

CITY OF SANTA ROSA  
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL  
FROM: SUE GALLAGHER, CITY ATTORNEY  
STEPHANIE WILLIAMS, CITY CLERK  
SUBJECT: COUNCIL VACANCY APPOINTMENT PROCEDURE AND  
SCHEDULE

AGENDA ACTION: MOTION

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RECOMMENDATION

It is recommended by the City Attorney and the City Clerk that the Council, by motion, approve the procedure and schedule for filling the City Council vacancy created by the resignation of Council member Jack Tibbetts.

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EXECUTIVE SUMMARY

Council member Jack Tibbetts announced his resignation from the City Council effective December 21, 2021. His resignation creates a vacancy on the Council. Section 31 of the Santa Rosa City Charter provides that such vacancy shall be filled either (a) by appointment by the Council within 60 days of the vacancy, or (b) by the calling of a special election.

Council may choose to call a special election to fill the vacancy. A special election would take place no earlier than June 2022. The Sonoma County Registrar of Voters has provided the City Clerk with a preliminary cost estimate, indicating that the cost of such special election could range between \$56,115 and \$102,878. The candidate selected in the special election would serve the remainder of Council Member Tibbetts' term, ending in December 2024.

Alternatively, Council may choose to make a temporary appointment to fill the Council vacancy until the next regularly scheduled municipal election in November 2022. An appointment by the Council would be governed by Council Policy No. 000-23 and would be effective upon selection of the successor. As a first step, Council Policy No. 000-23 requires that the Council, at the earliest possible time after a vacancy occurs, adopt a schedule setting forth (1) the time and date for submission of applications to fill the vacancy; (2) the time and date for submission by the public of questions for applicant interviews; and (3) the date(s) on which applicants will be interviewed by the Council at a public meeting. The appointment process must be completed within 60 days of the

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vacancy. If it is not completed, a special election must be called. If Council determines to proceed by way of an appointment, Council may, by motion, approve a proposed schedule and authorize related documents and procedures.

BACKGROUND

On December 14, 2021, Council member Jack Tibbetts announced his resignation from the Council, effective December 21, 2021. He expressed his heartfelt gratitude for his time of service on the Council. His resignation creates a vacancy on the Council.

Section 31 of the City Charter provides that such vacancy may be filled either (a) by appointment by the Council or (b) by special election. If the Council fails to fill the vacancy by appointment within sixty days of the vacancy, a special election must be held as soon as practicable.

A. Special Election

If the Council determines to fill the vacancy by special election, the election procedures will be governed by the state Elections Code, in accordance with Section 30 of the City Charter. Under the applicable provisions of the Elections Code, the special election must be called at least 114 days in advance and must occur on an “established election date,” as defined in the Code. Given these constraints, the earliest available election date to fill the Council vacancy is June 7, 2022

To meet the June election date, Council would have to call the election by no later than February 13, 2022. The Sonoma County Registrar of Voters currently estimates that the cost of such City election would be between \$56,115 and \$102,878.

The individual elected to fill the vacancy will serve for the remainder of Council Member Tibbetts’ term. Council Member Tibbetts’ four year term ends in 2024.

B. City Council Appointment

If Council determines to fill the Council vacancy by appointment, the appointment process will be governed by Council Policy No. 000-23. Policy No. 000-23 was adopted by the Council in 1988 to set forth the procedures by which Council may make such appointment. (The City Charter is silent as to the process of appointment.) The Council adopted clarifying amendments to the Policy in 2007 and 2013.

Policy No. 000-23 sets forth seven required steps:

1. Time Schedule: At the earliest possible time after the vacancy occurs, Council must adopt a time schedule, including (1) the time and date for submission of applications to fill the vacancy; (2) the time and date for submission by the public of questions for applicant interviews; and (3) the

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date(s) on which applicants will be interviewed by the Council at a public meeting.

2. Applications: Staff must prepare an application form, which must include space for the applicant's statement of background, statement of qualifications, and statement of why the applicant wishes to be appointed. Applications must be accompanied by a Nomination Form, containing valid signatures of at least 20 registered voters of the City of Santa Rosa, as well as a completed Statement of Economic Interests (Form 700). The Council may add additional questions to the application form, if it so desires.
3. Disclosure of Applications: No applicant names or other information shall be disclosed by City staff or officials prior to the close of the application deadline. Following the deadline for submission of applications, the applications and the names of all applicants must be made public.
4. Interview Questions: The public must be given an opportunity to propose interview questions. Proposed questions must be submitted in writing and received within the deadline set by Council. The questions will be forwarded to all Council members, who may, at their discretion, choose to use them during the interviews.

The Council, by motion, may choose to present questions to the applicants in advance of the interviews. The Council may require that applicants provide written responses prior to the interviews or may simply require applicants to provide verbal responses during their interviews. The advance questions may be proposed by individual Council members or, alternatively, the Mayor may appoint an ad hoc committee to prepare the questions.

5. Interviews: The interviews must be conducted in an open public meeting. Each applicant must be interviewed separately. Each applicant must be given an opportunity to present a brief opening statement and to respond to advance questions, if any. Each Council member will then be given an opportunity to question the applicant on any subject he or she feels is relevant to the applicant's qualifications. Time limits may be imposed.
6. Voting: Selection will be made through a process of elimination. At the first round, each Council member may vote for three applicants. (If there are more than ten applicants, the Council may determine to allow each Council member to vote for four applicants in the first round.) Applicants receiving one vote or less will be eliminated. In subsequent rounds, each Council member votes for one less applicant than in the prior round, until each Council member has just one vote. The applicant that receives four or more votes in the final round shall be appointed to fill the vacancy.

