



**Council Meeting: January 6, 2009**

**SUBJECT: Appointment of Interim Councilmember to Replace Councilmember Lee During Absence Due to Active Military Duty**

**REPORT IN BRIEF**

This report complies with Council's direction to staff on December 16, 2008 to prepare a report to Council identifying the Council candidate who received the most votes among those not elected during the November 2007 election, so that Council can consider the appointment of that individual as an interim Councilmember to replace Councilmember Otto Lee (Seat #5) during his active military duty in Iraq.

**BACKGROUND**

Background detailing Councilmember Lee's call to active military duty, and Council's options relative to his absence, can be found in RTC 08-377. On December 16, 2008, Council considered its options, and voted to appoint an interim replacement based on the results of the last general election – that is, to appoint the Council candidate who received the most votes among those not elected during the November 2007 general election.

**EXISTING POLICY**

The City Charter, Section 604, provides that if a Councilmember misses all regular meetings for a period of 60 days or more, the seat is deemed vacant unless an excused absence is granted by the Council. This policy is superseded, however, by the California Military and Veteran's Code, Section 395.8 stating that where the absence is based on active military duty, the office shall not be deemed vacant.

California Military and Veteran's Code, Section 395.8 also provides that the legislative body may appoint an officer to temporarily replace an officer absent on active duty with the armed forces.

**DISCUSSION**

The Council candidate who received the most votes among those not elected during the November 2007 election was Dean Chu. Mr. Chu received 8,037 votes. The next highest number of votes received was 6,763. (See Attachment A, Election Results from November 2007 General Election.)

### **FISCAL IMPACT**

In the event that Council elects to appoint an interim replacement for seat #5, the individual in that office would be entitled to salary and benefits while serving as an interim Councilmember.

The interim Councilmember's salary would be paid by funds already budgeted for Council seat #5 (Councilmember Lee will not receive a salary from the City during his active military duty).

If an interim Councilmember elected to enroll in medical, dental and vision coverage through the City, the cost of providing these benefits during Councilmember Lee's absence would be a maximum of \$1510.09 per month, depending on the plan selected.

When the General Fund Long-Term Financial Plan was adopted it was fully balanced to the twentieth year. Since the adoption of the budget, however, the economic condition of the City has deteriorated, and as of this report, staff is expecting General Fund revenues to be approximately \$9 million lower than projected for the adopted budget. Any unbudgeted increase in costs will require Council to identify a corresponding revenue increase or service level decrease in another service area, as it is extremely important that no actions are taken to increase General Fund expenditures without taking a corresponding action to reduce expenditures elsewhere.

Thus, in order to move forward with the appointment of an interim Councilmember, Council will need to use the priority ranking tool to find a service or a project to cut to offset the increased expenditure of providing medical, dental, and vision coverage. Because the potential expenditure for the interim Councilmember is a one-time expenditure, staff recommends Council select a project to cut.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

### **ALTERNATIVES**

#### Appointment Options

1. Appoint the individual receiving the most votes among those not elected in the 2007 election, Dean Chu, as an interim Councilmember to seat #5 during Councilmember Lee's absence due to active military duty.

2. Appoint a different individual to Council seat #5 during Councilmember Lee's absence due to active military duty.
3. Do not appoint an interim Councilmember to seat #5 during Councilmember Lee's absence due to active military duty.
4. Other action as determined by Council.

Funding Options

5. Delete a one-time capital project currently funded in the City's Capital Improvement Project plan to pay for the one-time expense of an interim Councilmember
6. Delete an on-going operating expense associated with a current service level to pay for the one-time expense of an interim Councilmember
7. Other action as determined by Council.

**RECOMMENDATION**

Staff recommends Council choose either option 1 or 2 from the alternatives above to replace Councilmember Lee on an interim basis during his absence due to active military duty. Staff believes that maintaining the 7-member structure of City Council is important to continued good governance.

