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CITY OF IRVINE  
CITY MANAGER'S OFFICE

# Memo

**To:** John A. Russo, City Manager

**From:** Anthony Kuo, Councilmember 

**Date:** January 14, 2019

**Re:** Amendments to Sections 1-2-202 and 2-2-213 of the Irvine Municipal Code

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Please place the following proposed amendments to Irvine Municipal Code Sections 1-2-202 and 2-2-213 on Agenda for the January 22, 2019 City Council Meeting. The proposed amendments reduce the amount of time of vacancies in the office of Mayor or on the City Council by simplifying the timelines for filling such vacancies.

Under the current ordinances, the City Council must wait 30 days after a Council vacancy in order to decide whether to hold a special election or fill the seat by appointment. During that 30 day period, a petition of 7% of Irvine's registered voters may be submitted to require a special election.

This agenda item proposes to enable the City Council to hold its meeting before the 30-day period concludes, while still preserving the voters' 30-day petition period. If the Council decides to go straight to a special election, then the voters need not expend time and effort gathering signatures to achieve the same ends. If the Council prefers an appointment, then the voters' ability to petition to require a special election instead remains intact.

Under the current ordinances, calling a special election follows different timelines depending on whether there is a voter petition or whether the Council calls the special election. A special election caused by voter petition can shorten a Council vacancy period to as short as three months. A special election called by the Council could require a vacancy to last as long as one year depending on the date of the vacancy. For example, had a Councilmember vacated their seat in November 2018, the current ordinances would not allow the Council to call the special election for any earlier than November 2019.

This agenda item eliminates the separate timeline for Council-called special elections, instead causing all special elections to follow the same timeline as currently exists for special elections forced by voter petition.

Under the current ordinances, there is no provision for a Mayor-Elect to take office early in the event of a vacancy in the office of Mayor that occurs after the election. Instead, the City Council

may decide whether to appoint a Councilmember to become Mayor or keep the seat vacant. This is similar to what occurred in December 2016 when then-Mayor Steven Choi left less than a month before his term ended to take a seat representing Irvine in the Legislature.

This agenda item provides that a Mayor-Elect may choose to assume office early in the event of a vacancy. (This is similar to the County, where a Supervisor-Elect may take office early in the case of a vacancy. For example, Supervisor-Elect John M. W. Moorlach was sworn in early to fill the vacancy of Jim Silva and Supervisor-Elect Lisa A. Bartlett was similarly sworn in early to fill the vacancy of Patricia C. Bates.) When there is no Mayor-Elect, the Mayor Pro Tem may decline to become Mayor, allowing the City Council to appoint a Councilmember to become Mayor.

cc: City Council  
City Attorney  
/ City Clerk

**PROPOSED**

**Sec. 1-2-202. - Methods of filling vacancy.**

- A. If a vacancy occurs on the City Council, the City Council shall, within 60 days from the commencement of the vacancy, make an appointment to fill the vacancy.
- B. The voters of the City may, by petition, require that any vacancy on the City Council be filled only by election. If such a petition, complying with the requirements of this chapter, is (i) signed by not less than seven percent of the voters of the City according to the County Registrar's last official report of registration to the Secretary of State, (ii) filed with the City Clerk on or before 5:00 p.m. on the 30th day following the posting of the notice of vacancy on the City Council pursuant to Section 1-2-204, and (iii) certified as adequate by the City Clerk pursuant to Section 1-2-209, then the City Council shall order a special election to fill the vacancy.
- C. If the City Council calls a special election pursuant to subdivision B, the election shall be called and scheduled on the first available Tuesday that the City Council determines in its discretion to be appropriate, but the election date shall be at least 114 days from the date on which the City Council calls the election. The election date shall not be the day before, the day of, or the day after a City holiday.

**Sec. 1-2-213. - Order of succession.**

- A. Should the Office of Mayor become vacant during his or her term of office, the Mayor Pro Tempore shall become the Mayor for the remainder of the mayoral term. If the Mayor Pro Tempore declines to become Mayor in a written statement filed with the Clerk within seven days after the declaration of the vacancy in the Office of Mayor, then the City Council may fill the Mayoral vacancy for the remainder of the mayoral term by appointing a member of the City Council to the Office of Mayor.
- B. Any resulting vacancy on the City Council shall be filled as prescribed by ordinance of the City Council. A City Council member who becomes Mayor in this instance would forfeit any time remaining in his or her City Council term beyond the term of the Office of Mayor to which he or she is appointed.
- C. If the City Council fails to fill a vacancy in the Office of Mayor, then within 60 days after the declaration of such vacancy, the City Council shall call an election on the first available Tuesday that the City Council determines in its discretion to be appropriate, but the election date shall be at least 114 days from the date on which the City Council calls the election. The election date shall not be the day before, the day of, or the day after a City holiday. A person elected to fill a vacancy in the Office of Mayor shall hold office for the unexpired term of the former incumbent Mayor.
- D. If a vacancy in the Office of Mayor occurs after the election of a new Mayor, but before the assumption of office of a new Mayor, then the new Mayor may elect to fill the vacancy for the remainder of the Mayoral term. If the new Mayor does not do so, then the City Council may elect not to fill the vacancy, in which case the Mayor Pro Tempore shall discharge the duties and responsibilities of the Office of Mayor until the assumption of office by the new Mayor.