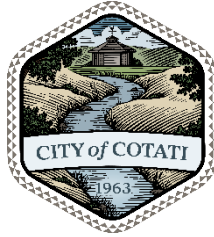


**C. ACTION TO FILL CITY COUNCIL VACANCY BY APPOINTMENT OR BY  
ADOPTION OF A RESOLUTION TO HOLD A SPECIAL ELECTION**

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.



## **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

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### **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.

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### **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.

**ADOPT ONLY IF HOLDING A SPECIAL ELECTION**

**RESOLUTION NO. (XX)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COTATI CALLING AND GIVING NOTICE OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON AUGUST 26, 2025 FOR THE ELECTION OF ONE (1) COUNCILMEMBER TO FILL THE CURRENT AT-LARGE SEAT FOR THE REMAINDER OF A FOUR-YEAR TERM THAT WILL EXPIRE DECEMBER 2026, REQUESTING THAT THE SONOMA COUNTY BOARD OF SUPERVISORS CONSENT TO THE CONSOLIDATION BY THE SONOMA COUNTY REGISTRAR OF VOTERS OF THE SPECIAL MUNICIPAL ELECTION WITH ANY REGULARLY ESTABLISHED ELECTION TO BE HELD ON AUGUST 26, 2025, IF APPLICABLE, AND AUTHORIZING THE SONOMA COUNTY REGISTRAR OF VOTERS TO CONDUCT AND CANVASS THE ELECTION RESULTS FOR THE AUGUST 26, 2025 SPECIAL ELECTION**

**WHEREAS**, a vacancy was created on the City of Cotati City Council on January 20, 2025, when former Councilmember Kathleen Rivers resigned her position; and

**WHEREAS**, the now-vacant Council seat is an at-large seat with a term that will expire December 2026; and

**WHEREAS**, Government Code Section 36512(b) address vacancies of elected officers of a general law city, and provides that a vacancy must be filled by the City Council either by 1) appointment by the Council within 60 days of the commencement of the vacancy, or 2) calling a special election within 60 days of the vacancy to fill the vacancy; and

**WHEREAS**, under the Elections Code, a special municipal election shall be held on the next regularly established election date not less than 114 days from the call of the special election and the next regularly established election date is August 26, 2025; and

**WHEREAS**, the City Council desires to call a special municipal election to be conducted on the regularly established election date of August 26, 2025 to fill the City Council vacancy; and

**WHEREAS**, Elections Code Section 10400 provides that the City Council may request that the County Board of Supervisors consolidate said Special Municipal Election with a regularly established election; and

**WHEREAS**, pursuant to the provisions of Sections 10400, 10402 and 10403 of the Elections Code of the State of California, it is in the best public interest of the City to consolidate the City of Cotati Special Municipal Election with any regularly established election to be held on August 26, 2025; and

**WHEREAS**, the cost of a Special Municipal Election will add to the normal costs of a General Municipal Election and these are costs that must be borne by the General Fund; and

**ADOPT ONLY IF HOLDING A SPECIAL ELECTION**

**WHEREAS**, Elections Code Section 12109 provides that the governing body of the City of Cotati shall give notice of the designation of a central counting place for the voted ballots of the Cotati Special Municipal Election; and

**WHEREAS**, the City Council has determined, pursuant to Section 15387(b)(5) of the California Environmental Quality Act Guidelines that approval of this resolution will not result in direct or indirect physical changes in the environment and therefore is not a project for purposes of CEQA.

**NOW THEREFORE BE IT RESOLVED**, that the City Council of the City of Cotati does resolve, declare, determine and order as follows:

1. That the foregoing recitals are true and correct and are hereby adopted.
2. That the City Council of the City of Cotati hereby calls and orders a Special Municipal Election to be held in the City of Cotati on Tuesday, August 26, 2025 for the purpose of the election of one (1) City Councilmember to fill the remainder of an at-large seat that will expire on December of 2026.
3. That the Sonoma County Registrar of Voters is authorized to canvass the results of the Special Municipal Election. That the Sonoma County Registrar of Voters is authorized to specify the location for the tally of ballots and certify the results to the City Council of the City of Cotati. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used in the form and content required by law.
4. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections. The City Council acknowledges that and consolidated election will be conducted in the manner prescribed in Elections Code Section 10418.
5. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Sonoma County Registrar of Voters and enter this resolution into the book of original resolutions.
6. That the City Manager and/or its designee is authorized and directed to compensate the County for the cost of conducting the Special Municipal Election for the City.
7. That notice of time and place of holding the special election is given that the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form and manner as required by law.

**IT IS HEREBY CERTIFIED** that the foregoing resolution was duly adopted at a regular meeting of the City Council of the City of Cotati held on January 28, 2025, by the following vote, to wit:

Approved: \_\_\_\_\_

Mayor

**ADOPT ONLY IF HOLDING A SPECIAL ELECTION**

Attest: \_\_\_\_\_

Kevin Patterson, Deputy City Clerk

Approved as to form: \_\_\_\_\_

City Attorney