



**County Counsel
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

KUYLER CROCKER
District One

PETE VANDER POEL
District Two

AMY SHUMLIAN
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: October 30, 2018

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
County Counsel Sign-Off	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>

CONTACT PERSON: Jeff Kuhn PHONE: 636-4950

SUBJECT: Approval of Post-Retirement Employment of Michael C. Spata

REQUEST(S):

That the Board of Supervisors:

1. Approve the Post-Retirement Employment of County Administrative Officer Michael C. Spata as an Extra Help Attorney for the County Counsel's office, effective as of January 1, 2019.
2. Find that the position will be for a limited duration; requires the special skills and knowledge possessed by Mr. Spata; that the nature of the employment and his appointment is necessary to fill a critically needed position before 180 days have passed from his retirement; and the appointment has been approved by the Board of Supervisors in a public meeting and not on the consent calendar; and
3. Waive the 180-day waiting period to return to work for the position.

SUMMARY:

County Administrative Officer Mike Spata, who is retiring from County service as of November 30, 2018, has been intimately involved in the development and review of the County's Animal Confinement Facilities Plans ("ACFPs") and related Climate Action Plans ("CAPs") and environmental impact reports ("EIRs"), for many, many years. This has included his tenure with the County Counsel's office, the Resource Management Agency ("RMA"), and then as County Administrative Officer. Most recently, he has worked closely with County Counsel attorneys, the County's outside legal counsel, and RMA staff on potential settlement of the "DairyCares" litigation (also known as *Sierra Club et al. v. County of Tulare, et al.*, Tulare County Superior Court Case No. 272380), concerning the County's 2017 adoption of a new ACFP, CAP, and EIR. County Counsel, outside counsel, and RMA staff have requested that

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Mr. Spata continue to assist the County with settlement and management of the DairyCares case after his retirement and he has graciously offered to do so at minimal cost to the County.

Mr. Spata has been a California-licensed attorney since 1977 and his license is active and up-to-date with the State Bar. In order to protect the confidentiality of any work Mr. Spata does for the County on this case and any other matters after his retirement, and in order to comply with the post-retirement employment restrictions of the California Public Employees' Pension Reform Act ("PEPRA") and the County Employees' Retirement Law of 1937 ("1937 Act"), it is requested that the Board (1) approve the employment of Mr. Spata as an Extra Help Attorney for the County Counsel's office, effective as of January 1, 2019, (2) find that the position will be for a limited duration, requires the special skills and knowledge possessed by Mr. Spata, that the nature of the employment and his appointment is necessary to fill a critically needed position before 180 days have passed from his retirement, and the appointment has been approved by the Board of Supervisors in a public meeting and not on the consent calendar; and (3) waive the 180-day waiting period that would otherwise apply to such post-retirement employment. With such findings and waiver, Mr. Spata will not be required to be reinstated from his retirement to active membership in the retirement system nor will his retirement benefits be suspended or terminated. He will be limited to working no more than 120 days or 960 hours, whichever is greater, during the balance of the 2018-19 fiscal year under the PEPRA and 1937 Act rules, which should be more than adequate to complete the needed work on the DairyCares case. Within these time limits, he will also be available to assist with other CEQA and land use matters that may arise.

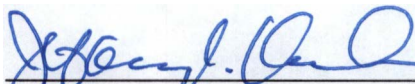
FISCAL IMPACT/FINANCING:

The fiscal year 2018/2019 cost for this request will be fully offset by salary savings from a vacant position in the 001-080-2150 budget. Therefore, approval of this request will have no net cost to the County.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

The County's five-year strategic plan includes the Organizational Performance Initiative to promote continuous improvement of organization effectiveness and fiscal stability. This action meets the Organizational Performance measure of continually evaluating organizational structure to improve service delivery.

ADMINISTRATIVE SIGN-OFF:



Jeffrey L. Kuhn
Chief Deputy County Counsel

Cc: County Administrative Office
Tulare County Employees' Retirement Association

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF Approval of Post-) Resolution No. _____
Retirement Employment of Michael C.)
Spata)
)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

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1. Approved the Post-Retirement Employment of County Administrative Officer Michael C. Spata as an Extra Help Attorney for County Counsel's office, effective as of January 1, 2019.
2. Found that the position will be of limited duration, requires the special skills and knowledge possessed by Mr. Spata, that the nature of the employment and his appointment is necessary to fill a critically needed position before 180 days have passed from his retirement, and the appointment has been approved by the Board of Supervisors in a public meeting and not on the consent calendar; and
3. Waived the 180-day waiting period to return to work for the position.

