



City of Carson Report to Mayor and City Council

February 19, 2013
New Business Discussion

SUBJECT: CONSIDER DESIGNATING AN OBSERVER AT THE MARCH 5, 2013 CITY OF CARSON GENERAL MUNICIPAL ELECTION

Submitted by David C. Biggs
City Manager

Approved by David C. Biggs
City Manager

I. SUMMARY

This item is on the agenda at the request of Mayor Dear

At the February 5, 2013, Council meeting, Mayor Dear requested staff place an item on the agenda to consider designating an individual to act as an observer of the March 5, 2013, General Municipal Election. It is important to note that this person would not replace the City Clerk in her capacity as the election official.

II. RECOMMENDATION

1. DETERMINE whether to request a third party, with elections law and procedures expertise to act as an observer at City of Carson's March 5, 2013 General Municipal Election.

Should the City Council determine to request an observer at Carson's General Municipal Election on March 5, 2013, the City Council should:

2. DIRECT staff to confirm the scheduling of an individual from the Los Angeles County Registrar-Recorder/County Clerk's Office or the California Secretary of State's Office to serve as an observer.

III. ALTERNATIVES

None.

IV. BACKGROUND

Traditionally, the City Clerk has performed the statutory duties of "elections official" for all of Carson Municipal Elections (unless the same are consolidated with county, state or national elections). As required by law, the City Council adopted Resolution No. 12-098 authorizing our current City Clerk to carry out the statutory duties of 'elections official' for the City's municipal election, March 5, 2013 (Exhibit No. 1). The City Clerk has fulfilled the duties of elections official thusfar and is well into election season. By the time City Council meets on February 19, the election will be less than two (2) weeks away.

In 2001, the City Council voted to appoint an independent elections official to conduct the election held on March 6, 2001 – unlike what is being proposed this evening. The circumstances were different then and at that time the City Council considered this matter almost 3 months in advance of the city election. In 2011, the elected City Clerk was a candidate for Mayor and the City Council voted to hire the retired City Clerk from the City of Poway, California, to stand in as Carson’s elections official (Exhibit No. 2 and 3).

An elections observer should be a person with election law and procedures experience who could observe the election process and provide advice or counsel on the same. City staff have contacted Los Angeles County Registrar-Recorder/County Clerk’s Office and the California Secretary of State’s Office to check on the procedure for requesting an individual observe our election process.

It may be appropriate to have an individual from one of these organizations serve as an observer because the County and the State have substantially election law and procedures expertise and could prove an excellent resource to the City Clerk. The County has agreed to provide an observer at no cost to the city. At the time this staff report was prepared a response had not been received from the Secretary of State. Should a response be received by the February 19, 2013, Council meeting, that response will be reported verbally at the meeting.

V. FISCAL IMPACT

The Los Angeles County Registrar-Recorder/County Clerk’s Office has agreed to provide an observer at no cost to the city. At the time this staff report was prepared a response had not been received from the Secretary of State.

VI. EXHIBITS

1. Resolution No. 12-098. (pgs. 4-6)
2. Staff Report, City Council meeting, January 9, 2001, Item 15. (pgs. 7-25)
3. Minutes, City Council meeting, January 9, 2001, Item 15. (pgs. 26-27)

Document6

Prepared by: Lisa Berglund, Principal Administrative Analyst

TO: Rev09-04-2012

Reviewed by:

City Clerk	City Treasurer
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Administrative Services	Public Works
Community Development	Community Services

Action taken by City Council	
Date _____	Action _____

RESOLUTION NO. 12-098

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, MARCH 5, 2013, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, a General Municipal Election shall be held on March 5, 2013, for the election of Municipal Officers.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the City of Carson, California, on Tuesday, March 5, 2013, a General Municipal Election for the purpose of electing a Mayor for the full term of four years and two (2) Members of the City Council for the full term of four years.

Section 2. That the ballots to be used at the election shall be in form and content as required by law.

