

# City of Calistoga

## Staff Report

**TO:** Honorable Mayor and City Council  
**FROM:** Kathy Flamson City Clerk  
**DATE:** August 24, 2016  
**SUBJECT:** Consideration of Adoption of Two (2) Resolutions Making Appointments to Elected Positions of Mayor and Councilmembers Pursuant to § 10229 of the Election Code of the State of California, and Cancelling the Election Scheduled to be Held on Tuesday, November 8, 2016

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APPROVAL FOR FORWARDING:



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Dylan Feik, City Manager

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2 **ISSUE:** Consideration of Adoption of Two (2) Resolutions Making Appointments to Elected  
3 Positions of Mayor and Councilmembers Pursuant to § 10229 of the Election Code of the  
4 State of California, and Cancelling the Election Scheduled to be Held on Tuesday,  
5 November 8, 2016.

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7 **RECOMMENDATION:** Adopt Resolutions.

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9 **DISCUSSION:** On May 17, 2016, the City Council adopted Resolution No 2016-041  
10 calling for the holding of a General Municipal Election to be held on Tuesday, November 8,  
11 2016, for the election of a Mayor and two (2) members of the City Council and requesting  
12 the Board of Supervisors of the County of Napa to consolidate and render specified  
13 services to the City of Calistoga relating to the conduct of the 2016 Statewide General  
14 Municipal Election.

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16 The filing deadline was August 12, 2016, for incumbent nominees, and August 17, 2016,  
17 for those positions for which no incumbent had files. At the close of the nomination period  
18 on Friday, August 12<sup>th</sup>, the City had received filing papers from the following three (3)  
19 individuals:

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21 1. Mayor Chris Canning (incumbent)  
22 2. City Council Irais Lopez-Ortega (incumbent)  
23 Michael Dunsford (incumbent)  
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26 State of California Election Code §10229 provides three options to be considered by the  
27 governing body (City Council), in the event only one or no nominees filed by the close of  
28 the filing period. These options include:

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

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34 Given that any election, which would be held in November, would be uncontested for  
35 these 3 offices, staff finds no value in pursuing the third option. Additionally, the City would  
36 incur costs of approximately \$10,000 more in order to sponsor such an election. The City  
37 is fortunate to have three residents willing to devote the time and energy necessary for  
38 these elected offices, all of whom are incumbents.

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40 Unlike typical appointments where the Mayor is empowered to appoint citizens to City  
41 Commissions, Boards or Committees, appointments of this nature (to elected offices) are  
42 made by the City Council. Therefore, a motion to make an appointment may be initiated  
43 by any Councilmember. Also, the persons appointed shall qualify and take office and  
44 serve exactly as if elected at a municipal election for the office. After the appointments are  
45 approved, the City Clerk shall not accept for filing any statement of write-in candidacy  
46 which is submitted after such appointments are made.

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48 **FISCAL IMPACT:** The adoption of the attached Resolutions resulting in the appointment  
49 of individuals to these elected offices, and the cancellation of the November election will  
50 save the City approximately \$10,000 in election costs from contract services and  
51 advertising.

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53 **ATTACHMENTS:**

- 54 1. Certificate of Insufficient Nominees
- 55 2. Draft Resolution for Appointment of Mayor
- 56 3. Draft Resolution for Appointment of Councilmembers
- 57 4. § 10229 of the Election Code of the State of California
- 58 5. Resolution No. 2016-041



## **CITY CLERKS CERTIFICATION THAT THERE ARE NOT MORE CANDIDATES THAN OFFICES TO BE ELECTED**

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I, Kathy Flamson, City Clerk of the City of Calistoga, do hereby certify that pursuant to §10229, Elections Code of the State of California, to the following facts relating to the General Municipal Election to be held on Tuesday, November 8, 2016:

As of the close of the nomination period on August 12, 2016, there are not more candidates than offices to be elected.

The persons so nominated are:

Chris Canning	Mayor
Irais Lopez-Ortega	Councilmember
Michael Dunsford	Councilmember

That § 10229 of the Elections Code allows one of the following courses 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.
3. Hold the election if either no one or only one person has been nominated.

A notice of these facts was published on August 12, 2016 in a newspaper of general circulation in the city pursuant to § 6061 of the Government Code. After the fifth day following the date of publication, the City Council will meet to either make the appointments 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 75<sup>th</sup> 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 § 10229, Elections Code, the City Clerk shall not accept for filing any statement of write-in candidacy which is submitted after the appointment is made.

