



Legislation Details (With Text)

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Title:	CONSIDERATION OF RESOLUTIONS FOR: 1) 180-DAY WAIT PERIOD EXCEPTION FOR CALPERS RETIRED ANNUITANT AND 2) INTERIM CHIEF DEPUTY CITY CLERK APPOINTMENT AND APPROVAL OF RETIRED ANNUITANT EMPLOYMENT AGREEMENT- MOLLY MCLAUGHLIN PERRY				
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Attachments:	1. Resolution 21-052 - Chief Deputy City Clerk 180-Day Wait Period, 2. Resolution 21-053 Appointing Interim Chief Deputy City Clerk Retired Annuitant, 3. Chief Deputy City Clerk Retired Annuitant Agreement				

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Report to Mayor and City Council

Tuesday, April 20, 2021

Discussion

SUBJECT:

CONSIDERATION OF RESOLUTIONS FOR: 1) 180-DAY WAIT PERIOD EXCEPTION FOR CALPERS RETIRED ANNUITANT AND 2) INTERIM CHIEF DEPUTY CITY CLERK APPOINTMENT AND APPROVAL OF RETIRED ANNUITANT EMPLOYMENT AGREEMENT- MOLLY MCLAUGHLIN PERRY

I. SUMMARY

The attached resolutions, if adopted by the City Council, would appoint a retired annuitant to the vacant position of Chief Deputy City Clerk for limited duration, approve and authorize the City Manager to sign the employment agreement, and approve a 180-day wait period exception for her to commence work as a retiree within six months of her retirement date. (A CalPERS retired annuitant must typically wait 6 months following retirement to begin work for a CalPERS agency as a retiree.) For the 180-day wait period exception to be approved, the City Council must certify the nature of the employment and that the appointment is necessary to fill a critically needed position. The City Clerk's office is in urgent need of staffing support due to the current vacant Chief Deputy City Clerk position and the recent departure of the City Clerk.

II. RECOMMENDATION

TAKE the following actions:

1. ADOPT Resolution No. 21-052 approving an exception to the 180-day waiting period for the position of Interim Chief Deputy City Clerk; and
2. ADOPT Resolution No. 21-053 appointing Molly McLaughlin Perry as Interim Chief Deputy City Clerk and authorizing the City Manager to execute the attached employment agreement.

III. ALTERNATIVES

TAKE another action the City Council deems appropriate.

IV. BACKGROUND

Introduction

The Chief Deputy City Clerk position has been vacant since January 7, 2021, and the City has been actively conducting a recruitment to fill this position. Additionally, the City's City Clerk resigned recently on April 11, 2021.

The City needs staffing in the City Clerk's office to ensure City operations continue to run smoothly until the successor Chief Deputy City Clerk can be recruited and begins working for the City, particularly in light of the state of emergency caused by the COVID-19 pandemic.

Molly McLaughlin Perry was formerly City Clerk for the City of Irvine from May 2014 through December 2020 and retired from this position effective December 30, 2020. In her capacity as the City Clerk, she managed a \$5M annual budget, lead a staff of 17.5, managed all City Elections, a centralized Records Division that responded to 3,500 annual requests for information; implemented enhanced amendments to the Public Records Act that impacted the scope of records requests; facilitated expanded voter outreach by collaborating with the Orange County Registrar of Voters to host early voting sites for the 2014, 2016, 2018, and 2020 elections which included the development of voter outreach strategies; conducted a special election in June of 2018; and managed a citywide recodification of the City's Zoning Ordinance and Municipal Code. She has agreed to work for the City as Interim Chief Deputy City Clerk for a limited time to fill this critical role until a permanent Chief Deputy City Clerk is hired. She has specialized skills and a knowledge base based on her experience as a city clerk that are needed for this limited duration position. Her prior experience as a City Clerk will serve the City well over the next several months during her interim appointment.

CalPERS Retired Annuitant Requirements and 180-Day Waiting Period Exception

California Government Code section 21221(h) allows public agencies to hire California Public Employees' Retirement System ("CalPERS") retirees for vacant positions subject to certain limitations. The limitations mandate that the employee be paid compensation no more than equivalent to an hourly rate within the salary range for the vacant position, that no benefits be provided or paid, and that the appointment be of limited duration. Also, under normal conditions, CalPERS retirees may only work a maximum of 960 hours per fiscal year.

Additionally, Government Code section 7522.56(f) provides that a CalPERS retiree may not be employed by a CalPERS employer for a period of 180 days following the date of retirement, unless he or she meets one of several exceptions specified in the law. One of the exceptions is where "[t]he employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and the appointment has been approved by the governing body of the employer in a public meeting[.]" (Government Code §7522.56(f)(1).)

