

RESOLUTION NO. 2020-123

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
RESCINDING RESOLUTION 2020-109 IN PART TO CHANGE THE DATE AND SET THE
TIME FOR A SPECIAL MEETING TO HEAR AND CONSIDER PRESENTATIONS BY THE
APPLICANTS FOR THE CURRENTLY VACANT SEAT ON THE CITY COUNCIL, TO
RECEIVE PUBLIC COMMENT, AND TO CONSIDER THE APPOINTMENT OF A
MEMBER OF THE CITY COUNCIL TO SERVE UNTIL THE
NOVEMBER 2022 GENERAL MUNICIPAL ELECTION

WHEREAS, the City Council finds it necessary to fill a vacancy on the City Council; and

WHEREAS, in order to fill such the vacancy in a timely manner the City Council by Resolution 2020-109 (attached) adopted a timeline and a process; and

WHEREAS, the City Council now finds it necessary to rescind resolution 2020-109 in part to change the date established by Resolution 2020-109 of September 19, 2020, and to set a new date and to establish the hour at which the City Council will hear presentations by the applicants, receive comments from members of the public, and consider appointment of a member of the City Council to serve until the General Municipal Election in November 2022.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Marina that:

1. Paragraph 4 of Resolution 2020-109 is rescinded in its entirety and is revised to read as follows:

“4. Applications shall be provided to the City Council on Tuesday, September 8, 2020, and a City Council special meeting via Zoom shall be set for September 23, 2020, to convene at 6:00 P.M.”

2. Paragraph 5 of Resolution 2020-109 is rescinded in its entirety and is revised to read as follows:

“5. Applicants are invited to attend the City Council meeting via Zoom on September 23, 2020, at 6:00 P.M., and make presentations in support of their application of up to ten minutes. The City Council may ask questions of the applicant, with no time limit set for the question period.”

10. As to Paragraphs 4 and 5 of Resolution 2020-109, this Resolution rescinds and supersedes Resolution 2020-109 adopted on August 18, 2020, addressing the same subject matter. The remainder of Resolution 2020-109 is not altered and shall continue in full force and effect.

PASSED AND ADOPTED by the City Council of Marina at a regular meeting duly held on September 15, 2020, by the following vote:

AYES: COUNCIL MEMBERS: Berkley, O’Connell, Morton, Delgado

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

RESOLUTION NO. 2020-109

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA APPROVING THE PROCESS TO FILL CITY COUNCIL VACANCY

WHEREAS, the City Council finds it necessary to fill a vacancy on the City Council, and;

WHEREAS, in order to fill such a vacancy in a timely manner the City Council desires to adopt a timeline and process, and:

WHEREAS, the City of Marina has transitioned to District Voting, but may legally appoint the vacancy from the City at-large.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Marina, that the following timeline and process be used to fill the City Council vacancy:

1. Filing period from: (dates): Monday, August 24, 2020 to 4:00 p.m., Monday, September 7, 2020.
2. The application shall include the same information as is used on the application for appointment to a City commission. The Deputy City Clerk shall format an application which includes the same and make it available to the public on the City's website and to any individual who request the application by e-mail or by mail or otherwise. The applications, as submitted, shall be made available for public review on the City's web-site.
3. Persons from the City of Marina (At Large) shall be invited to apply to the Deputy City Clerk, by e-mail or as necessary, during the application period, up until 3:59 p.m. on the last day of the application period.
4. Applications shall be provided to the City Council on Tuesday, September 8, 2020, and a City Council special meeting via Zoom shall be set for Saturday, September 19, 2020.
5. Applicants are invited to attend the City Council meeting, via Zoom on September 19, 2020, and make presentations in support of their application, of up to ten minutes. The City Council may ask questions of the applicant, with no time limit set for the question period.
6. The Public will be allowed public comment, after all of the applicants have made their presentations and have been questioned by the City Council. Public Comment will be limited to four minutes per person.
7. Upon the conclusion of the Public Comment Period, the City Council shall commence voting by email ballot sent to the Deputy City Clerk. Each ballot must be identified as being submitted by the voting Council Member, will be available for viewing by the public after the vote and will become part of the public record.
8. Ballots will be counted by the Deputy City Clerk, who will announce the votes for each applicant. Balloting will continue until an applicant receives a majority vote.

