

NOTICE AND CALL OF  
SPECIAL MEETING

NOTICE IS HEREBY GIVEN as provided by Government Code of the State of California Section 54956 that Mayor George Huntington called a Special Meeting of the Town Council of the Town of Yucca Valley for Monday, April 25, 2011, at 6:00 p.m. at the Yucca Valley Community Center, Yucca Room, 57090 Twentynine Palms Highway, Yucca Valley, California, for the below stated purpose.

**AGENDA**

**(Action may be taken on any of the items listed below)**

**ROLL CALL:** Council Members Hagerman, Luckino, Rowe and Mayor Huntington

**PLEDGE OF ALLEGIANCE**

**DISCUSSION ITEMS**

1. Town Council Vacancy – Discussion

Staff Report

**Recommendation: Provide Town Staff direction on preferred approach.**

Action: Move \_\_\_\_\_ 2<sup>nd</sup> \_\_\_\_\_ Voice Vote \_\_\_\_\_.

**ADJOURNMENT**

  
\_\_\_\_\_  
JANET M. ANDERSON, MMC  
Town Clerk

## TOWN COUNCIL STAFF REPORT

**To:** Honorable Mayor & Town Council  
**From:** Mark Nuaimi, Town Manager  
**Date:** April 21, 2011  
**For Council Meeting:** April 25, 2011

**Subject:** Town Council Vacancy -- Discussion

**Prior Council Review:** None

**Recommendation:** Provide Town staff direction on preferred approach

**Order of Procedure:**

- Request Staff Report
- Request Public Comment
- Council Discussion/Questions of Staff
- Motion/Second
- Discussion on Motion
- Call the Question (Voice Vote)

**Executive Summary:** On April 5, 2011, Chad Mayes resigned as a Town Councilmember from the Town of Yucca Valley. Due to Councilmember Mayes' resignation, the five-member Town Council currently has a vacant seat with only four councilmembers. Chad Mayes was recently elected to Town Council in November 2010 and his four year term is set to expire in December 2014. Town Council must decide on whether to fill the vacancy via Special Election or Appointment.

**Background:** The Town's Municipal Code does not provide for any procedures for filling Council vacancies or holding special elections; therefore, the Town must follow the requirements of the Government Code.

The Government Code provides the following options:

- A. On or before June 4, 2011 (i.e., ***within 60 days of the vacancy***), the Town Council could, by a majority vote, appoint a person to the Town Council where the appointed person would serve the remainder of the Councilmember Mayes' term (i.e., until December 2014).

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Reviewed By:

\_\_\_\_\_ Town Manager

\_\_\_\_\_ Town Attorney

\_\_\_\_\_ Mgmt Services

\_\_\_\_\_ Dept Head

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Department Report  
 Consent

Ordinance Action  
 Minute Action

Resolution Action  
 Receive and File

Public Hearing  
 Study Session

- B. Alternatively, on or before June 4<sup>th</sup> 2011 (i.e., ***within 60 days of the vacancy***), the Town Council could call a special election to be held on ***the next “regularly established election date” not less than 114 days from when the call was made***. The winner of that election would serve the remainder of Councilmember Mayes’ term (until December 2014).
- C. The Town Council could also pass an ordinance providing for a variety of alternative procedures. One alternative worth mentioning is stated in Government Code 36512(c)(3). *It allows, pursuant to an ordinance, that the Council will appoint a person to fill the vacant seat and at the same time call a special election.* The special election may be held either at the next regularly established election date not less than 114 days from the call or at the next regularly scheduled municipal election. The appointed person would serve as Councilmember until the special election is certified and the winner declared.

However, because this requires the adoption of an ordinance—which itself requires a 30 day period to take effect after second reading—there could be some timing issues given that the Government Code requires the Council to take action on Mr. Mayes’ seat before June 4, 2011. The Council could consider adoption of an Urgency Ordinance, which would take effect immediately. It is unclear whether necessary findings could be made to meet the standards for an urgency ordinance adoption.

- D. Finally, if no action is taken by the Town Council on or before June 4, 2011, then the seat will remain vacant and must be filled at the next regularly established election date.

