

CITY OF LAGUNA NIGUEL

AGENDA ITEM CITY COUNCIL

AUGUST 14, 2017

TO: Honorable Mayor and Council Members

FROM: Terry E. Dixon, City Attorney

SUBJECT: Resolution of the City Council of the City of Laguna Niguel, California, Repealing Resolution No. 2005-818 Establishing Procedures and Provisions for the Offices of Mayor and Mayor Pro Tem

SUMMARY: This Resolution if adopted would make it clear that the person that is serving as Mayor for the City of Laguna Niguel would serve at the pleasure of the City Council and could be removed by the City Council.


BACKGROUND

A question has arisen as to whether the City Council can remove a Council Member from the position of Mayor of the City of Laguna Niguel. Outside legal counsel with the law firm of Burke, Williams & Sorenson, LLP, reviewed the issue and concluded that the City Council has such authority. This is consistent with a 1984 opinion by the California Attorney General that a city council in a general law city, such as Laguna Niguel, selects and may remove the mayor and mayor pro tem, who serve at the pleasure of the city council. (67 Ops.Cal.Atty.Gen. 405.) As reflected in the attached Resolution, outside counsel recommends that the City's current procedures regarding the selection of Mayor and Mayor Pro Tem to be amended to confirm the City's discretionary authority to elect and remove the Mayor and Mayor Pro Tem as deemed appropriate and provide for procedures to select replacements in those situations.

RECOMMENDATION

Adopt Resolution No. 2017-XXX "A Resolution of the City Council of the City of Laguna Niguel Repealing Resolution No. 2005-818 Establishing Procedures and Provisions for the Offices of Mayor and Mayor Pro Tem."

SUBMITTED BY:


Terry E. Dixon,
City Attorney

Attachment – Resolution No. 2017-XXX

ATTACHMENT

RESOLUTION NO. 2017-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA NIGUEL REPEALING RESOLUTION NO. 2005-818 AND ESTABLISHING PROCEDURES AND PROVISIONS FOR THE APPOINTMENT OF THE MAYOR AND MAYOR PRO TEM

WHEREAS, the City Council, by adoption of Resolution No. 2005-818, established procedures and provisions for the offices of Mayor and Mayor Pro Tem;

WHEREAS, Resolution 2005-818 provides that the City Council shall elect both the Mayor and the Mayor Pro Tem;

WHEREAS, Resolution 2005-818 provides the Mayor and Mayor Pro Tem shall serve until a successor is elected by the City Council;

WHEREAS, Resolution 2005-818 provides that if the Mayor resigns from that office, or vacates his or her office of member of the City Council, the Mayor Pro Tem shall become and serve as the Mayor, and the City Council shall elect a Mayor Pro Tem;

WHEREAS, the City Council takes legislative notice that under California law, appointed mayors and mayors pro tem serve at the pleasure of the city council in general law cities, and may be removed at will;

WHEREAS, the City Council desires to amend the selection process for both the Mayor and Mayor Pro Tem to confirm the City Council's adherence to existing law and provide express procedures for the removal of the Mayor and Mayor Pro Tem from those offices;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Laguna Niguel as follows:

1. Resolution No. 2015-818, establishing procedures and provisions for the offices of Mayor and Mayor Pro Tem, is hereby repealed.
2. The City Council shall, by a majority vote of the City Council, select the Mayor.
3. The City Council shall, by a majority vote of the City Council, select the Mayor Pro Tem.
4. The Mayor and Mayor Pro Tem shall be selected at the second regular meeting held in November of odd-numbered years, and at the first regular meeting held in December of even-numbered years.

5. The Mayor and Mayor Pro Tem shall take office at the first regular meeting held in December of each year.

6. The Mayor and the Mayor Pro Tem shall hold that office for one year, at the pleasure of the City Council, unless removed pursuant to a majority vote of the City Council. A majority of the City Council may remove the Mayor or Mayor Pro Tem with or without cause.

7. If the City Council does not select a Mayor and Mayor Pro Tem at the second regular meeting held in November of odd-numbered years, or at the first regular meeting held in December of even-numbered years, the Mayor and/or Mayor Pro Tem shall continue to serve in their office until a successor is selected by a majority vote of the City Council.

8. In the event that the City Council member holding the office of Mayor resigns or is removed from that office, or vacates his or her office of member of the City Council, the Mayor Pro Tem shall become the Mayor and serve until the City Council selects his or her successor, and the City Council shall select a Mayor Pro Tem to serve until the Council selects his or her successor.

9. In the event that the City Council member holding the office of Mayor Pro Tem resigns or is removed from that office, or vacates his or her office of member of the City Council, the City Council shall select a Mayor Pro Tem to serve until the Council selects his or her successor.

10. In the event that the offices of Mayor and Mayor Pro Tem become vacant simultaneously for any reason, the City Council shall select successors to those offices.

11. This Resolution shall take effect and be applicable immediately.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2017

Jerry Slusiewicz, Mayor

ATTEST:

Eileen Gomez, City Clerk