



OCEANSIDE CITY CLERK
MEMORANDUM

DATE: January 6, 2010

TO: Mayor and Councilmembers

FROM: Barbara Riegel Wayne, City Clerk

SUBJECT: EITHER: APPOINTMENT TO FILL COUNCILMEMBER CHAVEZ'S VACANCY (TERM TO DECEMBER 2010), OR ALLOCATION OF \$40,000 AND ADOPTION OF RESOLUTIONS CALLING A CONSOLIDATED SPECIAL MUNICIPAL ELECTION FOR JUNE 8, 2010

SYNOPSIS

With the December 18, 2009, resignation of Councilmember Rocky Chavez having accepted the position as California's Undersecretary of Veteran Affairs, Council must by January 18, 2010, either appoint a person or call a Special Election to fill the vacant Councilmember position, with the unexpired term ending December 2010.

In accordance with the requirements of Government Code Section 36512(b), *"the Council shall, within 30 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy. The special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent."*

California Elections Code Section 1000 lists Tuesday, June 8, 2010 as the next established election date to hold a Special Election [beyond the 114 days required by the Code]. To set the election date, Council would need to approve the necessary funding allocation and adopt the attached resolutions: Calling for the Special Election, requesting the County Board of Supervisors to consolidate

the Special Election with the June primary election to be held on Tuesday, June 8, 2010, and adopting regulations for candidates for elective office.

BACKGROUND

With the resignation of Councilmember Rocky Chavez effective December 18, 2009, a vacancy now exists for the remainder of his term, ending December 2010. Council has until January 18, 2010 to either appoint or call a Special Election.

ANALYSIS

Council has 2 options as follows:

- A) **APPOINT** - to appoint someone to fill the vacancy for the term to December 2010. Council's deadline to appoint would be January 18, 2010.
- Maximum time with 4 councilmembers would be 30 days per law
 - Successful appointed candidate would serve 11 months
 - Cost: only internal costs regarding applications and appointment process
- B) **CALL A SPECIAL ELECTION** - to call a special election for the June 8 primary election – a consolidated election with cost sharing. As a consolidated election, the election results would take a maximum of 28 days and the successful candidate would take office around July 6, 2010.
- 4 councilmembers for 6 months
 - Successful candidate would have 5 months to serve
 - Cost: approximately \$40,000

FISCAL IMPACT

For the June 8 consolidated election, the estimated amount is \$40,000. No funds have been allocated in the City Clerk's Department budget to cover the cost for any unexpected election. Therefore, should Council decide to call for a special election, the associated amount would need to be allocated from the undesignated general fund reserves, which has a current balance of \$5,300,000.

CITY ATTORNEY ANALYSIS

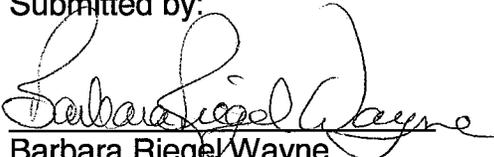
The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Per the laws governing such vacancies, Council must either appoint a person to fill the vacant Councilmember position, with an unexpired term ending December 2010, or hold a Special Election to fill the unexpired term of Councilmember Rocky Chavez. Council's deadline to act is January 18, 2010. In order to call a special election for June 8, 2010 to fill the vacancy, Council must adopt the following resolutions/actions:

- 1) Resolution calling and giving notice of the holding of a Special Consolidated Election to be held in said city on Tuesday, June 8, 2010, for the election of one Councilmember as required by provisions of the laws of the State of California relating to General Law Cities;
- 2) Resolution requesting the County Board of Supervisors to consolidate the Special Election with the June primary election to be held on Tuesday, June 8, 2010, pursuant to Section 10002 of the Election Code;
- 3) Resolution adopting regulations for candidates for elective office, pertaining to materials submitted to the electorate and the costs thereof for the General Municipal Election; and
- 4) Approve a budget appropriation of \$40,000 from the General Fund Unallocated fund balance to the City Clerk Election budget to fund the costs of this Special Election ballot item.

Submitted by:


Barbara Riegel Wayne
City Clerk

Attachments: Resolutions (3)

1 RESOLUTION NO.

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 OCEANSIDE, CALIFORNIA, CALLING AND GIVING NOTICE
4 OF THE HOLDING OF A SPECIAL MUNICIPAL
5 CONSOLIDATED ELECTION TO BE HELD ON TUESDAY,
6 JUNE 8, 2010, FOR THE ELECTION OF ONE MEMBER OF THE
7 CITY COUNCIL, TO FILL A VACANCY AS REQUIRED BY THE
8 PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA
9 RELATING TO GENERAL LAW CITIES

10 WHEREAS, a vacancy in the office of Member of the City Council was created by the
11 resignation of Councilmember Rocky Chavez on December 18, 2009, following his
12 appointment as Undersecretary of Veteran Affairs; and

13 WHEREAS, this Special Election is being held to fill his vacancy to the term ending
14 December 2010; and

15 WHEREAS, under the provisions of the laws relating to General Law Cities in the State of
16 California, a Special Municipal Election shall be held on Tuesday, June 8, 2010, to elect a City
17 Councilmember.

