



STAFF REPORT

City Council

Date: November 1, 2023
To: Mayor and City Council
From: Michael Chandler, City Manager
Prepared By: Kat Galileo, Assistant City Clerk
Title: City Clerk – Elected vs Appointed

Recommendation

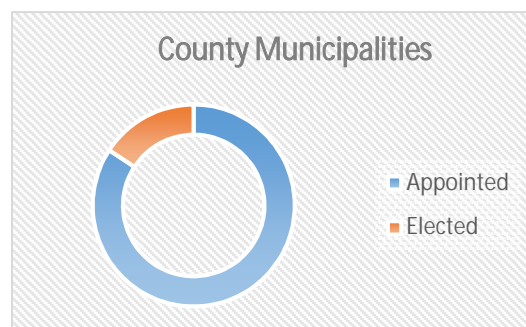
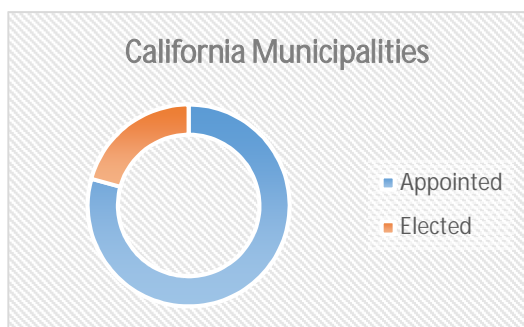
Receive presentation and hold discussion in consideration of changing the elected City Clerk to an appointed position; and consider a motion directing City staff to prepare for Council review and adoption the necessary materials to place a ballot measure before the voters at the Statewide Primary Election in 2024.

Background

On October 18, 2023, during a Regular City Council meeting, the Mayor recapped a recent discussion with the elected City Clerk in which he recommended conversion of the City Clerk position to an appointed position. The recommendation from the City Clerk was prompted by the upcoming end of his elected four-year term in November 2024, and the rapid evolution of complex duties required of the position. The proposed change would require a ballot measure to be placed before the voters at an upcoming election. City Council directed staff to place this topic on the agenda as an item for discussion and consideration.

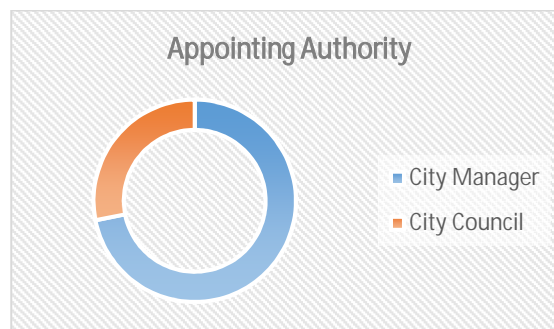
Discussion

State law requires all general law cities, such as Martinez, to have a City Clerk. By law, the position of City Clerk may be either elected or appointed. In Martinez, voters elect a City Clerk every four years. The term of the current City Clerk ends November 2024. Of the 482 cities in California, 100 cities have elected City Clerks. In Contra Costa County as of 2023, only 3 out of the 19 cities have an elected City Clerk – Pittsburg, Antioch, and Martinez. In recent years, the growing trend amongst 80% of cities is the utilization of the appointment process for City Clerks.



Elected Office - Pursuant to state law, there are three qualifications for the position of elected City Clerk: 1) the individual must be a resident of the City, 2) the individual must be registered to vote in the City, and 3) the individual must be at least 18 years of age. As an elected position, there are no minimum educational requirements or professional qualifications.

Appointed Office – Appointed City Clerks are not required to be a City resident or elector, however it can be required they satisfy minimum educational and/or professional requirements. As an appointed position, the City Council may, by Ordinance, vest in the City Manager its authority to appoint the City Clerk. Otherwise, the appointed City Clerk would hold office at the pleasure of the City Council. A study conducted by the City of Murrieta in 2018 showed 76 municipalities had the City Clerk appointed by the City Manager, while only 31 municipalities had City Clerks appointed by City Council.