  
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 KATHY FLAMSON, CITY CLERK

**RESOLUTION NO. 2016- XXX**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA,  
COUNTY OF NAPA, STATE OF CALIFORNIA, PROVIDING FOR THE  
APPOINTMENT TO THE OFFICE OF MAYOR OF THIS CITY THAT WERE TO  
BE ELECTED ON TUESDAY, NOVEMBER 8, 2016**

**WHEREAS**, pursuant to § 10229 of the Elections Code of the State of California, as of the close of the nomination period on November 12, 2016, there were not more candidates than offices to be elected and that § 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.
3. Hold the election if either no one or only one person has been nominated.

**WHEREAS**, a certification of facts regarding candidates filing activity was posted on Thursday, August 18, 2016; and

**WHEREAS**, a notice was published on July 1, July 8, July 15 and July 22, 2016, in a newspaper of general circulation, *The Calistoga Tribune*, pursuant to law.

**NOW, THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CALISTOGA, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** That pursuant to § 10229 of the Elections Code of the State of California, the following action is being taken:

- a) The following person is being appointed to the office to which he was nominated, and is considered to be the same as being elected, pursuant to § 10229(a)(3) of the Elections Code:

<u>NAME</u>	<u>OFFICE</u>	<u>TERM</u>
Chris Canning	Mayor	Two (2) Years

**SECTION 2.** The election scheduled to be held on Tuesday, November 8, 2016, is now canceled.

**SECTION 3.** The person(s) appointed, if any, shall qualify and take office and serve exactly as if elected at a municipal election for the office.

**SECTION 4.** That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

Resolution No. 2016 – XXX

46           **PASSED, APPROVED, AND ADOPTED** by the City Council of the City of  
47 Calistoga at a regular meeting held this **24<sup>th</sup> day of August, 2016**, by the  
48 following vote:

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**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

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**CHRIS CANNING, Mayor**

**ATTEST:**

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**Kathy Flamson, City Clerk**



Resolution No. 2016 – XXX

45           **PASSED, APPROVED, AND ADOPTED** by the City Council of the City of  
46 Calistoga at a regular meeting held this **24<sup>th</sup> day of August, 2016**, by the  
47 following vote:

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49           **AYES:**  
50           **NOES:**  
51           **ABSTAIN:**  
52           **ABSENT:**

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**CHRIS CANNING, Mayor**

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56           **ATTEST:**  
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59           **Kathy Flamson, City Clerk**

10229. (a) If, by the 88th day, during normal business hours as posted, prior to the day fixed for a regularly scheduled municipal election or the 83rd day before the election, during normal business hours as posted, if an incumbent fails to file pursuant to Section 10225, (i) no one or only one person has been nominated for any office that is elected on a citywide basis, or (ii) no one or only one person is nominated to be elected from or by a legislative district, or (iii) in the case of any office or offices to be elected at large, the number of persons who have been nominated for those offices does not exceed the number to be filled at that election; or, if, by the 88th day, during normal business hours as posted, before a municipal election to fill any vacancy in office, no one or only one person has been nominated for any elective office to be filled at that election, and the election is subject to Section 36512 of the Government Code, the city elections official shall submit a certificate of these facts to the governing body of the city and inform the governing body of the city that it may, at a regular or special meeting held before the municipal election, adopt one of the following courses of action:

(1) Appoint to the office the person who has been nominated.

(2) Appoint to the office an eligible elector if no one has been nominated.

(3) Hold the election, if either no one or only one person has been nominated. The city elections official shall publish a notice of the facts described in this section and the courses of action available under this subdivision. Publication shall be made pursuant to Section 6061 of the Government Code in any newspaper of general circulation as designated by the city elections official.

After the fifth day following the date of posting or publication, the governing body of the city may make the appointment or direct an election to be held in the affected territory. The person appointed, if any, shall qualify and take office and serve exactly as if elected at a municipal election for the office.

Notwithstanding Section 10403, if, by the 75th day before the municipal election, no person has been appointed to office pursuant to paragraph (1) or (2), the election shall be held.

(b) Subdivision (a) shall not apply if, at the regularly scheduled municipal election, more than one person has been nominated to another city office to be elected on a citywide basis or a city measure has qualified and is to be submitted to the voters at that municipal election.

(c) Notwithstanding Chapter 1 (commencing with Section 8600) of Part 3 of Division 8, or any other provision of the law to the contrary, if the governing body of a city makes an appointment pursuant to subdivision (a), the elections official shall not accept for filing any statement of write-in candidacy that is submitted after the appointment is made.

(d) Nothing in this section shall be construed to prevent a city from enacting an ordinance pursuant to Section 36512 of the Government Code, requiring that a special election be held, or from enacting an ordinance pursuant to Section 36512 of the Government Code, providing that a person appointed to fill a vacancy on the city council shall hold office only until the date of the special election, or both. Any ordinance or ordinances may allow for appointment consistent with subdivision (a) without requiring or providing for a special election.