Section 3. That the City Clerk is authorized, instructed and directed to coordinate with the County of Los Angeles Registrar-Recorder/County Clerk to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election. ←

Section 4. That the polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, pursuant to Election Code §10242, except as provided in §14401 of the Elections Code of the State of California.

Section 5. That pursuant to Elections Code §12310, a stipend for services for the persons named as precinct board members is fixed at the sum of \$100.00 for each Inspector and \$80.00 for each Clerk for the election. In addition, the sum of \$25.00 will be given to each precinct board member to attend a training class and work on election day and the sum of \$50.00 to be given to each Inspector to pick up and return the precinct supplies. The rental for each of polling place, where a charge is made, shall be the sum of \$30.00 for the election. When required, the compensation of the Custodian of a building shall be \$12.00 for the election. The additional sum of \$25.00 will be given to each precinct board member, if bilingual in either Spanish or Tagalog.



Section 6. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

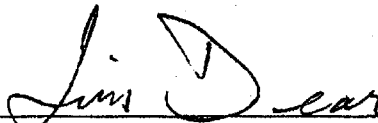
Section 7. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

Section 8. That in the event of a tie vote if any two or more persons receive an equal and the highest number of votes for an office as certified by the Election Official, the City Council, in accordance with Elections Code § 15651(a), shall conduct a special runoff election to resolve the tie vote and such special runoff election is to be held on a Tuesday not less than 40 days nor more than 125 days after the administrative or judicial certification of the election which resulted in a tie vote.

Section 9. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

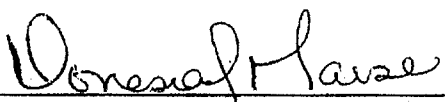
Section 10. The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

PASSED, APPROVED and ADOPTED on this 2nd day of October, 2012.



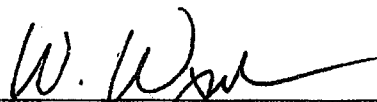
Mayor Jim Dear

ATTEST:



City Clerk Donesia L. Gause

APPROVED AS TO FORM:

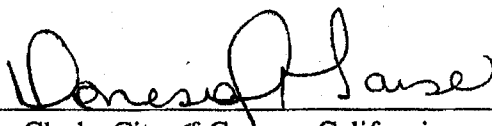


City Attorney William Wynder

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF CARSON)

I, Donesia L. Gause, City Clerk of the City of Carson, California, do hereby certify that the whole number of members of the City Council is five; that the foregoing resolution, being Resolution No. 12-098, was duly and regularly adopted by said Council at a regular meeting duly and regularly held on the 2nd day of October, 2012, and that the same was passed and adopted by the following vote:

AYES:	COUNCIL MEMBERS:	Mayor Dear, Ruiz-Raber, Davis-Holmes, Gipson, and Santarina
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

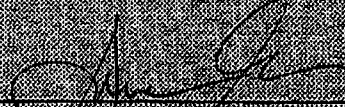
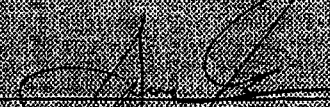


City Clerk, City of Carson, California



City of Carson
Report to Mayor and City Council

January 9, 2001
Unfinished Business

SUBJECT: OPTIONS FOR DESIGNATING THE ELECTIONS OFFICIAL FOR THE MARCH 6, 2001 GENERAL MUNICIPAL ELECTION	
	
Submitted by Jerome Grooms City Manager	Approved by Jerome Grooms City Manager

I. SUMMARY

At the December 19, 2000 City Council meeting, the City Council directed staff to look into various options for designating an elections official to oversee the March 6, 2001 Municipal Election. The City Council's consideration of these options arose when the Elected City Clerk who has traditionally performed the duties of elections official for Carson elections became a candidate for the office of Mayor. The options the City Council asked to be considered include maintaining the City Clerk as the elections official, designating the Chief Deputy City Clerk to that position, contracting with the County of Los Angeles and/or the City of Los Angeles, and contracting with a retired city clerk to perform the duties of the elections official. This report summarizes the status of the various options.

