



Agenda Report

August 15, 2022

TO: Honorable Mayor and City Council

FROM: City Clerk

SUBJECT: ACKNOWLEDGE THE VACANCY CREATED BY THE PASSING OF THE HONORABLE COUNCILMEMBER JOHN J. KENNEDY REPRESENTING CITY COUNCIL DISTRICT 3; AND DIRECT THE CITY CLERK TO FILE A NOTICE OF INTENTION TO FILL A VACANCY ON THE CITY COUNCIL BY APPOINTMENT IN ACCORDANCE WITH PASADENA CITY CHARTER SECTION 404

Recommendation:

- (1) Find that the proposed action is not a project subject to California Environmental Quality Act (CEQA) as defined in Section 21065 and Section 15378 of the State CEQA Guidelines, and as such, no environmental document pursuant to CEQA is required for the project;
- (2) Acknowledge the vacancy created by the passing of the Honorable Councilmember John J. Kennedy, representing Council District 3;
- (3) Direct the City Clerk to publish a Notice of Intention to Fill the Vacancy on the City Council by Appointment in accordance with Pasadena City Charter Section 404; and
- (4) Provide direction to staff on the application and interview process, and approve the suggested timeline for the appointment process.

BACKGROUND:

On July 21, 2022, Councilmember John J. Kennedy passed away while in office, creating a vacancy for his position on the City Council as the District 3 representative.

Pasadena City Charter, Section 404 (Attachment A), VACANCY—APPOINTMENT, provides direction on the process to fill a vacancy on the City Council, as follows:

“If a vacancy occurs among any other members of the City Council, the remaining members shall within 75 days after such occurrence appoint a qualified resident voter of the unrepresented district who shall hold office until the office is filled at the next general municipal election. If the City Council cannot agree on one person to fill the vacancy, the replacement shall be chosen by lot.”

Pursuant to Charter Section 404, the Council District 3 vacancy must be filled by appointment by the remaining members of the City Council within 75 days of the vacancy occurring, requiring the City Council to take action no later than **Tuesday, October 4, 2022**. The City Charter does not provide any further direction or impose requirements on the process other than to select a qualified resident voter from District 3 to serve as the appointee to fill the vacancy.

While it is stated in Section 404 that the appointed Councilmember would hold office until the office is filled by a vote of the people at the next general municipal election, Councilmember Kennedy won the Council District 3 election in the recent June 7, 2022 Primary Municipal Election, thereby completing the election cycle for 2022. The next General Municipal Election cycle will be in 2024, so there are two vacancies, as follows:

- The first vacancy relates to Mr. Kennedy's current term of office, which ends on December 12, 2022, as discussed in this report.
- The second vacancy relates to the term of office for Council District 3 beginning on December 12, 2022, to which Councilmember Kennedy was elected as part of the June 7th Primary Election. That vacancy does not exist until December 12, 2022, and it is to be filled no earlier than that date (and no later than 75 days thereafter) by the newly constituted City Council sworn into office at the December 12th Organizational Meeting. The term for the second vacancy will be from the date of appointment until December 9, 2024. Then at that time, following the 2024 March Primary and November General election cycle, a voter-elected District 3 Councilmember will begin a two year term for the remainder of the unexpired term ending on December 7, 2026. This second vacancy is not being determined at this point, and this information is provided as background. The person who is appointed by the City Council to fill the remainder of Councilmember Kennedy's current term (ending December 12, 2022) may be the **same** person who is appointed by the Council to fill the second vacancy (ending December 9, 2024). However, there must be two separate appointments (i.e., two separate City Council votes), and the second appointment must be made by the newly sworn and constituted City Council that takes office as of the December 12, 2022 Organizational Meeting.

