

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: SUE GALLAGHER, CITY ATTORNEY
SUBJECT: COUNCIL VACANCY APPOINTMENT PROCEDURES

AGENDA ACTION: MOTION

RECOMMENDATION

It is recommended by the City Attorney that the Council, by motion, provide preliminary approval for interview procedures in connection with the appointment of an individual to fill the City Council vacancy created by the resignation of Council Member Julie Combs.

EXECUTIVE SUMMARY

Council member Julie Combs resigned from the City Council effective November 25, 2019. Her resignation created a vacancy on the Council. Section 31 of the Santa Rosa City Charter provides that such vacancy may be filled either (a) by appointment by the Council within 60 days of the vacancy, or (b) by the calling of a special election. On December 3, 2019, the Council determined to fill the vacancy by appointment.

The appointment by the Council is governed by Council Policy No. 000-23. In accordance with Policy No. 000-23, on December 3, 2019, the Council took the following actions:

1. Council adopted a schedule for the appointment, including a deadline for applications, a deadline for the public to submit interview questions, and the date(s) on which applicants will be interviewed.
2. Council approved an application form.
3. Council determined to present advance questions to the applicants, to be answered verbally at the time of interview.
4. The Mayor appointed an ad hoc subcommittee to determine the advance questions.
5. Council delegated to the ad hoc subcommittee the task of (a) evaluating the need for a time limit on each interview and or a limitation on the number of

MOTION – COUNCIL VACANCY APPOINTMENT PROCEDURE AND SCHEDULE
PAGE 2 OF 6

questions asked, and (b) making a recommendation to the full Council for approval.

6. Council directed that final approval of the recommendation be made on January 7, 2020, the day on which interviews are scheduled to begin.

In order to allow for the tentative scheduling of applicant interviews, the City Attorney and Acting City Clerk recommend that Council tentatively approve the recommendations of the ad hoc subcommittee with respect to interview time limits and limits on the number of questions asked, if any. Final Council approval of the interview procedures would occur on January 7, 2020, as directed by Council on December 3, 2019.

Once Council makes the appointment, the individual appointed will serve for the remainder of Council Member Julie Combs' term, ending in December 2020.

BACKGROUND

On November 19, 2019, Council member Julie Combs announced her resignation from the Council, effective November 25, 2019. The resignation created 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 within 60 days of the vacancy, or (b) by special election. On December 3, the Council determined to fill the vacancy by appointment.

Council Policy No. 000-23 sets forth the procedures by which the Council may make an appointment to fill a Council vacancy. The Policy was first adopted in 1988, with clarifying amendments approved by the Council in 2007 and 2013.

The Council's appointment to fill the vacancy created by the resignation of Julie Combs will be governed by Council Policy No. 000-23. The policy sets forth seven required steps, as outlined below. The individual selected to fill the vacancy in accordance with the Policy will serve for the remainder of Council member Combs' term, that is, until the November 2020 election results are certified and accepted by the City Council, expected to occur in December 2020.

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.

MOTION – COUNCIL VACANCY APPOINTMENT PROCEDURE AND SCHEDULE
PAGE 3 OF 6

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

On December 3, 2019, the City Council, by multiple motions, (1) determined to fill the vacancy by appointment in accordance with Policy No. 000-23, and (2) approved the necessary steps to establish the interview process.

ANALYSIS

Policy No. 000-23 sets forth seven required steps for a Council vacancy appointment. Council is now mid-way through the process, as follows:

1. **Time Schedule:**

- a. Policy Requirement: 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 date(s) on which applicants will be interviewed by the Council at a public meeting.
- b. Council Action: **Completed.** On December 3rd, Council approved the required time schedule. Pursuant to that schedule, the application period opened on December 4th at noon and closed on December 18th at 5:00 p.m. The period for submitting proposed interview questions opened on December 4th at noon and closed on December 16th at 5:00 p.m. Interviews will begin on January 7, 2020 and continue as needed.

2. **Applications:**

- a. Policy Requirement: 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.
- b. Council Action: **Completed.** On December 3rd, Council approved the form of application proposed by staff as submitted.

3. **Disclosure of Applications:**

- a. Policy Requirement: No applicant names or other information shall be disclosed by City staff or officials prior to the close of the application deadline.

MOTION – COUNCIL VACANCY APPOINTMENT PROCEDURE AND SCHEDULE
PAGE 4 OF 6

Following the deadline for submission of applications, the applications and the names of all applicants must be made public.

- b. Council Action: **Completed**. The application period ended at 5:00 p.m. on December 18th. Applications are now available for public review and the names of all applicants have been made public.

4. Interview Questions:

a. Policy Requirements:

- i. 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.
- ii. 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.

b. Council Action: **In progress**.

- i. Proposed interview questions have been submitted by the public and those proposed questions will be forwarded to all Council members.
- ii. On December 3rd, Council, by motion, chose to present questions to the applicants in advance of the interview and to require applicants respond verbally during the interviews. The Mayor established an ad hoc subcommittee to prepare the advance interview questions. The ad hoc committee met on December 19th and will report its work to the Council on December 20th.

5. Interviews:

- a. Policy Requirements: 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.

- b. Council Action: **In Progress**. Interviews are now being scheduled. On December 3rd, the Council, by motion, authorized the ad hoc subcommittee to

MOTION – COUNCIL VACANCY APPOINTMENT PROCEDURE AND SCHEDULE
PAGE 5 OF 6

make a recommendation regarding appropriate interview time limits and limits on the number of questions. The ad hoc subcommittee will present its recommendations to the Council on December 20th for preliminary approval.

In addition, on December 3rd, Council directed staff to research whether applicants may be sequestered during the interview process. Staff will report their conclusions on December 20th and seek further direction.

6. **Voting:**

- a. **Policy Requirement:** 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.
- b. **Council Action:** **In Progress.** Interviews are now being scheduled. Selection will be made in accordance with the Policy. Given that the City Clerk received more than ten completed applications, the Council may determine to allow each Council member to vote for four applicants in the first round.

7. **Appointment:**

- a. **Policy Requirement:** 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. 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 occurrence of the vacancy, a special election must be called.
- b. **Council Action:** **Future action.** No action required at this time.

FISCAL IMPACT

Advertisement of the City Council vacancy had estimated costs of approximately \$1,500.

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

MOTION – COUNCIL VACANCY APPOINTMENT PROCEDURE AND SCHEDULE
PAGE 6 OF 6

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

The City Council vacancy was advertised through the following:

- The City's website
- The City Connection Newsletter
- Facebook
- NextDoor
- Twitter
- Print advertisements in the Press Democrat
- Radio advertisements on KSRO
- Press Release

ATTACHMENTS

- Attachment 1 – Council Policy No. 000-23

CONTACT

Sue Gallagher
sgallagher@srcity.org

707-543-3040