City of Brisbane
Agenda Report

DATE: City Council Meeting of May 18, 2017

TO: Mayor Lentz and Members of the City Council

FROM: Michael Roush, City Attorney

SUBJECT: Ordinance Changing the Year at which City Council Elections Must be Held to Even Numbered Years (Statewide Elections) and Shortening the Term of Office for Council Members Elected in November 2017 and November 2019 by One Year

RECOMMENDATION

Introduce an Ordinance (Ordinance 620, Attachment 1) changing the year at which City Council elections must be held to even numbered years, in order to comply with new State legislation that mandates such change and shortening the term of office for City Council members elected in November 2017 and November 2019 by one year, i.e, to November 2020 and November 2022, respectively, and thereafter, Council member terms would be four years.

BACKGROUND

Under certain circumstances applicable to Brisbane, recent state legislation—the California Voter Participation Rights Act (SB 415)--requires by January 1, 2018 either City Council elections be held in conjunction with statewide elections, i.e., November or June of even numbered years or a plan be in place to provide for such elections by no later than November 8, 2022.

Current Municipal Election Dates

Section 2.38.010 of the Municipal Code, adopted in 1983, provides that the general municipal election for City Council members shall be on the first Tuesday following the first Monday in November in odd numbered years. Holding municipal elections in November of odd numbered years was permissible under general state law at the time. The terms of office for Council members shall be four years, from the Tuesday succeeding their election until their successors are elected and qualified. Section 2.38.050, BMC.

New State Legislation

The State law concerning this issue has changed (SB 415). State law now provides that a city shall not hold an election for its members other than on a "statewide election date" if holding an

election on a non-current date has previously resulted in a "significant decrease in voter turnout". Elections Code, section 14051 (a). A "statewide election date" is either the first Tuesday after the first Monday in November of even numbered years or the first Tuesday after the first Monday in June in even numbered years. A "significant decrease in voter turnout "means the "voter turnout" for a "regularly scheduled election" is at least 25% less than the average voter turnout for the previous four "statewide general elections". Elec. Code, section 14051 (b). A "statewide general election" is the first Tuesday after the first Monday in November in even numbered years. Voter turnout" means the percentage of voters who are eligible to cast ballots within the city who voted. Elec. Code, section 14051 (c).

Where there has been a significant decrease in voter turnout, a city may nevertheless hold an election other than on a statewide election date if, by January 1, 2018, the city has adopted a plan to consolidate a future election with a statewide election by no later than November 8, 2022.

Impact on Brisbane

The City Clerk, in consultation with the County Registrar of Voters, has determined that indeed there has been a significant decrease in voter turnout when the voter turnout in November 2015 (48%) is compared to the average voter turnout in the previous four statewide general elections, i.e, the elections in November of 2014, 2012, 2010 and 2008 (71%). (There was a 32% decrease in voter turnout: 71 – 48 = 23/71 = 32%.)

Because there has been a "significant decrease in voter turnout" when the voter turnout for municipal elections is compared to the voter turnout for statewide elections, City Council must amend the Municipal Code such that the election of Council members will occur at a statewide election (November or June of even numbered years) by no later than November 8, 2022.

Prior Council Action

Earlier this year, Council adopted Ordinance 614 that extended the terms of office for current Council members by six months, i.e., to June 2018 and June 2020. That Ordinance, however, was the subject of a referendum petition challenging that Ordinance. The County Registrar of Voters determined that the referendum petition had a sufficient number of valid signatures to qualify the referendum for the ballot.

On April 27, 2017, the City Council accepted the City Clerk's certificate of sufficiency as to the referendum petition and then took action to repeal Ordinance 614. Repeal of that Ordinance is on for a second reading on May 18. Accordingly, the election for three Council members will proceed in November 2017 as provided in the Municipal Code.

In addition, City Council directed staff to return with an Ordinance that would shorten the term of office for the three council members elected in November 2017 to three years, i.e., to November 2020, and to shorten the term of office for the two council members elected in November 2019 also to three years, i.e., to November 2022. Thereafter, the term of office Council members elected would be four years, i.e., those elected in November 2020 would serve until 2024 and those elected in November 2022 would serve until 2026.