Arguments For/Against - Key points in arguments for/against the considerations of elected vs appointed position can be summarized under the following three categories:

1. Qualifications

- Elected: There is no guarantee that an elected City Clerk will possess the necessary skills and expertise required. The City cannot impose qualification criteria, only requirements per CA Government Code (noted earlier). An unqualified or unreliable elected City Clerk can be damaging to local government operations and cannot be removed, except through the voter's recall process.
- Appointed: The City is allowed to impose professional standards and select a Clerk based on education, management experience, and professional training. City Councils and Managers are readily able and accustomed to selecting, observing performance, and holding accountable people appointed to city positions.

2. Duties

- Elected & Appointed: Historically, elected City Clerks performed narrow statutory duties. In recent years, local government operations have become

increasingly complex, creating a demand for certain skills, experience and reliability. The City Clerk duties have become numerous and technical in nature with ever-increasing obligations of statutory duties pertaining to Elections, the Political Reform Act, the Brown Act, Public Records Act, Records Retention, Conflict-of-Interest Regulations, the City's Municipal Code, and the ability to serve as the Clerk of the Council, while remaining neutral.

3. Political Implications

- Elected: Officials are directly selected by the voters, without control or influence from City Councils or City Managers, with a process established in state government code for voters to remove a person from office.
- Appointed: Any potential political implications from having the City Council make the selection can be negated through a competitive personnel recruitment process with reporting responsibilities directly to the City Manager.

Recommendation - With his recommendation, support, and the approaching end of his term, the City Clerk has gifted a unique opportunity allowing the City Clerk's Office to evolve into a position that can support the growing demands of the City and its community. Staff recommends that the City Council direct staff to prepare a Resolution, requesting:

- The calling of a special election to consider a ballot measure to convert the elected office of the City Clerk to an appointive office and requesting consolidation with the Primary Election to be held on March 5, 2024; and
- Drafting of the ballot measure and submission to the Contra Costa County Elections Department; and
- Appointment of City Council Members, and/or others, to file a written argument in favor; and
- Directing the City Attorney to prepare an impartial analysis; and
- Updating of the City's Municipal Code.

Timeline - Should the City Council approve the recommended action, the City and staff will be subject to the following deadlines:

- November 15 (E-111) **City Council Meeting**: Appointment of Council. to draft Argument in Favor; draft ballot proposed.
- December 6 (E-90) **City Council Meeting**: Adoption of Ballot Resolution with elements outlined above.
- December 7 (E-89) Ballot measure and Primary Argument For submitted to the County Elections Office.
- December 8 (E-88) Last day to place a measure on the ballot.
- December 11 (E-85) Local measure letter assigned.
- December 20 (E-76) Deadline for Primary Arguments For/Against
- December 25* (E-71) Deadline for Rebuttal Arguments
- January 25 (E-40) Estimated Voter Information Guide Mailing

- March 5
- Early April

Primary Election Day
Certification of Election Results

Fiscal Impact

Costs are greatly minimized when utilizing an appointment process in comparison to holding an election. Costs can be further reduced by the City's ability to promote qualified staff internally, avoiding associated costs with outside recruitment. Additional savings can be recovered from salary and health benefits. The Assistant City Clerk estimated an annual savings of approximately \$38,850.00 (Table 1).

TABLE 1	
ITEM	COST
Salary	\$4,800.00
Delta	\$1,251.00
Vision	\$277.32
Social Security	\$297.60
PERS	\$521.76
Medical	\$21,929.76
Medical	\$69.60
Life Insurance Dependent	\$2.64
Life Insurance EE	\$35.40
Election	\$9,664.93*
TOTAL	\$38,850.01

**Election of the City Clerk is held every 4 years. Cost shown in chart was based on 2020 Election cost (\$38,659.72), divided by 4 years to provide an "annual" amount.*

The cost of the election is determined by the number of registered voters on Election Day. The Assistant City Clerk estimated the cost for placing a Ballot Measure on the 2024 Statewide Primary Election is approximately \$66,000 (Table 2). The cost would not change if the Ballot Measure is placed on the 2024 Statewide General Election. Should the Ballot Measure pass, there will be no additional costs. Should the Ballot Measure fail, there will be additional costs should the City propose the Ballot Measure again at a future election.

TABLE 2	
ITEM	COST / #
Registered Voters	25,711
City Attorney's Impartial Analysis Cost	Less than \$2,000
County's Cost per Registered Voter	\$2.50 per voter
TOTAL	\$66,277.50

Attachments

None