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7. Appointment: Following the close of all interviews and the vote, the Council may, by resolution, appoint the selected applicant to the Council vacancy. The appointment will be effective immediately.

The appointee will then serve until the next municipal election in November 2022. The November 2022 election will provide a permanent replacement to serve the remainder of Council Member Tibbett's four year term.

If no applicant receives a majority vote of the Council, the Council may adopt such other procedures for appointment as it may deem appropriate.

If the appointment process is not completed within 60 days of the vacancy, a special election must be called.

It is important to note that Council member Tibbetts was elected from and represented Council District 3. The individual appointed to fill the vacancy will fill that District position. Applicants for appointment must thus reside within District 3.

#### PRIOR CITY COUNCIL REVIEW

On July 19, 1988, the City Council, by Resolution No. 19000, adopted Council Policy No. 000-23, establishing procedures for filling council vacancies.

On July 10, 2007, the City Council, by Resolution No. 26891, amended Policy No. 000-23.

On January 15, 2013, the City Council, by Resolution No. 28224, amended Policy No. 000-23.

#### ANALYSIS AND ACTION ITEMS

To move the appointment process forward, staff recommends that Council take the following actions at this time:

As a first step, the Council must determine whether to fill the current Council vacancy through a special election or by way of a Council appointment.

##### A. Special Election

If the Council determines to call for a special election, the call for election should be scheduled as quickly as possible. As noted above, at this time, the earliest possible date for the special election is June 7, 2022. This would leave the vacancy open for a period of more than six months. In the interim, many critical issues, including Council goal setting, redistricting, potential charter amendments, the City budget and, financial stability, housing, homelessness, and others, would be decided by a six-member

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Council.

The special election would cause the City to incur unanticipated costs. As noted above, the Sonoma County Registrar of Voters currently estimates the cost of such special election to be between \$56,115 and \$102,878. These costs are not included in the current FY19/20 City budget, and would be drawn from the City's unallocated reserves.

To meet the June election date, the Council must call the election by February 13, 2022. If the Council determines to proceed by special election, staff recommends that the Council, by motion, give direction to staff to prepare the materials to call the election as soon as practicable.

B. Council Appointment

If Council determines to fill the Council vacancy by appointment, Council Policy No. 000-23 requires several steps, as outlined above. The 60-day time-limit for Council appointment means that the entire appointment process must be completed by Saturday, February 19, 2022. In order to meet that time-frame, staff recommends the following Council actions at this time:

In sequence:

1. Appointment Schedule: In accordance with Policy No. 000-23, the Council-approved schedule must include the date and time for submittal of applications, and for submittal of interview questions and the date(s) for the interviews themselves. Staff proposes the schedule set forth in Attachment 1 for Council's consideration, as follows:
  - Application period: Two-week period from January 3, beginning at noon, to January 17, 2022, ending at 5:00 p.m.
  - Period for public to submit interview questions: Two-week period from January 3, 2022 to January 17, 2022.
  - Date(s) for interviews: Interviews to be held on February 8, 2022 and, if necessary, on February 9, 2022.

Council is free to adjust this schedule as it deems appropriate. It should be noted that the February interview dates may preclude the subsequent calling of a special election for June. Should Council fail to appoint a new Council member following the interviews in February, the earliest date for an election would be the general municipal election of November 8, 2022.

2. Form of Application:

Staff proposes the form of application attached as Attachment 2, and seeks

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Council approval and authorization for issuance. The form includes the three questions required by Policy No. 000-23, including a statement of background, a statement of qualifications and a statement of why the application wishes to be appointed. In addition, the form asks several additional questions, questions that mirror those asked in connection with prior Council vacancies. In accordance with Policy No. 000-23, the application form must be accompanied by a Nomination Form, signed by at least 20 registered City voters, as well as a completed Statement of Economic Interests (Form 700).

3. Advance Questions:

The Council, by motion, may choose to present questions to the applicants in advance of the interviews. Also by motion, Council may decide whether those questions are to be answered in writing prior to the interview or verbally at the interview itself. The Mayor may appoint an ad hoc committee to draft the advance questions, or may seek suggestions from all Council members.

4. Interview Process:

The interview process is set forth in Policy No. 000-23, as described above. Based on the time available and the number of applicants, however, Council has discretion to place a time limit on each interview or limit the number of questions asked of each applicant. Staff seeks general direction from Council at this time, so as to allow for appropriate scheduling depending upon the number of applications received.

FISCAL IMPACT

A special election would cause the City to incur unanticipated election costs, estimated to be between \$56,115 and \$102,878. Beyond potential election costs, the fiscal impact of the filling of the Council vacancy is unknown at this time.

ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable

NOTIFICATION

Not applicable

ATTACHMENTS

- Attachment 1 – Proposed Appointment Schedule
- Attachment 2 – Proposed Application Form
- Attachment 3 – Council Policy No. 000-23
- Attachment 4 – City Charter, Sections 30 and 31

CONTACT

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