

# CITY OF LOS ALAMITOS

3191 Katella Ave.  
Los Alamitos, CA 90720

## AGENDA CITY COUNCIL SPECIAL MEETING

**Saturday, December 21, 2019 – 9:00 a.m.**

I, Richard Murphy, as Mayor of the City of Los Alamitos, do hereby call a special meeting of the City Council of the City of Los Alamitos, to be held at the time and place listed above to discuss the matters listed below.



Richard Murphy, Mayor of the City of Los Alamitos

### NOTICE TO THE PUBLIC

This Agenda contains a brief general description of each item to be considered. Except as provided by law, action or discussion shall not be taken on any item not appearing on the agenda. Supporting documents, including staff reports, are available for review at City Hall in the City Clerk's Office or on the City's website at [www.cityoflosalamitos.org](http://www.cityoflosalamitos.org) once the agenda has been publicly posted.

Each matter on the agenda, no matter how described, shall be deemed to include any appropriate motion, whether to adopt a minute motion, resolution, payment of any bill, approval of any matter or action, or any other action. Items listed as "for information" or "for discussion" may also be the subject of an "action" taken by the City Council at the same meeting.

Any written materials relating to an item on this agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office, 3191 Katella Ave., Los Alamitos CA 90720, during normal business hours. In addition, such writings or documents will be made available for public review at the respective public meeting.

It is the intention of the City of Los Alamitos to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee, or a participant at this meeting, you will need special assistance beyond what is normally provided, please contact the City Clerk's Office at (562) 431-3538, extension 220, 48 hours prior to the meeting so that reasonable arrangements may be made. Assisted listening devices may be obtained from the City Clerk at the meeting for individuals with hearing impairments.

Persons wishing to address the City Council on any item on the City Council Agenda will be called upon at the time the agenda item is called or during the City Council's consideration of the item and may address the City Council for up to three minutes.

### 1. CALL TO ORDER

### 2. ROLL CALL

Mayor Murphy  
Mayor Pro Tem Chirco  
Council Member Grose  
Council Member Hasselbrink

**3. SPECIAL ORDER OF THE DAY**

**A. Consideration of the City Council Vacancy Created by the Resignation of Former Council Member Warren Kusumoto (City Clerk)**

On December 16, 2019, Warren Kusumoto resigned from his position on the City Council. Per Government Code (GC) Section 36512 and Section 502 of the City Charter, Council has two options to fill the vacancy: (1) appoint a registered voter from the City, or (2) hold a special election. Additionally, GC 1752 states no Council Member shall be appointed to fill any vacancy on the City Council during the term for which they were elected or appointed.

Recommendation: Discuss the process to fill the Council vacancy and direct Staff accordingly.

**4. CLOSED SESSION**

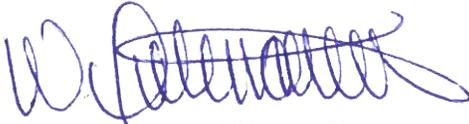
**A. PUBLIC EMPLOYEE APPOINTMENT**

Pursuant to Government Code Section 54957

Title: City Manager

**5. ADJOURNMENT**

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Agenda was posted at the following locations: Los Alamitos City Hall, 3191 Katella Ave.; Los Alamitos Community Center, 10911 Oak Street; and, Los Alamitos Museum, 11062 Los Alamitos Blvd.; not less than 24 hours prior to the meeting.



Windmera Quintanar, MMC, City Clerk  
Date: December 19, 2019

# City of Los Alamitos

## CITY COUNCIL AGENDA REPORT

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**MEETING DATE: December 21, 2019**

**ITEM NUMBER: 3A**

**To: Mayor Richard D. Murphy & Members of the City Council**

**Presented By: Windmera Quintanar, MMC, City Clerk**

**Subject: Consideration of the City Council Vacancy Created by the Resignation of former Council Member Warren Kusumoto**

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### **SUMMARY**

On December 16, 2019, Warren Kusumoto resigned from his position on the City Council. Per Government Code (GC) Section 36512 and Section 502 of the City Charter, Council has two options to fill the vacancy: (1) appoint a registered voter from the City, or (2) hold a special election. Additionally, GC 1752 states no Council Member shall be appointed to fill any vacancy on the City Council during the term for which they were elected or appointed.

### **RECOMMENDATION**

Discuss the process to fill the Council vacancy created by the resignation of Former Council Member Warren Kusumoto and direct Staff accordingly.

### **BACKGROUND**

#### **Appointment**

Should the majority vote of Council opt for appointment to fill the vacancy, it must occur within 60 days of the date of resignation, December 16, 2019, which will be February 14, 2020. The Council may decide the manner in which Council appoints someone.

