

CITY COUNCIL COMMUNICATION



MEETING DATE: November 30, 2021

ITEM NUMBER: 12.D

SECOND READING:

{{customfields.ResoOrdNumber}}

TYPE OF ITEM: General Business

PRESENTED BY:

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SUBJECT/AGENDA TITLE:

Special Election To Fill Vacant At-Large Seat

EXECUTIVE SUMMARY:

Regular City election was coordinated with and by Boulder and Weld County Clerks' Offices on November 2, 2021, to elect a mayor, two council members at-large, and one Ward 2 representative. On November 8, 2021, Joan Peck was sworn-in as Mayor based on unofficial election results as required by the City's Charter, *Article 3.6 – Terms of Office*. Prior to taking her oath of office, Joan Peck resigned her at-large council seat with two years remaining in that term (expiring November 2023).

Colorado Revised Statutes Title 31-10-108 – Special Elections provides that a Special Election “... shall be conducted as nearly as practicable in the same manner as regular elections.”

The Longmont Municipal Charter 2.8(4) provides that “When a vacancy occurs with one year or more remaining in a term, the council at the next regular meeting shall call a special election for the constituency for which the vacancy occurs.” Although the Charter requires that newly elected officials be sworn in prior to final counting of ballots or of certification of the election results, staff has interpreted this vacancy to occur after results were final to avoid any possible problems or challenges caused by taking such action prior to the release of official election results. The Weld County Clerk certified election results on November 18 and the Boulder County Clerk certified the election results on November 23, 2021. Based on the official results, there is a vacancy for an at-large City Council seat with a term expiring November 2023 and the Council is required to call a Special Election to fill said vacancy.

In this communication, staff will discuss the challenges of a 2022 Special Election and requests direction from Council about when to schedule a Special Election and how to administer this election.

COUNCIL OPTIONS:

Set a date for a Special Election in 2022 and determine how the election will be administered

RECOMMENDED OPTIONS:

Staff favors coordinating elections with the County because of Boulder County's reputation and proven track record of safe, secure, and accurate elections **but** staff also understands that Council may prefer to fill the vacancy sooner and that residents have an expectation of representation in their local government.

FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION:

For an election scheduled for November 8, 2022, and conducted in coordination with Boulder and Weld Counties, the costs would likely range from \$60,000 to \$130,000.

For an election scheduled sooner and conducted using a third-party vendor, the costs estimated to the best of staff's ability would be around \$240,000.

The City Clerk's Office budgets for one election each year and has budgeted \$93,000 total for election costs in 2022. Costs for this Special Election in excess of this amount are not budgeted. Additionally, it is important to mention that any other elections, if scheduled in 2022, would also not be budgeted. If no items are referred to the November 2022 ballot, no costs would be incurred.

BACKGROUND AND ISSUE ANALYSIS:

For many years, the City of Longmont has administered City Council elections by contracting with or coordinating with the Boulder County and the Weld County Clerk and Recorder offices. However, this is not an option for a Special Election early in 2022 and staff is requesting Council direction for when to hold the Special Election and how to administer it.

The 2020 Census and Redistricting

As most Coloradoans are aware, the State gained a congressional representative as a result of the 2020 Census and new district maps were approved by the State Supreme Court on November 15, 2021. The new maps result in a major change that must be implemented by County Clerks across the State in the early portion of 2022 to be prepared for the primary election on June 28, 2022. Thus, the **counties are not available to coordinate a special election for the City in 2022** due to the heavy lift to ensure all the redistricting changes are implemented and systems are ready to go for the primary and Fall elections.

Therefore, because the City of Longmont is not equipped nor staffed to administer elections due to our long history of coordinating with the County, there are two options outlined below.

Option 1 – Contract with a third-party vendor for conduct of a special election

Boulder County provided a list of three vendors they were aware of that provide special district election services and we issued a Request for Interest (RFI) and alerted those three vendors of the RFI to gauge and gather basic information from them and any others who responded. One vendor we were not aware of responded to the RFI, and of the three vendors provided by the County, one is already booked for 2022, another has not responded to our contact or RFI, and a third vendor has been inundated with requests from other municipalities but has provided general information over the phone. Because of the expected cost for the election in excess of \$50,000, the City would have to issue a Request for Proposals for these election services.

Estimated Costs:

It is difficult to estimate the total costs because this is something we have not done for at least the last 25 years but staff has been able to gather rough estimates based on the RFI and contacts made with various vendors. Below are estimated costs taking into account advice received such as paper costs are “going through the roof” and we should expect higher costs for printing, and that it would be prudent to add 10% to any estimate for unexpected contingencies.

