



Council Meeting: June 23, 2009

SUBJECT: Calling a General Municipal Election for November 3, 2009 for the Election of Councilmembers for Seat Numbers 1, 2 and 3; and Requesting Consolidation of the Election with the County of Santa Clara Registrar of Voters

REPORT IN BRIEF

The City of Sunnyvale will hold a general municipal election November 3, 2009 for the purpose of filling elective offices for City Councilmember Seats 1, 2, and 3. Pursuant to state election code, the Council must adopt resolutions calling the election and requesting consolidation with the County.

The City's municipal election will be consolidated with the County's Uniform District Election Law (UDEL) elections with the following jurisdictions on November 3, 2009: Foothill-DeAnza Community College District, Sunnyvale Elementary School District and Cupertino Union School District.

An election calendar highlighting dates of interest to candidates and the public is included (Attachment A). The resolution specifies the County's responsibility throughout the filing and election process (Attachment B).

Staff recommends Council adopt the resolution calling the General Municipal Election for the purpose of filling elective offices, November 3, 2009 and requesting consolidation and provision of election services by the Santa Clara County Registrar of Voters.

BACKGROUND

Section 1400 of the Sunnyvale City Charter requires that the General Municipal Election to fill City elective offices be held in odd-numbered years on the date established under General Law for the election of governing board members of elementary school districts. This year the date is Tuesday, November 3, 2009.

The nomination period for the 2009 Uniform District Election Law (UDEL) election opens on Monday July 13 and closes at 5 p.m. on Friday August 7. If an eligible incumbent does not file by 5 p.m. August 7, the voters shall have until 5 p.m. on Wednesday, August 12 to nominate candidates other than incumbents.

Council seats to be filled at this General Municipal Election are Seat Nos. 1, 2 and 3. Pursuant to Sunnyvale City Charter Section 602/Qualifications, no individual may serve more than two successive four-year elective terms, and shall not serve again until at least four years have passed since that person last held office. Councilmember/Mayor Anthony (Tony) Spitaleri (Seat No. 1) and Councilmember Christopher Moylan (Seat No. 2) will each have served one full term and are eligible to serve a second term. Councilmember John Howe (Seat No. 3) will have served two full terms, is not eligible to serve another term at this time.

If the consolidation of election services with the County Registrar of Voters is approved, the City's responsibilities would include: issue, receive and process candidate nomination papers and statements; forward candidates' statements to the County for printing, translation and mailing to the voters; forward any absentee voter applications and write-in declarations received by the City Clerk's Office to the Registrar of Voters; publish notices of election, nominees and polling places; publish list of persons contributing \$100 or more to any candidate's campaign; and distribute and receive Fair Political Practices Commission documents.

FISCAL IMPACT

The County Registrar of Voters estimates the cost of publishing candidate statements at approximately \$2,510 plus cost of ballot printing for five languages. This cost is generally paid by each candidate who elects to have their candidate statement published in the voter information pamphlet. However, the Sunnyvale Municipal Code (Chapter 2.28) allows for the fee to be waived if the candidate submits 250 valid signatures, and prorated if fewer valid signatures are submitted. For candidates who submit qualifying signatures, the City of Sunnyvale pays in full (for 250) or in part (pro-rated at \$10.04 per signature) for the cost of publishing candidate statements.

The estimated cost of conducting the 2009 UDEL Municipal Election through the County of Santa Clara is estimated to be in the range of \$292,296 to \$477,996, or \$5.22 to \$8.50 per voter and is based on shared costs with other jurisdictions. The proposed FY 2009/10 budget reflects an estimated cost of \$431,375 based on actual costs of the most recent election. Staff is not requesting a budget modification at this time. Following the election the County will determine the true costs and will bill the City for its pro-rata share. Should the costs exceed the approved budget figure, staff will return to Council to request additional funds for Program 736.

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

1. Adopt the resolution calling the General Municipal Election for the purpose of filling elective offices, November 3, 2009 and requesting consolidation and provision of election services by the Santa Clara County Registrar of Voters.
2. Take no action.