Staff further recommends Alternative 5, that Council delete a one-time capital project currently funded in the City's Capital Improvement Project plan to pay for the one-time expense of an interim Councilmember. Staff recommends that Council eliminate Project 826740, Digital Marquee to Promote City Activities and Events (Attachment B), to fund the one-time expenses associated with an interim Councilmember during Councilmember Lee's active military duty, with any surplus funds associated with this action returned to the General Fund. This project was assigned the lowest ranking possible by City Council during its ranking of all funded City projects last fiscal year.

Cutting this project, which is budgeted for the current fiscal year but has not begun yet, would save the City \$196,680 in unspent capital costs this fiscal year and another \$98,476 in projected replacement costs in FY 2018/2019. This would cover the potential expenditures necessary for the interim Councilmember's medical, dental, and vision coverage, and would provide Council with additional expenditure savings to begin to offset the projected revenue shortfall.

Prepared by: Robert Walker, Assistant City Manager

Approved by:

Gary M. Luebbers  
City Manager

**Attachment**

- A. Election Results from November 2007 General Election
- B. Project Information Sheet 826740, Digital Marquee

**Attachment A**

Santa Clara County

Final Official Results

2007 CONSOLIDATED ELECTIONS

Cumulative Totals

November 6, 2007

<p>REGISTRATION &amp; TURNOUT Santa Clara County</p> <p>Completed Precincts 201 of 201 Total Registration 151,473</p> <p>Precinct Reporting Ballots Cast 14,259 9.41% Absentee Reporting Ballots Cast 43,486 28.71% Total Ballots Cast 57,745 38.12%</p>	<p>ORCHARD SCHOOL DISTRICT Governing Board Member</p> <p>Number to Vote For: 2 Completed Precincts 11 of 11</p> <p>ADAM ZERWICK 184 17.73%</p>	<p>Member, City Council CITY OF LOS ALTOS</p> <p>Number to Vote For: 3 Completed Precincts 19 of 19</p> <p>DAVID CASAS 5,254 27.53% RONALD D. BACKARD 4,999 26.19% MEGAN SATTERLEE 4,628 24.25% RANDAL HULL 4,201 22.04%</p>
<p>PALO ALTO UNIFIED SD Governing Board Member</p> <p>Number to Vote For: 3 Completed Precincts 47 of 47</p> <p>BARBARA KLAUSNER 11,732 29.68% MELISSA BATEN CASWELL 8,057 20.41% CAMILLE TOWNSEND 6,731 17.03% WYNN HAUSSER 6,549 16.57% CLAUDE EZRAN 4,709 11.91% PINGYU LIU 1,734 4.39%</p>	<p>Member, City Council CITY OF CUPERTINO</p> <p>Number to Vote For: 2 Completed Precincts 27 of 27</p> <p>KRIS WANG 4,479 26.60% GILBERT WONG 3,118 18.52% MARK SANTORO 2,906 17.26% BARRY CHANG 2,878 17.09% RAJ ABHYANKER 2,490 14.79% ALBERT C. CHU 967 5.74%</p>	<p>Member, City Council CITY OF PALO ALTO</p> <p>Number to Vote For: 4 Completed Precincts 41 of 41</p> <p>SID ESPINOSA 8,614 18.27% PAT BURKE 7,626 16.18% YIWAY YEH 7,505 15.92% GREG SCHMID 5,866 12.62% DAN DYKWEI 4,808 10.20% WILLIAM ROSS 3,101 6.58% DEBBIE MYTELS 2,872 5.67% TIMOTHY GRAY 1,953 4.14% SMOKEY WALLACE 1,903 4.04% MARK NADIM 1,467 3.11% STELLA MARINOS 1,029 2.18% VICTOR ERST 799 1.69%</p>
<p>PATTERSON JOINT UNIFIED SD Governing Board Member</p> <p>Number to Vote For: 4 Completed Precincts 1 of 1</p> <p>BOBBY YAMAMOTO 16 25.00% BRUCE KELLY 11 17.19% BARBARA J. HARTSELL 10 15.63% GILBERT F. LUJAN 9 14.06% VIOLET M. WELLS 8 12.50% SONJA GUNDERSON 8 12.50% CERISE CAMERON-GRICE 2 3.13%</p>	<p>Mayor CITY OF GILROY</p> <p>Number to Vote For: 3 Completed Precincts 19 of 19</p> <p>AL PINHEIRO 3,205 53.72% CRAIG GARTMAN 2,756 46.28%</p>	<p>Member of City Council CITY OF SUNNYVALE seat 4</p> <p>Number to Vote For: 3 Completed Precincts 53 of 53</p> <p>DAVID WHITTEUM 8,271 56.72% DEAN J. CHU 8,037 49.28%</p>
<p>ORCHARD SCHOOL DISTRICT Governing Board Member</p> <p>Number to Vote For: 2 Completed Precincts 11 of 11</p> <p>PERRY WOODWARD 3,407 21.49% CARTUCKER 3,088 19.48% ROBERT T. DILLON 2,843 17.93% RODOLFO VELASCO 2,509 15.83% TIM DAY 2,054 12.96% RUSS VALQUIETIE 1,953 12.32%</p>	<p>Member, City Council CITY OF SUNNYVALE seat 5</p> <p>Number to Vote For: 2 Completed Precincts 53 of 53</p> <p>SHERYL LINN SHIRLEY 341 32.85% DANNY GENE DAILEY 292 28.13% CHUCK FARNHAM 221 21.29%</p>	<p>Member of City Council CITY OF SUNNYVALE seat 4</p> <p>Number to Vote For: 2 Completed Precincts 53 of 53</p> <p>DAVID WHITTEUM 8,271 56.72% DEAN J. CHU 8,037 49.28%</p>

