



**AGENDA  
SPECIAL MEETING  
CHOWCHILLA CITY COUNCIL**

Council Chambers, Chowchilla City Hall  
130 S. Second Street, Chowchilla, CA 93610

**August 23, 2016**

Agendas for all City Council meetings are posted at least 72 hours prior to the meeting at the Civic Center, 130 S. Second St., Written communications from the public for the agenda must be received by Administrative Services no less than 7 days prior to the meeting date.

Any writing or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the City Clerk's Counter. In addition, most documents will be posted on the city website at [www.CityofChowchilla.org](http://www.CityofChowchilla.org).

The City of Chowchilla complies with the Americans with Disabilities Act (ADA of 1990). The Council Chambers is accessible to the physically disabled. If you need special assistance, please call (559) 665-8615, ext. 102 at least 4 days prior to the meeting.

**CALL TO ORDER**

**ROLL CALL:**

Mayor: Waseem Ahmed

Mayor Pro Tem: Mary Gaumnitz

Council: John Chavez, Dennis Haworth, Richard Walker

City staff and contract employees present at the meeting will be noted in the minutes

**OPEN SESSION – 6:00 PM**

**PLEDGE OF ALLEGIANCE:**

**INVOCATION:**

**PUBLIC ADDRESS**

This time is reserved for members of the audience to address the City Council on items of interest that are **not** on the Agenda and that are within the subject matter jurisdiction of the Council.

It is recommended that speakers limit their comments to **no more than 3 minutes** each and it is requested that no comments be made during this period on items on the Agenda. Members of the public wishing to address the Council on items on the Agenda should notify the Mayor when that Agenda item is called.

The Council is prohibited by law from taking any action on matters discussed that are not on the Agenda. No adverse conclusions should be drawn if the Council does not respond to public comment at this time.

Speakers are asked to please **use the microphone and provide their name for the record**. Prior to addressing the Council, any handouts are to be provided to City Clerk who will distribute them to the Council and the appropriate staff.

**NEW BUSINESS – Section 6**

**6.1 Council Resolution # -16, Appointing John Chavez, Dennis Haworth and Ray Barragan to the Office of Member of the City Council of the City of Chowchilla as if They had Been Elected Pursuant to Elections Code §10229 (McClendon)**

**ADJOURNMENT**

I, Joann McClendon, CMC, City Clerk, do hereby declare under penalty of perjury that the foregoing agenda was posted at the Chowchilla City Hall, 130 S Second Street, Chowchilla, CA and made available for public review on this 22nd day of August 2016 at or before 11:00 a.m.

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Joann McClendon, CMC  
City Clerk



# CITY COUNCIL STAFF REPORT

Item 6.1

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THE AGENDA](#)

August 23, 2016

**AGENDA SECTION:** New Business

**SUBJECT:** **Consideration and Necessary Action on Report of City Elections Officer and Appointment of Qualified Candidates to Office of Chowchilla City Council Pursuant to Elections Code § 10229(a)(1)**

**PREPARED BY:** Joann McClendon, City Clerk

REVIEWED BY  
ADMINISTRATOR

REVIEWED BY  
ATTORNEY

REVIEWED BY  
FINANCE

## **RECOMMENDATION**

Adopt a Resolution appointing to the Chowchilla Office of City Council the only three persons who have qualified as candidates for the available positions as if they have been elected at the November 8, 2016 General and Municipal Election.

## **HISTORY / BACKGROUND**

By statute, the City Elections Officer is the individual who occupies the position of City Clerk. As required by the Elections Code, the City of Chowchilla contract with, and, has its municipal elections conducted by the Madera County Elections Office. The City incurs a fee under that contract whenever there is an election for City Council seats. The fee incurred for an election of City Council seats has historically been over \$15,000. The expense is the result of the County being required to print ballots, voter pamphlets and other materials for distribution to voters and polling places, and to count and certify the votes.

The terms of office of three incumbent City Council Members Chavez, Haworth and Walker expire December 2016, as of the date on which a certification of the election results for those three offices would occur if there were an election for those municipal offices at the general, statewide election on November 8, 2016 (Chowchilla Municipal Code §2.04.150).

On August 18, 2016, 82 days before the election, the City Elections Officer/City Clerk, was notified by the Madera County Elections Manager that incumbent Council Members Chavez and Haworth, and, Mr. Ray Barragan were the only persons who had been nominated for the three seats available on the City Council. The Elections Manager also advised of the right of the City Council to avoid an election that would be meaningless and inconsequential by appointing the three individuals who have been nominated for those offices in accordance with the law before the date of the municipal election.

Election Code §10229 provides, as relevant to the City of Chowchilla's situation, that if prior to the date set for a regularly scheduled municipal election 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 the election, the City Elections Officer is required to submit a certificate of these facts to the governing body of the City and inform the governing body that it may, at a regular or special meeting held before the municipal election, appoint to the offices the persons who have been nominated. The certification of these facts is attached to this report. If the Council does not make the appointment of the three persons nominated for the three available offices, the County may conduct the election and the City will incur, unnecessarily, the fee for that election. No useful purpose can be served by having an election. There are only three nominees eligible for election so the election of incumbent Council Members Chavez and Haworth and that of Mr. Ray Barragan is inevitable.

