

December 8, 2005

Regular Council Meeting  
December 13, 2005

Mayor and Members  
of the City Council

**CONSIDERATION OF AN ORDINANCE PURSUANT TO CALIFORNIA  
GOVERNMENT CODE SECTION 36512 TO PROVIDE THE CITY COUNCIL AN  
ALTERNATIVE PROCEDURE TO FILL THE ANTICIPATED VACANCY ON THE  
CITY COUNCIL**

**RECOMMENDATION:**

It is recommended that the City Council consider adoption of an urgency ordinance that would permit the Council to make an appointment until either the conduct of a special election at a regularly established election date not less than 114 days from the date of the call, or until the next regularly established municipal election in November 2007 (in which event candidates would run to fill the remaining 2 years of the 4-year term). In the absence of this ordinance, the only alternatives available to the Council are to call a special election or to make an appointment for the full four-year term.

**BACKGROUND:**

A vacancy on the City Council is anticipated to occur this evening by virtue of the announcement of Councilmember-elect Howard Fishman that he does not intend to be sworn into office or serve his term due to his wife's illness. The vacancy will exist upon the certification of the election results and the swearing in of the councilmembers-elect. Pursuant to Government Code Section 36512, absent adoption of this ordinance, the Council will have 30 days in which to take one of two possible actions to fill the vacancy – either an appointment for the full four year term or by calling a special election to occur in April 2006 (if the election is called tonight) or in June, 2006 (if the election is called on January 10, 2006).

Government Code Section 36512(c)(3) provides as follows:

“(c) Notwithstanding subdivision (b) and Section 34902, a city may enact an ordinance which:

(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.”

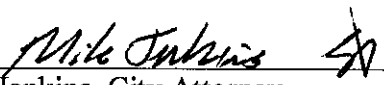
The urgency ordinance attached to this report would allow the Council the alternative provided above – to make an appointment for a limited period – until the special election (either April or June, 2006) or until November, 2007. This ordinance must be in effect prior to the occurrence of the vacancy.

**RECOMMENDATION:**

City Council may wish to consider adoption of the attached ordinance prior to the occurrence of the vacancy.

Noted:

  
Stephen R. Burrell, City Manager

  
Michael Jenkins, City Attorney

Attachments:

ORDINANCE NO. \_\_\_\_\_ U

AN ORDINANCE OF THE CITY OF HERMOSA BEACH  
REGARDING FILLING COUNCIL VACANCIES AND  
AMENDING THE HERMOSA BEACH MUNICIPAL CODE  
AND DECLARING THE URGENCY THEREOF

The City Council of the City of Hermosa Beach does hereby ordain as follows:

Section 1. Title 2, Chapter 2.08 of the Hermosa Beach Municipal Code is amended by adding thereto a new Section 2.08.040 to read as follows:

**2.08.040. Vacancy filling procedure.**

A vacancy on the City Council shall be filled in the manner prescribed by law. Alternatively, the City Council may appoint a person to fill a vacancy on the City Council to hold office only until the date of a special election, which shall be immediately called to fill the remainder of the term. The special election may be held on the date of the next regularly established municipal election or other regularly established election to be held in the City more than 114 days from the call of the special election.

Section 2. Government Code Section 36512 allows cities to adopt by ordinance alternate methods of filling city council vacancies. Adoption of such an ordinance offers the City Council a wider array of options than is otherwise provided by the Government Code. Any such ordinance must be in effect prior to the occurrence of a vacancy. The City Council anticipates that a vacancy will occur by virtue of the announcement by a city councilmember-elect that he does not intend to assume the office. Adoption of this ordinance on an urgency basis is necessary so that it is in effect at the time of the vacancy, and to provide the Council with more options for filling the anticipated vacancy, which better serves the public interest. Immediate preservation of the public health, safety and welfare requires that this Ordinance take effect immediately. Absent immediate effectiveness, the City Council would have more limited options to fill the vacancy, which is contrary to the best interests of the public. This is an urgency ordinance adopted pursuant to Government Code Section 36937 and shall take effect immediately upon adoption.

PASSED, APPROVED AND ADOPTED this 13<sup>th</sup> day of December, 2005.

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Mayor

Attest: