



CITY OF MONROVIA

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MEMORANDUM

TO: Honorable Mayor and Members of the City Council

CC: Laurie Lile, City Manager
Alice D. Atkins, CMC, City Clerk

FROM: Craig A. Steele

DATE: April 2, 2013

SUBJECT: Vacancy Caused by the Resignation of Councilmember Clarence Shaw

Councilmember Clarence Shaw filed his written resignation from office on January 17, 2013. It was received by the City Clerk and effective as of that date. Pursuant to Government Code Section 1770(c), Councilmember Shaw's resignation created a vacancy on the City Council.

Government Code Section 36512(b) sets forth the City Council's options for filling this vacancy (quoted in relevant part below):

"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. 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 appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent."

Although the Government Code provides cities with the authority to adopt by ordinance certain other local procedures for filling vacancies, Monrovia has no local law or policy on the subject. Accordingly, the City Council had sixty days following January 17, 2013 (on or before March 18, 2013) to either: 1) appoint a replacement councilmember, or 2) call a special election to fill the vacancy on a regularly scheduled election date not less than 114 days later.

The Council has discussed this item on multiple occasions in open and public meetings. At the special City Council meeting on January 24, 2012, the City Council declined to appoint an individual to fill the remaining few weeks of Councilmember Shaw's term. Instead, as reflected in the adopted minutes from that meeting, the relevant portions of which are attached to this memorandum, the City Council emphasized "the Council's desire to leave the seat vacant until the April 9, 2013, General Municipal Election."

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Under a literal reading of the “special election option” in Section 36512(b), had the Council decided on January 24, 2013 to call a special election to fill the vacancy, that election would be held on June 4, 2013. If the Council had waited until March 18, 2013 to call the special election, the special election would be held on November 5, 2013. Obviously, there will be no vacancy to fill after the regular municipal election is conducted on April 9, so scheduling a later special election would have been futile. The City Council’s decisions on January 24 ensured that Mr. Shaw’s successor will be selected by the voters and seated at least two months **earlier** than would have occurred under the “special election option” in Government Code Section 36512(b).

If you have any further questions regarding this memorandum or the issues discussed above, please contact me.

Attachments

**MINUTES OF THE SPECIAL MEETING OF THE
MONROVIA CITY COUNCIL
HELD THURSDAY, JANUARY 24, 2013, 7:30 P.M.**

CONVENE: Mayor Lutz convened the Special Meeting of the Monrovia City Council of Thursday, January 24, 2013, at 7:30 p.m. in City Council Chambers. In attendance were City Manager Laurie Lile, City Attorney Craig A. Steele, and City Clerk Alice D. Atkins.

PLEDGE OF ALLEGIANCE: Councilmember Becky Shevlin led the Pledge of Allegiance.

ROLL CALL: In attendance were Councilmembers Tom Adams, Becky A. Shevlin, Mayor Pro Tem Joe Garcia, and Mayor Mary Ann Lutz.

Mayor Lutz made a statement regarding recent events surrounding the nomination process for the April 9, 2013, General Municipal Election.

ADMINISTRATIVE REPORTS:

AR-1 Discussion of Options to Fill Vacancy on the City Council Created by the Resignation of Clarence Shaw; Possible Appointment to Fill the Vacancy Pursuant to Government Code Section 36512(b) and, if an Appointment is Made, Swearing in of the Person Appointed

City Attorney Craig Steele reviewed the Staff Report, explaining that Councilmember Spicer's appointment was for the duration of Councilmember Shaw's deployment, or until the end of Councilmember Shaw's term. The recent resignation of Councilmember Shaw concurrently terminated Councilmember Spicer's appointment.

Public Input

1. Cyrus Kemp, Monrovia
2. Bill Beebe, Monrovia
3. Karen Suarez, Monrovia
4. Pam Fitzpatrick, Monrovia
5. Ralph Walker, KGEM Volunteer
6. Carmen Martinez, Monrovia
7. Rodney Jefferson, Monrovia
8. John Mastrogiovani, Monrovia Pastor
9. David Conway, Monrovia
10. Robert Parry, Monrovia
11. Gail Montgomery, Monrovia

Following discussion, **it was moved by Mayor Pro Tem Garcia, seconded by Councilmember Shevlin, to bring the item back at the March 5, 2013, with additional advice regarding available options, keeping in mind the Council's desire to leave the seat vacant until the April 9, 2013, General Municipal Election.** The motion carried unanimously.

AR-2 Discussion and Possible Action to Cancel the April 9, 2013, Election Pursuant to Elections Code Section 10229 and Appoint to Office those Individuals Nominated to the Offices of Mayor, City Clerk, City Treasurer and Member of the City Council (2 offices); adopt Resolution No. 2013-02

Mayor Lutz explained that due to the potential conflict of interest as a candidate in the April 2013 election, she would abstain from participating in the discussion, as would the City Clerk. Mayor Lutz and City Clerk Atkins exited council chambers at 8:18 p.m.

City Attorney Craig Steele reviewed the Staff Report and provided clarification regarding the write-in process.