A Council vacancy occurred in 2017. Council had the option to appoint for the remaining three years on the term or until the next General Municipal election. Council opted to appoint until the next General Municipal election and directed the City Clerk to publish a vacancy notice inviting applicants to apply. Council interviewed 4 individuals and voted to appoint Mark Chirco.

Council can opt to take the same course or come up with something entirely different. The only requirement is that the person be a registered voter in the City and the **appointment must occur within 60 days (February 14, 2020).**

In 2017 Staff surveyed surrounding Orange County cities for the processes they have used to appoint a vacant city council seat. Aliso Viejo, Huntington Beach, Lake Forest, La Habra, La Palma, Mission Viejo, and Stanton have filled vacancies via appointment using

a similar process to what Los Alamitos uses to fill Commissioner vacancies. The City Clerk releases a vacancy notice, accepts applications/resumes/letters of interest from interested parties, the city council interviews the applicants, and then makes an appointment.

The City of San Clemente's Municipal Code calls for a Special Election in the event of a vacancy and the City of Cypress has not had such an occurrence.

### Special Election

The GC states "If the council calls a special election, the special election shall be held on the next regularly established election date not less than 114 days from the call of the special election." Election Code Section 1000 establishes the below dates for elections. The specific dates for this occurrence are underlined.

- (a) The second Tuesday of April in each even-numbered year. April 14, 2020
- (b) The first Tuesday after the first Monday in March of each odd-numbered year. n/a
- (c) The first Tuesday after the first Monday in June in each year. June 2, 2020
- (d) The first Tuesday after the first Monday in November of each year. November 3, 2020

Should Council desire to hold a special election or fail to appoint someone within 60 days, a special election could be consolidated with the County of Orange on April 14, 2020. Staff has contacted the County of Orange for estimated election costs and is waiting a response. In 2017, the estimated cost for a standalone election for one Council seat was approximately \$35,899 - \$39,307.

### Term

Since former Council Member Kusumoto's unexpired term has more than two years remaining, our Charter allows the majority vote of the Council to either: (1) appoint for the entire unexpired term, or (2) appoint until the next General Municipal election.

Before an appointment is made, Council must decide if the appointment will run until the General Municipal Election on November 3, 2020 or until the end of former Council Member Kusumoto's unexpired term, which is December 2022. If a special election is held, the elected would hold the position for the remaining two years of the unexpired term.

### Districts

The City's first District Election will occur on November 3, 2020 for Districts 1 and 3. This Council vacancy will not affect the Districts. Whether the appoint is made until November 2020 or to fill the remainder of the term until December 2022, the position will remain an at-large position.

Should Council elect to appoint someone until the November 2020 election, then there will be one at-large two year term, alongside two four-year terms for Districts 1 and 3 submitted to the voters. Staff is prepared to discuss the many different scenarios that can occur with an appointment ending in November 2020. The most concise course of action would be to appoint someone to fill the remainder of the unexpired term, until

December 2022. That would leave current rotation of at-large positions in tact allowing for a smoother transition into district elections.

## **DISCUSSION**

Council should discuss and provide direction to Staff on the following options:

Option 1: Advertise for applications of interested parties; conduct interviews of all applicants, and then appoint an applicant to fill the vacancy; or,

Option 2: Each Council Member submit the name of a person they think should be considered for appointment to the vacancy to be interviewed and appointed; or,

Option 3: Hold a Special Election on April 14, 2020.

Options 1 and 2 will require the Council to decide before appointment the length of the term, date for interviews, and whether appointment would occur at a special or regular meeting.

If Council would like the newly appointed Council member in place for the January 21, 2020 Council meeting, a special meeting would need to occur before January 21, 2020. Alternatively, Council could interview and appoint at the Regularly scheduled January 21, 2020 Council meeting.

## **FISCAL IMPACT**

Cost will depend on the action that Council takes. There will be minimal staff cost to appointment a Council Member. The cost for a special election would be an unbudgeted amount and Council would need to appropriate funds accordingly.

