



TOWN OF APPLE VALLEY TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** August 14, 2012
From: La Vonda M-Pearson, Town Clerk **Item No:** 16
Town Clerk's Office
Subject: DISCUSSION REGARDING APPOINTMENT TO FILL THE VACANCY
ON THE TOWN COUNCIL UPON THE RESIGNATION OF FORMER
MAYOR PRO TEM COLEMAN

T.M. Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:

Discussion regarding whether to appoint an individual to fill the vacancy on the Town Council and, if so, establish the process to be used to fill the vacancy or make a determination to leave the position vacant until the General Municipal Election to be held on November 6, 2012.

SUMMARY:

At the Town Council Meeting of July 24, 2012, the Town Council recommended that this item be continued to the meeting of August 14, 2012, after the official resignation date of former Mayor Pro Tem Coleman.

Former Mayor Pro Tem Coleman announced her resignation to the Apple Valley Town Council effective July 26, 2012. Government Code Section 36514 states that when a vacancy exists on the Council, the Council shall appoint or call a special election within sixty (60) days from commencement of the vacancy.

The term of office for this vacancy expires this election year and therefore there is no need to schedule a special election. However, if the Council desires, an appointment can be made to fill the unexpired term of former Mayor Pro Tem Coleman or elect to leave the seat vacant until the position is filled at the General Municipal Election on November 6, 2012.

If the Town Council wishes to fill the vacancy, it must appoint a Town resident and registered voter by September 24, 2012 by a majority vote of the Town Council.

State law does not prescribe any procedure for selection of an appointee. Therefore, the Town Council may choose any selection method it desires. The Council may choose to solicit applications and may interview applicants in an open session either collectively or one-on-one, at a regular or special Town Council Meeting. A process to conduct filling the vacancy via an appointment would be to:

1. Direct staff to alert Town residents about the interview process via public notice and make applications available.
2. Determine a deadline when applications and/or statements of qualifications must be submitted.
3. Schedule interviews to allow all applicants to address the Town Council for a specified amount of time.
4. Make an appointment to fill the vacancy and direct the Town Clerk to administer the Oath of Office.

There are 84 days remaining until the General Municipal Election.

This item will be an open discussion by the Town Council and will provide for the opportunity to present suggestions and/or receive input regarding the subject matter. Government Code Section 36512 is attached for your reference.

GOVERNMENT CODE SECTION 36512

36512. (a) If a vacancy occurs in an appointive office provided for in this chapter, the council shall fill the vacancy by appointment. A person appointed to fill a vacancy holds office for the unexpired term of the former incumbent.

(b) 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.

(c) Notwithstanding subdivision (b) and Section 34902, a city may enact an ordinance that does any of the following:

(1) Requires that a special election be called immediately to fill every city council vacancy and the office of mayor designated pursuant to Section 34902. The ordinance shall provide that 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.

(2) Requires that a special election be held to fill a city council vacancy and the office of mayor designated pursuant to Section 34902 when petitions bearing a specified number of verified signatures are filed. The ordinance shall provide that the special election shall be held on the next regularly established election date not less than 114 days from the filing of the petition. A governing body that has enacted such an ordinance may also call a special election pursuant to subdivision (b) without waiting for the filing of a petition.

(3) Provides that a person appointed to fill a vacancy on the city council holds office only until the date of a special election which shall immediately be called to fill the remainder of the term. The special election may be held on the date of the next regularly established election or regularly scheduled municipal election to be held throughout the city not less than 114 days from the call of the special election.

(d) (1) Notwithstanding subdivision (b) and Section 34902, an appointment shall not be made to fill a vacancy on a city council if the appointment would result in a majority of the members serving on the council having been appointed. The vacancy shall be filled in the manner provided by this subdivision.

(2) The city council may call an election to fill the vacancy, to be held on the next regularly established election date not less than 114 days after the call.

(3) If the city council does not call an election pursuant to paragraph (2), the vacancy shall be filled at the next regularly established election date.