

TOWN OF SAN ANSELMO

STAFF REPORT

February 20, 2013

For the Meeting of February 26, 2013

TO: Town Council

FROM: Debra Stutsman, Town Manager

SUBJECT: Resignation of Councilmember Lopin and process for replacement

RECOMMENDATION

That Council select a process to fill the vacant seat on the Town Council created by the resignation of Lori Lopin, effective February 25, 2013.

BACKGROUND

Councilmember Lopin has submitted her resignation from the Town Council, effective February 25, 2013. A copy of her resignation letter is attached (Attachment 1).

Council action regarding the resignation of a Councilmember is directed by Section 36512 of the California Government Code (Attachment 2).

LEGAL ANALYSIS

As a general rule, state law mandates that the Council, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy. (Gov. Code § 36512(b).) The person appointed or elected to the vacant position holds office for the unexpired term of the former incumbent. (Gov. Code § 36512(a)). In this case that would be November, 2015.

If the Council calls a special election to fill the seat, "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." (*ibid.*)

Although the County of Marin has special election dates reserved for May 7, 2013, and June 4, 2013, the Town cannot participate in these elections to fill the vacancy, because both dates are earlier than 114 days from the call of the special election. A vote-by-mail election is scheduled for August 27, 2013; however, this type of election would not be considered a "regularly established election". Rather, mailed ballot elections may be conducted only where no more than 1000 registered voters are eligible to participate or the measures on the ballot relate to tax measures in a city with 5000 or fewer voters or where Proposition 218 requires an assessment ballot proceeding. (Cal. Elect. Code § 4000).

Accordingly, the special election would have to be held on one of the "established election dates", which are defined as:

- (a) The second Tuesday of April in each even-numbered year.
- (b) The first Tuesday after the first Monday in March of each odd-numbered year.
- (c) The first Tuesday after the first Monday in June in each year.
- (d) The first Tuesday after the first Monday in November of each year. (Cal. Elect. Code § 1000).

The next regularly established election date on which the Town can call a special election to fill the Council vacancy is on November 5, 2013. This is the date on which our regular Town Council election is scheduled to be held.

In addition, Government Code section 36512 (c)(3) provides that a city may adopt an ordinance that: "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."

If the Council adopts such an ordinance, it could appoint a new member to the vacant seat as soon as the ordinance takes effect. Under Government Code section 36937(a), ordinances relating to an election take effect immediately. Therefore, the Council could call a special election and appoint a new member at the same meeting at which it adopts the ordinance (following the first reading). The Council appointee would remain in the position until the special election could be held on November 5, 2013. Following the election, the interim appointee would be replaced by an elected Council member who would fill the remainder of Lori Lopin's original term (November 2015).

DISCUSSION

- Selection by appointment:

If Council chooses to fill the vacancy by appointment, that appointment must be made by April 26, 2013. Council may at its March 12, 2013 meeting announce the vacancy and invite applications for Council appointment. If Council pursues the appointment option, staff suggests the following timeline for making the appointment:

Tuesday., March 12, 2013:	Announce vacancy & invite applications
Thursday, March 28, 2013:	Close applications
Tuesday, April 9, 2013:	Interview applicants
Tues., April 23, 2013:	Select applicant to fill vacancy

Attached is a draft application similar to ones used in prior Council appointments to a vacancy (Attachment 3).

- Special Election

If Council chooses the special election option, the next regularly established election date would be November 5, 2013. The extra cost of placing the item on that ballot is negligible as it is a regular Town Council election date. The person elected would fill out the remainder of Ms. Lopin's term, which is to November 2015. Between now and the election, the seat would remain vacant.