The County Elections Office, based on the assumption that this Council will exercise the option it has available to it under Elections Code §10229 and appoint the three individuals named to the office of City Council as if they had been elected at the municipal election on November 8, 2016 has provided the necessary certifications from that office of the appointment of these three individuals pursuant to Elections Code §10229. Those certificates are attached to this report. An appropriate resolution providing for the appointment also accompanies this report. The statute provides that “the person appointed, if any, shall qualify and take office and serve exactly as if elected at a municipal election for the office”. Accordingly, the persons appointed by the Council, should it decide to do so, will not qualify and will not take office or serve as City Council persons until after the date on which the election results would have been certified by the County Elections Office. Accordingly, if the Council does appoint incumbent Council Members Chavez and Haworth and Mr. Ray Barragan to the office of City Council they will not take office until December 2016, presumably at the first meeting of the City Council during that month. However, to avoid an election the Council must act to effectuate the appointment prior to the date of the municipal election. If appointed, the incumbent Council Members Chavez and Haworth and Mr. Ray Barragan are required to take the oath of office, prior to the date of the election, and will presumably do so at the time of the appointment. Accordingly, if the Council acts to make the appointment, the City Clerk will immediately administer the oath of office to the three appointees.

### **FINANCIAL ANALYSIS**

It is possible that if the appointments are not made, the County will undertake to conduct an election and the City will incur an approximately \$16,000 cost. There will be a nominal financial impact from making the appointments.

### **ATTACHMENTS**

Resolution

Certificate of the City Elections Officer

**COUNCIL RESOLUTION # -16**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHOWCHILLA APPOINTING JOHN CHAVEZ, DENNIS HAWORTH AND RAY BARRAGAN TO THE OFFICE OF MEMBER OF THE CITY COUNCIL OF THE CITY OF CHOWCHILLA AS IF THEY HAD BEEN ELECTED PURSUANT TO ELECTIONS CODE §10229**

**WHEREAS**, the nomination/declaration of candidacy for the upcoming general election at which three positions in the office of member of the City Council of the City of Chowchilla were to be elected closed effective August 17, 2016.

**WHEREAS**, the offices of member of the City Council of the City of Chowchilla for the term expiring December 2020 is an office to be elected at large and the number of persons who have been nominated for the available three positions do not exceed the number to be filled at that election in that the following three nominees have completed the necessary requirements to run for that office:

John Chavez  
Dennis Haworth  
Ray Barragan

**WHEREAS**, As a result of the foregoing, pursuant to Elections Code §10229(a)(1) the City Council of the City of Chowchilla may, at a regular or special meeting held before the municipal election appoint to the office of member of the City Council of the City of Chowchilla the three persons named above who have been nominated.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Chowchilla hereby finds and determines the following:

1. The foregoing facts are true and correct.
2. Pursuant to the provisions of Elections Code §10229, John Chavez, shall be and hereby is appointed to the office of the Member of the Chowchilla City Council for the term expiring December 2020.
3. Pursuant to the provisions of Elections Code §10229, Dennis Haworth, shall be and hereby is appointed to the office of the Member of the Chowchilla City Council for the term expiring December 2020.
4. Pursuant to the provisions of Elections Code §10229, Ray Barragan shall be and hereby is appointed to the office of the Member of the Chowchilla City Council for the term expiring December 2020.

**PASSED AND ADOPTED** by the City Council of the City of Chowchilla this 23rd day of August, 2016 by the following vote to wit:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

APPROVED:

\_\_\_\_\_  
Waseem Ahmed, Mayor

ATTEST:

\_\_\_\_\_  
Joann McClendon, CMC  
City Clerk

**CERTIFICATE OF CITY ELECTION OFFICER  
PURSUANT TO ELECTIONS CODE §10229**

I, the undersigned acting City Clerk and City Elections Officer of the City of Chowchilla do hereby certify as follows:

1. The nomination/declaration of candidacy for the upcoming general election at which three positions in the office of member of the City Council of the City of Chowchilla were to be elected closed effective August 17, 2016.
2. The offices of member of the City Council of the City of Chowchilla for the term expiring December 2020 is an office to be elected at large and the number of persons who have been nominated for the available three positions do not exceed the number to be filled at that election in that the following three nominees have completed the necessary requirements to run for that office:

John Chavez  
Dennis Haworth  
Ray Barragan

3. As a result of the foregoing, pursuant to Elections Code §10229(a)(1) the City Council of the City of Chowchilla may, at a regular or special meeting held before the municipal election appoint to the office of member of the City Council of the City of Chowchilla the three persons named above who have been nominated.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Joann McClendon, CMC  
City Clerk/Elections Officer