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## OFFICE OF THE CITY CLERK

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# REPORT

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DATE: December 13, 1990 REPORT NO.: CC-9006  
TO: Honorable Mayor and Councilmembers  
FROM: Charles G. Abdelnour, City Clerk  
SUBJECT: RECALL ELECTION: COUNCIL DISTRICT 5

With the qualification December 6 of the petition calling for the recall of Councilmember Linda Bernhardt (see Attachment A), I submit for your consideration the following report addressing the issue of an election date and schedule.

### ISSUE

Shall the special recall election be called for Tuesday, April 9, 1991?

### RECOMMENDATION

Adopt an ordinance calling the special election to be held on Tuesday, April 9, 1991, a date that will allow this election to conform with other municipal elections to the maximum extent possible, as directed by Municipal Code Section 27.2724.

### DISCUSSION

On December 6, 1990, the Registrar of Voters completed the verification process of the petitions submitted by the Recall Bernhardt Committee. These petitions were found to contain the valid signatures of 15% of the registered voters in District 5 and the petition was deemed sufficient for a recall election to be held.

Municipal Code Section 27.2722 requires that, once the qualified petition is presented to Council, the Council shall immediately "call a special election for the purpose of submitting to the people the proposal to recall the official named in the petition, and if such official is recalled, to elect a successor."

Moreover, Municipal Code Section 27.2723 specifies that the election shall be held not less than sixty (60) days or later than ninety (90) days after adoption of the ordinance calling the election. Thus, the election must be called after March 10 but not later than April 9, 1991.

It is our recommendation that the Council proceed with calling the election for Tuesday, April 9, 1991. As detailed below, this date is consistent with Municipal Code Section 27.2724, which directs that a recall election conform to other municipal elections as much as practicable.

The April 9 date results in a candidate qualification schedule which is identical to the schedule for regular Council elections, with the same requirements as those for other Council candidates. The date allows for a 28 day nomination period. An earlier election date would necessitate a shorter nomination period, and would be inconsistent with the direction provided by Municipal Code Section 27.2724.

We have recommended a Tuesday since this is the normal election day. Section 10 of the City Charter also provides that the regular elections for Councilmembers be held on Tuesdays. Thus, a Tuesday date would be consistent with other council elections.

Additionally, the Registrar of Voters has informed us that a minimum of 53 days is required between the deadline for candidates to file and election day, to provide adequate time for sample ballot mailing and requests for absentee ballots to be processed. The April 9 election date allows for this requirement. An earlier date would result in either a significantly shorter nomination period, or would jeopardize the voting process.

Following Council action, the nomination period for potential successor candidates will open on January 10. These candidates must be U.S. citizens, eighteen years of age or older, and be both a resident and a registered voter of Council District 5 for at least 30 days prior to the date of filing nominating petitions.

Candidates are required to collect 200 signatures of registered voters in the district, and there is a filing fee of \$200. This fee can be offset by circulating a separate "petition in lieu". Each valid signature collected on this petition is worth \$0.25 toward offsetting the filing fee.

In accordance with Municipal Code Section 27.2725, the recall ballot will include the "name and office of the official whose recall is sought and the names of the persons who have been nominated to succeed the official whose recall is sought." The original statement published by the proponents of the recall and the response from Councilmember Bernhardt - both of which appear on the face of the circulated recall petitions - will be included in the sample ballot. Successor candidates may have a statement of qualifications.

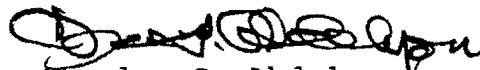
Electors must vote on the recall question in order for their vote to be counted on the question of a successor candidate (Municipal Code Section 27.2726). If the recall is approved by a majority of voters, the candidate who receives the highest number of votes will be the successor. The winner need not have received a majority of votes (Municipal Code Section 27.2731). The term of office for the successor would be for the unexpired term of Councilmember Bernhardt.

If the recall is approved, Councilmember Bernhardt would serve until the Council adopts its resolution declaring the results of the election which shows that a majority of electors of the district voted in favor of the recall.

