



CITY COUNCIL STAFF REPORT

TO: Honorable Mayor and City Council **DATE:** March 4, 2019

FROM: Matthew Bronson, City Manager

PREPARED BY: Matthew Bronson, City Manager
David P. Hale, City Attorney

SUBJECT: Options and Potential Appointment to Fill Vacant Council Seat

RECOMMENDATION

Receive information about options for filling the Council seat vacated by former Council Member Peterson and provide policy direction or make appointment to fill the vacant seat.

BACKGROUND

Given the February 19, 2019 resignation of Council Member Peterson effective that day, her seat became vacant and the Council will need to consider options for filling that seat. Similar to the recent process to fill the Council seat vacated by incoming Mayor Lee, those requirements are defined within Government Code Section 36512 and this staff report is intended to outline these options for the Council's consideration.

Section 36512 (b) states that if a vacancy occurs in an elective office, the Council shall within 60 days from the commencement of the vacancy either call a special election to fill the vacancy or fill the vacancy by appointment. If the Council should choose to hold a special election, the special election is required to be held at the next regularly established election date not less than 114 days from the call of the special election. If a regularly established election date is not within 114 days from the call of the special election, the Council may hold a special election at any time. The person elected to fill a vacancy holds the office for the unexpired term of the former incumbent.

If the Council fills the vacancy by appointment, the person appointed to fill the vacancy shall hold office pursuant to one of the following requirements:

- (a) If the vacancy is within the first half of the term of office and at least 130 days prior to the next general election (which is not applicable in this case), 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 to fill the vacancy has been qualified. The person thereafter elected shall hold the office for the unexpired balance of the term of the 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. This would be the most applicable requirement since the vacancy is occurring during the second half of Council Member Peterson's term. Therefore, an appointment by the Council would allow the person appointed to serve out the unexpired term of Council Member Peterson's seat until December 2020.

Besides the Council's ability to appoint or to hold an election for the vacancy, Government Code Section 36512 (c) allows the Council to adopt an ordinance that would allow any of the following:

- (a) Require a special election be called immediately to fill the vacancy. The election would be held on the next regularly established election date not less than 114 days from the call for an election.
- (b) Require a special election when petitions bearing a specified number of verified signatures are filed. Again, the election would take place at the next regularly established election date not less than 114 days from the call for an election.
- (c) Enable the person appointed to fill the vacancy until the date of a special election. Again, the election would take place at the next regularly established election date not less than 114 days from the call for an election.

Unless Council desires to adopt an ordinance that would define a different procedure than 36512 (b) enumerated above, the Council may either appoint an individual for the remaining term of Council Member Peterson's seat or may call for a special election since the next regularly scheduled election is more than 114 days from Council's call for an election.

Historically, the Council has appointed the successor to the vacated Council seat including the January 7, 2019 appointment of Desi Lance to the Council seat vacated by Mayor Lee. There are no requirements within the statutes that define a specific process for how the Council may decide to appoint the successor as this is a policy decision of the Council. The Council has carried this out previously in one of the following ways with the year listed:

- Nominating individuals by each Council Member and voting for the appointment. (2007, 2008)
- Receiving letters of interest from the public and interviewing each applicant in open session before voting for the appointment. (2013, 2019)

Other potential options include selecting the individual who received the next highest number of votes below the candidates most recently elected to the Council or making a direct appointment of a specific individual. A variation of the direct appointment option is to select an individual from the list of qualified applicants who applied for the recent Council vacancy and interviewed with the Council on January 7. For the Council's reference, there were 12 qualified applicants with 10 ultimately interviewing with the Council and three finalists identified from which Council Member Lance was selected to fill this vacancy. Please see Attachment 1 for a listing of these qualified applicants with the three finalists noted.

The Council is asked to provide policy direction or take action to fill this vacant Council seat which could involve making an appointment during the March 4, 2019 meeting. If the Council chooses not to make an appointment at the March 4th meeting, the Council will need to make this appointment no later than 60 days from the commencement of the vacancy pursuant to Government Code Section 36512 (b) or call a special election. This appointment deadline is April 19, 2019 following the commencement of the vacancy on February 19, 2019.

FISCAL IMPACT

There is no fiscal impact related to this item.

ALTERNATIVES

The City Council has the following alternatives to consider:

1. Receive information about options for filling the Council seat vacated by former Council Member Peterson and provide policy direction or take action on filling the vacant seat; or
2. Provide alternative direction to staff.

PUBLIC NOTIFICATION

The agenda was posted in accordance with the Brown Act. A copy of this agenda item was distributed to the qualified applicants for the recent Council vacancy for their information.

ATTACHMENTS

1. List of Qualified Applicants from Recent Council Vacancy Process



City of Grover Beach CITY CLERK'S OFFICE

LIST OF APPLICANTS WITH LETTERS SUBMITTED FOR CONSIDERATION OF BEING APPOINTED TO THE VACANT SEAT ON THE GROVER BEACH CITY COUNCIL

	Name of Applicant	Resident of Grover Beach	Registered Voter of Grover Beach
1	Karen Bright **	Yes	Yes
2	Fred Buenrostro, Jr.	Yes	Yes
3	Joseph Holmes	Yes	Yes
4	Desire Lance **	Yes	Yes
5	Ken Lehmann	Yes	Yes
6	Chris Long*	Yes	Yes
7	Todd Mitchell	Yes	Yes
8	Jerry Pastor*	Yes	Yes
9	Michael Pogvara	Yes	Yes
10	Kara Ramirez	Yes	Yes
11	Robert Robert	Yes	Yes
12	Terry Wingate **	Yes	Yes

*These applicants withdrew their applications prior to Council interviews.

** Finalist identified by Council prior to appointment of Council Member Lance.