**Discussion:** On April 5, 2011, Chad Mayes resigned as a Town Councilmember from the Town of Yucca Valley. Due to Councilmember Mayes’ resignation, the five-member Town Council currently has a vacant seat with only four councilmembers. Chad Mayes was recently elected to Town Council in November 2010 and his four year term is set to expire in December 2014. Town Council must decide on whether to fill the vacancy via Special Election or Appointment.

The Town is a general law city and therefore Division 3, Part 1 of the California Government Code (Government Code § 36500 *et seq.*) controls the filling of council vacancies. General law cities are permitted to enact ordinances to, among other things, require the immediate calling of a special elections, however, the Town’s Municipal Code does not provide for such an ordinance. (Gov. Code § 36512(c).) Therefore, we must follow the “default” procedures set forth in the Government Code.

## Town Council Vacancy – Discussion

April 25, 2011

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Government Code § 36512(b) provides, “[i]f 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... A person *appointed* or elected to fill a vacancy *holds office for the unexpired term* of the former incumbent.”

As to the appointment option, the Town within sixty (60) days of Councilmember Mayes' resignation (i.e., on or before June 4<sup>th</sup> 2011) can appoint a new councilmember. Notably, such a resolution of appointment would require three affirmative votes from the current council. (Gov. Code § 36810 [“[r]esolutions, orders for the payment of money, and all ordinances require a recorded majority vote of the total membership of the city council.”].) If the Council makes such an appointment, the appointee would serve until such time that Councilmember Mayes' term would have expired, or December 2014.

Alternatively, the Town Council could call a special election to fill the vacancy. Councilmember Mayes' seat would remain vacant in the interim. Again, such calling of an election must be made within 60 days of the vacancy (i.e., June 4, 2011). If the Town so calls a special election, Section 36512(b) requires that “[t]he special election shall be held on the *next regularly established election date not less than 114 days from the call* of the special election.” Again, the winner of this special election would serve the remainder of Councilmember Mayes' term (until December 2014). This election would occur on November 8, 2011 and the cost is estimated at \$50,000.

Elections Code § 4004 also allows the Town Council to call a Special Mail Ballot Election. August 30, 2011 has been declared as the Mail Ballot election date for San Bernardino County. The Council would have to call for that Mail Ballot election on/before May 8, 2011. The cost for a Special Mail Ballot election is estimated at \$25,000.

**Alternatives:** The Town Council could also pass an ordinance providing for some alternative procedures relating to vacancies on the Town Council. Because adoption of an ordinance requires a 30 day period to take effect after second reading, such an ordinance probably could not be used to address the current vacancy issue (i.e., given that the Council needs to take action on Mr. Mayes' seat before June 4, 2011).

Nonetheless, one option the Council might consider is adoption of an ordinance pursuant to Government Code 36512(c)(3) that “*allows, pursuant to an ordinance, that the Council will appoint a person to fill the vacant seat and at the same time call a special election.*”

Council may consider providing direction to bring forward alternative(s) to allow future Town Council more options than currently exist with the current scenario.

**Other Factors:** As Town Council is aware, there are a number of critical issues coming before the Council in the coming months. Some of these issues might require super-majority votes of the Council and operating as a four member Council could be restrictive if absences or conflict issues require recusal. Other issues – like the General Plan Comprehensive Update and Development Code Update – require considerable time investments from the Council and would be impacted if multiple changes occur (i.e. interim appointment – special election) on the council within the next two years.

**Fiscal impact:** Appointment to fill the Council vacancy has no financial effect. Conducting a Special Election can cost from \$25,000 to \$50,000.

