



CITY COUNCIL AGENDA REPORT

MEETING DATE: JANUARY 4, 2011

ITEM NUMBER:

SUBJECT: APPOINTMENT TO FILL THE UNEXPIRED CITY COUNCIL TERM

DATE: December 13, 2010

FROM: City Manager's Office

PRESENTATION BY: Allan L. Roeder, City Manager

FOR FURTHER INFORMATION CONTACT: Allan L. Roeder, City Manager (714) 754-5328

RECOMMENDED ACTION:

Receive and consider letters of interest for filling vacancy for the position of the City Council Member for the remainder of the unexpired term through December 2012; adopt Resolution declaring the vacancy and the appointment of a Council Member to fill the unexpired term on the City Council.

BACKGROUND:

At the regular City Council meeting of November 16, 2010, the City Council provided direction to address the anticipated vacancy on the City Council as a result of Council Member Katrina Foley winning a seat on the Newport Mesa Unified School District Board. The City Attorney provided the City Council with a report outlining alternatives for filling the vacancy in accordance with State law. The City Council voted 4-1 (Foley – No) to fill the vacancy by appointment. At the regular meeting of December 7, 2010, Council member Foley announced to the public and the City Council that it would be her final meeting and thanked members of the community, staff and fellow City Council members for all of their support.

ANALYSIS:

Pursuant to City Council direction, Press Releases were issued on November 18th and again on December 3rd announcing the City Council's decision and setting forth the requirements for interested individuals to submit letters of interest by Friday, December 17, 2010 (Attachment 1). The Press Releases were also posted and placed on the City's Website. Following the closing deadline of 5:00 p.m. December 17th, copies of all letters of interest and resumes, if submitted, were forwarded to the City Council. The same information was posted for the public on the City's Website on December 17, 2010 and the information was/is available for review at the City Clerk's Office.

The City Council did not specify any procedure for voting on the appointment. There is no requirement that the City Council do so and absent any further direction, the Council will simply entertain motions from its members until an applicant receives three (3) affirmative votes for appointment. Should the City Council feel that some agreed upon process is desirable given the number of interested applicants, the following are just a few possible options to consider. Following the City Clerk's reading of the item and public testimony, the City Council may choose to:

Option #1

The City Clerk announces the time and place for appointment of City Council Member and reads into the record the names of all applicants. The Mayor opens the floor for public comments. Following Public Comments, members of the City Council may provide comments on applicants, qualifications and related matters. Council members draw numbers to determine order of nominations. The first Council member in order nominates their preferred applicant. The nomination must receive a second to be voted upon. Upon receiving a second to the nomination, the Mayor calls for the vote. In the event a nomination does not receive a second, the right to nominate moves to the next Council member in order of the draw. The process of nominations and seconds continues until the City Council vacancy is filled.

Option #2

Request the City Clerk to read the names of the applicants in alphabetical order. As each name is read, a member of the City Council may place that individual's name in nomination and ask for a second. If the nomination is not seconded or if an applicant is not nominated, the applicant would no longer be considered for appointment. After the names of all applicants have been read, only those receiving a nomination and a second would be voted on. Voting would continue until one applicant receives three (3) votes or the matter would automatically go to the electorate on June 7, 2011

Option #3

Request the City Clerk to read the names of the applicants in alphabetical order. Each Council Member would be asked to announce the names of those applicants he or she would consider for appointment. There would be no limit as to the number of applicants each Council Member could place in nomination and no priority order as to who would nominate first, second and so on. Once a list is established consisting of the names of all nominees announced by members of the City Council, the name of each nominee would be announced by the Mayor with a request for a second. Those failing to garner a second would not be considered further. A final list of nominees receiving nomination and a second would then be voted on. Voting would continue until one applicant receives three (3) votes or the matter would automatically go to the electorate on June 7, 2011.

Option #4

Request the City Clerk to read the names of the applicants in alphabetical order. Each Council Member, in order of seniority, would place a name in nomination. If the nomination receives a second, the City Council would immediately vote. If the nomination failed to receive a second, the next Council Member in line of seniority would offer his or her nomination and so on. The City Council could choose up front to limit the numbers of rounds of voting. If a decision is not able to be made the matter would automatically go to the electorate on June 7, 2011.

DISCUSSION:

A total of **8** applicants have submitted City Council interest forms or letters of interest in response to the City's press release recruitment announcements.

The following lists the applicants (alphabetically) for the City Council:

Mike Brumbaugh
Samuel Clark
Jeff Mathews
Chris McEvoy
Steve Mensinger
Timothy Sesler
Margaret Shillington
Heather Somers

Each applicant's letter of interest is attached for City Council's review (Attachment 2).

FISCAL REVIEW:

There is no fiscal impact on this item. However, the City Council should keep in mind that should it be unable to appoint a qualified individual to fill the unexpired term of office under State law (30 days from the effective date of the vacancy), a Special Election must be called. Prior cost estimates provided by the Registrar of Voters place the cost of a Special Election at approximately \$200,000 if there are no other matters scheduled for consideration at that time.

LEGAL REVIEW:

The City Attorney's Office has reviewed and approved the attached resolution (Attachment 3).

CONCLUSION:

As noted previously, there are no specified procedures to follow in making this appointment and the City Council has a great deal of latitude in so doing as long as the process is conducted in open public session. The options referenced in this report are solely intended to assist the City Council and staff has no recommendation in this regard. Staff will have a complete agenda packet prepared should a new Council Member be sworn in and seated at your January 4, 2011 meeting.

ALLAN L. ROEDER
CITY MANAGER

Attachments: 1 – [Press Releases dated November 18th and December 3rd, 2010](#)
2 – [Applicant Information](#)
3 - [Resolution](#)