

STAFF REPORT
City of Lancaster, California

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Date: November 10, 2009

To: Mayor Parris and City Council Members

From: Geri K. Bryan, CMC, City Clerk and David R. McEwen, City Attorney

Subject: **General Municipal Election – April 13, 2010**

Recommendation:

- A) Adopt Resolution No. 09-99, calling and giving notice of the holding of a General Municipal election to be held on Tuesday, April 13, 2010, for the election of certain officers as required by the provisions of the laws of the State of California relating to general law cities.
- B) Adopt Resolution No. 09-100, requesting the Board of Supervisors of the County of Los Angeles to render specified services to the City related to the conduct of a General Municipal Election to be held on Tuesday, April 13, 2010.
- C) Adopt Resolution No. 09-101, adopting regulations for candidates for elective office, pertaining to filing fees and candidate statements submitted to the voters at an election to be held on Tuesday, April 13, 2010.
- D) Adopt Resolution No. 09-102, providing for the conduct of a special runoff election for elective offices in the event of a tie vote at the General Municipal Election to be held on Tuesday, April 13, 2010.
- E) Adopt Resolution No. 09-103, ordering the submission of Measures to the qualified electors of the City, relating to the General Municipal Election to be held on Tuesday, April 13, 2010 as called for in Resolution No. 09-99.
- F) Adopt Resolution No. 09-104, setting priorities for filing written arguments regarding the City Measures and directing the City Attorney to prepare the impartial analysis.
- G) Adopt Resolution No. 09-105, providing for the filing of rebuttal arguments for City Measures submitted at Municipal Elections.

Background:

Each November of odd numbered years, the City Council adopts the necessary resolutions to proceed with the General Municipal Election in April of even-numbered years. The resolutions referenced fulfill certain legal requirements to conduct the General Municipal Election; requesting information and supplies from the County of Los Angeles; guidelines and costs associated with candidate statements; provisions to conduct a special runoff election to resolve a tie vote; submission of measures; filing of written arguments and directing the City Attorney to write the impartial analysis for any measures.

Election Code 1301 and Government Code 36503, states that the General Municipal Election of the City of Lancaster will be held on Tuesday, April 13, 2010, for the purpose of filling a Mayoral seat for a full two-year term and two Council Member seats for the term of four years.

The City will request the need for the County of Los Angeles to provide voter registration information and certain supplies for the polling locations, pursuant to Elections Code 10002.

It is also important that the City remain in compliance with the Federal Voting Rights Act, providing for language translation as identified by the City Clerk. Candidates have the option of providing a candidate statement of not more than 400 words, stating the candidate's background, education, and qualifications as expressed by the candidate. All candidates filing nomination papers according to Election Code 10228 and the Lancaster Municipal Code are required to pay a filing fee of \$25.00. Additionally, the City Clerk shall estimate the costs associated with candidate statements and is not bound by this estimate.

The filing period for the April 13, 2010 election shall open **Monday, December 21, 2009** and shall close at 5:00 p.m. on **Friday, January 15, 2010**. According to Elections Code 10225, if any incumbents for a specific office fail to file by the close of the workday on January 15, 2010, the filing period will be extended (5) five calendar days for that specific office, for **non-incumbents only**, thus closing Wednesday, January 20, 2010 at the close of the workday – 6:00 p.m.

Charter Approval

Resolution No. 09-103 adopts the form of the charter that is proposed to be submitted to the voters for approval by Measure M. At the October 27, 2009 City Council meeting, there was a discussion of two key provisions of the draft Charter. The first was Section 300 dealing with public works projects and the possibility that such projects could be constructed without the payment of prevailing wages. The second was Section 202 dealing with the appointment powers of the Mayor.

Prevailing Wages

The primary focus of those objecting to provisions of the draft Charter was the issue of prevailing wages. Since the adoption of the first prevailing wage statute in 1931, the Courts have repeatedly concluded that, absent a provision in their Charter or Ordinance, the prevailing wage laws do not apply to Charter cities. See Pasadena v. Charlesville (1932) 215 Cal. 384; Vial v. San Diego (1981) 122 Cal App. 3d 346; and State Building and Construction Trades Council v. Vista (2009) ___ Cal. App. 4th ____.

As currently drafted, the language in the draft Charter would allow the City to adopt procedures which would exempt public works projects of the City from the prevailing wage statutes. This would impact less than 20% of the City's projects measured by dollar amount. Approximately 59% of the number of projects (63 of 106) and 82% of the total value (\$74 million of \$90 million) would still require the payment of prevailing wages.

If the City Council wishes to make a change to the draft Charter, legal counsel would recommend that Section 300 be modified and Section 301 be added to read as follows:

“Section 300. Public Works Contracts. *Except as provided in Section 301*, the City shall have the power to establish standards, procedures, rules or regulations to regulate all aspects of the bidding, award and performance of any public works contract, including, but not limited to, the compensation rates to be paid for the performance of such work.”

“Section 301. Prevailing Wages. Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages as provided in California Labor Code section 1770 et seq., as now existing and as may be amended, shall be paid to all workers employed on public works. This section shall not apply to work that is performed which is not under contract, work that is performed by the City's own forces or on work performed under a declaration of a state of emergency, pursuant to the provisions of the California Emergency Services Act, Government Code section 8550.

Mayor's Power of Appointment.

Council Member Sileo asked at the meeting whether the Charter could provide for a different process for the appointment of board commission and committee members than the process required by Government Code Section 40605 (elected Mayor's appointment power). The answer is that either in the Charter or, absent any limits in the Charter, in the ordinances of the City, the City can provide for any type of process it desires. The current draft language was intended to incorporate the current statutory process. To clarify that that is the case, legal counsel would suggest the following revisions:

“Section 202. The Mayor. In addition to any other authority granted to the Mayor by this Charter, the ordinances and regulations of the City or laws of the State, but not by way of limitation, as provided in Government Code Section 40605, the Mayor, with the consent of the City Council, shall have the authority to make all appointments to, or removals from all boards, commissions and committees.”

In the alternative, if the Council wishes to change the process in accordance with Council Member Sileo's request, legal counsel has drafted a provision that would give the appointment power to the City Council as a whole:

“Section 202. The Mayor. Except as may be provided in this Charter, the ordinances and regulations of the City and the laws of the State, the Mayor shall have all the powers of an elected mayor as provided in the laws of the State; provided, however, the City Council shall have the authority to make all appointments to, or removals from all boards, commissions and committees by majority vote.”

Before adopting Resolution 09-103, the City Council needs to address the above issues and make any changes they might desire to the draft Charter.

Staff is requesting Council approval of all resolutions to be in compliance with the Elections Code.

Attachments:

Resolution No. 09-99

Resolution No. 09-100

Resolution No. 09-101

Resolution No. 09-102

Resolution No. 09-103

Resolution No. 09-104

Resolution No. 09-105