Santa Clara County

Final Official Results

2007 CONSOLIDATED ELECTIONS

Cumulative Totals

November 6, 2007

Member of City Council CITY OF SUNNYVALE seat 6  Completed Precincts 53 of 53  RON SWEGLES 9,577 60.26% DIXIE CARNEY 6,317 39.74%	Measure B - City of Sunnyvale  Completed Precincts 53 of 53  YES 9,917 59.42% NO 6,858 40.58%	Measure F - City of Sunnyvale  Completed Precincts 53 of 53  NO 3,371 21.81%
Member of City Council CITY OF SUNNYVALE seat 7  Completed Precincts 53 of 53  MELINDA HAMILTON 9,205 57.65% PAT MEYERING 6,783 42.35%	Measure C - City of Sunnyvale  Completed Precincts 53 of 53  YES 12,570 78.29% NO 3,485 21.71%	Measure G - City of Sunnyvale  Completed Precincts 53 of 53  NO 8,168 52.23% YES 7,472 47.77%
CUPERTINO SANITARY DISTRICT Director  Number to Vote For: 3  Completed Precincts 45 of 45  JOHN M. GATTO 4,836 23.58% CHRISTOPHER LEE 4,479 21.83% WILLIAM A. BOSWORTH 4,315 21.04% STEPHEN C. ANDREWS 4,120 20.08% TAGHI SAADATI 2,763 13.47%	Measure D - City of Sunnyvale  Completed Precincts 53 of 53  YES 11,078 69.82% NO 4,788 30.18%	Measure H - City of Sunnyvale  Completed Precincts 53 of 53  YES 11,237 71.35% NO 4,512 28.65%
Measure A - City of Gilroy  Completed Precincts 19 of 19  YES 3,578 63.07% NO 2,095 36.93%	Measure E - City of Sunnyvale  Completed Precincts 53 of 53  YES 9,374 61.08% NO 5,973 38.92%	Measure I - City of Sunnyvale  Completed Precincts 53 of 53  YES 12,165 77.15% NO 3,603 22.85%
Measure F - City of Sunnyvale  Completed Precincts 53 of 53  YES 12,084 78.19% NO 3,371 21.81%	Measure J - City of Sunnyvale  Completed Precincts 53 of 53  YES 12,596 82.09% NO 2,749 17.91%	

