

August 6, 2025

ITEM TITLE: DISCUSSION REGARDING OPTIONS AND POSSIBLE ACTION TO FILL VACANCY IN ELECTED MAYORAL POSITION. (0410-95)

ORIGINATING DEPARTMENT:

City Manager

EXECUTIVE SUMMARY:

Former Mayor Paloma Aguirre was elected to be the Division 1 San Diego County Supervisor on July 1, 2025. She was sworn into office on July 22, 2025 and submitted her letter of resignation as Imperial Beach Mayor on July 22, 2025. As such, a vacancy in the office of the Mayor has begun. Pursuant to State law, the City Council has 60 days from July 22, 2025 to either make an appointment to the vacant office or to call a special election to fill the office. This agenda item allows the Council to discuss its options, provide direction to Staff on its choices, and possibly make an appointment.

RECOMMENDATION:

Pursuant to Government Code section 34902, Staff requests that the City Council conduct the process for an appointment or provide direction to Staff to draft the necessary documents to call a special election for the vacancy in the office of the Mayor.

OPTIONS:

- If Council wishes to appoint to the vacant seat of the Mayor, then Council should either (1) direct Staff to advertise for the vacancy and appoint to the vacant position at a subsequent Council meeting, or (2) select a person to fill the vacant seat and provide direction to Staff about a future meeting date to present the certificate of appointment and administer the oath of office to the appointee.
- If the Council wishes to call a special election to fill the vacant seat, then Council should direct Staff to prepare the necessary resolutions to bring back to a subsequent meeting to allow the Council to call a special election.

BACKGROUND/ANALYSIS:

A vacancy in the office of the Mayor is filled pursuant to Government Code section 34902 as specified below:

In the case of a vacancy in the office of the mayor for any reason, the council shall fill the vacancy by appointment. If the council fails to fill it within 60 days, it shall call an election to fill the vacancy to be held on the next established election date to be held not less than 114 days thereafter. A person appointed or elected to fill a vacancy shall hold office for the unexpired term of the former incumbent. (italics added)

Former Mayor Aguirre began her most recent term of office in 2022. Her term expires after the election in November of 2026. Therefore, any person appointed or elected would fulfill her term of office through November of 2026. Imperial Beach has at least one recent case in which an appointment was made to fill a vacancy. When Councilmember McLean passed away while in office in 2009, the Council voted to appoint Diane Rose to fill the vacant seat for a portion of the unexpired term until the next municipal election could be held.

Pursuant to Imperial Beach Municipal Code section 2.08.030, the Mayor's duties are as follows:

The Mayor, as a member of the City Council, shall perform all the functions and have all of the powers and rights of a duly elected Councilmember. In addition to those powers and duties, the Mayor shall have the power and duty:

A. To report to the City Council annually and from time to time on the affairs of the City and to recommend for its consideration such matters as he or she deems necessary;

B. To be official head of the City for all political and ceremonial purposes;

C. To assume the primary, but not the exclusive responsibility, for interpreting to the people the policies, programs and needs of the City Government and for informing the people of any major change in policy or program. The Mayor may represent the City in any and all matters involving other governmental agencies; provided, that no act, promise, commitment or agreement entered into or committed by the Mayor shall be binding upon the City unless duly authorized or ratified by the City Council;

D. To represent the City in all regional public agencies which require an elected City Official, unless otherwise determined by the City Council;

E. To perform such other duties consistent with the office as may be prescribed by state law or delegated to the Mayor or imposed on the Mayor by the City Council if not inconsistent with state and federal law; and

F. In general, to exercise the function as Mayor of the City during the hours and times as shall be necessary to discharge the duties imposed upon the Mayor in a capacity which will be considered to be part time. (italics added)

The City Council has the following options which are described in more detail below:

1. Appointment
 - a. Direct Appointment
 - b. Application and Appointment
2. Special Election

1. Appointment

The Council may fill the vacancy by appointment. Doing so requires a majority vote of the four remaining Councilmembers present at the meeting — meaning at least three affirmative votes are needed. Please note that an abstention vote per the City Council Policy Manual is treated as a “no” vote.