If an appointment to office is made in a particular legislative district pursuant to subdivision (a), that appointment shall not affect the conduct of the municipal election in other legislative districts of the city.



**RESOLUTION NO. 2016-041**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, THE 8th DAY OF NOVEMBER 2016, FOR THE ELECTION OF CERTAIN OFFICERS OF SAID CITY AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES, AND REQUESTING THE BOARD OF SUPERVISORS OF SAID COUNTY OF NAPA TO CONSOLIDATE SAID ELECTION WITH THE NOVEMBER 8, 2016 CONSOLIDATED GENERAL ELECTION AND PERMIT THE COUNTY ELECTIONS OFFICIAL TO RENDER CERTAIN SERVICES TO THE CITY OF CALISTOGA FOR SAID ELECTION**

**WHEREAS**, Calistoga Municipal Code 2.06.050 stipulates that a General Municipal Election be held on the first Tuesday after the first Monday in November of even-numbered years; and

**WHEREAS**, the date of the next City election is November 8, 2016, for the election of two members of the City Council and a Mayor of the City of Calistoga, which need to be decided by the voters of the City; and

**WHEREAS**, pursuant to Election Code sections 10002, 10242, 10263, 10403, 10418 the City Council initiates the election process by adopting a Resolution calling and giving notice of the holding of a General Municipal Election.

**WHEREAS**, Election Code 10261 allows the governing body of the jurisdiction to establish a central counting place; and

**WHEREAS**, certain actions are required in connection with said Election; and

**WHEREAS**, all necessary expenses in performing election services will be reimbursed by the City of Calistoga.

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

SECTION 1. Pursuant to the requirements of the laws of the State of California relating to General Law Cities, there shall be, and there is hereby called and ordered, held in the City of Calistoga, County of Napa, State of California, on Tuesday, November 8, 2016, a General Municipal Election for the purpose of electing a Mayor for the term of two years; and two (2) Members of the City Council for the term of four (4) years.

SECTION 2. That notice of the time and place of holding said Election is hereby given, and the City Clerk is hereby authorized to give such further or additional notice of said Election in the time, form and manner as required by law.

SECTION 3. That the ballots to be used at said Election shall be, both as to form and matter contained therein, such as may be required by law.

SECTION 4. That the City Clerk of said City is hereby authorized to procure and furnish any and all official ballots, notices, consultant assistance and printed matters that may be necessary in order to properly and lawfully conduct said Election, except as noted herein.

SECTION 5. For the purposes of said Election, the City of Calistoga is hereby divided into the following precincts: 343701, 343702, 343703, 343704, and 343705.

SECTION 6. That the City Council of the City of Calistoga does hereby request the Napa County Board of Supervisors to consolidate the Municipal Election with the November 8, 2016 Consolidated General Election and establish a Central Counting Precinct at the Napa County Election Division, 900 Coombs Street, Room 256, Napa, California.

SECTION 7. That pursuant to the provisions of § 10002 of the Elections Code of the State of California, the City Council of the City of Calistoga does hereby request the Napa County Board of Supervisors to permit the County Elections Official to prepare and perform certain services for the City of Calistoga in relation to said consolidated Election:

- a) Contact precinct workers and polling places regarding availability for said Election, set compensation;
- b) Provide processing of vote-by-mail ballots;
- c) Furnish indexes, precinct supplies, appoint polling place workers and officials, instruct workers and officials, designate polling places for consolidated precincts;
- d) Send out notices of appointment and polling place confirmations, publish and deliver supplies to polls;
- e) Hold central counting, count write-in votes and conduct official canvass of the ballots for the City of Calistoga for said Election;
- f) Certify the ballots received, used, spoiled or destroyed for precincts 343701, 343702, 343703, 343704, and 343705;

- g) All other necessary actions required for holding of the Election as may be requested by the City;
- h) Provide an itemized bill for services performed subsequent to the Election;
- i) The City Clerk of the City of Calistoga is directed to forward a certified copy of this Resolution to the Clerk of the Board of Supervisors for presentation to the Board of Supervisors, and to the Elections Official, County of Napa.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Calistoga at a regular meeting held this **17<sup>th</sup> day of May, 2016**, by the following vote:

**AYES:** Councilmembers Kraus, Barnes and Lopez-Ortega, Vice Mayor Dunsford and Mayor Canning  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

  
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**CHRIS CANNING, Mayor**

**ATTEST:**

  
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**KATHY FLAMSON, City Clerk**

Note: A copy of this Resolution shall be filed with the Registrar of Voters/County Clerk's Office no later than 88 days before the election.