a replacement Council Member. Although there are normally costs associated with calling a special election, because the earliest date upon which special election could occur under the Government Code requirements would not be until November 2024, which is the same date the City would have held an election for a Council position, there would be minor costs associated with special election.

RECOMMENDATIONS

Take direction from Council and pass one of the two resolutions attached.

ATTACHMENTS

Attachment A- Resolution to give City Clerk direction to create an appointment process
Attachment B – Resolution Electing to Leave Seat Vacant Until November 2024, and call for a special election.