A person appointed to the Mayor's position must meet the following legal requirements:

- Must be a resident of Imperial Beach; and
- Must be a registered voter; and
- Must be at least 18 years of age.

a. Direct Appointment:

State law does not provide a specific process for the City Council to follow if it wants to appoint a person to fill the vacancy. The City Council could appoint one of its own Council members to be the Mayor pursuant to Government Code section 1752(b), which specifically allows for a Councilmember to be appointed to a vacancy in the office of an elected mayor in a general law city, and reads as follows:

(b) With respect to a general law city, if a vacancy in the elected office of mayor occurs, the council may fill that vacancy by appointing a member of the council to the office of mayor. Any person appointed to fill the vacancy shall hold the office of mayor for the unexpired term of the former mayor. Any vacancy created in the membership of a city council as the result of an appointment of a member to the office of mayor shall be filled in accordance with Section 36512. (italics added)

Other direct appointment considerations could be past Councilmembers, current or past Board or Committee members, former Council candidates, or other qualified citizens.

b. Application and Appointment:

The Council could direct Staff to advertise for interested persons to fill the vacant seat and then take action to appoint at a future Council meeting. This could include creating an ad hoc to review applications or setting a special meeting to allow the entire Council to interview potential candidates. If the Council would like to proceed with the appointment through an application process, Staff has attached a draft application for Council to approve (See Attachment 1).

Additionally, Staff would propose the following schedule to keep any potential appointment on track to occur within the 60 days (deadline to appoint is September 20, 2025). This schedule would also allow for time in the event an appointment cannot be made so that the Council could call a special election.

- August 6, 2025: Council approves proposed application and directs Staff to advertise for the vacancy, send press releases, and post application on the website (see Attachment 1)
- August 7, 2025: Application period opens. Notices posted on City website.
- August 14, 2025: Vacancy notice published in Eagle and Times.
- August 27, 2025 at 5:00 p.m.: Application deadline.
- September 3, 2025: Council to interview applicants and appoint to the vacancy at regular Council meeting.

If the Council decides to appoint the position and decides it is ready to provide a direct appointment, then Council could take action at the August 6 Council meeting to select the appointee. Council could then direct Staff to set a future meeting to conduct the swearing in so that the new appointee could commence the term of office of the Mayor for the remaining term. The Council may also decide to consider appointment discussions at a future meeting.

Please note that if the City Council selects a current Councilmember to fill the vacant Mayor's seat, and the Councilmember accepts appointment, then the City Council would need to fill the Councilmember's prior seat pursuant to the process in Government Code section 36512 as specified below:

(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. (italics added)

The vacancy in office for the existing Councilmember would not commence until the Councilmember takes the oath of office for the Mayor's vacant seat, meaning the 60-day period would not start until that occurs. Although the Mayor is elected at large in Imperial Beach, any person who is appointed to replace the prior Councilmember would need to be from the same district.

2. Special Election

The City Clerk has received cost estimates between approximately \$250,000 and \$400,000 for conducting a special election on the next established election date—April 14, 2026, pursuant to Elections Code section 1000—to fill a vacancy in the Mayor's seat. The lower estimate reflects an all-mail election, while the higher estimate assumes a vote center model. If the City Council does not appoint someone to the vacant seat, the City would be responsible for covering the costs to hold a special election for the remainder of the term, which runs through November 2026. Calling such a special election requires a majority vote of the four remaining Councilmembers—that is, at least three votes in favor.

ENVIRONMENTAL DETERMINATION:

Not a project as defined by CEQA.

FISCAL IMPACT:

There is no fiscal impact if the City Council appoints the Mayor's vacant seat. If the City Council decides to hold a special election, it will cost the City in the range of approximately \$250,000-\$400,000.

ATTACHMENTS:

1. Draft application