



CITY OF LAGUNA NIGUEL CITY COUNCIL AGENDA ITEM

To: Honorable Mayor and Council Members

FROM: Marissa J. Asistin, City Clerk
Scott C. Smith, City Attorney

DATE: August 20, 2024

SUBJECT: Adoption of Resolution No. 2024-1491, providing for the appointment to the offices of City Council Member in Districts 1, 3, and 5 those that were nominated and canceling the November 5, 2024 Election

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 2024-1491, providing for the appointment to the offices of City Council Member in Districts 1, 3, and 5, those that were nominated to be elected at the November 5, 2024 General Municipal Election and canceling the election.

BACKGROUND

On June 4, 2024, pursuant to state law, the City Council adopted Resolution No. 2024-1476 calling the General Municipal Election, for the purpose of electing City Council Members in Districts 1, 3, and 5 to terms of four years. As of the close of business on Friday, August 9, 2024, the deadline for filing nomination papers, only one person in each district filed nomination papers to run for the office of City Council Member. Those filing nominations papers were Kelly Jennings in District 1, Stephanie Winstead in District 3, and Gene Johns in District 5.

ANALYSIS

Elections Code Section 10229 provides that if by the statutory nomination filing deadline (August 9, 2024), there are not more candidates than offices to be elected in any legislative district, and if there are also no Citywide offices or measures on the ballot, then the Elections Official shall certify these facts to the City Council, publish a notice of the same, and after the fifth day after such publication, the City Council may take one of three courses of action:

1. The City Council may appoint to the office the person who has been nominated;
2. The City Council may appoint to the office any eligible voter if no one has been nominated (*not applicable here*); or

3. The City Council may determine to hold the election if either no one or only one person has been nominated.

The Elections Official has provided the required certification to the City Council that there are not more candidates than the offices to be elected in Electoral Districts No. 1, 3, and 5. Further, the Elections Official caused to be published in the Orange County Register on August 15, 2024, a "Notice that There are not More Candidates than Offices to be Elected in Electoral District Nos. 1, 3, and 5", providing the facts set forth herein and notifying of the City Council's authority to either appoint the nominated candidate and cancel the election, or not (Attachment A). The required five-day notice period is now complete.

Therefore, the City Council may either appoint the sole nominees in each district to that office and to cancel the City's election in Electoral District Nos. 1, 3, and 5, or to hold the election in District Nos. 1, 3, and 5. If the City Council makes an appointment, Section 10229 provides that the individuals being appointed to the offices to which they were nominated, are considered to be the same as being elected, and that no write-in candidacies for the Districts 1, 3, or 5 seats may be accepted since that election will be cancelled.

Staff does not recommend holding the election since there are no other nominees at this time for the open office(s). Holding an election will result in the City unnecessarily incurring significant election costs. An appointment in lieu of an election for Electoral District Nos. 1, 3, and 5 would result in a cost savings to the City.

If the City Council appoints the sole nominees in each District to the open office(s), that appointee shall qualify and take office and serve exactly as if elected at the General Municipal Election starting their new term in December 2024. The City Attorney's Office has prepared Resolution No. 2024-1491 for consideration of appointing the nominees and canceling the election (Attachment B).

ALTERNATIVES CONSIDERED

The City Council could choose to conduct the General Municipal Election on November 5, 2024, preserving the right of any potential write-in candidate to qualify for the election in Districts 1, 3, or 5. Staff does not recommend this action as it will result in the City unnecessarily incurring significant election costs.

FISCAL REVIEW

The adopted FY 2024-2025 Operating Budget includes \$73,000 in funding for the election. If the City Council adopts Resolution No. 2024-1491, the City will realize an election related cost savings. There will be minimal expenses from the Orange County Registrar of Voters and legal publishing costs.

LEGAL REVIEW

The City Attorney's Office has reviewed and approved this report and Resolution No. 2024-1491 as to form.

CONCLUSION

Staff recommends that the City Council adopt Resolution No. 2024-1491, providing for the appointment to the offices of City Council Member in Districts 1, 3, and 5 those that were nominated and canceling the November 5, 2024 Election.