Primary functions	Estimated cost
Print & mail ballots (\$1.50/vote x 67,000)	\$100,500
Equipment rental (ballot processing and counting)	\$35,000
Personnel (ballot collection & processing, judges, etc.)	\$20,000
Storage costs (to securely store ballots for 1 year after election)	\$15,000
Conduct/Oversight/Project Management	\$50,000
10% Additional Contingency	\$40,104
<i>Estimated Total</i>	\$240,624

Timing:

Statute provides various date bumpers around elections to help avoid voter confusion. A Special Election may not be scheduled 32 days before or after a primary, general, or congressional election and no election may be scheduled 90 days preceding a regular election.

Because a primary election is scheduled for June 28, 2022, and a regular election is scheduled for November 8, 2022, we would not be able to schedule a Special Election between May 27th and July 30, 2022, nor after August 10, 2022.

Other important factors impacting the timing of this Special Election are:

- RFP is required – adds approximately 30 days to our timeline.
- Mail ballot plan must be approved by the Secretary of State (SoS) 90 days before the election and the SoS has 20 days to respond.
- Candidate Nomination Petition time frame is between the 91st and 71st days prior to the election. It is likely important to consider that those days do not fall during the holidays. (For example: If Election Day were scheduled for March 15, 2022, then petitions would need to be circulated between December 14 and January 3 during the holiday season.)
- Availability of the vendor. One vendor we spoke with indicated that because Special Districts will hold their elections on May 3, 2022, it would be necessary to avoid late April and early May and they suggested we look at dates in late March or early April.

Taking all these factors into consideration, staff recommends that if Council decides upon this option, that the date be set no sooner than late **March or early April**. A sample timeline is outlined below:

Election Day – April 5, 2022 (for example)

Nomination Petition Circulation – Jan. 4-Jan. 24

Mail Ballot Plan due to Sec’y of State – Jan. 5

RFP Issued – Dec. 3

Contract finalized and approved by Council Jan. 11, 2022

Option 2 – Coordinate with Boulder County in November

Historically, each time a special election is called, or a regular election occurs, the City Clerk’s Office presents intergovernmental agreements (IGAs) with both Boulder and Weld counties for the administration of the election to Council for their approval. Via these IGAs, the City of Longmont has entrusted most of the tasks associated with an election to the Counties, and the counties in turn, have secured the expertise, personnel, equipment, and space required to conduct secure and reliable elections. The counties then tally the total cost for the election and divide it across the participating entities. This method of consolidating a service and sharing the costs for the service across the various municipalities, districts and organizations that participate has been an effective approach for conducting elections.

Estimated Costs:

The costs for elections coordinated/contracted vary greatly depending on the number of contests and the number and length of questions on the ballot, whether or not there are TABOR items, and who and how many entities are participating in the election. Below are the costs for the City's portion of the elections for the past five elections held and administered via an IGA with the County:

Year	Cost (rounded)
2017	\$87,377
2018 – Nov	\$37,000
2018 – Special Election	\$68,000
2019	\$63,000
2020	\$44,000
2021	\$115,876
Average Cost	\$69,209

Timing:

Boulder County will, of course, run an election on November 8, 2022, and thus, the Council could certainly schedule a Special Election then and the City would contract with Boulder and Weld Counties, as the City has done for many years. However, this option would leave Council with a vacancy for many months.

A sample timeline of this option is outlined below:

Election Day – November 8, 2022

Nomination Petition Circulation – Aug. 9-Aug. 29

Mail Ballot Plan due to Sec'y of State – Aug. 10 (County handles)

RFP Issued – N/A

Contracts finalized and approved by Council at 1st Regular Session in August 2022

Pros and Cons for each scenario

Staff, the Council, and the public could certainly easily think of various reasons why either of these scenarios is either a good option or a bad one, and, thus, the list below is certainly not exhaustive.

	County	Contractor
Reduces voter confusion due to same procedures, ballot and envelope styles, and drop-off locations as past elections	B	
More cost-effective	B	
Security and accuracy protocols familiar and accepted by residents	B	
Offers Ballot Track services	B	
More timely		B
Reduces potential split votes more quickly		B
Ensures appropriate representation of voters as the Charter intended more quickly		B

In Conclusion

The current political climate and the proliferation of misinformation about elections, election procedures, and the validity of results are of great concern. Staff believes that this decision of how and when to hold this election is of utmost importance to the elected officials and the people of Longmont and, thus, requests Council's direction in order to proceed.

ATTACHMENTS:

None