RESOLUTION - ACTION REQUESTED 2020-619

MEETING: October 13, 2020

TO: The Board of Supervisors

FROM: Rene LaRoche, Clerk of the Board

RE: Approve Procedure to Fill Vacancies of Elected Offices

RECOMMENDATION AND JUSTIFICATION:
Approve a policy defining the process to fill vacancies of elected offices, other than Superior Court Judge or Board of Supervisors member.

Government Code Section 25304 mandates that unexpected vacancies to certain elected offices shall be filled by an appointment of the Board of Supervisors with appointees filling out the unexpired term. In Mariposa County, the applicable positions subject to this regulation are the Assessor/Recorder, Auditor, District Attorney, Sheriff/Coroner/Public Administrator, and Treasurer/Tax Collector/County Clerk.

While the need to appoint someone locally to fulfill an elected term does not occur often, it has happened five times over the last ten years. Unfortunately, the lack of policy and procedures to reference has resulted in the staff of various departments repeatedly expending time researching regulations and past processes to formulate a procedure. However, each occurrence has also relied heavily on institutional memory and the result has been inconsistent processes.

The proposed policy, which has been reviewed for sufficiency by both County Counsel and the Interim Human Resources Director, will guide the entire process from creation of the application through appointment of the new County Officer. It also recognizes that these are elective positions which are subject to public scrutiny, and builds in substantial public noticing and engagement unlike hiring procedures for other County positions.

Staff is seeking approval of this policy to establish procedures to guide this unusual appointive process, and to create a process that is consistent, equitable, and transparent.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
There is no action specific to this subject given that this is a new policy. However, the Board regularly adopts or amends policies to provide operational guidance and ensure equity.
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The Board appointed elected officers on December 18, 2018 (Assessor/Recorder), May 2, 2017 (Assessor/Recorder), November 7, 2017 (Auditor), August 21, 2012 (District Attorney), and September 28, 2010 (Sheriff-Coroner-Public Administrator).

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Do not approve and staff will be required to research regulations and create procedures every time the Board needs to appoint an officer to fill an elected position. Alternately, the Board may amend provisions of the policy.

ATTACHMENTS:
POLICY - Process to Fill Elected Office Vacancies, other than Board of Supervisors (DOCX)
APPLICATION PACKET - To Fill Elected Position (Template) (DOCX)
Government Code Section 25304 (PDF)

RESULT: ADOPTED [UNANIMOUS]
MOVER: Rosemarie Smallcombe, District I Supervisor
SECONDER: Marshall Long, District III Supervisor
AYES: Smallcombe, Jones, Long, Cann, Menetrey
1.0 PURPOSE
   To establish a procedure for the appointment of elected County officers. (Government Code § 25304.) Elected offices covered by this policy are:
   - Assessor/Recorder
   - Auditor
   - District Attorney
   - Sheriff/Coroner/Public Administrator
   - Treasurer/Tax Collector/County Clerk

2.0 POLICY INTENT
   This policy is intended to provide procedures to guide staff and ensure an open and equitable process in the appointment of applicable elected county officers.

3.0 POLICY LIMITATIONS
   This policy does not apply to Board of Supervisors members, or to judges of the Superior Court. (Government Code § 25304.)

4.0 DEFINITIONS
   a. Board: The Board of Supervisors.
   b. Clerk: The Clerk of the Board.

5.0 PROCEDURES
   a. Application Form:
      1) Upon notification of the vacancy or anticipated vacancy of one of the elected positions listed in Section 1.0, the Clerk shall create a draft Application Packet specific to the position using the Application Form and the current, mandated position qualifications maintained by the Elections Official.
      2) The Application Form (Appendix A) shall consist of a Face Sheet with checklist to identify application requirements, as well as forms for the following information:
         a. Contact Information
         b. Certifications regarding election criteria
         c. Education Verification
         d. Sheet regarding Résumé, Statement of Qualifications, Written Statement, and Letters of Reference/Recommendation requirement

Process to Fill Vacancies of Elected Offices, other than Superior Court Judge or Board of Supervisors member

b. Noticing the Vacancy:

1) The Clerk shall prepare a Regular Agenda item for the Board to:
   a. Approve the final Application Form and Packet.
   b. Set a deadline date and time for acceptance of applications.
   c. Approve the form of the notice the Clerk will use to advertise the position, including newspaper advertisements and news releases.
   d. Schedule two (2) public hearings after the application deadline, with the second hearing taking place not less than three (3) days nor more than twenty-one (21) calendar days, following the first hearing.
   e. Adopt any additional procedures governing the appointment process, as needed.

