



OFFICE OF THE CITY CLERK

REPORT

REPORT TO THE HONORABLE MAYOR AND CITY COUNCIL

DATE: August 30, 2004

REPORT NO.: 04-03

SUBJECT: Declaring a Vacancy and Calling a Special Election in Council District 4

ISSUE

Shall the Council call a special election to be held on Tuesday, November 30, 2004 for the purpose of filling a vacancy in the Office of Councilmember for Council District No. 4?

BACKGROUND

Councilmember Charles L. Lewis died unexpectedly on Sunday, August 8, 2004, leaving a vacancy in the office of Council District No. 4. Since there is over one year remaining in the term of office, City Charter Section 12 requires the Council to call a special election to fill the vacancy.

The San Diego Municipal Code provides the procedures for filling a vacancy in this instance in Chapter 2, Article 7, Division 7 (General Provisions for Filling Vacancies in Elective Offices) and Division 9 (Filling Vacancies by Special Election). Municipal Code Section 27.0703 provides that if a vacancy occurs by reason of death, the date of the vacancy will be the date of adoption of the City Council's Declaration of Vacancy. We anticipate that the Declaration of Vacancy will be adopted at the City Council meeting on September 7, 2004.

Municipal Code Section 27.0902(a) specifies that the City Council shall call a special election to be held within 90 calendar days of the date of the vacancy, unless there is a regular municipal or statewide election to be held within 180 days of the vacancy. If there is a regular municipal or statewide election to be held within 180 days, the Council may consolidate the special election with that regular election. At the time Councilmember Lewis died, it was already past the legal deadline for consolidating the special election with the November 2, 2004 statewide general election. It is our recommendation, therefore, that the Council proceed with calling the special election for Tuesday, November 30, 2004. This date is consistent with Municipal Code Section 27.0904, which directs that the special election conform to other municipal elections as

much as practicable. After extensive conversations with the Registrar of Voters, it is also the earliest date at which they could provide the election services required to conduct this election.

If one candidate receives the majority of votes cast for all candidates in the special election, that candidate shall be deemed to be elected to the vacant office in accordance with Charter Section 12 and Municipal Code Section 27.0905. If no candidate receives the majority of votes cast in the special election, a special run-off election must be held within forty-nine days of the first special election, pursuant to Charter Section 12 and Municipal Code Section 27.0906. The candidate elected at either the special election or at the special run-off election shall be declared elected for the unexpired term of his or her predecessor and shall assume office at the time the City Council adopts the resolution declaring the results of the election.

RECOMMENDATION

The ordinance and resolution drafted and which will be presented to you with this report on September 7, 2004, call for the special election to be held in Council District 4 on Tuesday, November 30, 2004. This is the earliest date available for the special election. If a special run-off election is required, it would be held on January 11, 2005. Although January 18, 2005 would have been the recommended date for a special run-off election, if needed, it is the day after a holiday. The California Elections Code prohibits elections from being held on the day before or after a holiday. Therefore, we are recommending that any run-off election be held on January 11, 2005.

The following schedule would apply:

		<u>Days Prior to Election</u>
Declaration of Vacancy adopted by Council	Tuesday, September 7, 2004	84
Council Calls Special Election	Tuesday, September 7, 2004	84
Nomination Period Opens	Friday, September 17, 2004	74*
Nomination Period Closes	Friday, October 1, 2004	60*
Election Day	Tuesday, November 30, 2004	0
Certification of Results and Assuming Office (If a candidate has received a majority vote)	1 st Council Meeting in January 2005	
Special Run-Off Election (If needed)	Tuesday, January 11, 2005	+42
Certification of Results and Assuming Office (If a run-off election is held)	Monday, January 24, 2005	+55

(*The Municipal Code establishes a 14-day nomination period for special elections to open on the 74th day before the election and close on the 60th day).

Should you have any questions about this matter, please contact Assistant City Clerk Joyce Lane at 533-4081 or Elections Analyst Bonnie Stone at 533-4060.

Sincerely,



Charles G. Abdelnour
City Clerk

CGA:JL

cc: City Attorney
City Manager