



STAFF REPORT

City Council

Date: November 15, 2023
To: Mayor and City Council
From: Michael Chandler, City Manager
Prepared By: Kat Galileo, Assistant City Clerk
Title: Recommendation to Adopt Resolution Calling Special Election on March 5, 2024 to Place Ballot Measure to Convert Elective Office of the City Clerk to Appointive Office

Recommendation

Receive informational report regarding proposed restructuring of the City Clerk's Office with an Appointed City Clerk staff position; consider a ballot measure converting the City Clerk to an appointed staff position; adopt a resolution calling for and giving notice of the submission to the voters of an ordinance to convert the elective office of the City Clerk to an appointive office to be placed on the ballot at the March 5, 2024 Special Municipal Election and consolidation of that election with the Statewide Primary Election.

Background

On October 18, 2023, the Mayor recapped a recent discussion with the elected City Clerk during which the City Clerk recommended conversion of the elected 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 from ceremonial City Clerk duties to complex duties, including but not limited to routine public interface and the processing of Public Records Act requests, required of the Office of the City Clerk. These complex duties are currently performed by the Assistant City Clerk, which is a professional staff position in the City Clerks' Office. The proposed change would require a ballot measure to be placed before the voters at an upcoming election. The City Council directed staff to place this topic on the agenda as an item for discussion and consideration.

On November 1, 2023, staff presented to City Council a comparison analysis consisting of data obtained from other California municipalities who recently transitioned their elected City Clerk to an appointed position. Historically throughout the state, cities with elected City Clerk offices have been changing to appointed offices as the work has become more legally prescribed, professionally focused, and assisted by technology that diminishes the need for interpretation by the City Clerk. The overwhelming reasons voters statewide have chosen to make these changes is the public interest for more efficient and effective operations of the City Clerk's functions, which are increasingly complex, administrative and technical in nature. Professional

staff with specialized training and education can be successfully recruited and retained to serve as full-time appointed staff who can be held accountable for the quality of their work. In contrast, elected officials must only meet age (18 years or older) and residency requirements (live in the city). In discussion, City Council favored the proposal of an appointed City Clerk and the designation of the City Manager as appointing authority; expressed concerns regarding the creation of a new staff position (in addition to the existing Assistant City Clerk full-time position) with corresponding budget implications; directed staff to update the language clarifying the appointed position as a full-time staff position and to provide a proposed organizational model of the restructured office with an appointed City Clerk. The City Council concluded with appointing Vice Mayor Mark Ross and Councilmember Debbie McKillop to an Ad Hoc Subcommittee for the purpose of drafting the Argument in Favor of the ballot measure.

Discussion

Restructuring of the City Clerk's Office

The City of Martinez City Clerk is an elected official who performs minimal “ceremonial” duties, while the day-to-day operations are overseen and performed by employed City staff. The proposed ballot measure would officially remove the elected position at the end of the incumbent’s term, create an appointed City Clerk staff position, and delegate full authority to that position. Since functions of the Office are already handled in-house, eliminating the elected City Clerk will not disrupt the activities of the office legally mandated by the Government Code. This will allow the City of Martinez to be more consistent with current practice in municipalities throughout California.

Elected City Clerk Office Structure

The Office serves as a liaison and primary point of contact for the City Council, City departments, and the general public regarding the legislative history and operations of the City, implemented through the Assistant City Clerk staff position. The City Clerk, through the Assistant City Clerk staff position, is the local official for elections, the Political Reform Act, the Maddy Act, the Public Records Act, and the Brown Act. The City Clerk (through the Assistant City Clerk staff position) manages key City records to ensure that all actions on Agendas, Ordinances, Resolutions, Minutes, and Agreements are properly executed, recorded, and filed. The City Clerk is responsible for maintaining the official records of the City. The City Clerk maintains custody of and affixes the City Seal to legal documents and administers the Oath of Office to newly elected Council members and appointed Commissioners.

The Office is a division that falls under the Department of the City Manager. The elected City Clerk serves as ceremonial figure head and performs limited duties. Management of the Office is overseen by the City Manager, with day-to-day operations performed by one Assistant City Clerk (FTE) and one Clerical Aide (PT).