18 NOW, THEREFORE, the City Council of the City of Oceanside DOES RESOLVE as follows:

19 SECTION 1. That pursuant to the requirements of the laws of the State of California
20 relating to General Law Cities, there is called and ordered to be held in the City of Oceanside,
21 California, on Tuesday, June 8, 2010, a Special Municipal Election for the purpose of electing
22 one (1) Member of the City Council to fill an existing vacancy with an unexpired term ending
23 December 2010.

24 SECTION 2. That the ballots to be used at the election shall be in the form and content as
25 required by law.

26 SECTION 3. That the San Diego County Registrar of Voters is authorized, instructed and
27 directed to procure and furnish any and all official ballots, notices, printed matter and all
28 supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully
conduct the consolidated election.

SECTION 4. That the polls for the election shall be open at seven o'clock a.m. of the day
of the election and shall remain open continuously from that time until eight o'clock p.m. of the
same day when the polls shall be closed, except as provided in Section 14401 of the Elections
Code of the State of California.

1 SECTION 5. That in all particulars not recited in this resolution, the election shall be held
2 and conducted as provided by law for holding municipal consolidated elections.

3 SECTION 6. That notice of the time and place of holding the election is given and the City
4 Clerk is authorized, instructed and directed to give further or additional notice of the election, in
5 time, form and manner as required by law.

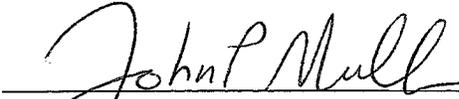
6 PASSED AND ADOPTED by the City Council of the City of Oceanside, California,
7 this 6th day of January, 2010, by the following vote:

- 8 AYES:
9 NAYS:
10 ABSENT:
11 ABSTAIN:
12
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14 MAYOR OF THE CITY OF OCEANSIDE

15 APPROVED AS TO FORM:

ATTEST:

16 
17 _____
18 CITY ATTORNEY

19 _____
20 CITY CLERK

1 RESOLUTION NO.

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 OCEANSIDE, CALIFORNIA, REQUESTING THE BOARD OF
4 SUPERVISORS OF THE COUNTY OF SAN DIEGO TO
5 CONSOLIDATE THE SPECIAL MUNICIPAL ELECTION TO BE
6 HELD IN THE CITY ON TUESDAY, JUNE 8, 2010, WITH THE
7 STATEWIDE PRIMARY ELECTION TO BE HELD ON THAT
8 DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS
9 CODE

10 WHEREAS, a Special Municipal Election is to be held in the City of Oceanside,
11 California, on Tuesday, June 8, 2010, for the purpose of electing one (1) Member of the City
12 Council to fill a vacancy; and

13 WHEREAS, Section 439.1 of the Administrative Code of the County of San Diego
14 authorizes the County Registrar of Voters to render specified services relating to the conduct of
15 an election to any city which has, by resolution, requested the Board of Supervisors to permit
16 the Registrar to render services; and

17 WHEREAS, it is desirable that the Special Municipal Election be consolidated with the
18 Statewide Primary election to be held on June 8, 2010.

19 NOW, THEREFORE, the City Council of the City of Oceanside does resolve as follows:

20 SECTION 1. That pursuant to the provisions of Section 10002 of the Elections Code of
21 the State of California, this City Council requests the Board of Supervisors of San Diego County
22 to permit the County Registrar of Voters to perform and render all services and proceedings
23 necessary to conduct the Special Municipal Election on Tuesday, June 8, 2010, for the purpose of
24 electing one (1) Member of the City Council to fill a vacancy, with the assistance of the City
25 Clerk/Elections Official of the City of Oceanside.

26 SECTION 2. That the election shall be held in all respects as if there were only one
27 election and only one form of ballot shall be used, and that the Registrar of Voters is authorized to
28 canvass the returns of the Special Municipal Election according to the Elections Code.

SECTION 3. That the Board of Supervisors is requested to issue instructions to the
Registrar of Voters to take any and all steps necessary for the holding of the Special Municipal
Election.

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SECTION 4. That the City of Oceanside recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for its reasonable share of these costs.

SECTION 5. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Registrar of Voters of San Diego County.

