



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: CITY ATTORNEY

Prepared by: Lisa A. Goldfien,
Assistant City Attorney

City Manager Approval: _____

TOPIC: NOVEMBER 7, 2017 GENERAL MUNICIPAL ELECTION

SUBJECT: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL PROVIDING FOR THE APPOINTMENT TO THE OFFICES OF THIS CITY THAT WERE TO BE ELECTED ON TUESDAY, NOVEMBER 7, 2017 AND CANCELLING THE CITY ELECTION ON THAT DATE

RECOMMENDATION:

Adopt the attached Resolution.

BACKGROUND:

The City's General Municipal Election is scheduled for November 7, 2017. Scheduled for the ballot at this election are the City Council seats of Kate Colin and Maribeth Bushey. There are no ballot measures qualified for the election.

As of the close of business on Friday August 11, 2017, the deadline for filing nomination papers, only the incumbents for those offices had filed.

ANALYSIS:

Elections Code section 10229 provides that if by the statutory nomination filing deadline, there are not a greater number of candidates than offices to be elected, and if there are also no qualified ballot measures, then the City Clerk shall certify these facts to the City Council, publish a notice of the same, and after the fifth day after such publication, the Council may take one of three courses of action:

1. The Council may appoint to the office the person who has been nominated;
2. The Council may appoint to the office any eligible voter if no one has been nominated (not applicable here); or

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

3. The Council may determine to hold the election if either no one or only one person has been nominated.

The City Clerk has provided the required certification to the Council that there are not more candidates than the offices to be elected. (See Attachment 1) Therefore, the Council has the option to appoint the incumbent candidates to those offices and to cancel the City's election. Staff recommends this action, and has prepared an appropriate Resolution. (See Attachment 2) Although the Council could choose to hold the election despite the fact there will be no contests for the open offices, Staff does not recommend this action, since it will result in the City unnecessarily incurring significant elections costs.

If the Council appoints the incumbent candidates to the open offices, those appointees will serve in office exactly as if they had been elected, starting their new term in early December, 2017.

COMMUNITY OUTREACH:

As required by the Elections Code, the City Clerk caused to be published in a newspaper of general circulation in San Rafael (the Marin Independent Journal) on August 15, 2017, a "Notice that There are not More Candidates than Offices to be Elected" providing the facts set forth herein and notifying of the Council's authority to either appoint the nominated candidates and cancel the election, or not.

FISCAL IMPACT:

If the Council chooses to hold the election, the City will incur election costs to the County Registrar ranging from \$186,222 to \$232,777. Funds in the amount of \$140,000 have been set aside in the City Clerk's General Fund fiscal year 2017-2018 budget towards the election costs; however Council appointment of the nominees and cancellation of the election will result in the City saving these funds.

OPTIONS:

The City Council has the following options to consider in this matter:

1. Approve the attached resolution appointing the incumbents to the offices to be elected and cancelling the November 7, 2017 election (Staff's recommendation).
2. Take no action, with the result that the election will proceed to be held on November 7, 2017.

RECOMMENDED ACTION:

Adopt the Resolution providing for the appointment to the offices that were to be elected on Tuesday, November 7, 2017 and cancelling the General Municipal Election for the City of San Rafael on that date.

ATTACHMENTS:

1. City Clerk's Certification that There are not More Candidates than Offices to be Elected
2. Resolution of the City Council of the City of San Rafael Providing for the Appointment to the Offices of this City that Were to be Elected on Tuesday, November 7, 2017 and Cancelling the City Election on that Date
3. Notice that There are not More Candidates than Offices to be Elected published on 08/15/2017

**CITY CLERK'S CERTIFICATION THAT THERE ARE NOT MORE CANDIDATES
THAN OFFICES TO BE ELECTED**

I, Esther Beirne, City Clerk of the City of San Rafael, do hereby certify, pursuant to Section 10229 of the Elections Code of the State of California, to the following facts relating to the General Municipal Election for the City of San Rafael to be held on Tuesday, November 7, 2017:

As of the close of the nomination period on August 11, 2017, there are not more candidates than offices to be elected;

The persons nominated for the offices to be elected are:

Maribeth Bushey for Councilmember
Kate Colin for Councilmember

Section 10229 of the Elections Code allows one of the following courses of action to be taken by the City Council:

1. Appoint to the office the person who has been nominated;
2. Appoint to the office any eligible voter if no one has been nominated; or
3. Hold the election if either no one or only one person has been nominated.