2) The Clerk shall prepare the Regular Agenda items needed to schedule the two public hearings set above.

c. Application Process:

1) Application Packet.
   a. The Application Packet shall consist of:
      i. A cover sheet, with list of packet materials.
      ii. The recruitment overview with deadline and submission information.
      iii. A copy of this policy.
      iv. Current position qualifications to be obtained from the Elections Officer.
      v. The Application Form.
      vi. Any other applicable information deemed appropriate by the Board during its consideration of the application and deadline. (Section 5.0 b.)
      vii. Current Form 700 Statement of Economic Interests Cover Page, watermarked with the word “SAMPLE.”

2) Complete Application.
   a. To be considered complete, applications must contain the following:
      i. The completed Application form.
      ii. A current résumé containing, at a minimum, all employment for the previous five (5) years.
iii. A Statement of Qualifications for the position (500 words maximum).
iv. A written statement explaining the applicant’s reason for wishing to be appointed to the position.
v. At least three (3) letters of reference.
vi. Any additional information that the Board may have requested during its consideration of the application and deadline. (Section 5.0 b.)

b. Completed applications must be received by the Clerk prior to the deadline established by the Board.

c. Incomplete applications will not be accepted.

3) Additional Information.

a. At any point in the process, the Board may require additional verbal or written information from applicants including, but not limited to, responses to questions submitted by the public or members of the Board, medical certifications, or permission to conduct credit or background checks.

4) Application Withdrawal.

a. Applicants wishing to withdraw an application must supply a written request to the Clerk at the address noted on the Application Form.

b. Failure to appear at a scheduled public hearing shall also constitute a withdrawal.

d. Application Processing:

1) On the first business day after the approved application deadline, the Clerk will consolidate completed applications and supporting documents into one packet per applicant and will distribute copies to each Supervisor for their review.

a. Application packets are public records and are to be made available to the public upon request.

e. Public Hearing Procedures:

1) First Hearing

a. The Chair shall open public comment, which will be subject to the Board’s normal speaking rules and time limitations.
Process to Fill Vacancies of Elected Offices, other than Superior Court Judge or Board of Supervisors member

b. Each applicant shall be given three (3) minutes to make an oral presentation.

c. After applicant presentations, the Chair shall allow each Supervisor to ask questions of any applicant.

d. Board deliberation.

e. Four (4) or More Applicants

   i. After deliberation the Board shall, on written ballots provided by the Clerk, select finalists from among those who have submitted complete applications and appeared before the Board.

      1. Each Supervisor may vote for up to four (4) applicants.

      2. The four (4) applicants receiving the largest number of votes will be chosen as finalists to return for consideration at the second hearing.

         a. Any ties will be broken by subsequent balloting to choose between the tied applicants.

      3. The Clerk shall announce the vote of each Board member after each round of balloting.

   ii. The Chair shall announce the names of the finalists and the date of the next public hearing.

f. Three (3) or Fewer Applicants

   i. After deliberation the Board shall, on written ballots provided by the Clerk, vote for one of the finalists to fill the unexpired term.

      1. Upon any applicant receiving three (3) or more votes, the Chair shall declare that person to be the Board’s choice.

      2. Split Vote:

         a. In the event of a split vote in which no finalist receives three (3) or more votes, the lowest scoring finalist shall be eliminated.

         b. The Chair shall again allow Board deliberation regarding the qualifications and merits of the two remaining finalists.

         c. After deliberations, the Board shall vote to appoint one of the remaining two applicants.
ii. The Clerk shall announce the vote of each Board member after each round of balloting.

iii. Once a preferred applicant is determined by informal ballot, the Chair shall:
   1. Declare for the record that three (3) members of the Board have concurred in the selection of such applicant.
   2. Facilitate discussion to identify the applicant’s starting date.
   3. Invite Board action to formally appoint the finalist to the position, noting the effective date and any other conditions that might be required.
   4. Direct the Clerk to cancel the Second Public Hearing.

iv. After appointment, the Clerk shall prepare the necessary personnel forms for the Chair’s signature.

2) Second Hearing

   a. The Chair shall open public comment, which will be subject to the Board’s normal speaking rules and time limitations.

   b. Each finalist shall make an oral presentation for an amount of time to be determined by the Chair.

   c. After finalist presentations, the Chair shall allow each Supervisor to ask questions of any finalist.

   d. At the conclusion of the question period, the Board shall, on written ballots provided by the Clerk, vote for one of the finalists to fill the unexpired term.

      i. Split Vote:

         1. In the event of a split vote in which no finalist receives three (3) or more votes, the lowest scoring finalist shall be eliminated.