Publication of a Notice of Intention

The City Clerk's Office has prepared a draft of the Notice of Intention to Fill a Vacancy for Member of the City Council by Appointment, with the sample notice attached to this agenda report (Attachment B). The notice is intended to publicly announce the City Council's intention to proceed with the appointment process in accordance with the City Charter and to formally open the application period. The notice would be published in Pasadena Press, Pasadena Journal, Pasadena Weekly, and the Pasadena Star News, as well as posted on the City's bulletin boards and webpage. Additional outreach efforts would be utilized to inform the District 3 community of the opportunity to serve on the City Council in an appointed capacity, and invite qualified applicants (voters that registered in and living in District 3) to submit an application. Staff is requesting the City

Council's approval of certain details related to the application process and the application itself prior to the publication of the notice.

Following is a suggested timeline for the application process, with the information and dates assuming a 21-day application period:

1. Publish Notice of Intention: **August 18, 2022**
2. Length of application filing period: **August 18, 2022 to September 8, 2022**
3. Length of term for the appointment: **From the date of appointment to December 12, 2022 (City Council to then reappoint, or consider new appointment process)**
4. Details of the Application Process:
 - a. How to obtain an application: **In person, in the Office of the City Clerk**
 - b. Requirements to apply:
 - i. Must be voting age; and
 - ii. Registered to vote in, and reside within, District 3 at the time the application is issued by the City Clerk
 - c. Deadline for application submittal: **Thursday, September 8, 2022 at 5:30 p.m.**
 - d. Location for submittal: Office of the City Clerk
 - e. Method of submission: **In person, in the Office of the City Clerk**

Also provided is a proposed Application to Fill Vacancy, which can be used to identify and evaluate members of the public wishing to serve as the appointed City Councilmember (Attachment C). The proposed application is styled after the Commission Application, and was used previously in the appointment processes to fill vacancies occurring in City Council District 3, 5, and 7 in 2012, 2020, and 2015, respectively. The City Council can modify the application as necessary, including adding or removing questions, or directing staff to prepare a completely new format.

Similar to a candidate nomination process, staff is preparing nomination petitions as part of the vacancy appointment process. This would require each applicant to gather at least 25 valid signatures of District 3 registered voters supporting the applicant's appointment. This is consistent with previous vacancy appointments that have recently occurred on the City Council.

Details of the Interview Process

In accordance with the process followed to fill prior vacancies, the Mayor will appoint an ad hoc committee to provide recommendations on the interview process. The ad hoc committee can return to the City Council on or after September 12, 2022, to recommend the parameters and details of the process, including the format for candidates to be interviewed by the City Council.

Given the proposed timing for applications, and the deadline of October 4, 2022 to appoint within the required 75 day period, staff is anticipating that a special meeting of the City Council will be held in mid to late September for purposes of the interview and appointment process. If consistent with the prior vacancies, the interview process could be broadcast as part of a public meeting, which includes an opportunity for public comment on the item.

Appointment Procedures

The City Council involvement in the interview process and vote to appoint an individual to fill the vacancy must take place in open session. In accordance with City Charter Section 506, any action by the City Council to appoint an individual to serve as the District 3 representative requires five affirmative votes. In the event the City Council is unable to garner the necessary five votes for one applicant by the deadline of the 75th day (October 4, 2022), pursuant to Charter Section 404, the replacement would then be chosen by lot.

Following the selection of the appointee to serve on the City Council, the City Clerk will administer the Oath of Office. The appointee would serve the remainder of the current term until Monday, December 12, 2022.

FISCAL IMPACT:

The administrative and printing costs for the process outlined above are estimated to be less than \$1,000. Funds to cover all expenses related to the City Council's appointment to fill a vacancy in District 3 are available in the City Clerk's Election budget 10113002-811400.

Respectfully submitted,



Mark Jomsky
City Clerk, CMC

Attachments:

Attachment A – Pasadena City Charter, Section 404
Attachment B – Draft Notice of Intention to Fill a Vacancy by Appointment
Attachment C – Draft Application for Appointment to the City Council, District 3