It should also be noted that Municipal Code Section 27.2727 prohibits a person who has been recalled, or who has resigned from office while recall proceedings were pending against him or her, from being a candidate or an appointee to Council office for one year after the resignation or recall.

In conclusion, we are recommending that the Council call the special recall election to be held on Tuesday, April 9, 1991. This date would enable us to conduct the election to conform with other Council elections to the maximum extent possible.

I hope this information is of some assistance and, as always, I would be pleased to respond to any questions you might have.



Charles G. Abdelnour  
City Clerk

RECALL CALENDAR FOR CANDIDATES - 1991

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Wednesday	January 9, 1991	90	Clerk presents to Council. Council calls special election to be held on April 9, 1991.
Thursday,	January 10, 1991	89	FIRST DAY to obtain nominating papers from City Clerk.
Thursday,	January 17, 1991	82	FIRST DAY to file completed petitions and papers with City Clerk.
Friday,	February 7, 1991	61	LAST DAY to obtain nominating papers from City Clerk.
Friday,	February 7, 1991	61	LAST DAY to file completed petitions and papers with City Clerk.
Saturday,	February 23, 1991	45	Closing date for 1st preelection campaign statement.
Thursday,	February 28, 1991	40	DEADLINE for filing 1st preelection campaign statement.
Saturday,	March 23, 1991	17	Closing date for 2nd preelection campaign statement.
Thursday,	March 28, 1991	12	DEADLINE for filing 2nd preelection campaign statement.
Tuesday,	April 9, 1991	0	ELECTION DAY
Sunday,	June 30, 1991	82*	Closing date for semi-annual campaign statement.
Wednesday	July 31, 1991	113*	DEADLINE for filing semi-annual campaign statement.

NOTE: If the recall election is successful, Councilwoman Bernhardt would serve until the Council adopts "its resolution declaring the results of the election which shows that a majority of the qualified voters have voted in favor of such officers recall." (Section 27.2729).

The term of office of a successor shall be for the unexpired term of his/her predecessor.

\* Days after the election.

## City of San Diego

## MEMORANDUM

533-4000

DATE: December 6, 1990

TO: Honorable Mayor and City Council

FROM: Charles G. Abdelnour, City Clerk

SUBJECT: Qualification of Recall Petition

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On November 23, 1990, in accordance with Section 27.2719 of the Municipal Code, the Recall Bernhardt Committee filed with my office "supplemental" petitions for the recall of Councilmember Linda Bernhardt.

Signatures on these petitions have been verified and, combined with the valid signatures from the recall proponents' original filing, the total number of valid signatures is sufficient to qualify the petition, thereby requiring a recall election be called by Council.

The supplemental petitions submitted on November 23 were examined by the Registrar of Voters and found to contain a total of 6,274 signatures. Cross-checking the names contained on 719 "requests for withdrawal" filed with my office against those on the supplemental petition sets, a total of 123 names were subsequently removed from the petitions. Of the remaining signatures, 3,024 were found to be valid.

The recall proponents' original filing on October 9, 1990 was found to contain 8,265 valid signatures. With the additional 3,024 signatures from the supplemental petitions, the total number of valid signatures is 11,289.

A total of 11,240 valid signatures - 15 percent of voters in District 5 - was needed to qualify the petition for a recall election to be held.

My office will proceed with securing from the City Attorney the necessary proposed ordinance and resolutions calling the special recall election and scheduling the matter on the next available regular Council docket which, at this time, is Monday, January 7, 1991.

Once the qualified petition is presented to the Council the Council "shall immediately call a special election for the purpose of submitting to the people the proposal to recall the

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officer named in the petition, and if such official is recalled, to elect a successor" (Municipal Code Section 27.2722). The election must be held within 60-90 days (Municipal Code Section 27.2723).

The question of which Council District boundaries will be used for purposes of this recall election remains under review by the City Attorney. That ruling will determine who is eligible to vote in the special election as well as the residency requirement for successor candidates.

My office is now preparing a report to Council regarding the specifics of conducting a recall election in District 5 that will include a recommended election date and schedule. That report should be finalized and distributed to you early next week.

  
Charles G. Abdelnour  
City Clerk

CGA/MGH/sm