DISCUSSION

Attachment 1 is an Ordinance that reflects City Council direction to shorten the term of office for Council members elected in November 2017 and Council members elected in November 2019 by one year, i.e., to November 2020 and 2022, respectively.

Assuming Council introduces (and then adopts) the attached Ordinance, it provides that voters be notified by mail of the change, as well as by the City's various newsletters and social media. This Ordinance shall not become operative until approved by the San Mateo Board of Supervisors. The City Clerk has requested the County Clerk Manager/Clerk of the Board for this item to be discussed and approved at the San Mateo Board of Supervisors Meeting of July 11, 2017.

FISCAL IMPACT

The only immediate fiscal impact by adopting this Ordinance will be the postage associated with informing Brisbane voters about the change. Presumably there will be some savings as to the City's share of election costs by conducting its municipal elections at statewide election dates.

Michael H. Roush, City Attorney

Clay Holstine, City Manager

Attachments
Attachment A: Draft Ordinance No. 620

ATTACHMENT A
DRAFT ORDINANCE NO. 620

AN ORDINANCE OF THE CITY OF BRISBANE AMENDING SECTION1 (PART) OF ORDINANCE NO. 286 AND CHAPTER 2.38 OF THE BRISBANE MUNICIPAL CODE CONCERNING THE CONSOLIDATION OF THE CITY'S GENERAL MUNICIPAL ELECTIONS WITH THE STATEWIDE ELECTION DATE COMMENCING NOVEMBER 2020 AND SHORTENING THE TERM OF OFFICE BY ONE YEAR FOR THOSE COUNCIL MEMBERS ELECTED IN NOVEMBER 2017 AND 2019, RESPECTIVELY..

THE CITY COUNCIL OF THE CITY OF BRISBANE HEREBY ORDAINS AS FOLLOWS:

Section 1: Section 1 (part) of Ordinance No. 286 and Chapter 2.38 of the Brisbane Municipal Code are amended to read as follows:

"Chapter 2.38 General Municipal Elections

2.38.010 Election date designated.

The general municipal election for the offices of city council members shall be held on the first Tuesday following the first Monday in November of even numbered year, commencing November 2020.

2.38.020 Consolidation of elections.

The city clerk shall petition the County of San Mateo to consolidate the City of Brisbane general municipal election with the statewide election held on first Tuesday following the first Monday in November of each even numbered year, commencing November 2020.

2.38.030 Terms of Office—City Council members elected in November 2017.

The term of office for each City Council member elected in November 2017 is shortened to the beginning of the term of office for each City Council member elected in November 2020.

2.38.040 Terms of Office—City Council members elected in November 2019.

The term of office for each City Council member elected in November 2019 is shortened to the beginning of the term of office for each City Council member elected in November 2022.

2.38.050 Terms of Office—City Council members generally

The term of each City Council member elected in November 2020 and November 2022, and in each subsequent general municipal election, shall be for a term of four years, from the time each member is elected and qualified until his/her successor is elected and qualified.

2.38.060 Notice to inform voters

Within 30 days after the Ordinance codified in this Chapter becomes operative, the City Clerk shall cause a notice to be mailed to all registered voters in the City informing them of the change in the election date. The notice shall also inform the voters that as a result of the change in the election date, the term of office for each City Council member elected in 2017 and 2019 shall be shortened by one year.

Section 2. The City Clerk is hereby directed to:

(a) Certify the passage and adoption of this Ordinance and cause the same to be published in accordance with the requirements of Section 36933 of the Government Code of the State of California; and
(b) Transmit, without delay, a certified copy of the Ordinance to the County of San Mateo Elections Division and to the Clerk of the Board of Supervisors of the County of San Mateo, together with the request that said Board approve this Ordinance and provide the City with notice of such approval; and

Section 3. This Ordinance shall be published as required by law and shall be in full force and effect 30 days after its passage and adoption; provided, however, under Elections Code sections 1301 and 10403.5, this Ordinance shall not become operative until approved by the San Mateo County Board of Supervisors.

_____
Lori S. Liu
Mayor

The above and foregoing Ordinance was regularly introduced and, after waiting the time required by law, thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on _____ 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

_____
Ingrid Padilla
City Clerk

APPROVED AS TO FORM:

_____
Michael Roush
City Attorney