Submitted by: Windmera Quintanar, MMC, City Clerk

*Attachments:*        1. *Government Code Section 36512*  
                              2. *City Charter Section 503*



## GOVERNMENT CODE - GOV

### **TITLE 4. GOVERNMENT OF CITIES [34000 - 45345]** ( Title 4 added by Stats. 1949, Ch. 79. )

#### **DIVISION 3. OFFICERS [36501 - 41805]** ( Division 3 added by Stats. 1949, Ch. 79. )

##### **PART 1. GENERAL [36501 - 36525]** ( Part 1 added by Stats. 1949, Ch. 79. )

- 36512.** (a) If a vacancy occurs in an appointive office provided for in this chapter, the council shall fill the vacancy by appointment. A person appointed to fill a vacancy holds office for the unexpired term of the former incumbent.
- (b) 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.
- (1) If the council calls a special election, the special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person elected to fill a vacancy holds office for the unexpired term of the former incumbent.
- (2) If the council fills the vacancy by appointment, the person appointed to fill the vacancy shall hold office pursuant to one of the following:
- (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.
- (B) If the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general municipal election, or if the vacancy occurs in the second half of a term of office, the person appointed to fill the vacancy shall hold office for the unexpired term of the former incumbent.
- (c) Notwithstanding subdivision (b) and Section 34902, a city may enact an ordinance that does any of the following:
- (1) Requires that a special election be called immediately to fill every city council vacancy and the office of mayor designated pursuant to Section 34902. The ordinance shall provide that the special election shall be held on the next regularly established election date not less than 114 days from the call of the special election.
- (2) Requires that a special election be held to fill a city council vacancy and the office of mayor designated pursuant to Section 34902 when petitions bearing a specified number of verified signatures are filed. The ordinance shall provide that the special election shall be held on the next regularly established election date not less than 114 days from the filing of the petition. A governing body that has enacted such an ordinance may also call a special election pursuant to subdivision (b) without waiting for the filing of a petition.
- (3) Provides that a person appointed to fill a vacancy on the city council holds office only until the date of a special election which shall immediately be called to fill the remainder of the term. The special election may be held on the date of the next regularly established election or regularly scheduled municipal election to be held throughout the city not less than 114 days from the call of the special election.
- (d) (1) Notwithstanding subdivision (b) and Section 34902, an appointment shall not be made to fill a vacancy on a city council if the appointment would result in a majority of the members serving on the council having been appointed. The vacancy shall be filled in the manner provided by this subdivision.
- (2) The city council may call an election to fill the vacancy, to be held on the next regularly established election date not less than 114 days after the call.
- (3) If the city council does not call an election pursuant to paragraph (2), the vacancy shall be filled at the next regularly established election date.

(e) (1) If the city council of a city that elects city council members by or from districts elects to fill a vacancy on the city council by appointment as a result of a city council member resigning from office, the resigning city council member may cast a vote on the appointment if the resignation will go into effect upon the appointment of a successor. A city council member shall not cast a vote for a family member or any other person with whom the city council member has a relationship that may create a potential conflict of interest.

(2) If a city council member elects to cast a vote under this subdivision, the city council member shall be prohibited from the following actions for a period of two years after the appointment of a successor:

(A) Advocating on any measure or issue coming before the city council in which the city council member may have a personal benefit.

(B) Entering into a contract of any kind with the city or a city vendor.

(C) Accepting a position of employment with the city or a city vendor.

(D) Applying for a permit that is subject to the approval of the city council.

(3) This subdivision shall not apply to any city council member who is resigning from the city council due to charges of, or conviction for, corruption or criminal behavior, or who is subject to a recall election.

*(Amended by Stats. 2015, Ch. 185, Sec. 1. (AB 952) Effective January 1, 2016.)*

## Los Alamitos Municipal Code

[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)[Charter](#)[Article V. Elective Officers.](#)**Sec. 502. Vacancies.**

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A vacancy in the City Council from whatever cause arising shall be filled either by appointment of the City Council or by election. The City Council shall determine whether to fill a vacancy by election or by appointment; provided, however, if the City Council determines to fill a vacancy by appointment but fails to do so within sixty (60) days after the vacancy occurs, the Council shall forthwith cause an election to be held to fill the vacancy.

A person elected to fill a vacancy shall hold office for the entire unexpired term of the former incumbent.

A person appointed to fill a vacancy shall serve for the entire unexpired term of the former incumbent unless there remain two (2) years or more of said unexpired term on the date of appointment. In such case, the City Council shall decide by majority vote prior to such appointment whether the appointment shall be for the entire unexpired term or only until the next general municipal election. If the seat is filled by appointment only until the next general municipal election, then at said election the seat shall be filled by vote of the people.

If at said next general municipal election there are four (4) or more council seats to be filled, the three (3) persons each receiving the largest number of votes shall each serve a term of four (4) years while the person(s) elected to fill the remaining seat(s) shall serve for a term of two (2) years.

If a member of the City Council is absent from all regular meetings of the City Council for a period of sixty days consecutively from and after the last regular City Council meeting attended by such members, unless by permission of the City Council expressed in its official minutes or as provided in Section 1404, or is convicted of a crime involving moral turpitude, or ceases to be a qualified elector of his/her district, his/her office shall become vacant and shall be so declared by the City Council.

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