II. RECOMMENDATION

TAKE the following actions:

1. DISCUSS the following available options with respect to the elections official for the March 6, 2001 General Municipal Election:
 - A. Have the Elected City Clerk continue to perform the duties of elections official except for those duties specified on Exhibit A which the City Clerk has indicated will be delegated to the Chief Deputy City Clerk. (Option A in body of staff report.)
 - B. Designate the Chief Deputy City Clerk as the elections official. (Option B in body of staff report.)
 - C. Select a retired City Clerk (to the extent that a referral is provided) to be the elections official and direct staff to negotiate contract with the selected individual, which contract shall be executed by the Mayor after it is approved as to form by the City Attorney. (Option E in body of staff report.)

2. In the event the City Council chooses to designate an individual, other than the Elected City Clerk, to be the elections official and conduct the canvass for the March 6, 2001 General Municipal Election, the City Council should WAIVE FURTHER READING and ADOPT Resolution 00-____, Designating an Elections Official for the General Municipal Election to be held in the City of Carson on Tuesday, March 6, 2001, for the Election of Certain Officers. (See Exhibit C to this staff report.)

III. ALTERNATIVES

TAKE whatever action the City Council deems appropriate.

IV. BACKGROUND

Under the California Elections Code, the elections official for municipal elections performs a variety of functions and tasks during an election process. A partial list of those functions that will be performed from January 1, 2001 through the canvass and certification of election results after the March 6, 2001 election are listed on **Exhibit A** to this report. As the election process has already commenced, Exhibit A does not include all tasks already performed by the City Clerk, the County of Los Angeles and the City's consultant.

Traditionally, the City Clerk has acted as the elections official for Carson Municipal Elections. Additionally, the City Clerk has acted as elections official and overseen elections in which she was a candidate for the office of elected City Clerk. The issue of considering another person to be the elections official for the March 6, 2001 election arose when the City Clerk filed nomination papers to run for the office of Mayor.

In response to inquiries over this issue, the City Attorney issued an opinion that concluded: (i) California law does not preclude the elections official from being a person who is a candidate for office in the election that they oversee and perform the tasks of elections official; and (ii) the City Council has authority to appoint a person other than the elected City Clerk to be the elections official.

At the December 19, 2001 City Council meeting, the City Council voted to direct staff to explore all available options for designating a person or entity to perform the duties as an elections official for this election.

Set forth below are the five (5) basic options identified by city staff and the results, as of the date this report was issued, of the City's efforts to secure arrangements under each option.

OPTION A. Continue with the City Clerk as the elections official, except for those tasks indicated on Exhibit A, which the City Clerk has delegated to the Chief Deputy City Clerk to oversee.

The City Clerk has indicated a desire and willingness to perform the duties of elections official in the upcoming election and she has publicly indicated that she can objectively and impartially perform those duties. In order to avoid an appearance that the election process would somehow be affected by her candidacy, she has indicated that she will delegate several of the tasks of an elections official to the Deputy City Clerk or to the City's election consultant (Martin and Chapman). Those delegated tasks are indicated on Exhibit A and include not participating in the issuance of absent voter ballots and staying "outside the ropes" on election night.

The City Clerk has stated that various state laws preclude an elections official and any other person involved in the election process from doing anything that would inappropriately alter the election outcome. Punishment for violation of those laws range from imprisonment in state prison from 16 months to 4 years, and violation of some of these laws can result in the official being permanently barred from holding office in the state. Some of those laws, as found in the California Elections Code, are as follows: § 18500 (prohibitions on committing, or aiding and abetting fraud in an election); § 18501 (prohibition on public officials casting illegal votes and barring such officials from forever holding office in the state); § 18502 (prohibition on interference with election officers or voters); § 18520 (prohibition on offers or promises of office, place or employment to induce other to vote or refrain from voting); § 18521 (prohibitions on gifts or other considerations to induce person to vote or refrain from voting); § 18543 (prohibition on conspiracy to challenge a person's right to vote without probable cause or on fraudulent

grounds); § 18564 (prohibition on tampering with or damaging voting machines; interference with secrecy of voting; willful substitution of forged source codes); § 18566 (prohibition on forging or counterfeiting election returns); § 18567 (prohibition on willfully adding or subtracting from votes actually cast in an election); § 18568 (prohibition on tampering with any poll list, official ballot, or ballot container).

