

November 1, 2019

To: MAYOR AND CITY COUNCIL

From: CITY ATTORNEY

Subject: *APPOINTMENT PROCESS TO FILL CITY COUNCIL VACANCY IN LIGHT OF VOTER PETITIONS*

As the City Council is aware, the City Clerk's Office received voter petitions bearing more than the minimum number of signatures necessary to require a special election to fill the City Council District 1 vacancy. The San Diego County Registrar of Voters (Registrar) has the petitions and is in the process of verifying their sufficiency.

The receipt of the voter petitions raises the question of whether the City Council may continue with the appointment process approved at its October 22, 2019 meeting.

Carlsbad Municipal Code (CMC) section 2.04.030 contains three methods for filling a City Council vacancy: (1) appointment by the City Council, (2) special election called by the City Council, and (3) special election called after receipt of verified voter petitions. Although the first two methods are mutually exclusive of one another, they are independent of the third method.

Consequently, should the City Council be required to call a special election based on voter petitions containing sufficient verified signatures, the City still has the discretion to make an appointment should it choose to do so. An appointment would require three votes and the person appointed would serve only until the date of the special election.

Very truly yours

A handwritten signature in blue ink, appearing to read 'Celia A. Brewer'.

Celia A. Brewer
CITY ATTORNEY

cc: City Manager
City Clerk
Clerk Services Manager

