



# Council Agenda Report

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**FROM:** Nat Rojanasathira, Assistant City Manager  
Prepared by: Clementine Bonner Klein, City Clerk

**SUBJECT:** Receive a Report and Provide Direction to Staff on the Process for Filling the City Council Vacancies (Not a Project under CEQA per Article 20, Section 15378 and General Rule Article 5 Section 15061)

## **RECOMMENDATION:**

That the City Council receive a report and provide direction to staff on its preferred method of filling the two City Council vacancies.

## **VALUE DRIVERS:**

Foster a local government that is transparent and collaborative; and solicits, welcomes, and appreciates input from all.

## **POLICY IMPLICATIONS:**

Monterey Charter section 2.8, "Term of Office of Councilmember Filing as a Candidate for Mayor," provides: "Terms of office for councilmembers who file for the office of Mayor shall automatically expire on the date the next municipal election is held after filing."

Monterey Charter section 2.5, "Vacancies," provides: "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 installed. Should the Council fail to fill any such vacancy within forty (40) days after the same occurs, then it shall be filled by appointment by the Mayor. Such successor shall be elected for the unexpired term of his/her predecessor at the General Municipal Election next succeeding such appointment."

Monterey City Charter section 4.1, "The Council" provides in part: "No former Mayor or Councilmember shall hold any compensated appointive City office or regular City employment until one (1) year after the expiration of the term for which he/she was elected to the Council."

## **FISCAL IMPLICATIONS:**

There is no fiscal impact that results from filling Council vacancies by appointment.

## **ENVIRONMENTAL DETERMINATION:**

The City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) (CCR, Title 14, Chapter 3 (CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant

to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

## **ALTERNATIVES CONSIDERED:**

The Council has numerous options for action, or no action, regarding appointments as discussed below.

## **DISCUSSION:**

### Vacant Council Seats

Councilmember Albert and Councilmember Williamson are running for mayor. Therefore, both Councilmembers will vacate their seats on the City Council effective November 9, 2022, pursuant to a requirement of the Monterey Charter.

The term that will be vacated by Councilmember Albert will end when the City installs elected officials upon the certification of the November 2024 election unless terminated sooner by the City Council. This vacancy may be filled by someone who does not live in District 3 because the appointee will be completing Councilmember Albert's at-large term.

The term that will be vacated by Councilmember Williamson will end when the City installs the District 1 Councilmember (Dr. Kim Barber) this December. This approximately one-month vacancy may also be filled by someone who does not live in District 1 because the appointee will be completing Councilmember Williamson's at-large term. However, given that Dr. Barber ran unopposed and will be sworn-in in December, the Council may wish to appoint Dr. Barber, or it may wish to take no action on this vacancy, given its short duration.

### Appointment Timeline

- November 8, 2022 – Election Day
- November 9, 2022 – Two (2) at-large Council seats vacated
- December 6, 2022 – Anticipated election certification and swearing-in of elected candidates<sup>1</sup>
- December 19, 2022 – Last day for Council to appoint to fill the term vacated by Councilmember Albert
- December 20, 2022 or thereafter – If Council has not appointed, the Mayor appoints to fill the term vacated by Councilmember Albert

### Appointment Options

Selection methods that may be used to identify potential appointees for the at-large short-term Council seats include direct nomination by members of the Council (or after 40 days, the Mayor) or accepting applications from qualified residents.

If an application process is used, various options include requiring the application only, or requiring additional materials such as written statements, letters of recommendation, and/or

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<sup>1</sup> Charter Sec. 2.4, "Canvass of Returns," provides: "The Council of said City shall meet at its usual meeting place at the first regular or adjourned meeting following certification of the election results of any municipal election and duly canvass the returns and declare the results thereof."

nomination papers to be issued by the City Clerk and signed by a sufficient number of residents. An application process is a common method used by other California cities to fill city council seat vacancies. (See, e.g., Attachment 1.)

Review methods that may be used to ascertain potential appointees' suitability for office include following the City's existing policy for appointing members of the City's boards, commissions, and committees, wherein the Mayor receives the applications, interviews applicants, and makes a recommendation to the City Council; appointing an ad-hoc committee to provide recommendations; receiving presentations in a public meeting; and/or holding public interviews.

Mayor Roberson, Councilmember Albert, and Councilmember Williamson are ineligible for appointment to these vacancies or to any compensated office in the city for one year.

Pursuant to City Charter section 4.5(b), appointees serve at the pleasure of the Council and may be removed without cause with the affirmative vote of four members, and with cause with the affirmative vote of three members.

Staff requests Council direction on the desired appointment process.

CBK

Attachments: 1. Example applications (Fremont, Ventura, San Rafael, Sunnyvale)

e: City of Monterey candidates on the November 8, 2022 ballot

Writings distributed for discussion or consideration on this matter within 72 hours prior to the meeting, pursuant to Government Code § 54957.5, will be made available at the following link: <https://monterey.org/Submitted-Comments>

Attached Spanish Language Translations  
Agenda report