RECOMMENDATION

Staff recommends Alternative 1: Adopt the resolution calling the General Municipal Election for the purpose of filling elective offices, November 3, 2009 and requesting consolidation and provision of election services by the Santa Clara County Registrar of Voters.

Reviewed by:

Robert Walker, Assistant City Manager
Prepared by: Kathleen Franco Simmons, City Clerk

Approved by:

Gary M. Luebbers
City Manager

Attachments

- A. Election Calendar
- B. Resolution

Attachment A

City of Sunnyvale General Municipal Election

Tuesday, November 3, 2009

ELECTION CALENDAR

<u>DATE</u>	<u>ACTIVITY</u>
<u>July 13, 2009</u> (E-113)	<u>Nomination Period Opens (8:00 a.m.)</u> First day candidates may pick up nomination packets at the Office of the City Clerk
<u>August 5, 2009</u> (E-90)	<u>Placement of Political Signs</u> First day City of Sunnyvale City Council candidates may display political signs.
<u>August 7, 2009</u> (E-88)	<u>Nomination Period Closes (5:00 p.m.)</u> Deadline to file all necessary nomination documents with the City Clerk
<u>August 7, 2009</u>	<u>Withdrawal of Candidacy</u> No candidate shall withdraw his/her candidacy after 5:00 p.m. on the date for which the incumbent has filed for that office.
<u>August 8, 2009</u> through <u>August 12, 2009</u> (E-87 to E-83)	<u>Extension Period</u> If an incumbent who is eligible to be elected fails to file a Declaration of Candidacy by 5:00 p.m. August 7, 2009 for his or her office, there will be a five-calendar-day extension during which any candidate, other than the incumbent, may file or withdraw his/her nomination papers.
<u>August 13, 2009</u> (E-82)	<u>Randomized Alphabet Drawing</u> The Secretary of State will conduct a drawing of letters of the alphabet to determine the order in which candidates will appear on the ballot.
<u>Sept. 24, 2009</u> (E-40)	<u>First Pre-election Statement Due</u> Deadline for Fair Political Practices Commission financial disclosure report Form 460, for candidates with controlled committees, covering the period of July 1, 2009 through September 19, 2009 (or January 1, 2009 through September 19, 2009).*

* The period covered by any statement begins on the day after the closing date of the last statement filed, or January 1, if no previous statement has been filed.

- October 5, 2009** **First Day for Mailing of Absentee Ballots**
(E-29) First day absentee ballots will be mailed
- October 19, 2009** **Last Day to Register to Vote**
(E-15) Deadline to register to vote to be eligible to vote in the November 3, 2009 election.
- October 22, 2009** **Second Pre-election Statement Due**
(E-12) Deadline for second Fair Political Practices Commission financial disclosure report Form 460, for candidates with controlled committees, covering the period of September 20, 2009 through October 17, 2009.*
- October 18, 2009** **Late Contribution Reports**
Through Sums over \$1,000 received from a single source, during
November 2, 2009 the late contribution period, must be reported within 24 hours
(E-16 through E-1)
- October 27, 2009** **Last Day to Request Absentee Ballot by Mail**
(E-7) Deadline at 5:00 p.m. to submit to the Santa Clara County Registrar of Voters a request for an absentee ballot to be mailed to you.
- November 3, 2009** **Election Day**
(E) Polls are open from 7:00 a.m. to 8:00 p.m.
- Nov. 13, 2009** **Removal of Political Signs**
(E+10) Last day by which all City of Sunnyvale City Council candidates must have their political signs removed.
- Nov. 23, 2009** **Official Canvass of Vote**
(E+20) Santa Clara County Registrar of Voters to certify election results.