ELECTED CITY CLERK Gary Hernandez
ASSISTANT CITY CLERK (FTE) Kat Galileo
CLERK AIDE (PT) Catherine Muiruri

STAFFING ALLOCATIONS	
# of Funded Positions	3
# of Filled Positions	3
# of Vacant Funded Positions	0

- **Gary Hernandez, Elected City Clerk** – Elected to a four-year term and operates under statutory provision of the California Government Code, the Elections Code, City ordinances and policies. This is a ceremonial position with limited duties:
 - Officiant of City Council ceremonies
 - Candidate Forum Host for Elections
 - Oath Administer
- **Kat Galileo, Assistant City Clerk** – Full time staff employee who performs all legal duties and responsibilities of the City Clerk, as well as the day-to-day operations of the Office. Major functions include, but not limited to:
 - Administer, monitor, and ensure compliance with Brown Act, Conflict of Interest Code, Fair Political Practices Commission (FPPC) regulations, Political Reform Act, Public Records Act, and the Maddy Act.
 - Maintains and supervises a City-wide Records Program, including a central filing and storage system; establishes and monitors City-wide records retention schedules and destruction orders; trains and advises designated staff members in proper records management and documents scanning practices.
 - Performs duties of Election officer and Filing Officer for City elections and coordinates with Contra Costa County Elections Division on polling locations, data verification, and election consolidations; interprets provisions of the Election Code to ensure elections are conducted lawfully; provides education, information (including preparation of candidate election packets for distribution), timelines and legal documentation related to elections and elected officials, ballot measures, initiatives, referendums and recalls; provides information and tracking of legal documentation to candidates, officeholders, commissioners, and designated employees as required by Fair Political Practices Commission and the City's Conflict of Interest Code; manages FPPC database and tracks filing deadlines for compliance of elected officials; ensures timely assignment, completion and filing of ethics training for elected officials and designated commissioners.

- Coordinates, calendars, prepares and distributes legal public notices, agendas and follow-up of agenda material for City Council meetings and Council subcommittee meetings; provides training to staff of all levels on all software, systems, forms and tasks required to perform their individual functions within the agenda management system and the City's audio/video platforms necessary to prepare for and run an open meeting; attends/hosts City Council meetings (and Council subcommittee meetings, as required) to record Council actions and assist with managing receipt of public comments; provides notifications to departments, citizens, and press of Council meetings and actions; prepares and executes resolutions, ordinances, annexations, assessment districts and certifications of formal Council actions, including codification of the municipal code, and preparation of minutes/action minutes.
- Supervises a Legislative History Program.
- Receives and opens formal bids; administers oaths of office; accepts and processes claims and subpoena reports/resolutions with departments, the City's risk pooling authority, and/or the City Attorney's office.
- Reviews and evaluates work methods, processes and procedures and prepares recommendations for improvements/efficiencies.
- Monitors and maintains the City Clerk and City Council pages on the City's website.
- Coordinates recording of City documents and maps with the Contra Costa County Clerk- Recorder's Office.
- Prepares, processes, and arranges for the posting and publication of legal documents. Provides or coordinates notary and attestation services.
- Assists the public, City departments and staff, and other governmental entities with requests for City records and documents.
- Participates in preparation and administration of the City Clerk budget.
- Plans, directs, and reviews the work of office staff, including setting work priorities, coordinating and scheduling assignments.
- **Catherine Muiruri, Clerk Aide** – Part time staff employee provides general administrative support to the Assistant City Clerk and customer service to the Martinez community. Duties include, but not limited to:
 - Prepares documents, correspondence, and routine reports.
 - Receives and processes invoices, check requests, and reconciliation of monthly expenditures.
 - Provides general information and assistance to staff and the public, resolves public complaints, and directs public inquiries to appropriate departments.
 - Supports Legislative History Program by maintaining contracts, insurance certificates, bonds, property conveyances, claims, and bids.

Appointed City Clerk Office Structure

Government Code Section 36508-36510 allows for the City Clerk position to be appointed rather than elected. As a general law city, voter approval of such a change is required. The current term of office for the elected City Clerk is up in November 2024. If voters approve of the measure to eliminate the elected office in March 2024, the November 2024 ballot will not include the race for the City Clerk's Office. The elected City Clerk will serve until the end of his term. Shortly thereafter and pursuant to Government Code Section 36510, the City Council can delegate their appointment authority to the City Manager.

The transition to an appointed Office would cause a shift in duties, responsibilities, and staff classifications. Staff compiled organizational structure and staffing data from other Clerk Offices in Contra Costa County, limited to cities with a similar population count, to use as comparison models for drafting a model for Martinez.

