



OCEANSIDE CITY CLERK MEMORANDUM

DATE: December 8, 2010

TO: Mayor and Councilmembers

FROM: Barbara Riegel Wayne, City Clerk

SUBJECT: Overview of requirements to fill the vacancy of the City Treasurer and, if desired, direction to fill the vacancy by an interview/appointment process at a Council workshop to be held on December 21 at 2 pm; or allocate \$525,000 and adopt the resolutions calling a special municipal election for June 7, 2011

SYNOPSIS

With the December 2, 2010, swearing in of Gary Felien as Councilmember Council must by December 31, 2010, either appoint a person or call a Special Election to fill the vacant City Treasurer position, with the unexpired term ending December 2012.

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 7, 2011 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 hold the Special Election on Tuesday, June 7, 2011, and adopting regulations for candidates for elective office.

BACKGROUND

This 4-year term of Oceanside's City Treasurer began in December 2008 with the election of Rosemary Jones. Upon her passing January 13, 2009, Council at the February 3, 2009 workshop reviewed applicants and at the February 4 meeting appointed Gary Felien to serve out the remainder of the term. Then City Treasurer Gary Felien was successful in his election to the City Council at the General Election of November 2nd. With Gary Felien sworn in as Councilmember effective December 2, 2010, a vacancy exists for the remainder of the City Treasurer's term ending December 2012.

Council has until December 31, 2010 to either appoint or call a Special Election.

ANALYSIS

Per the laws governing such vacancies, Council must either appoint a person within 30 days to fill the vacant City Treasurer position, with an unexpired term ending December 2012, or hold a Special Election to fill the unexpired term of City Treasurer Gary Felien. Council's deadline to act starts now to December 31, 2010.

To call a special election for June 7, 2011 to fill the vacancy, Council must adopt the following resolutions/actions:

- 1) Resolution calling and giving notice of the holding of a Special Municipal Election to be held in said city on Tuesday, June 7, 2011, for the election of the City Treasurer as required by provisions of the laws of the State of California;
- 2) Resolution requesting the County Board of Supervisors to hold the Special Municipal Election on Tuesday, June 7, 2011, 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 Special Municipal Election; and
- 4) Approve a budget appropriation of \$525,000 from the General Fund Unallocated fund balance to the City Clerk Election budget to fund the costs of this Special Municipal Election.

FISCAL IMPACT

For a June 7 Special Election, the estimated cost is \$525,000. 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, \$525,000 would need to be transferred from the undesignated general fund reserves (current balance of \$1,164,690) to the City Clerk Election Program budget account.

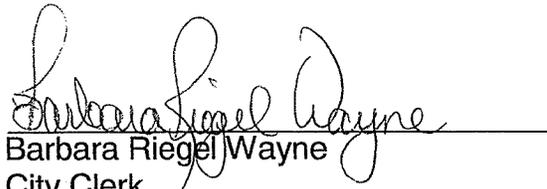
CITY ATTORNEY ANALYSIS

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

RECOMMENDATION

With the current economic conditions, it is recommended that Council fill the vacancy of the City Treasurer by an interview/appointment process at a Council Workshop to be held December 21st at 2:00 PM.

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 ELECTION TO
5 BE HELD ON TUESDAY, JUNE 7, 2011, FOR THE ELECTION
6 OF THE CITY TREASURER AS REQUIRED BY THE
7 PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA

8 WHEREAS, under the provisions of the laws in the State of California, a Special
9 Municipal Election shall be held on Tuesday, June 7, 2011 to elect a City Treasurer.

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

12 SECTION 1. That pursuant to the requirements of the laws of the State of California,
13 there is called and ordered to be held in the City of Oceanside, California, on Tuesday, June 7,
14 2011, a Special Municipal Election for the purpose of electing the City Treasurer for the partial
15 term ending December 2012.

16 SECTION 2. That the San Diego County Registrar of Voters is authorized, instructed and
17 directed to procure and furnish any and all official ballots, notices, printed matter and all
18 supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully
19 conduct the election.

20 SECTION 3. That the polls for the election shall be open at seven o'clock a.m. of the day
21 of the election and shall remain open continuously from that time until eight o'clock p.m. of the
22 same day when the polls shall be closed, except as provided in Section 14401 of the Elections
23 Code of the State of California.

24 SECTION 4. That in all particulars not recited in this resolution, the election shall be held
25 and conducted as provided by law for holding municipal elections.

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

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

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

MAYOR OF THE CITY OF OCEANSIDE

APPROVED AS TO FORM:

ATTEST



CITY ATTORNEY

CITY CLERK

2010 Resolution calling for Special Municipal Election to be held June 7, 2011

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 RENDER
5 SPECIFIED SERVICES TO THE CITY RELATING TO THE
6 CONDUCT OF A SPECIAL MUNICIPAL ELECTION TO BE
7 HELD ON TUESDAY, JUNE 7, 2011

8 WHEREAS, a Special Municipal Election is to be held in the City of Oceanside,
9 California, on Tuesday, June 7, 2011, for the purpose of electing one (1) City Treasurer to fill a
10 vacancy; and

11 WHEREAS, in the course of conduct of the election, it is necessary for the City to
12 request services of the County.

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

14 SECTION 1. That pursuant to the provisions of Section 10002 of the Elections Code of
15 the State of California, this City Council requests the Board of Supervisors of San Diego County
16 to permit the County Registrar of Voters to prepare and furnish to the City those supplies and
17 services necessary to conduct the Special Municipal Election on Tuesday, June 7, 2011, for the
18 purpose of electing one (1) City Treasurer to fill a vacancy.

19 SECTION 2. That the Board of Supervisors is requested to issue instructions to the
20 Registrar of Voters to take any and all steps necessary for the holding of the Special Municipal
21 Election.

22 SECTION 3. That the Registrar of Voters is authorized to canvass the returns of the
23 General Municipal Election at the proper time.

24 SECTION 4. That the City of Oceanside agrees to reimburse the County for its reasonable
25 costs for the services rendered.

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

3 PASSED AND ADOPTED by the City Council of the City of Oceanside, California,
4 this _____ day of _____, 2010, by the following vote:

5 AYES:

6 NAYS:

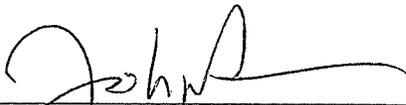
7 ABSENT:

8 ABSTAIN:

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11 _____
MAYOR OF THE CITY OF OCEANSIDE

12 APPROVED AS TO FORM:

ATTEST:

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CITY ATTORNEY

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CITY CLERK

25 Resolution requesting County services for Special Municipal Election to be held June 7, 2011
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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 ELECTION TO BE
7 HELD IN THE CITY ON TUESDAY, JUNE 7, 2011

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 7, 2011, 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 Twelve Hundred
19 and Eighty-Five (\$1,285.00) Dollars. Each candidate who files a Candidate Statement shall pay in
20 advance Twelve Hundred and Eighty-Five (\$1,285.00) Dollars as a condition of having his or her
21 statement included in the 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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1 /SECTION 7. All previous resolutions establishing council policy on payment for Candidate
2 Statements are repealed.

3 PASSED AND ADOPTED by the City Council of the City of Oceanside, California,
4 this _____ day of _____, 2010, by the following vote:

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6 AYES:

7 NAYS:

8 ABSENT:

9 ABSTAIN:

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11 _____
12 MAYOR OF THE CITY OF OCEANSIDE

13 APPROVED AS TO FORM:

14 ATTEST:

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16 CITY ATTORNEY

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18 CITY CLERK

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24 2010 Resolution – Candidate Regulations Special Municipal Election June 7, 2011
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