



AGENDA
NEWMAN CITY COUNCIL
SPECIAL MEETING AUGUST 23, 2012
CITY COUNCIL CHAMBERS, 7:00 A.M., 1200 MAIN STREET

1. Call To Order.
2. Roll Call.
3. Items from the Public - Non-Agenda Items.
4. Consider Appointing Uncontested Nominees To City Offices And The Cancellation Of The November 6, 2012 Consolidated General Municipal Election
 - i. Adopt Resolution No. 2012- , Appointing Uncontested Nominee, Ed Katen As Mayor Of The City For A Full Term Of Two Years To Serve Exactly As If Elected At The Scheduled Election For November 6, 2012, Pursuant To California Elections Code Section 10229.
 - ii. Adopt Resolution No. 2012- , A Resolution Appointing Uncontested Nominee, Robert A. Martina As Council Member Of The City For A Full Term Of Four Years To Serve Exactly As If Elected At The Scheduled Election For November 6, 2012, Pursuant To California Elections Code Section 10229.
 - iii. Adopt Resolution No. 2012- , A Resolution Appointing Uncontested Nominee, Roberta Davis As Council Member Of The City For A Full Term Of Four Years To Serve Exactly As If Elected At The Scheduled Election For November 6, 2012, Pursuant To California Elections Code Section 10229.
 - iv. Adopt Resolution No. 2012- , A Resolution Appointing Uncontested Nominee, David Reed As City Treasurer Of The City For A Full Term Of Four Years To Serve Exactly As If Elected At The Scheduled Election For November 6, 2012, Pursuant To California Elections Code Section 10229.
5. Adjournment.

Calendar of Events

August 21 - Two-On-Two Meeting With The School Board - 4:00 P.M.

August 22 - Newman Quasiquicentennial (125 Years) Planning Sub-Committee Meeting - 6:00 P.M.

August 23 - 2012 Healthier Choices Summit And Biggest Loser Contest - 11:00 A.M.

August 28 - City Council - 7:00 P.M.

August 29 - September 3 - Fall Festival.

September 3 - Labor Day Holiday - City Offices Closed.

September 4-7 - League Of California Cities Annual Conference - San Diego.

September 8 - Youth Soccer Season Begins.

September 10 - NCLUSD Board Meeting - 6:00 P.M.

September 11 - City Council - 7:00 P.M.

September 12 - Newman Quasiquicentennial (125 Years) Planning Committee Meeting - 6:00 P.M.

September 13 - Newman Redevelopment Successor Agency Oversight Board Meeting - 3:30 P.M.

September 13 - Recreation Commission - 7:00 P.M.

September 20 - Two-On-Two Meeting With The School Board - 4:00 P.M.

September 20 - Planning Commission - 7:00 P.M.

September 25 - City Council - 7:00 P.M.

September 26 - Newman Quasiquicentennial (125 Years) Planning Sub-Committee Meeting - 6:00 P.M.

Honorable Mayor and Members
of the Newman City Council

**CONSIDER APPOINTING UNCONTESTED NOMINEES TO CITY OFFICES AND THE
CANCELLATION OF THE NOVEMBER 6, 2012 CONSOLIDATED GENERAL MUNICIPAL
ELECTION**

RECOMMENDATION:

It is recommended that the Newman City Council (“City Council”) adopt Resolutions No. 2012- , 2012- , 2012- , and 2012- , appointing Ed Katen as Mayor of the City of Newman (the “City”) for a full term of two years, Robert A. Martina and Roberta Davis as City Council Members for a full term of four years and David Reed as City Treasurer for a full term of four years to serve exactly as if elected at the election scheduled for November 6, 2012, pursuant to California Elections Code section 10229.

BACKGROUND:

Pursuant to Elections Code section 12101, the City Clerk published a public notice on July 5, 2012, providing notification to the general public that a consolidated general municipal election (the “Election”) would be held on Tuesday, November 6, 2012 (“Notice of Election”). The Notice of Election provided further notice that the Election would determine the office of Mayor, two City Councilmember seats and City Treasurer. The Notice of Election set forth the candidate qualifications and the dates by which any interested person who met the legal criteria could secure and file nomination papers with the City. All nomination papers were due to the City Clerk’s office by Friday, August 10, 2012. The Notice of Election also provided that if no one, or only one person, was nominated for any elected office, appointment to such elective office may be made pursuant to Elections Code section 10229.

As of Friday, August 10, 2012, the only individuals who filed the necessary nomination papers were Ed Katen, City’s incumbent Mayor, Robert A. Martina and Roberta Davis, City’s incumbent City Councilmembers, and David Reed, City’s incumbent Treasurer.

On Thursday, August 16, 2012, the City Clerk caused a public notice containing a certificate of facts to be published in the Modesto Bee scheduled for circulation beginning on August 18, 2012 (the “Certificate of Facts”). The Certificate of Facts certified that the number of nominees for the offices of Mayor, Councilmember and Treasurer did not exceed the number of offices to be filled in the Election. In the Certificate of Facts, the City Clerk requested the City Council appoint the uncontested candidates at a special meeting of the Newman City Council on Thursday, August 23, 2012.

