ITEM NO. 17

OCEANSIDE CITY CLERK
MEMORANDUM

DATE: February 4, 2009

TO: Mayor and Councilmembers

FROM: Barbara Riegel Wayne, City Clerk

SUBJECT: APPOINTMENT TO FILL CITY TREASURER VACANCY OR ALLOCATION OF $450,000 AND ADOPTION OF RESOLUTIONS RELATING TO A SPECIAL ELECTION TO BE HELD ON TUESDAY, JUNE 2, 2009

SYNOPSIS

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." Therefore, with the passing of our City Treasurer Rosemary Jones on January 13, Council must by February 12, 2009, either appoint a person or call a Special Election to fill the unexpired term of the vacant City Treasurer position. California Elections Code Section 1000 lists Tuesday, June 2, 2009 as the next available date to hold a Special Election if Council decides at this time to call a special election to fill the vacancy. Therefore, should Council have not made an appointment at this time and wish to hold a Special Election, it would be necessary to allocate $450,000 and adopt the attached resolutions: Calling for the Special Election, requesting the County Board of Supervisors to render specified services to the City relating to the conduct of a Special Election, and adopting regulations for candidates for elective office.

BACKGROUND

With the passing of City Treasurer Rosemary R. Jones on January 13, 2009, a vacancy now exists for the remainder of the City Treasurer's term, ending December 2012. Council has until February 12 to either appoint or call for a Special Election.

At its January 21, 2009 meeting, Council voted 4-1, with Councilmember Sanchez voting no, to hold an appointment process. Applications were to be submitted by January 29, and a Council workshop was scheduled for February 3, 2009 at 2:00 p.m. to allow Council to interview the applicants, with the possibility of making an appointment on that date.

ANALYSIS

If Council decides to call for a special election rather than to fill the vacancy by appointment, the election must be held on the next regularly established election date that is at least 114 days from Council's action. Should the Council decide at this time to call for a special election, the special election would be conducted on Tuesday, June 2, 2009. If the Council were to take the full 30-day period (to February 12) allowed to make its decision and choose to call for a special election at that time, the special election would be held on November 3, 2009.

Per the California Elections Code, the initial step in the election process is for the governing body of the City to: adopt a resolution calling the special election, adopt a resolution requesting the Board of Supervisors of San Diego County to render specified services to the City relating to the conduct of a Special Election, and adopt a resolution setting certain regulations and costs for candidates. The attached resolutions should be adopted if Council calls for a special election to be held on June 2, 2009.

FISCAL IMPACT

The preliminary estimated cost of a Special Election is approximately $450,000. 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, they would need to allocate $450,000 from the undesignated general fund reserves, which has a current balance of $4,700,000.

CITY ATTORNEY ANALYSIS

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

RECOMMENDATION

Per the laws governing vacancies, Council must either appoint a person to fill the unexpired City Treasurer position, ending December 2012 or hold a Special Election to fill the unexpired term of City Treasurer. In order to call for a special election on June 2, 2009 to fill the vacancy, Council must adopt the following resolutions/actions:

1) Calling and giving notice of the holding of a Special Election to be held in said city on Tuesday, June 2, 2009, for the election of one City Treasurer as required by provisions of the laws of the State of California relating to General Law Cities;

2) Requesting the County Board of Supervisors to render specified services to the City relating to the conduct of a Special Election to be held on Tuesday, June 2, 2009, pursuant to Section 10002 of the Election Code;

3) 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) To appropriate $450,000 from the undesignated general fund reserves account.

Prepared by:

Holly Trobaugh
Assistant City Clerk

Submitted by:

Barbara Riegel Wayne
City Clerk

Attachments: Resolutions (3)

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL ELECTION TO BE HELD ON TUESDAY, JUNE 2, 2009, FOR THE ELECTION OF CITY TREASURER AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES

WHEREAS, under the provisions of the laws relating to General Law Cities in the State of California, a Special Election shall be held on Tuesday, June 2, 2009, to elect a City Treasurer.

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

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the City of Oceanside, California, on Tuesday, June 2, 2009, a Special Election for the purpose of electing one (1) City Treasurer to fill an existing vacancy with an unexpired term ending December 2012.

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

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

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

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

PASSED AND ADOPTED by the City Council of the City of Oceanside, California, this _____ day of February, 2009, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
MAYOR OF THE CITY OF OCEANSIDE

APPROVED AS TO FORM:

ATTEST:

Peter Hamilton, ASST.
_____
CITY ATTORNEY

_____
CITY CLERK

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO TO RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE CONDUCT OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 2, 2009

WHEREAS, a Special Municipal Election is to be held in the City of Oceanside, California, on Tuesday, June 2, 2009, for the purpose of electing one (1) City Treasurer to fill a vacancy; and

WHEREAS, in the course of conduct of the election, it is necessary for the City to request services of the County; and

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

SECTION 1. That pursuant to the provisions of Section 10002 of the Elections Code of the State of California, this City Council requests the Board of Supervisors of San Diego County to permit the County Registrar of Voters to prepare and furnish to the City those supplies and services necessary to conduct the Special Municipal Election on Tuesday, June 2, 2009, for the purpose of electing one (1) City Treasurer to fill a vacancy.

SECTION 2. 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.

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

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

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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 _____ day of _____, 2009, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
MAYOR OF THE CITY OF OCEANSIDE

APPROVED AS TO FORM:

ATTEST:

Barbara Hamilton, Asst.
CITY ATTORNEY

_____
CITY CLERK

Resolution requesting County services for Special Municipal Election to be held June 2, 2007

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE, PERTAINING TO MATERIALS SUBMITTED TO THE ELECTORATE AND THE COSTS THEREOF FOR THE SPECIAL ELECTION TO BE HELD IN THE CITY ON TUESDAY, JUNE 2, 2009

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

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

SECTION 1. GENERAL PROVISIONS. Pursuant to Section 13307 of the Elections Code of the State of California, each candidate for elective office to be voted for at the General Municipal Election to be held in the City of Oceanside on Tuesday, June 2, 2009, may prepare a Candidate Statement on the appropriate form provided by the City Clerk. Such statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words of the candidate's education and qualifications expressed by the candidate himself or herself. The statement shall not include party affiliation of the candidate nor membership or activity in partisan political organizations. Such statement shall be filed in the Office of the City Clerk at the time the candidate's nomination paper is returned for filing.

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

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

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

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

SECTION 4. PAYMENT. The City Clerk estimates the total cost of printing, handling, and mailing the Candidate Statements filed pursuant to the Elections Code to be Six Hundred and Eighty-Five ($685.00) Dollars. Each candidate who files a Candidate Statement shall pay in advance Six Hundred and Eighty-Five ($685.00) Dollars as a condition of having his or her statement included in the voter's pamphlet.

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

SECTION 6. The City Clerk shall provide to each candidate or candidate's representative a 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 _____ day of _____, 2009, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
MAYOR OF THE CITY OF OCEANSIDE

APPROVED AS TO FORM:

_____
CITY ATTORNEY

ATTEST:

_____
CITY CLERK

2008 Resolution – Candidate regulations