



STAFF REPORT

AGENDA NO: 11e

MEETING DATE: July 1, 2024

To: Honorable Mayor and City Council

Date: July 1, 2024

**From: Lisa K. Goldman, City Manager – (650) 558-7243
Michael Guina, City Attorney – (650) 558-7263
Meaghan Hassel-Shearer, City Clerk – (650) 558-7203**

Subject: Discussion of Impending City Council Vacancy and Direction on Filling the Seat

RECOMMENDATION

Staff recommends that the City Council discuss the impending City Council vacancy and provide direction as to how it would like to proceed to fill the office.

BACKGROUND

On June 24, 2024, Vice Mayor Emily Beach announced her intention to resign from the City Council, effective July 14, 2024. Her term of office expires in November 2024. The City Council must now discuss how it would like to proceed to fill the vacancy in this at-large seat.

DISCUSSION

State Government Code Section 36512(b) governs City Council vacancies:

(b) If a vacancy occurs in an elective office provided for in this chapter, the council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy.

(1) If the council calls a special election, the special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person elected to fill a vacancy holds office for the unexpired term of the former incumbent.

(2) If the council fills the vacancy by appointment, the person appointed to fill the vacancy shall hold office pursuant to one of the following:

(A) If the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general municipal election, the person appointed to fill the vacancy shall hold office until the next general municipal election that is scheduled 130 or more days after the date the council is notified of the vacancy, and thereafter until the person who is elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

(B) If the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general municipal election, or if the vacancy occurs in the second half of a term of

office, the person appointed to fill the vacancy shall hold office for the unexpired term of the former incumbent.

In July 2005, the City Council adopted the attached Resolution No. 63-2005 and procedures for appointments to vacancies in the office of City Councilmember or City Clerk. (The City Clerk was an elected position at the time but became an appointed position in 2013. Vacancies in this position are now filled by the City Manager). The procedures were amended in October 2014 to modify voting procedures to match those used for Board and Commission appointments.

The procedures provide that the City Manager notify the City Council of an impending vacancy and schedule the matter for discussion at the next regularly scheduled City Council meeting. At the City Council meeting, the City Council must then determine whether to call a special election or make an appointment to the office until the next election.

The next regular statewide election is November 5, 2024. At the May 6, 2024, City Council meeting, the City Council approved calling an election to fill the remainder of former Councilmember Ortiz's District 1 Council seat (term ending in 2026), and for the election to the two newly formed District 2 and 4 seats (for full terms).

Currently, Vice Mayor Beach and Mayor Colson occupy at-large Council seats. Both these seats will expire with the November 5, 2024 election. The election of a District 2 and District 4 Councilmember will complete the City's transition from at-large elections to districted elections.

Therefore, there is no need to hold a special election for the remainder of Vice Mayor Beach's term as it ends with the certification of the November 5, 2024 election. Instead, the City Council needs to focus only on filling the immediate vacancy of Vice Mayor Beach's seat. State law requires that the vacancy be filled within 60 days of the vacancy occurring, or by September 5, 2024. Under the adopted procedures, the City Council must set a deadline for applications, and the City Clerk must publicize notice of the vacancy and deadline for applications.

The next steps in the procedures call for the City Council to determine any supplemental questions to attach to an application form, and for applicants to submit their completed forms, including a Form 700, to the City Clerk by the designated deadline. The Council will then hold interviews with the applicants at a public meeting. According to the procedures, "In the case of the resignation of a City Councilmember, the interviews shall occur after the actual vacancy takes effect."

Finally, the procedures note that appointments are to be made at regular or special meetings of the City Council by written ballot, with the City Clerk reading each vote into the record. If no majority is secured, the process is repeated until a majority of Councilmembers affirmatively vote for a single candidate. If more than one round of voting is necessary, then Councilmembers may discuss the vote between rounds.

Applicants for this at-large seat may reside anywhere in Burlingame, and anyone appointed to the seat will serve until December 16, 2024, when Councilmembers elected on November 5, 2024, are sworn into office.

City Council Direction

In order to determine next steps, the City Council should determine whether it wishes to follow the adopted procedure attached to this report or provide direction to staff as to how it wishes to modify the procedure. If the Council chooses to deviate from the adopted procedure, then it will need to adopt a Resolution to rescind or replace Resolution 63-2005.

If the City Council chooses to follow the adopted procedure, then it should set a deadline for applications and provide guidance as to appropriate supplemental questions. In order to expedite matters, the City Council may wish to delegate to staff or a subcommittee of the Council the development of a standard application form. The form used to fill then-Councilmember Ortiz's seat is attached to this staff report for information only.

FISCAL IMPACT

There are minimal costs involved in this process.

Exhibits:

1. Vice Mayor Beach resignation letter
2. Resolution No. 63-2005 Establishing Procedures for Appointment to Vacancies in the Office of City Councilmember or City Clerk
3. Resolution No. 89-2014 Modifying Voting Procedures for the Selection of a Council Appointee to Serve the Remainder of an Unexpired Term for a Council Vacancy, Providing for Written Ballots
4. 2024 Application for Vacant City Council Position