**Attachment B**

## Project Information Sheet

### Project: 826740 Digital Marquee to Promote City Activities and Events

Category:	Capital	Type:	Gov. & Comm. Engagement
Origination Year:	2007-08	Fund:	385 Capital Projects
Planned Completion Year :	2008-09	Sub-Fund:	100 General Fund Assets
Department:	Parks and Recreation		
Project Manager:	Hira Raina		
Project Coordinator:	none		

Funding Sources: General Fund Transfer

#### Project Description/Scope/Purpose

This project will install a light emitting diode (LED) marquee to promote and advertise City-wide events and announcements. Additionally, the marquee will be well-positioned to advertise performances at the Sunnyvale Community Theatre, recreation classes, and other events on the Community Center Campus. The marquee would be located at Butcher's Corner (Wolfe and El Camino) in-lieu of the banner structure.

This project would be expected to take approximately 12-18 months from funding approval to completion, including planning, installation of power/communications conduit and fabrication, and installation of the sign itself.

This type of sign typically lasts about 10 years before any noticeable decrease in brightness or functionality. The sign can be made to last longer if replacement parts are found. The concrete base generally has a lifespan of 20+ years.

#### Project Evaluation & Analysis

Placing a marquee at Butcher's Corner provides the City a highly visible means for communicating with its citizens. This marquee will allow the City to post information on City-wide events, commission and job recruitments, and instructions to the Public in the event of an emergency, just to name a few examples.

In addition to providing a means to promote and advertise City-wide events, an LED marquee is expected to improve attendance at City-sponsored theater events, performances by resident theater companies and renters; all of which would have a positive impact on the Community Recreation Fund. Improved attendance at resident company shows is expected to increase rental revenue to the City.

#### Fiscal Impact

Prices for LED marquees and their installation vary depending on the size of the sign and type of mounting. Based on estimates from a contractor who recently installed similar signs for Santa Clara and Campbell, the cost for turnkey installation of this type of sign is \$85,000-\$149,000 assuming the contractor handles all aspects of installation. Operating costs are dependent on the size and type of sign selected. Electricity operating costs for a 4' x 8' double-sided LED marquee installed by City of Santa Clara are expected to be \$500 annually.

Project Financial Summary					
	Project Costs	Revenues	Transfers In	Operating Costs	
Prior Actual	0	0	0	0	0
2007-08	0	0	0	0	0
2008-09	196,680	0	196,680	0	0
2009-10	0	0	0	2,503	2,503
2010-11	0	0	0	2,553	2,553
2011-12	0	0	0	2,604	2,604
2012-13	0	0	0	2,656	2,656
2013-14	0	0	0	2,709	2,709
2014-15	0	0	0	2,763	2,763
2015-16	0	0	0	2,819	2,819
2016-17	0	0	0	2,876	2,876
2017-18	0	0	0	2,933	2,933
2018-19	98,476	0	98,476	3,021	3,021
2019-20	0	0	0	3,111	3,111
2020-21	0	0	0	3,205	3,205
2021-22	0	0	0	3,301	3,301
2022-23	0	0	0	3,399	3,399
2023-24	0	0	0	3,502	3,502
2024-25	0	0	0	3,607	3,607
2025-26	0	0	0	3,715	3,715
2026-27	0	0	0	3,826	3,826
2027-28	0	0	0	3,941	3,941
<b>20 Year Total</b>	<b>295,156</b>	<b>0</b>	<b>295,156</b>	<b>59,044</b>	<b>59,044</b>
<b>Grand Total</b>	<b>295,156</b>	<b>0</b>	<b>295,156</b>	<b>59,044</b>	<b>59,044</b>