Attachment B

RESOLUTION NO. _____**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE CALLING THE GENERAL MUNICIPAL ELECTION FOR THE ELECTION OF COUNCILMEMBERS FOR SEAT NUMBERS 1, 2 AND 3 TO BE HELD IN THE CITY OF SUNNYVALE ON NOVEMBER 3, 2009, REQUESTING CONSOLIDATION OF ELECTIONS AND DETERMINING TO LEVY COSTS OF CANDIDATES' STATEMENTS**

WHEREAS, Article XIV, Section 1400, of the Charter of the City of Sunnyvale requires that a General Municipal Election to fill elective offices be held in the odd numbered years on the date established by General Law for the election of governing members of elementary school districts; and

WHEREAS, an election may be ordered to be held in other political subdivisions on the same day, in the same territory, or in territory that is in part the same; and

WHEREAS, whenever two or more elections of any legislative or congressional district, public district, city, county or other political subdivision are called to be held on the same day, in the same territory, or in territory that is in part the same, such elections may be either completely or partially consolidated pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code and Section 5342 of the Education Code; and

WHEREAS, Section 10002 of the Elections Code empowers the City Council to request the assistance of the County Registrar of Voters to provide election services to the City;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. **CALLING GENERAL MUNICIPAL ELECTION.** Pursuant to Section 1400 of the Charter of the City of Sunnyvale, a General Municipal Election hereby is called to be held in and for the City of Sunnyvale on Tuesday, November 3, 2009, for the purpose of electing three Councilmembers, each for a full term of four years, one to the office of "Councilmember Seat No. 1," one to the office of "Councilmember Seat No. 2," and one to the office of "Councilmember Seat No. 3."

2. **DUTIES OF CITY CLERK.** The City Clerk hereby is directed to do all things required by law to effectuate such General Municipal Election including, but not limited to, required publications, postings, noticings and filings.

3. **CONSOLIDATION OF ELECTIONS.** Pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, the City Council hereby requests the governing body of any such other political subdivision, or any officer otherwise authorized by law, to partially or completely consolidate such elections, and to further provide that, upon consolidation, the consolidated election shall be held and conducted, election officers appointed, voting precincts designated, ballots printed, polls opened and closed, ballots opened and returned, returns canvassed, and all other proceedings in connection with the election shall be regulated and done by any body or official authorized by law to perform such functions and canvass the returns of the election; and that this City Council consents to such consolidation.

4. CONTRACT WITH REGISTRAR. Pursuant to Section 10002 of the California Elections Code, the City Council hereby requests the Board of Supervisors of the County of Santa Clara to permit the Registrar of Voters to render services to the City of Sunnyvale relating to the conduct of Sunnyvale's General Municipal Election to be held on Tuesday, November 3, 2009. Services shall be of the type normally performed by the Registrar of Voters in assisting the clerks of municipalities in the conduct of elections including, but not limited to, those certain services set forth in Section 3 hereof.

Subject to the approval of the Board of Supervisors of the foregoing requests, the City Clerk is hereby authorized to engage the services of the Registrar of Voters of the County of Santa Clara to aid in the conduct of the election. Further, the City Director of Finance is authorized and directed to pay the costs of services, provided that no payment shall be made for services which the Registrar of Voters is otherwise required by law to perform.

5. LEVYING OF COSTS OF CANDIDATES' STATEMENTS. Pursuant to Section 13307 of the Elections Code, the City Council hereby determines to levy against each candidate availing himself or herself of the service of including a candidate's statement not to exceed two hundred (200) words in length in the voter's pamphlet, the actual prorated costs of printing, handling, translating and mailing the candidate's statement, if any, incurred by the City. It is estimated that the pro rata costs of printing, handling, translating and mailing each candidate's statement filed pursuant to Section 13307 of the Elections Code will be approximately Two Thousand Five Hundred Ten Dollars (\$2,510.00). Candidates filing a statement shall pay in advance his or her pro rata share. The provisions of this section are subject to the provisions of Chapter 2.28 of the Sunnyvale Municipal Code relating to in lieu petitions. The City Clerk shall provide written notice to such effect with each set of nomination papers issued. Candidates shall not be permitted to submit materials other than the candidate's statement with the sample ballot and the voter's pamphlet.

6. TRANSMITTAL OF RESOLUTION. The City Clerk is hereby directed to submit forthwith a certified copy of this resolution to the Board of Supervisors, to the Registrar of Voters, and to the County Clerk of the County of Santa Clara.

ADOPTED by the City Council at a regular meeting held on _____, 2009, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

David Kahn, City Attorney