Tamara S. Letourneau
City Manager



Scott C. Smith
City Attorney



Justin J. Martin
Assistant City Manager



Marissa J. Asistin
City Clerk

Attachments:

- A. Notice that There are not More Candidates than Offices to be Elected in Electoral District Nos. 1, 3, and 5
- B. Resolution No. 2024-1491

ATTACHMENT A

Notice that There are not More Candidates than Offices to be Elected in Electoral
District Nos. 1, 3, and 5

**NOTICE THAT THERE ARE NOT MORE CANDIDATES
THAN OFFICES TO BE ELECTED
IN ELECTORAL DISTRICT NOS. 1, 3, and 5
AT THE NOVEMBER 5, 2024 GENERAL MUNICIPAL ELECTION
FOR THE CITY OF LAGUNA NIGUEL**

NOTICE IS HEREBY GIVEN pursuant to Section 10229 of the Elections Code of the State of California relating to the General Municipal Election in the City of Laguna Niguel to be held on Tuesday, November 5, 2024, that:

As of the close of the nomination period on Friday, August 9, 2024, only one person has filed nomination papers to fill the City Council seat for Electoral District No. 1, only one person has filed nomination papers to fill the City Council seat for Electoral District No. 3, and only one person has filed nomination papers to fill the City Council seat for Electoral District No. 5, which are each up for election at the November 5 election. Therefore, there are not more candidates than offices to be elected for City of Laguna Niguel Electoral District Nos. 1, 3, or 5 for the November 5 election.

The person(s) so nominated are:

District 1 – Kelly Jennings; District 3 – Stephanie Winstead; District 5 – Gene Johns.

Because of the above facts, Section 10229 of the Elections Code allows the City Council to take one of the following courses of action:

1. Appoint to the office the person(s) who has/have 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.

At a City Council meeting to be held on August 20, 2024, the City Council will consider whether to make an appointment and cancel the election for that office 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 the City Council makes an appointment pursuant to Section 10229, the Elections Official shall not accept for filing any statement of write-in candidacy for City Councilmember from Electoral District Nos. 1, 3, or 5 which is submitted after the appointment is made.

If by the 75th day before the General Municipal Election, no person has been appointed to these office(s) pursuant to (1) or (2) above, the election for Electoral District Nos. 1, 3, or 5 shall be held along with any other elective offices on the ballot. If an appointment is made to these office(s), the General Municipal Election for Electoral District No. 1, 3, or 5 will be cancelled, but will be held for any other elective offices on the ballot.

Dated: August 9, 2024
Marissa J. Asistin, City Clerk
City of Laguna Niguel

ATTACHMENT B

Resolution No. 2024-1491

RESOLUTION NO. 2024-1491

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA NIGUEL, CALIFORNIA, PROVIDING FOR THE APPOINTMENT TO THE OFFICES OF COUNCIL MEMBER OF THE CITY THOSE THAT WERE NOMINATED IN DISTRICTS 1, 3, AND 5, TO BE ELECTED AT THE GENERAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 5, 2024, AND CANCELING THE ELECTION

WHEREAS, the City Council of the City of Laguna Niguel has called a General Municipal Election to be held in the City on Tuesday, November 5, 2024, for the purpose of electing City Council Members in Districts 1, 3 and 5 to term of four years; and

WHEREAS, pursuant to Section 10229 of the Elections Code of the State of California, as of the close of the nomination period on Friday, August 9, 2024, there are not more candidates than offices to be elected and that Section 10229 of the Elections Code allows the City Council to take one of the following courses of action:

1. Appoint to the office the person who has been nominated.
2. Appoint to the office any eligible elector if no one has been nominated.
3. Hold the election if either no one or only one person has been nominated; and

WHEREAS, a notice stating the facts pertaining to the November 5, 2024 election was published on August 15, 2024, in a newspaper of general circulation pursuant to law.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA NIGUEL, CALIFORNIA, DOES, RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

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

- a. The following persons are being appointed to the offices to which they were nominated, and are considered to be the same as being elected, pursuant to Section 10229(a)(3) of the Elections Code:

Name	Office	Term
Kelly Jennings	Member of the City Council, District 1	2024-2028
Stephanie Winstead	Member of the City Council, District 3	2024-2028
Gene Johns	Member of the City Council, District 5	2024-2028

SECTION 2. The General Municipal Election scheduled to be held on Tuesday, November 5, 2024 for the City is now canceled and the City Clerk shall take all necessary steps to effectuate said cancellation.

SECTION 3. The persons appointed shall qualify and take office and serve exactly as if elected at a general municipal election for the office.

SECTION 4. The City Clerk shall not accept for filing any statement of write-in candidacy which is submitted after the appointments are made.

SECTION 5. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, AND ADOPTED this 20th day of August 2024.

Kelly Jennings, Mayor

ATTEST:

Marissa J. Asistin, City Clerk

APPROVED AS TO FORM:

Scott C. Smith, City Attorney