CITY	POPULATION	CLASSIFICATION	UNIT/GROUP	CLERK STAFF
Martinez	37,658	Elected FT PT Temporary	Elected MCP - Management Misc	City Clerk Assistant City Clerk Administrative Aide
Hercules	24,640	Appointed FT	Executive Teamster	City Clerk Senior Clerk
El Cerrito	25,962	Appointed FT	Management Misc	City Clerk Management Assistant I
Benicia	26,180	Elected PT	Elected BSPA - Supervisor	City Clerk Deputy City Clerk
San Pablo	31,773	Elected Appointed	Elected Confidential	City Clerk Assistant City Clerk
Pleasant Hill	34,026	Appointed	Management	City Clerk
Danville	44,396	Appointed	Management	City Clerk
Oakley	44,995	FTE FT FT	Unrepresented - General Staff Unrepresented - General Staff Unrepresented - General Staff	City Clerk/Paralegal Deputy City Clerk Office Assistant

Based on the collected information, the following re-organizational changes are proposed:

APPOINTED CITY CLERK (FTE) Kat Galileo
CLERK AIDE (PT) Catherine Muiruri

STAFFING ALLOCATIONS	
# of Funded Positions	2
# of Filled Positions	2
# of Vacant Funded Positions	0

- The full-time staff position of City Clerk will be established to consolidate the functions of the elected City Clerk with the Assistant City Clerk, and the position's job classification will be approved by the Civil Service Commission, adopted by the City Council, and incorporated into the City's list of authorized and budgeted positions.
- Assistant City Clerk Kat Galileo would be appointed by the City Manager as the new City Clerk, with the appointment authority delegated by City Council.
- With the consolidation of the elected City Clerk position into the full-time staff position, the limited duties performed by the elected City Clerk will be transferred to and performed by the Appointed City Clerk, in addition to the day-to-day operations and management of the Office. The Clerical Aide duties will remain unchanged.

Ballot Measure

At the direction of the City Council, staff have prepared a ballot measure calling for and giving notice of a special municipal election, submitting notice to the voters of an ordinance to convert the office from elective to appointive to be placed on the ballot at the March 5, 2024 special election and consolidating the election with the Statewide Primary Election. Upon adoption of the resolution, staff will:

1. Forward fully executed copies to the Contra Costa County Registrar of Voters.
2. The Notice of Election will be published in a local Newspaper.
3. If the voters approve the measure, staff will bring back ordinance(s) to clean up the municipal code related to the elected City Clerk.

The City Attorney will prepare an Impartial Analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The City Attorney will have ten days to transmit the impartial analysis to the City Clerk upon adoption of this resolution. Furthermore, the City and staff will be subject to the following deadlines:

- December 6 (E-90) **City Council** Adoption of Argument in Favor
- 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
- March 5 **Primary Election Day**
- Early April Certification of Election Results

Fiscal Impact

The current costs in salary and benefits of the elected City Clerk office are detailed in Table 1. With the change to an appointed City Clerk staff position, the salary and benefit costs of the elected City Clerk position are eliminated, and staff estimated a resulting annual savings of approximately \$29,185.08 (Table 1). The savings will be reinvested into the City Clerk's Office to cover anticipated expenses (including the upgrade in position from Assistant City Clerk to City Clerk) and funding of resources to support the restructuring of the office and staff. The costs associated with including this ballot measure on the March 2024 consolidated primary election will be funded as part of the City's FY 2024 mid-year budget adjustment, once the actual costs are provided by the County Clerk/Recorder's Office following the election.

The City Clerk is elected every four years, costing the City an average of \$38,659.72 per election. The elections budget does include funds for the purpose of an election. The City budgets for and incurs election cost for services provided in November of even-numbered years by the Contra Costa County Registrar-Recorder/County Clerk. The elected City Clerk's term ends in November 2024. The cost of placing a Ballot Measure on the 2024 Statewide Primary Election is estimated to be approximately \$66,000 (Table 2). If the Ballot Measure passes, there will be no election for a new City Clerk, providing instant savings to the City in 2024 and every four years thereafter.

TABLE 1 - SAVINGS	
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
TOTAL	\$29,185.08
Election (2024)	\$38,659.72
TOTAL	\$67,844.80

TABLE 2 - EXPENSES	
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

Environmental Analysis

This item is exempt from any California Environmental Quality Act (CEQA) analysis.

Attachments

- Resolution - City Clerk Ballot Measure 2024