PASSED AND ADOPTED by the City Council of the City of Oceanside, California, this 6th day of January, 2010, by the following vote:

- AYES:
- NAYS:
- ABSENT:
- ABSTAIN:

MAYOR OF THE CITY OF OCEANSIDE

APPROVED AS TO FORM:

ATTEST:

John P. Muller
CITY ATTORNEY

CITY CLERK

Resolution requesting County services for Special Municipal Election to be held June 7, 2005

1 RESOLUTION NO.

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 OCEANSIDE, CALIFORNIA, ADOPTING REGULATIONS FOR
4 CANDIDATES FOR ELECTIVE OFFICE, PERTAINING TO
5 MATERIALS SUBMITTED TO THE ELECTORATE AND THE
6 COSTS THEREOF FOR THE SPECIAL MUNICIPAL ELECTION
7 TO BE HELD IN THE CITY ON TUESDAY, JUNE 8, 2010

8 WHEREAS, Section 13307 of the Elections Code of the State of California provides that
9 the governing body of any local agency adopt regulations pertaining to materials prepared by
10 any candidate for a municipal election, including costs of the Candidates Statement.

11 NOW, THEREFORE, the City Council of the City of Oceanside does resolve as follows:

12 SECTION 1. GENERAL PROVISIONS. Pursuant to Section 13307 of the Elections Code
13 of the State of California, each candidate for elective office to be voted for at the Special
14 Municipal Election to be held in the City of Oceanside on Tuesday, June 8, 2010, may prepare a
15 Candidate Statement on the appropriate form provided by the City Clerk. Such statement may
16 include the name, age and occupation of the candidate and a brief description of no more than 200
17 words of the candidate's education and qualifications expressed by the candidate himself or
18 herself. The statement shall not include party affiliation of the candidate nor membership or
19 activity in partisan political organizations. Such statement shall be filed in the Office of the City
20 Clerk at the time the candidate's nomination paper is returned for filing.

21 Once submitted, such statement may be withdrawn, but not changed, during the period for
22 filing nomination papers and until 5:00 PM of the next working day after the close of the
23 nomination period.

24 SECTION 2. FOREIGN LANGUAGE POLICY. Pursuant to the Voting Rights Act of
25 1965 (as amended), the City is required to translate Candidate Statements into the Spanish,
26 Filipino and Vietnamese languages. Therefore, the City Clerk shall have all Candidate
27 Statements translated and printed in the Spanish, Filipino and Vietnamese languages, as specified
28 above.

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1 SECTION 3. PAYMENT. The candidate shall be required to pay for the cost of printing
2 the Candidate Statement in English and for the cost of translating and printing the Candidate
3 Statement in Spanish, Filipino and Vietnamese.

4 The City Clerk shall estimate the total cost of printing, handling, translating, and mailing
5 the Candidate Statements filed pursuant to this section, including costs incurred as a result of
6 complying with the said Voting Rights Act, and require each candidate filing a statement to pay in
7 advance to the City of Oceanside his or her estimated pro rata share as a condition of having his or
8 her statement included in the voter's pamphlet. This estimate is an approximation of the actual
9 cost that varies from one election to another and may be significantly more or less than the
10 estimate, depending on the actual number of candidates filing statements. Accordingly, the City
11 Clerk may, on a pro rata basis, bill the candidate for additional actual expenses or refund any
12 excess paid depending on the final actual cost. In the event of underpayment, the City Clerk may
13 require the candidate to pay the balance of the cost incurred. In the event of overpayment, the
14 City Clerk shall prorate the excess amount among the candidates and refund the excess amount
15 paid within thirty (30) days of the election or as soon as the final amount is known from the
16 Registrar of Voters.

17 SECTION 4. PAYMENT. The City Clerk estimates the total cost of printing, handling,
18 and mailing the Candidate Statements filed pursuant to the Elections Code to be Six Hundred Fifty
19 Six Dollars (\$656.00). Each candidate who files a Candidate Statement shall pay in advance Six
20 Hundred Fifty Six Dollars (\$656.00) as a condition of having his or her statement included in the
21 voter's pamphlet.

22 SECTION 5. ADDITIONAL MATERIALS. No candidate will be permitted to include
23 additional materials in the sample ballot package.

24 SECTION 6. The City Clerk shall provide to each candidate or candidate's representative a
25 copy of this Resolution at the time nominating papers are issued.

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SECTION 7. All previous resolutions establishing council policy on payment for Candidate Statements are repealed.

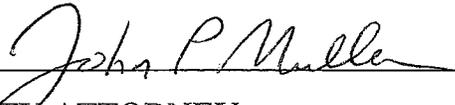
PASSED AND ADOPTED by the City Council of the City of Oceanside, California, this 6th day of January, 2010, by the following vote:

- AYES:
- NAYS:
- ABSENT:
- ABSTAIN:

MAYOR OF THE CITY OF OCEANSIDE

APPROVED AS TO FORM:

ATTEST:



CITY ATTORNEY

CITY CLERK

2008 Resolution – Candidate regulations