



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: CITY ATTORNEY

Prepared by: Lisa A. Goldfien,
Assistant City Attorney

City Manager Approval: _____

TOPIC: APPOINTMENT OF UNOPPOSED CANDIDATES TO CITY OFFICES AND CANCELLING NOVEMBER 3, 2015 CITY 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 3, 2015 AND CANCELLING THE CITY ELECTION ON THAT DATE

RECOMMENDATION:

Adopt the attached Resolution.

BACKGROUND:

The City's General Municipal Election is scheduled for November 3, 2015. Scheduled for the ballot at this election are the offices of the Mayor, Part-time City Attorney and City Clerk, and the Council seats of Andrew McCullough and John Gamblin (appointed to complete the term of Damon Connolly). There are no ballot measures qualified for the election.

As of the close of business on Friday August 7, 2015, 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

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Disposition: 8/17/2015

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, 2015.

The Council's action to cancel the City's election will not affect the elections of the San Rafael Elementary School District or the San Rafael High School District, which will be held as scheduled on November 3.

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) 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 \$42,000 to \$80,000. There are sufficient funds available in the City Clerk's General Fund budget to pay the required 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 3, 2015 election (Staff's recommendation).
2. Take no action, with the result that the election will proceed to be held on November 3, 2015.

RECOMMENDED ACTION:

Adopt the Resolution providing for the appointment to the offices that were to be elected on Tuesday, November 3, 2015 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 3, 2015 and Cancelling the City Election on that Date

RESOLUTION NO. 13993

**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 3, 2015 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 7, 2015, there are not more candidates than offices to be elected at the General Municipal Election for the City of San Rafael scheduled for November 3, 2015; 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 11, 2015, 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>
Gary O. Phillips	Mayor	Four Years 12/15 – 12/19
John A. Gamblin	Member of the City Council	Four Years 12/15 – 12/19
Andrew C. McCullough	Member of the City Council	Four Years 12/15 – 12/19
Robert F. Epstein	Part-Time City Attorney	Four Years 12/15 – 12-19
Esther Beirne	City Clerk and Assessor	Four Years 12/15 – 12/19

Section 2. The General Municipal Election for the City of San Rafael scheduled to be held on Tuesday, November 3, 2015, 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 17th day of August, 2015, by the following four separate votes, to wit:

1. As to the appointment of Robert F. Epstein as Part-Time City Attorney for the Four Years 12/15 – 12/19, and Esther Beirne as City Clerk and Assessor for the Four Years 12/15 – 12/19:

AYES: COUNCILMEMBERS: Colin, Gamblin, McCullough & Mayor Phillips

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Bushey

2. As to the appointment of John A. Gamblin as Member of the City Council for the Four Years 12/15 – 12/19:

AYES: COUNCILMEMBERS: Colin, McCullough & Mayor Phillips

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Bushey

ABSTAIN: COUNCILMEMBERS: Gamblin

3. As to the appointment of Andrew C. McCullough as Member of the City Council for the Four Years 12/15 – 12/19:

AYES: COUNCILMEMBERS: Colin, Gamblin and Mayor Phillips

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Bushey

ABSTAIN: COUNCILMEMBERS: McCullough

4. As to the appointment of Gary O. Phillips as Mayor for the Four Years 12/15 – 12/19:

AYES: COUNCILMEMBERS: Colin, Gamblin & McCullough

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Bushey

ABSTAIN: COUNCILMEMBERS: Mayor Phillips

Esther C. Beirne

ESTHER C. BEIRNE, City Clerk

**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 3, 2015:

As of the close of the nomination period on August 7, 2015, there are not more candidates than offices to be elected;

The persons nominated for the offices to be elected are:

Gary O. Phillips for Mayor
John A. Gamblin for Councilmember
Andrew C. McCullough for Councilmember
Robert F. Epstein for Part-Time City Attorney
Esther Beirne for City Clerk and Assessor

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 11, 2015 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: _____

City Clerk