



**CITY OF PACIFIC GROVE**  
300 Forest Avenue, Pacific Grove, California 93950

**AGENDA REPORT**

**TO:** Honorable Mayor Garcia and Members of City Council  
**FROM:** Thomas Frutchey, City Manager  
**MEETING DATE:** May 5, 2010  
**SUBJECT:** **Vacancy on the Council and the Appointment of a New Councilmember**  
**CEQA** This Does not Constitute a “Project” per California Environmental Quality Act (CEQA) Guidelines

**RECOMMENDATION**

That Council: commend and thank Councilmember Lindsay for her contributions and service to our community; direct staff to publish a request for applications to fill the vacancy that will be caused by her resignation; and schedule the appointment of her replacement for June 2, 2010.

**DISCUSSION**

On May 2, Councilmember Lindsay informed the City that she would regrettably have to resign her position on the Council, effective May 6, 2010, due to family obligations. Councilmember Lindsay has served on the Council since December 2008 and has made numerous and significant contributions, as a result of her commitment to Pacific Grove, her passion for our environment, and her unique approach to many City issues. Her thoughtful analysis of issues, her wit, her laughter, and her very presence will be sorely missed.

As a result of the ensuing vacancy, the Council has the opportunity and obligation to appoint one new member of the Council.

Article 7 of the City Charter provides that to serve as Councilmember, an individual must be “a resident and elector of the City for at least 30 days before the date of his or her election or appointment.”

Staff can provide notice of the vacancy and ask persons wanting consideration for appointment to submit application materials to the City Clerk on or before noon, Tuesday May 27, which is approximately three weeks from now. Appointment by the Council can be scheduled for the June 2, 2010 Council meeting.

Using last year’s process as a template, candidates can be offered an opportunity at the June 2 meeting to make short presentations as to their interest and qualifications, and to respond to questions posed by Council. The order of presentation will be determined by random lot.

Charter Article 12 limits the appointment power of the Council to 30 days, “Should the Council fail to fill any such vacancy within thirty days after the same occurs, then it shall be filled by appointment by the Mayor.” Therefore, in the event the Council fails to fill the vacancy within

that time, the vacancy is then filled by appointment by Mayor Garcia. The last day for Council to exercise its power of appointment is June 5.

The vacant Council seat must be filled in accord with Article 12 of the City Charter. In relevant part, Article 12 states:

“A vacancy in an elective office shall be filled by appointment by the Council, such appointee to hold office until the next general municipal election and until a successor is elected and qualified.”

Therefore, the Council, by four affirmative votes, may select any qualified person to fill the vacant council seat. Even though Councilmember Lindsay’s term would have run through November, 2012, the appointed Councilmember will hold office only until the November, 2010 general municipal election.

Thus, the November election will fill a total of five council seats (plus the Mayor’s). Three seats at the November, 2010 election will be for full four-year terms, and two seats will be for unexpired periods, a two-year term. This is in accord with Article 12 of the Charter, which provides in relevant part:

“Such successor shall be *elected for the unexpired term of his or her predecessor at the general municipal election* and until his successor is elected and qualified.” (Emphasis added.)

The appointee, if he or she wishes to continue in office, will need to declare and run for either a two-year or a four-year council seat at the November, 2010 election. If s/he declares for the three open four-year term seats, then s/he will run against those other candidates who choose to compete for those seats, and the three candidates receiving the highest number of votes will be elected. If s/he declares for the two short-term (2-year) seat, s/he will run against those other candidates who choose to compete for those seats, and the two candidates receiving the highest number votes will be elected.

The Council may alter the application and interview processes that apply to that decision, provided qualifications and processes set in the Charter are followed.

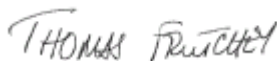
**FISCAL IMPACT**

None.

**ATTACHMENTS**

None

RESPECTFULLY SUBMITTED:



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Thomas Frutchey  
City Manager