



STAFF REPORT

Meeting Date: May 3, 2016

To: Honorable Mayor & City Council

From: Laurence S. Wiener, City Attorney
Byron Pope, City Clerk

Subject: Options to Fill City Council Vacancy

Attachment: 1. City Council Application form

RECOMMENDATION

That the City Council discuss options to fill the vacancy created by Council Member Brien leaving office and give direction to staff.

INTRODUCTION

When Councilmember William W. Brien resigns on or about May 2, 2016, there will be a vacancy on the Beverly Hills City Council. This vacancy will occur before the natural expiration of Councilmember Brien's term in office. The City Attorney's and the City Clerk's Office have reviewed the City Council's options to fill this vacant seat, as summarized below. The City Attorney's Office has also prepared the attached draft City Council Application form, which may be used or modified should the City Council decide to fill the vacant seat by appointment.

DISCUSSION

The City Council has two options to fill the vacancy: (1) appoint a new Councilmember or (2) call a special election. The City Council must take one of these two actions "within 60 days from the commencement of the vacancy," which occurs either "upon the delivery of a letter of resignation" or the effective date specified in the letter, if provided. (Government Code Sections 36512(b), 1770(c)(2))

Specifically, subdivision (b) of Government Code Section 36512 provides as follows: "If a vacancy occurs in 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." (Government Code Section 36512(b))

Assuming Councilmember Brien's resignation becomes effective on May 2, 2016, the City Council will therefore need to take action before July 1, 2016.

Whether filled by appointment or special election, the person selected to fill the vacancy will hold office for the remainder of Councilmember Brien's term. (Government Code Section 36512(b)(1), (b)(2)(B))

Option (1) – Appoint a Replacement

The City Council may decide to fill the vacancy by appointing a person who is a resident and registered voter of the City of Beverly Hills. (Government Code Sections 36502, 36512) If the City Council decides to appoint a resident to fill the vacant seat, the City may accept applications using a form such as the one attached to this staff report.

When a 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." (Government Code Section 36512(b)(2)(B)) Councilmember Brien is in the second half of his term of office, so the person appointed by City Council would hold office for the remainder of Councilmember Brien's term, which expires in March, 2017.

Option (2) – Call a Special Election

The City Council may instead decide to call a special election to fill the vacant City Council seat. Within 60 days of the vacancy, the City Council shall adopt a resolution calling the special election. (Elections Code Section 12001) "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." (Government Code Section 36512(b)(1)) This means that the election to fill the vacancy would be held on November 8, 2016. (See Elections Code Section 1000)

Once the votes are counted and the elections official certifies the results of the November 8th election, the City Council would then adopt a resolution and declare the person elected. (Elections Code Sections 10260–10264)¹ The person elected would hold office for the remainder of Councilmember Brien's term. (Government Code Section 36512(b)(1)) Councilmember Brien's term expires in March of 2017.

¹ For a consolidated election, the governing body shall meet no later than the next regularly scheduled City Council meeting following presentation of the 28 day canvass of returns to declare the results and certify the election of the councilmember. In all other elections the governing body shall meet no later than the 4th Friday after the election to do the same.

FISCAL IMPACT

Staff time to collect applications to administer the selection process may result in minor costs.

The cost to conduct a special election is approximately \$40,000 for a consolidated election and approximately \$200,000 for an election which is not consolidated. The County Clerk has indicated that it is unlikely that this election will be consolidated.



Laurence Wiener
City Attorney

Attachment 1



**CITY OF BEVERLY HILLS
CITY COUNCIL APPLICATION**

In order to be considered for appointment to City Council to fill the seat made vacant by the resignation of Councilmember William W. Brien, you must be both a resident of the City of Beverly Hills and registered to vote in the City of Beverly Hills at the time of the filing of this application. If appointed to fill this City Council vacancy, your term will expire in March, 2017.

THE FILING DEADLINE IS [INSERT FILING DEADLINE].

Submittal Requirements:

- Completed and Signed Application**
- Completed and Signed Essay**
- Resume**

NAME _____

PHONE NUMBER(S) _____

HOME ADDRESS _____

E-MAIL ADDRESS _____

OCCUPATION/PROFESSION _____

NAME OF EMPLOYER _____

ADDRESS OF EMPLOYER _____

EDUCATION

SCHOOLS/COLLEGE(S) _____

DEGREES/TITLES _____

INVOLVEMENT

HOW LONG HAVE YOU LIVED IN BEVERLY HILLS? _____

NAME/TITLE OF ANY CURRENT OR PREVIOUS ELECTED OFFICES HELD _____

DESCRIPTION OF OTHER COMMUNITY PARTICIPATION & SERVICE _____

CIVIL, FRATERNAL, OR PROFESSIONAL MEMBERSHIPS _____

LOCAL ISSUES OF PARTICULAR INTEREST _____

DO YOU HAVE ANY CURRENT OBLIGATIONS OR RESPONSIBILITIES THAT COULD BE CONSTRUED AS A CONFLICT OF INTEREST? IF SO, DESCRIBE.

HAVE YOU EVER BEEN A LEGISLATIVE ADVOCATE OR ENGAGED IN LEGISLATIVE ADVOCACY? IF SO, DESCRIBE. _____

PLEASE ATTACH AN ESSAY OF NO MORE THAN 400 WORDS STATING WHY YOU ARE THE BEST PERSON TO APPOINT TO THE BEVERLY HILLS CITY COUNCIL. THE ESSAY MAY, BUT NEED NOT, ADDRESS ANY OF THE FOLLOWING TOPICS: (1) REASONS YOU WANT TO SERVE ON THE CITY COUNCIL, (2) SIGNIFICANT EXPERIENCES, PERSPECTIVES, OR OTHER ASSETS YOU WOULD CONTRIBUTE TO THE CITY COUNCIL, OR (3) VIEWS ON THE CITY'S COUNCIL ROLE IN BEVERLY HILLS.

<p>If appointed, my term will expire in March of 2017. I pledge not to run for City Council in the March 2017 election.</p> <p>Signature _____ Date: _____</p> <p>I declare under penalty of perjury under the law of the State of California that all information stated in this application and all attached pages are true, correct, and complete. I further declare that I am a resident of the City of Beverly Hills and am registered to vote in the City of Beverly Hills.</p> <p>Signature _____ Date: _____</p>
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PLEASE NOTE: INFORMATION PROVIDED BY APPLICANT IS PUBLIC RECORD.

RETURN COMPLETED FORM TO:

**CITY CLERK'S OFFICE
CITY OF BEVERLY HILLS
455 REXFORD DRIVE
ROOM 290
BEVERLY HILLS, CA 90210**

Applications may be submitted electronically to: bpope@beverlyhills.org