

CITY OF SANTA ROSA  
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL  
FROM: SUE GALLAGHER, CITY ATTORNEY  
DINA MANIS, ACTING CITY CLERK  
SUBJECT: COUNCIL VACANCY APPOINTMENT PROCEDURE AND  
SCHEUDLE

AGENDA ACTION: MOTION

---

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 Julie Combs.

---

EXECUTIVE SUMMARY

Council member Julie Combs has resigned from the City Council effective November 25, 2019. Her 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. The individual appointed to fill the vacancy will serve for the remainder of Council member Combs' term, ending in December 2020.

Council may choose to call a special election to fill the vacancy. A special election would take place no earlier than the second Tuesday in April 2020. 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 \$184,718 and \$323,257.

Alternatively, Council may choose to make an appointment to fill the Council vacancy. 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 vacancy. If it is not completed, a special election must

MOTION – COUNCIL VACANCY APPOINTMENT PROCEDURE AND SCHEDULE  
PAGE 2 OF 7

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 November 19, 2019, Council member Julie Combs announced her resignation from the Council, effective November 25, 2019. Her 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 within 60 days of the vacancy, or (b) by special election. The individual selected to fill the vacancy will serve for the remainder of Council member Combs' term. Council member Combs' four year term ends in 2020, upon certification of the November election results and presentation of those results to the City Council. The certification and presentation are expected to occur in early or mid-December 2020.

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," defined in the Code, for even years, as the second Tuesday in March, the second Tuesday in April or the second Tuesday in November. Given these constraints, the earliest available election date to fill the Council vacancy is the second Tuesday in April, that is, April 14, 2020.

To meet the April election date, Council would have to call the election by no later than December 22, 2019.

At this time, there are no other elections or measures on the April ballot. The City may therefore be required to bear the entire cost of the election. The Sonoma County Registrar of Voters currently estimates that the cost of such City election would be between \$184,718 and \$323,257, depending upon whether other items are added to the ballot.

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.

MOTION – COUNCIL VACANCY APPOINTMENT PROCEDURE AND SCHEDULE  
PAGE 3 OF 7

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 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

MOTION – COUNCIL VACANCY APPOINTMENT PROCEDURE AND SCHEDULE  
PAGE 4 OF 7

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.

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.

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.

It is important to note that Council member Combs was an at-large Council member, elected by the voters City-wide. Her seat remains an at-large position. Applicants to complete her term may thus come from any address within the City limits.

#### 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 April 14, 2020. This would leave the vacancy open for a period of more than four and a half months, including the dates currently scheduled for the Council's goal-setting sessions. In the interim, many critical issues, including

MOTION – COUNCIL VACANCY APPOINTMENT PROCEDURE AND SCHEDULE  
PAGE 5 OF 7

matters concerning the City's resiliency and recovery, financial stability, housing, homelessness, climate action, downtown development and others, would be decided by a six-member Council.

The special election would cause the City to incur unanticipated costs, estimated to be between \$184,718 and \$323,257. 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 April election date, the Council must call the election by December 22, 2019. If that date is missed, the next available election date is November 2020.

B. Council Appointment

If Council determines to fill the Council vacancy by appointment, Council Policy No. 000-23 requires several steps, as outlined above. In order to meet the City Charter's 60-day time limit for Council appointment, 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, for submittal of interview questions and for the interviews themselves. Staff proposes the schedule set forth in Attachment 1, as follows:
  - Application period: Two-week period from December 4, beginning at noon, to December 18, 2019 ending at 5:00 p.m.
  - Period for public to submit interview questions: Twelve day period from December 4 to December 16, 2019.
  - Date and time for interviews: Interviews to begin at 4:00 p.m. on January 7, 2020, continuing to no later than 10:00 p.m., and resuming, if necessary, at 2:00 p.m. on January 8, 2020.

Council is free to adjust this schedule as it deems appropriate. It should be noted that the January interview dates will preclude the subsequent calling of a special election for April. Should Council fail to appoint a new Council member after the interviews in January, the earliest date for a special election would be November 2020.

2. Form of Application:

Staff proposes the form of application attached as Attachment 2, and seeks Council approval and authorization for issuance. The form includes the three questions required by Policy No. 000-23, including a statement of background, a

MOTION – COUNCIL VACANCY APPOINTMENT PROCEDURE AND SCHEDULE  
PAGE 6 OF 7

statement of qualifications and a statement of why the application wishes to be appointed. In addition, the form asks nine 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 \$184,718 and \$323,257. 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

Sue Gallagher, City Attorney  
[sgallagher@srcity.org](mailto:sgallagher@srcity.org)  
707-543-3040