**Attachments:**      **Questions to consider for potential applicants**

# **SAMPLE QUESTIONS FOR APPOINTMENT APPLICANTS**

- 1. How are you best qualified to fill the position of Council Member?**
- 2. What skills and abilities do you possess that would be complementary to the existing Council Members?**
- 3. What is your understanding of the Town's budget and financial condition?**
- 4. Tell us how and why you became a Yucca Valley resident?**
- 5. What service contributions have you made to the community?**
- 6. How have you helped to build consensus in a group? Please give examples.**
- 7. Do you support or oppose development in the Town? Why and what type?**
- 8. How will you separate issues from impacting your relationship with other Council Members when they don't agree with you?**
- 9. What do you see as Yucca Valley's biggest challenge(s)?**
- 10. What is your view on public employee pensions and other benefits?**
- 11. Do you have any financial, property or investment interests that may be deemed to be a conflict of interest for/or with the decisions that may be considered by the Town Council?**
- 12. Share your vision for the Town of Yucca Valley for the next three years (2014). Highlight what policies you would support in implementing your vision.**
- 13. If appointed, do you intend to run for Town Council in November 2014?**
- 14. There has been recent discussion about a possible 1% sales tax being imposed to assist in the delivery of the wastewater treatment plant and other Town infrastructure. What are your thoughts on this approach?**
- 15. What skill or ability do you have that would strengthen the Town Council? Are there any areas where you feel your knowledge level and expertise would benefit Council discussion and/or decisions?**
- 16. What do you believe is the role of a Town Council person and what would you do during your term to do this job well?**
- 17. The Town is about to embark on a comprehensive update to the General Plan. What is your understanding of the role of the General Plan in guiding a community? Do you think that updating the plan is a good idea at this time? What part of the General Plan do you feel is the most out of date?**

**SAMPLE QUESTIONS FOR APPOINTMENT APPLICANTS**  
April 25, 2011

18. Describe "Smart Growth" from your perspective.
19. Why do you want to be appointed to the Town Council?
20. Please describe what current and past community involvement or service on Town, non-profit or public boards have you had, and how your participation has contributed to the Town of Yucca Valley.
21. What do you consider the Town's top three priorities should be in order of urgency or importance? What two issues would you like to see the council come to grips with in the next two years?
22. If you could only accomplish one thing in your three-year term on the Town Council, what would you hope that to be?
23. What is Yucca Valley's biggest asset or strength and how would you as a Town Council member, capitalize on that strength? What do you most like about Yucca Valley?
24. What is the single item you would like to change in Yucca Valley?
25. What characteristics of Yucca Valley do you think are attractive to families considering re-location?
26. What is your definition of leadership and how would you implement that characteristic as a Town Council Member?
27. Should Yucca Valley position itself as a retirement community and focus development on senior services?
28. What is your opinion of the new Senior Housing project proposed at Town Hall?
29. The Town currently has a backlog of over \$14 million in needed road maintenance and the Town currently does not have funding for this maintenance. How would you suggest funding this need?
30. Does the Town have sufficient recreation facilities to serve our residents?
31. Blue Skies Golf Course is in the process of foreclosure. Should the Town intervene or wait until a potential developer / alternative use is proposed?
32. The Town currently has a Redevelopment Agency. What is your understanding of the role of Redevelopment Agencies in local government?
33. The Governor has broadly proposed elimination of Redevelopment Agencies statewide. What is your opinion of such a proposal?
34. If the Town has \$1 Million to spend on a capital project, such as parks, streets and roads, flood control, public buildings, etc., what project or improvements would you put the money towards?

**SAMPLE QUESTIONS FOR APPOINTMENT APPLICANTS**  
**April 25, 2011**

- 35. Council members are assigned to participate in regional government programs, such as San Bernardino Associated Governments, Morongo Basin Transit Authority, etc., what is your availability to represent the Town if assigned to one of these programs, and describe how you would represent the Town in this capacity? Do you have the availability in your present occupation to meet the extra time demands required of Council Members?**
- 36. How do you define team work and how would you implement team work as one of five Town Council members? Do you feel that you are a good fit with current Council Members and if so why?**
- 37. What can / does the Town do to improve the Quality of Life for Yucca Valley residents? What do you think are the primary wants of Town government for the majority of citizens in Yucca Valley?**
- 38. How long have you lived in the Town of Yucca Valley and briefly tell us why you moved here? If you were born and raised here, please explain why your family came here and what keeps you here.**