



Cotati City Council Agenda Staff Report

Item type: REGULAR AGENDA (ACTION)
To: City Council
Subject: **ACTION TO FILL CITY COUNCIL VACANCY BY
APPOINTMENT OR BY ADOPTION OF A RESOLUTION TO
HOLD A SPECIAL ELECTION**
Date: January 28, 2025
Written by: Kevin Patterson, Deputy City Clerk

Recommendation

It is recommended that the City Council adopt a motion to fill the vacant City Councilmember seat by appointment or alternatively adopt a resolution to hold a special election.

Background

Due to the resignation of Councilmember Kathleen Rivers, effective January 20, 2025, a vacancy has been created for the remainder of her term expiring in December of 2026. Pursuant to Government Code Section 36512(b), the Council may appoint or call a special election to fill the vacancy for the remainder of the term. The action must be taken within 60 days of the effective date of the vacancy – by March 21 – to appoint or call a special election.

The term of the Planning Commissioner (Shelley Berman) appointed by Councilmember Rivers would be extended until the Council vacancy is filled, at which time the newly seated Councilmember would make his/her own appointment.

Analysis/Discussion

Past vacancies on the Cotati City Council have been successfully filled by appointment, most recently with former Mayor John Moore (appointed in 2013), former Mayor John Dell'Osso (appointed in 2011), and former Mayor Mark Landman (appointed in 2009). All three of these appointed members were subsequently elected to full term City Council seats.

Special Election

To hold a special election to fill the seat for the remainder of the term (ending 2026), the Council

would immediately adopt a resolution ordering the special election for August 26, and the nomination period would be May 5 – May 30, 2025. The City Council seat would remain vacant until the election results would be certified, no later than September 26, 2025. As stated earlier, the term would then expire at the end of 2026.

Appointment

If the Council chooses to fill the vacancy by appointment, the appointment must be made no later than Friday, March 21. Appointments can be made immediately on the spot with no application process or with a formal application process. Appointments can be made at a regular meeting or at a special meeting, so the process (if any) is fully at the discretion of the City Council, provided that the City Council appoints within 60 days.

In the prior appointments cited above, the City Council used the standard application that the City uses for Boards and Commissions, with varying amounts of time to apply (between 6 and 30 days). Appointments have been made at both regular and at special meetings. The City Council could also require additional materials, if desired.

If the City Council wishes to use an application process for the appointment, the following options will satisfy the statutory time limits:

Application Process - Option 1

- Use standard Boards and Commissions Application.
- Open applications on January 30 and close applications on February 6, 2025 (1 week).
- Appointment would be made at the February 11, 2025 Regular Council Meeting.

Application Process - Option 2

- Use standard Boards and Commissions Application.
- Open applications on January 30 and close applications on February 20, 2025 (3 weeks).
- Appointment would be made at the February 25, 2025 Regular Council Meeting.

Application Process - Option 3

- Use standard Boards and Commissions Application.
- Open applications on January 30 and close applications on March 5, 2025 (5 weeks).
- Appointment would be made at the March 11, 2025 Regular Council Meeting.

Summary

With one (1) City Council seat vacant, the City Council would have an even number of members. If there is a split (2-2) vote, it would prevent action on that item. Additionally, if there is an absence from a meeting, all votes would need to be unanimous to approve items. A similar situation could occur on any item where there is a recusal. Although rare, any required 4/5 votes would also need to be unanimous, with all City Councilmembers present, to pass.

The City Council is also beginning the 2-year budget process. For a new City Council member to have meaningful input into the process, they should be appointed as soon as practicable.

To avoid potential interruption to City business with a vacant seat over an extended period of time, ensure input into the budget process and save on the cost of a special election for what effectively is a 1-year term, it is recommended by staff to conduct an appointment using either Option 1 or Option 2, described above.

The only meaningful differences between Option 1 and 2 are the different application periods and with Option 2, the applicant would not be seated for the Strategic Planning Meeting on February 18. Under either option, the applicant would be seated for the budget workshops later in the spring. Option 3, while viable, pushes appointments to the outside edge of the available window and is not recommended as there is no float if an extension to the appointment process is needed.

In any case, if the City Council wishes to hold a special election, staff have provided a resolution (attached) that would need to be adopted to start the process.

Financial Considerations

Appointing a new City Councilmember does not generally incur any direct expenses. Should the Council choose to conduct a special election in lieu of the appointment process, the estimated cost would be \$17,836-\$76,440 (\$3.50-\$15.00 per registered voter), according to the Registrar of Voters.

Environmental Issues

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.