         2. The Chair shall allow Board deliberation regarding the qualifications and merits of the remaining finalists.

         3. After deliberation, the Board shall again vote.

         4. The Split Vote process will be repeated until one finalist is chosen by three (3) or more votes.

   e. The Clerk shall announce the vote of each Board member after each round of balloting.

   f. Upon any finalist receiving three (3) or more votes, the Chair shall:
Process to Fill Vacancies of Elected Offices, other than Superior Court Judge or Board of Supervisors member

i. Declare for the record that three (3) members of the Board have concurred in the selection of such applicant.

ii. Facilitate discussion to identify the appointee’s starting date.

iii. Invite Board action to formally appoint the finalist to the position, noting the effective date and any other conditions that might be required.

g. After appointment, the Clerk shall prepare the necessary personnel hiring forms for the Chair’s signature.
APPENDIX A
APPLICATION FORM TEMPLATE
COUNTY OF MARIPOSA

APPLICATION FORM FOR
APPOINTMENT TO THE ELECTIVE OFFICE OF
SPECIFY EXACT TITLE

(For Official Use Only)

INSTRUCTIONS: The Application for Appointment of the Elective Office of the SPECIFY EXACT TITLE is composed of the sections below. All parts must be submitted in order for the application to be considered complete.

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Application Requirements:
The following must be attached to this form in order for your application to be considered complete:

- [ ] Part I: Contact information (form provided)
- [ ] Part II: Certifications (form provided)
- [ ] Part III: Education Verification (form provided)
- [ ] Part IV: A current résumé containing, as a minimum, all employment for the previous five years.
- [ ] Part V: A written Statement of Qualifications for the position (500 words maximum)
- [ ] Part VI: A written statement explaining your reasons for wishing to be appointed to the position.
- [ ] Part VII: Three (3) Letters of Reference/Recommendation
- [ ] Part VIII: Any additional information that the Board may request during the Board item approving the Application Form

I, ________________________________, as a candidate for the appointment of the County of Mariposa SPECIFY EXACT TITLE declare that all information provided on this form by me, including all attachments, is true and correct. If requested, I agree to provide written responses to any questions.

I have received the application packet and have read and understand the Board of Supervisors Policy specifying the “Process to Fill Vacancies of Elected Offices, other than Superior Court Judge or Board of Supervisors member.”

I understand that finalists will be subject to a full background investigation, and that the selected candidate will be required to pass the County’s standard medical examination and must file a Form 700 for the state within thirty calendar days of taking office.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this _____ day of ______________, __________, at __________________, California.

Date          Month          Year          City/Town

__________________________________________
Applicant’s Signature

Please submit the completed application to the address below by 5 p.m., on Month Day, Year. Please note that the application must be received prior to that deadline regardless of the mode of delivery/transfer.

Clerk of the Board of Supervisors
rlaroche@mariposacounty.org
County Government Center
5100 Bullion Street, Second Floor
Post Office Box 784
Mariposa, CA 95338

COUNTY OF MARIPOSA
APPLICATION FOR APPOINTMENT OF THE
ELECTIVE OFFICE OF THE
SPECIFY EXACT TITLE

PART I. Contact Information

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Please list your residence addresses for the past five years:

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I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signed on this __________ day of ____________________, ______, at ______________, California.

__________________________________________
Applicant's Signature
COUNTY OF MARIPOSA
APPLICATION FOR APPOINTMENT OF THE ELECTIVE OFFICE OF THE SPECIFY EXACT TITLE

Please print.

Last Name          First Name          Middle Initial

Current Street Address          City          State          Zip

Home Phone #          Business Phone #          Email Address

As a candidate for appointment to the position of Mariposa County STATE EXACT TITLE, I declare the following:

☐ YES  ☐ NO  I am a registered voter of the County of Mariposa.

☐ YES  ☐ NO  I am a citizen of the United States and a resident of the State of California.

☐ YES  ☐ NO  I have not been convicted of a crime that disqualifies me from holding elected office.
If no, please explain (attach additional sheets, if necessary):

________________________________________________________________________

☐ YES  ☐ NO  I meet all legal qualifications to run for election to this position. (If in doubt, check with the County Elections office.)

☐ YES  ☐ NO  I am able to formally assume the position at a time and place to be negotiated with the Board of Supervisors.

☐ YES  ☐ NO  I am not involved in outside activities that may be in conflict with the functions and responsibilities of this position.
If no, please explain (attach additional sheets, if necessary):

________________________________________________________________________

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Signed on this _________ day of ______________________, ______, at ______________________, California.

Applicant’s Signature
COUNTY OF MARIPOSA

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Please list your educational experience:

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I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signed on this _______ day of __________________, ______, at __________________, California.

____________________________
Applicant's Signature
STOP! Your application is not complete unless you also provide the following:

- Part IV. Current résumé containing, as a minimum, all employment for the previous five (5) years.
- Part V. Statement of Qualifications for the position (500 words maximum)
- Part VI. Written statement explaining your reasons for wishing to be appointed to the position
- Part VII. Three (3) letters of reference/recommendation

Submit the completed application to the address below by 5 p.m., on Month Day, Year. Please note that the application must be received prior to that deadline regardless of the mode of delivery/transfer.

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