

# PRESS RELEASE

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## Pacifica City Council Candidate for Re-election Mary Ann Nihart Announces Withdrawal from 2016 Election

Pacifica, CA: Today, Mary Ann Nihart, current Pacifica City Council member and candidate for re-election, announced that she is withdrawing from the 2016 City Council race in order to avoid a violation of the federal Hatch Act.

The Hatch Act, Federal legislation enacted in 1939, precludes Federal employees in the executive branch of government from participating in partisan elections. Local City Council races in California are considered nonpartisan unless a political party endorses a candidate and the endorsement is influential in the election. Ms. Nihart works for the Department of Veterans Affairs.

In September 2016, City Council candidate Deirdre Martin sought and received an endorsement from the San Mateo County Democratic Central Committee. Nihart learned of this action on Friday, September 16, and subsequently sought advice from federal authorities and from her employer as to how to proceed.

Recently, the Chief of the Hatch Act Unit, U. S. Office of Special Counsel ruled that the party endorsement and the subsequent use of that endorsement by Martin and the party in election materials altered the Pacifica election from nonpartisan to partisan. Counsel offered Nihart two choices: resign her position with the Veterans Affairs Health Care System or withdraw from the election. She has chosen the latter.

“This outcome is unfair to the voters in Pacifica who want to vote for Mary Ann,” said Nihart’s Campaign Manager Peter Menard, “She has successfully served this community for many years and represents the City extremely effectively at both the County and State levels. It is difficult to accept that an endorsement by group of people who do not live in Pacifica can change the nature of our city council election.”

Nihart offered this open letter to the Pacifica community:

“One of the greatest honors of my life has been the privilege of serving my community as a Pacifica City Council member and twice as Mayor. Through no action of my own, I am in the unfortunate position of having to withdraw from being considered as a candidate in this election. Making this announcement is among the most painful decisions of my life.

“While I was not a Federal Employee when I first ran for office, as a psychiatric mental health nurse practitioner I chose in 2010 to begin serving those who have served all of us by

accepting an opportunity in management at the U.S. Department of Veterans Affairs. As such, I became subject to the restrictions and protections of the Hatch Act of 1939. Among many requirements, this Act precludes federal executive branch employees from participating as a candidate in partisan politics. While in California, City Council races, among others, are by law nonpartisan, in 1990, the 9th Court of Appeals struck down a state ban on political party endorsements in these nonpartisan races. As a result, City Council candidates could seek and accept political party endorsements. According to the Hatch Act, there is no “bright line” as to when a race becomes partisan, but an endorsement by a political party begins to change the election.

“In 2012, when I ran for re-election, no candidates accepted endorsements from the major political parties, and both Council candidate Rich Campbell and myself were Federal employees at the time. During this year’s election, Deirdre Martin was the only candidate to seek and receive the endorsement of the San Mateo County Democratic Central Committee (SMCDCC). Sue Vaterlaus, also a Democrat, did not seek endorsement. On September 16th, when I became aware of the endorsement, I sought advice. The first step was to assure the SMCDCC was aware of the potential impact of their endorsement on the race. I respectfully requested the SMCDCC reconsider the endorsement. The request was denied and leaked to social media, but it assured that all knew the potential impact on my candidacy of third parties.

“The initial review of the endorsement, web sites of the candidates, and the SMCDCC website by the Office of Special Council found the circumstances were not sufficient to consider the race partisan.

“However, early in October, an anonymous complaint was filed against my candidacy and further evaluation of the Pacifica City Council race resulted in my receipt of a “cure” letter. In this letter, Ana Galindo-Marrone, Chief of the Hatch Act Unit, Office of Special Counsel states:

“We understand that the Pacifica City Council election is designated a nonpartisan election. However, we have information that one of your opponents in the race, Deidre Martin, has sought and received the endorsement of the San Mateo County Democratic Party. In addition, the San Mateo County Democratic Party has advertised its endorsement of Ms. Martin on its website and sent out at least one mailing advertising said endorsement. Also, Ms. Martin has been advertising in campaign materials and public forums the San Mateo County Democratic Party endorsement. Thus, we have concluded that these actions have rebutted the presumption that the Pacifica City Council election is nonpartisan.

“Accordingly, this letter serves as notice that OSC has reasonable grounds to conclude that your current candidacy in the partisan election for Pacifica City Council is in violation of the Hatch Act. At this time, we are providing you with an opportunity to come into compliance with the law. As we discussed, you may withdraw your candidacy or resign from your employment with the federal government.’

“Throughout the past month and a half I have worked diligently to be able to remain in the Pacifica City Council race. I have received the support of many other elected officials

throughout the County and in the State, but in the end I have been forced to make a very difficult and troubling choice. Effective immediately, I am withdrawing from consideration as a candidate for the Pacifica City Council. I wish all of the candidates great success and may everyone realize their dreams for our community.

“All my very best,  
Mary Ann”

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