To secure a 180-day wait period exception, CalPERS requires that the employer submit a resolution-certification package to CalPERS, along with a copy of the retiree's employment agreement before the first day of employment.

Governor Newsom's Executive Order N-25-20

On March 4, 2020, Governor Newsom declared a statewide state of emergency due to the COVID-19 pandemic. To further enhance California's ability to respond to COVID-19, Governor Newsom issued Executive Order N-25-20 which, among other things, suspended reinstatement and the retired annuitant work hour limitation of 960 hours per fiscal year during the state of emergency. Under this executive order, the 180-day break in service requirement under Government Code section 7522.56(f) is also suspended for retired annuitants hired to ensure adequate staffing during the state of emergency. The suspension of the retired annuitant work hour limitation and wait period exceptions will remain in place until the state of emergency is lifted.

Resolutions Presented for Council Consideration

Two resolutions are being presented for the City Council's consideration and approval as part of this agenda item: 1) a resolution certifying the nature of Ms. McLaughlin Perry's employment as interim Chief Deputy City Clerk and that her appointment to this position is necessary to fill a critically needed position before 180 days have passed since her retirement, and 2) a resolution formally appointing her as Chief Deputy City Clerk and authorizing the City Manager to sign the attached employment agreement.

As explained above, to be eligible for an exception to the 180-day waiting period following the date of retirement, the City must find that Ms. McLaughlin Perry's appointment to the position of interim Chief Deputy City Clerk is necessary to fill a critically needed position. Filling this position is critical to maintaining the basic operations of the City, particularly in light of the state of emergency caused by the COVID-19 pandemic and the recent departure of the City Clerk. The recruitment opened on January 5, 2021. To date, 135

candidates have applied for the role. Thus far 23 qualified candidates have been recommended for consideration. The City anticipates that the recruitment for the permanent Chief Deputy City Clerk position will conclude by June 30, 2021. Ms. McLaughlin Perry's appointment as interim Chief Deputy City Clerk will automatically terminate when a permanent Chief Deputy City Clerk begins working for the City.

Employment Terms

Ms. McLaughlin Perry's employment with the City as a retired annuitant would be subject to CalPERS retired annuitant hiring limitations. Accordingly, the basic contract terms for Ms. McLaughlin Perry as interim Chief Deputy City Clerk would be as follows:

- Anticipated hours of work/ 960 hour limitation: Ms. McLaughlin Perry anticipates working 20-24 hours per week to ensure that the basic operations of the City Clerk's office continue to run smoothly. Under normal conditions, she would be limited to working 960 hours per fiscal year to comply with CalPERS retired annuitant hiring requirements. However, Executive Order N-25-20 suspends the 960 hour per fiscal year limit during the state of emergency to ensure adequate staffing and response during the COVID-19 pandemic.
- Limited duration appointment: the agreement would commence April 21, 2021 and would expire automatically on April 20, 2022, unless a permanent Chief Deputy City Clerk begins working for the City before that date.
- Compensation: equivalent to the hourly rate at step F for the Chief Deputy City Clerk position (\$59.81/ hr.).
- No benefits would be paid.
- Employment status: Ms. McLaughlin Perry would serve as an at-will, exempt employee. The agreement could be terminated by either party at any time and would automatically terminate upon the commencement of a permanent Chief Deputy City Clerk.

Staff has submitted a request for waiver of the work hour limitations to the California Department of Human Resources, as required by Executive Order No. N-25-20. The intent is to request a waiver of the 960-hour requirement preemptively, as it is anticipated she will be doing work directly related to the COVID-19 emergency and should her work on COVID -19 related issues eventually require her to exceed the 960 hour limit that would otherwise apply.

In addition, if Council approves Resolution No. 21-052 and the Interim Chief Deputy City Clerk employment agreement, these documents will be forwarded by staff to CalPERS in accordance with Government Code section 7522.56(f).

V. FISCAL IMPACT

There is no impact to the General Fund. The funding for Ms. McLaughlin Perry to fill the

role on an interim basis will be less than the permanent appointment for this position. She will not be paid any benefits consistent with state law requirements. She will be working less than 40 hours per week.

VI. EXHIBITS

1. Resolution No. 21-052 (180-Day Wait Period Exception) (pgs. 5-7)
2. Resolution No. 21-053 and Exhibit A (Employment Agreement) (pgs. 8-21)

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