ANALYSIS:

Elections Code section 10229 provides that in the event no one or only one person has been nominated for any office that is elected on a citywide basis, the governing body of a city may appoint a qualified candidate or nominee to office. Section 10229 requires that the city elections official submit a Certificate of Facts to the city’s governing body demonstrating that these requirements have been met.

Elections Code section 10229 further provides that the Certificate of Facts must be published in any newspaper of general circulation for five days. After such time has passed, the city’s governing body may make the appointment or direct that an election be held. Such appointment can occur at a regular or special meeting of the governing body. However, if no person has been appointed to office by the 75th day before the scheduled election, the city is required to hold an election.

At present, the deadline to submit nomination papers for the office of Mayor, City Councilmember and City Treasurer has passed and the only candidates who filed the required nomination papers are the incumbents for the four open seats. In an effort to save City funds that are otherwise allocated for election related costs, staff published the Certificate of Facts and directed the same to the City Council. The City, in conformity with the legal advice provided by the City’s legal counsel, has complied with the notice and filing requirements set forth by law to appoint the uncontested candidates to office.

Based on the timeframe set forth in Elections Code section 10229, the City Council must carry out the appointments, if it elects to do so, by the 75th day before the election is scheduled. Here, this requires the City Council to take action by August 23, 2012. If the City Council does not make the appointments by this date, the Election must be held as scheduled on November 6, 2012.

FISCAL IMPACT:

The City is billed its pro-rata share for costs associated with any elections carried out by Stanislaus County. Staff estimates that the cost of conducting the Election is approximately \$3,500 based on information provided by Stanislaus County which was scheduled to carry out the Election. By appointing the uncontested candidates, the City will save the money set aside for election costs and will have the ability to freely allocate those funds to other City related endeavors and obligations.

ALTERNATIVE ACTIONS:

For the August 23, 2012 City Council meeting, pursuant to Elections Code section 10229, the City Council's options regarding Agenda Item 4. include:

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

CONCLUSION:

Based on the information contained herein, staff believes appointment of the qualified individuals who filed a declaration of candidacy by the August 10, 2012 deadline is the best and most cost effective method of determining who shall serve on the City Council for the offices that are available to be filled at this time. Staff recommends that the City Council adopt Resolutions No. 2012- , 2012- , 2012- and 2012- , appointing Ed Katen as Mayor, Robert A. Martina and Roberta Davis as City Councilmembers and David Reed as City Treasurer to take office and serve exactly as if elected in the Election.

ATTACHMENTS:

1. Resolution No. 2012-
2. Resolution No. 2012-
3. Resolution No. 2012-
4. Resolution No. 2012-
5. Certificate of Facts

Respectfully submitted,



Mike Maier
Deputy City Clerk

REVIEWED/CONCUR

Michael Holland,
City Manager

RESOLUTION NO. 2012-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWMAN APPOINTING UNCONTESTED NOMINEE, ED KATEN AS MAYOR OF THE CITY FOR A FULL TERM OF TWO YEARS TO SERVE EXACTLY AS IF ELECTED AT THE SCHEDULED ELECTION FOR NOVEMBER 6, 2012, PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10229

WHEREAS, pursuant to §10229 of the Elections Code of the State of California, as of the close of the nomination period on August 10, 2012, there are 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 persons who have 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.

WHEREAS, a notice of these facts was posted on August 17, 2012 and published in a newspaper of general circulation in the City of Newman on August 18, 2012 pursuant to law.

NOW, THEREFORE, the City Council of the City of Newman, 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, uncontested Mayoral Nominee, Ed Katen be appointed as Mayor of the City for a full term of two years.

Section 2

The election scheduled to be held on Tuesday, November 6, 2012 is now cancelled.

Section 3

The person appointed shall qualify and take office and serve exactly as if elected at the scheduled November 6, 2012 municipal election for this office.

The foregoing resolution was introduced at a special meeting of the City Council of the City of Newman held on the 23rd day of August, 2012 by Council Member _____ who moved its adoption, which motion was duly seconded and was adopted by the following vote.

AYES:
NOES:
ABSENT:

APPROVED:

ATTEST:

Mayor of the City of Newman

Deputy City Clerk

RESOLUTION NO. 2012-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWMAN APPOINTING UNCONTESTED NOMINEE, ROBERT A. MARTINA AS COUNCIL MEMBER OF THE CITY FOR A FULL TERM OF FOUR YEARS TO SERVE EXACTLY AS IF ELECTED AT THE SCHEDULED ELECTION FOR NOVEMBER 6, 2012, PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10229

WHEREAS, pursuant to §10229 of the Elections Code of the State of California, as of the close of the nomination period on August 10, 2012, there are 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 persons who have 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.

