

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Joseph Montes, City Attorney

DATE: September 12, 2008 (CC Meeting of 9/17/2008)

SUBJECT: Consider Options for Filling a Vacancy on the City Council

BACKGROUND

On November 4, 2008, there will be an election to fill the position of Mayor, and two seats on the Moorpark City Council. Councilmember Parvin is the only person who timely filed any papers to run for the position of Mayor. As such, it is expected that Councilmember Parvin will be elected Mayor and will be sworn in on December 3, 2008.¹ Upon taking the oath of office, Councilmember Parvin's council seat will, by operation of law, immediately become vacant.

To fill the vacancy, the City Council could proceed pursuant to the existing requirements of the Moorpark Municipal Code. Alternatively, the City Council could repeal the existing code and proceed as otherwise permitted by state law. Finally, the City Council could adopt a new ordinance (replacing the current Moorpark Municipal Code section) to implement one of two other options permitted by state law. These various courses of action are discussed below.

DISCUSSION

A. Section 2.04.050 of the Moorpark Code

Section 2.04.050 of the Moorpark Municipal Code, entitled "Filling of Vacancies", requires an interim appointment within 30 days of the vacancy occurring and the calling of an election at the first available state law election date. The special election date, under governing state law provisions, would be June 2, 2009.

¹ All dates specified in this memorandum assume that Councilmember Parvin will become Mayor on December 3, 2008.

B. Repeal Current Ordinance and Proceed as Otherwise Permitted by State Law.

If the City Council were to repeal section 2.04.050 of the Moorpark Municipal Code, Government Code section 36512 would require that within 30 days of the vacancy (i.e. prior to January 2, 2009), the City Council must either appoint someone to complete the term of the vacated seat (here, approximately two years), or call a special election to fill the vacancy. If an election is called, the election must occur at the first regularly established election date at least 114 days thereafter. Per the Election Code, that date would be June 2, 2009.

C. Adopt a New Ordinance Describing a Different Process for Filling a Vacancy

Government Code Section 36512(c) allows a City to adopt one of three processes to fill a vacancy on the Council. Section 2.04.050 of the Municipal Code describes one such allowed process. The other two alternatives include:

(1) No Appointment, and Automatic Election. Under this option, the City Council must immediately call an election to occur at the next regularly established election date "not less than 114 days from the call of the special election." Under this option, the City Council would not have any appointment powers, and the election would occur on June 2, 2009.

(2) No Appointment, Election Only With Petitions. Under this option, the position would remain vacant, and no election would be called unless a specified number of petitions were filed with the city to require an election. In that event, the election must be held at least 114 days from the date of the filing of the requisite petitions.

FISCAL IMPACT

The City Clerk has received a response from the County of Ventura Elections Division that \$100,000 or more is their general estimate of the cost to conduct a June 2, 2009, stand-alone special election for the City of Moorpark.

STAFF RECOMMENDATION

Direct staff as deemed appropriate.