A notice of these facts will be published on Tuesday, August 15, 2017 in a newspaper of general circulation in the city pursuant to Section 6061 of the Government Code. After the fifth day following the date of publication, the City Council may meet to either make the appointments and cancel the election for the City, or direct an election to be held. The persons appointed, if any, shall qualify and take office and serve exactly as if elected at a municipal election for the office.

If, by the 75th day before the municipal election, no person has been appointed to the offices pursuant to (1) or (2) above, the election shall be held.

If the City Council makes an appointment pursuant to Section 10229 of the Elections Code, the City Clerk shall not accept for filing any statement of write-in candidacy which is submitted after the appointment is made.

Dated: August 14, 2017

City Clerk

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL PROVIDING FOR THE APPOINTMENT TO THE OFFICES OF THIS CITY THAT WERE TO BE ELECTED ON TUESDAY, NOVEMBER 7, 2017 AND CANCELLING THE CITY ELECTION ON THAT DATE

WHEREAS, pursuant to Section 10229 of the Elections Code of the State of California, the City Clerk has certified that as of the close of the nomination period on August 11, 2017, there are not more candidates than offices to be elected at the General Municipal Election for the City of San Rafael scheduled for November 7, 2017; and

WHEREAS, Section 10229 of the Elections Code allows one of the following courses of action to be taken by the City Council:

1. Appoint to the office the person who has been nominated;
2. Appoint to the office any eligible voter if no one has been nominated; or
3. Hold the election if either no one or only one person has been nominated; and

WHEREAS, a notice of the foregoing facts was published on Tuesday, August 15, 2017, in a newspaper of general circulation pursuant to law;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Pursuant to Section 10229 of the Elections Code of the State of California, the following persons are hereby appointed to the offices to which they were nominated:

<u>NAME</u>	<u>OFFICE</u>	<u>TERM</u>
Maribeth Bushey	Member of the City Council	Five Years 12/17 – 12/22
Kate Colin	Member of the City Council	Five Years 12/17 – 12/22

Section 2. The General Municipal Election for the City of San Rafael scheduled to be held on Tuesday, November 7, 2017, is now cancelled.

Section 3. The persons hereby appointed shall qualify and take office and serve exactly as if elected at a municipal election for the office.

Section 4. The City Clerk shall certify to the passage and adoption of this resolution.

I, ESTHER BEIRNE, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael held on Monday, the 21st day of August, 2017, by the following vote to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ESTHER C. BEIRNE, City Clerk

**NOTICE THAT THERE ARE NOT MORE CANDIDATES
THAN OFFICES TO BE ELECTED**

NOTICE IS HEREBY GIVEN pursuant to Section 10229 of the Elections Code of the State of California, relating to the General Municipal Election in the City of San Rafael to be held on Tuesday, November 7, 2017, as follows:

That as of the close of the nomination period on August 11, 2017, there are not more candidates than offices to be elected in the City of San Rafael;

That the persons nominated for the offices to be elected are:

Kate Colin for Councilmember
Maribeth Bushey for Councilmember

That Section 10229 of the Elections Code allows one of the following courses of action to be taken by the City Council:

1. Appoint to the office the person(s) who have been nominated;
2. Appoint to the office any eligible voter if no one has been nominated; or
3. Hold the election if either no one or only one person has been nominated;

That the City Council will meet on August 21, 2017 at 7:00 p.m., at the City Council Chambers of the City of San Rafael, 1400 Fifth Avenue, San Rafael, to either make the appointments and cancel the election for the City of San Rafael, or direct an election to be held, and the persons so appointed, if any, shall qualify and take office and serve exactly as if elected at a municipal election for the office;

That if, by the 75th day before the municipal election, no person has been appointed to the offices pursuant to (1) or (2) above the election shall be held; and

That if the City Council makes an appointment pursuant to Section 10229 of the Elections Code, the City Clerk shall not accept for filing any statement of write-in candidacy which is submitted after the appointment is made.

Dated: August 15, 2017

Esther Beirne, City Clerk