WHEREAS, a notice of these facts was posted on August 17, 2012 and published in a newspaper of general circulation in the City of Newman on August 18, 2012 pursuant to law.

NOW, THEREFORE, the City Council of the City of Newman, 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, uncontested Council Member Nominee, Robert A. Martina be appointed as Council Member of the City for a full term of four years.

Section 2

The election scheduled to be held on Tuesday, November 6, 2012 is now cancelled.

Section 3

The person appointed shall qualify and take office and serve exactly as if elected at the scheduled November 6, 2012 municipal election for this office.

The foregoing resolution was introduced at a special meeting of the City Council of the City of Newman held on the 23rd day of August, 2012 by Council Member _____ who moved its adoption, which motion was duly seconded and was adopted by the following vote.

AYES:
NOES:
ABSENT:

APPROVED:

ATTEST:

Mayor of the City of Newman

Deputy City Clerk

RESOLUTION NO. 2012-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWMAN APPOINTING UNCONTESTED NOMINEE, ROBERTA DAVIS AS COUNCIL MEMBER OF THE CITY FOR A FULL TERM OF FOUR YEARS TO SERVE EXACTLY AS IF ELECTED AT THE SCHEDULED ELECTION FOR NOVEMBER 6, 2012, PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10229

WHEREAS, pursuant to §10229 of the Elections Code of the State of California, as of the close of the nomination period on August 10, 2012, there are 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 persons who have 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.

WHEREAS, a notice of these facts was posted on August 17, 2012 and published in a newspaper of general circulation in the City of Newman on August 18, 2012 pursuant to law.

NOW, THEREFORE, the City Council of the City of Newman, 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, uncontested Council Member Nominee, Roberta Davis be appointed as Council Member of the City for a full term of four years.

Section 2

The election scheduled to be held on Tuesday, November 6, 2012 is now cancelled.

Section 3

The person appointed shall qualify and take office and serve exactly as if elected at the scheduled November 6, 2012 municipal election for this office.

The foregoing resolution was introduced at a special meeting of the City Council of the City of Newman held on the 23rd day of August, 2012 by Council Member _____ who moved its adoption, which motion was duly seconded and was adopted by the following vote.

AYES:
NOES:
ABSENT:

APPROVED:

ATTEST:

Mayor of the City of Newman

Deputy City Clerk

RESOLUTION NO. 2012-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWMAN APPOINTING UNCONTESTED NOMINEE, DAVID REED AS CITY TREASURER OF THE CITY FOR A FULL TERM OF FOUR YEARS TO SERVE EXACTLY AS IF ELECTED AT THE SCHEDULED ELECTION FOR NOVEMBER 6, 2012, PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10229

WHEREAS, pursuant to §10229 of the Elections Code of the State of California, as of the close of the nomination period on August 10, 2012, there are 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 persons who have 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.

WHEREAS, a notice of these facts was posted on August 17, 2012 and published in a newspaper of general circulation in the City of Newman on August 18, 2012 pursuant to law.

NOW, THEREFORE, the City Council of the City of Newman, 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, uncontested Council Member Nominee, David Reed be appointed as Council Member of the City for a full term of four years.

Section 2

The election scheduled to be held on Tuesday, November 6, 2012 is now cancelled.

Section 3

The person appointed shall qualify and take office and serve exactly as if elected at the scheduled November 6, 2012 municipal election for this office.

The foregoing resolution was introduced at a special meeting of the City Council of the City of Newman held on the 23rd day of August, 2012 by Council Member _____ who moved its adoption, which motion was duly seconded and was adopted by the following vote.

AYES:
NOES:
ABSENT:

APPROVED:

ATTEST:

Mayor of the City of Newman

Deputy City Clerk

CERTIFICATE OF FACTS

I, Mike Maier, Deputy City Clerk of the City of Newman, do hereby certify that the number of nominees for the offices of Mayor, Council Member and Treasurer did not exceed the number of offices to be filled at the Consolidated Election to be held on November 6, 2012.

Number of Positions:

- Mayor, two-year term expiring 2014 – 1 to be elected
- Council Member, four-year term expiring 2016 – 2 to be elected
- City Treasurer, four-year term expiring 2016 – 1 to be elected

In accordance with California Election Code § 10229, I hereby request that the Newman City Council at a special meeting to be held Thursday, the 23rd day of August, 2012, appoint the following candidates who filed a declaration of candidacy and who shall take office and serve exactly as if elected at the Consolidated Election.


Mayor
Ed Katen
658 Lee Ave
Newman, CA 95360

Council Member
Robert A. Martina
1353 Red Teal Drive
Newman, CA 95360

Treasurer
David Reed
1541 Kern Street
Newman, CA 95360

Roberta Davis
1436 Merced Street
Newman, CA 95360

WITNESS MY HAND THIS 16th DAY OF AUGUST 2012.


Mike Maier
Deputy City Clerk

DATE: August 16, 2012
PUBLISHED: August 18, 2012