- Ordinance Option

If Council chooses the ordinance option, an ordinance would be prepared that would allow the Council to appoint a member for the period beginning now 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 four year

terms of Mayor Coleman, Vice-Mayor Kroot and Councilmember McInerney. If Council chooses this option, staff suggests the following timeline for the ordinance approval and appointment:

Tuesday, March 12, 2013	Introduce ordinance, announce vacancy and invite applications
Tuesday, March 26, 2013	Adopt ordinance and call special election to fill vacancy
Thursday, March 28, 2013	Close applications
Tuesday, April 9, 2013	Interview applicants
Tuesday, April 23, 2013	Select applicant to fill vacancy until 11/5/13

CONCLUSION

A number of times in the past fifteen years there have been vacancies on the Council due to resignations of Councilmembers. In all of those instances, Council chose to call for applications, and made an appointment from the applications.

Respectfully submitted,



Debra Stutsman
Town Manager

Attachment 1 – Lopin Resignation Letter
Attachment 2 – Government Code §36512
Attachment 3 – Draft Application

February 15, 2013

Debbie Stutsman, San Anselmo Town Manager
Kay Coleman, San Anselmo Mayor
Jeff Kroot, San Anselmo Vice-Mayor
Tom McInerney, Council Member
Ford Greene, Council Member
Town of San Anselmo Residents

Re: Resignation from San Anselmo Town Council

Dear Debbie, Kay, Jeff, Tom, Ford, & fellow San Anselmo Town Residents,

I am writing with great sadness to tell you that I must resign my Town Council position as of February 25, 2013 due to family and health issues. I am so grateful to all of you and especially to the residents of San Anselmo for trusting me and electing me to the Town Council.

I have enjoyed working with you and for San Anselmo and wish you all well with your future endeavors and search for a new Council member. I hope it goes well and that you find an individual who is able to give 110% to the job.

Take care and thank you.

Lori

Lori J. Lopin
San Anselmo Town Council Member
ljlopin@aol.com

ATTACHMENT #1

36511. The petition for incorporation of a city may provide for the appointment of the elective officers, or any of them except council members. If it does, a separate election upon the question need not be held, and upon incorporation the city council shall appoint those officers.

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.

ATTACHMENT #2

TOWN OF SAN ANSELMO
525 San Anselmo Avenue
San Anselmo, California 94960
(415)-258-4600
FAX (415) 459-2477

Town Council
Application for Appointment

Applications must be in the Town Manager's office by Thursday, March 28, 2013.

Applications may be received by fax transmission. Interviews, which are open to the public, will be held on Tuesday, April 9, 2013 beginning at 6:00 p.m.

Appointment is expected to be made at the regular Town Council meeting on Tuesday, April 23, 2013, at 7:00 p.m.

Please note that the completed form and the answers to the questions on the form are public record upon receipt by the Town Manager, and are subject to full disclosure.

If you have any questions about the application form, the appointment process, or the duties and responsibilities of a Town Councilmember, please feel free to contact Town Manager Debra Stutsman at 258-4652.

Date: _____

Name: _____

Address: _____

Phone Number(s): _____

E-mail address: _____

I am a registered voter in San Anselmo: _____ Yes _____ No

I have been a resident of San Anselmo for _____ years, and my occupation is

Signature of Applicant: _____

Date: _____

Using another sheet of paper, please answer the following questions:

1. Please describe your educational background. Include degrees, special distinctions or honors, and the dates received. Special training and/or skills should also be noted.
2. Please summarize your involvement in community activities. Include any offices held and/or significant accomplishments.
3. Please explain why you wish to be a member of the San Anselmo Town Council, and describe what skills or unique qualifications you would bring to the Town Council.
4. List three ideas you have for improving the Town of San Anselmo, and describe how these ideas might be implemented.
5. All persons serving on the Town Council are required by State law to disclose both their own and their spouse's investments and income. In addition, the appointee to the Town Council must be prepared to make a significant time commitment. Please indicate any interests that you or your spouse may have that could create a conflict of interest if you were chosen to serve as a Councilmember. Also, please indicate if there are any personal or professional time limitations on your availability to serve as a Councilmember.