

# TOWN OF FAIRFAX

## STAFF REPORT

**TO:** Mayor, Members of the Town Council      **DATE:** March 14, 2013  
**FROM:** Garrett Toy, Town Manager *GT*  
**SUBJECT:** Discussion/consideration of the options to fill the vacancy caused by the resignation of former Councilmember O'Neil.

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### Recommendation

Direct staff, as appropriate.

### Discussion

Councilmember O'Neil tendered his resignation effective February 7th from the Town Council because he was moving out of the jurisdiction. This resignation created a vacancy on the Council. The California Election Code requires that the Council, within 60 days, either call for an election to replace Councilmember O'Neil or appoint someone to complete the remainder of his term.

At the February 6<sup>th</sup> meeting to consider the options, the Council decided they wanted to appoint someone to fill the remainder of the unexpired term in accordance with the state statute, or until November of 2015. However, state law does permit municipalities that have adopted an ordinance with specified provisions to appoint someone to fill the vacancy on an interim basis until a special election can be held. Due to the timing, this special election would be held on the next regularly established election date which is November 2013.

This option would require that the Council adopt an ordinance which would allow the Council to appoint a member for the period beginning upon appointment and ending November 5, 2013. That seat (with a term set to expire in two years) would then be included on the regular election ballot, along with the other expiring four year terms. If the Council chooses this option, a special meeting would need to be held to introduce the ordinance and then the second reading could take place at the next regularly scheduled Council meeting on April 3<sup>rd</sup>. After the second reading, the Council could appoint a replacement.

There are some key timeframes and requirements to keep in mind: 1) the ordinance must be introduced no sooner than 5 days before the second reading, 2) the second reading must occur at a regular or adjourned regular Town Council meeting, 3) as an elections ordinance under state law, the ordinance takes effect immediately after the second reading, 4) the Council can interview candidates prior to the approval of the ordinance, but cannot appoint until after the second reading, and 5) the Council must appoint someone no later than April 8 because that is 60 days from the effective resignation date of former Councilmember O'Neil. The Council may also want to consider the policy implications and a new application period for this option.

### Fiscal Impact

The extra cost of placing the item on the ballot is negligible as it is the regular Town Council election date.

**AGENDA ITEM # 1**