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9. Following the official canvas of ballots, the new City Council member will be sworn into office and will serve until November 2022.

10. This Resolution rescinds and supersedes Resolution 2020-103 of August 5, 2020, addressing the same subject matter.

PASSED AND ADOPTED by the City Council of Marina at a regular meeting duly held on August 18, 2020, by the following vote:

AYES: COUNCIL MEMBERS: Berkley, O'Connell, Morton, Delgado

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

September 10, 2020

Item No: **11a**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of September 15, 2020

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION 2020- RESCINDING
RESOLUTION 2020-109 IN PART TO CHANGE THE DATE AND SET THE
TIME FOR A SPECIAL MEETING TO HEAR AND CONSIDER
PRESENTATIONS BY THE APPLICANTS FOR THE CURRENTLY VACANT
SEAT ON THE CITY COUNCIL, TO RECEIVE PUBLIC COMMENT, AND TO
CONSIDER THE APPOINTMENT OF A MEMBER OF THE CITY COUNCIL TO
SERVE UNTIL THE NOVEMBER 2022 GENERAL MUNICIPAL ELECTION.**

REQUEST:

It is requested that the City Council:

1. Adopt Resolution No. 2020-, rescinding Resolution 2020-109 in part to change the date and set the time for a special meeting to hear and consider presentations by the applicants for the currently vacant seat on the City Council, to receive public comment, and to consider the appointment of a member of the City Council to serve until the November 2022 General Municipal Election.

BACKGROUND:

Councilmember Urrutia resigned from the City Council in an email received by the Deputy City Clerk at 8:37 a.m. on the morning of Tuesday, August 18, 2020. The Councilmember's resignation was effectively immediately. At your regular meeting that same evening an item was added to the agenda, as an item for which there was a need to take immediate action and which came to the attention of the City subsequent to the agenda being posted, for the City Council to discuss and consider adoption of a resolution setting procedures to fill the vacancy created by the resignation. At that meeting the Council adopted Resolution 2020-109 which set the date of Saturday, September 19, 2020, for a special meeting to be conducted via Zoom to hear and consider presentations by the applicants for the vacant seat on the Council, to receive public comment, and to consider appointment of a member of the City Council to serve until the November 2022 General Municipal Election. ("EXHIBIT A")

ANALYSIS:

The City Charter (Section 1.03) states "A vacancy in the elective office of Council Member shall be filled by appointment by the Council, such appointee to hold office until the next General Municipal Election and until a successor is elected and installed. Should the Council fail to fill any such vacancy within forty (40) days after the same occurs, then it shall be filled by appointment by the Mayor." The vacancy occasioned by Councilmember Urrutia's resignation occurred on August 18, 2020. Section 1.04.070 of the Municipal Code provides "Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is a Sunday or a holiday, in which case it shall also be excluded." Counting from August 19 the fortieth day would fall on Sunday, September 27 which would be excluded, thereby making the fortieth day after the vacancy occurred Monday, August 28, 2020. Therefore, if the City Council is to appoint a member to succeed Councilmember Urrutia it must do so on or before Monday, August 28, 2020, or that task will fall to the Mayor.

Due to conflicts brought to our attention regarding the September 19, 2020 date, we are proposing the special meeting be rescheduled to Wednesday, September 23, 2020 at 6:00pm. All City Council and council candidates are available for the September 23, 2020 date.

FISCAL IMPACT:

None.

Respectfully submitted,

Robert W. Rathie

Robert Rathie
City Attorney's Office

REVIEWED AND CONCUR

Layne Long
City Manager
City of Marina