OPTION B. Designating the Chief Deputy City Clerk to be the elections official

The Chief Deputy City Clerk (Wanda Higaki) has assisted the City Clerk in past elections and has experience in managing various aspects of the election process. She has indicated a willingness to perform the tasks of elections official in the upcoming election as delegated to her by the City Clerk. If designated, Ms. Higaki would utilize the existing staff of the City Clerk's office to assist her in performing the tasks of elections official and would continue to utilize the arrangements with the County and the City's election consultant, Martin and Chapman to augment the services to be performed.

OPTION C. Contracting with the County of Los Angeles or City of Los Angeles to perform a greater number of Election Official tasks or all election official Tasks

A. County of Los Angeles

City staff contacted the County Registrar-Recorder/County Clerk's Office and spoke with Ms. Darlene Bonds, Assistant Registrar-Recorder/County Clerk, Elections Preparation Division, and then with Ms. Priscilla Smith, Division Manager, Elections Preparation Division, regarding the ability of the County to perform some or all of the tasks of the elections official for Carson's March 6, 2001 election. Ms. Smith indicated that the County has already committed itself to perform similar tasks and such arrangements are traditionally made much sooner (in the Fall of 2000). Thus, at this time, they are not able to either handle the processing of absentee voter applications and ballots (other than the signature verification process that they are already committed to perform).

B. City of Los Angeles

City staff contacted Ms. Kristin Heffron, Chief, Elections Division, for the City of Los Angeles and then with Mr. Tom Montes, Assistant Chief, Elections Division.

Ms. Heffron indicated that because of the April 2001 election in the City of Los Angeles, their office does not have the staff capacity to also assist the City of Carson in its election in March

OPTION D. Contracting with an election consulting and supplying company to perform the duties of an elections official.

City staff contacted two election consulting firms to see if they had personnel available to perform the duties of an elections official. Martin and Chapman was contacted and indicated that they do not have the personnel to perform additional duties other than those that they have already committed to perform for the City. Those services include preparing and printing all ballots, sample ballots and ballot pamphlets, supplying all necessary precinct materials and supplies, conducting a training class for all precinct officers and inspectors, providing and operating ballot counting machinery on election night and after the election in connection with absentee ballots and provisional ballots returned at the precincts and received by the City Clerk on election night.

City staff also contacted Sequoia Pacific, another election consulting firm. They indicated that they do not have any staff that can perform the services of an elections official.

OPTION E. Contracting with a retired city clerk to perform the services of an elections official.

City staff and the City Attorneys office has contacted the League of California Cities to obtain names of retired city clerks who have the ability and willingness to be the elections official in this upcoming election. Mr. Clark Goecker, an employee of Public Service Skills, an entity sponsored by the League and by the California State Association of Counties, to provide referral services to cities, has been contacting persons over the holidays and has endeavored to find names of qualified individuals for the City. As of the writing of this report, the League has been unable to find any person that they could refer us to. The League indicates that most cities seeking these services started to make arrangements in the fall and thus most persons willing and able to perform this type of short duration part-time work have already been retained by other cities. Staff may supplement this report orally at the meeting on Tuesday, January 9, 2001, with the names and resumes of any persons referred by Mr. Goecker or others for this service.

In addition, City staff and the City Attorney's office has sought referrals to retired city clerks outside of the League's process. One individual referred to us by Martin and Chapman Co., is the retired deputy city clerk for Long Beach. She initially expressed an interest to perform the services but subsequently advised the City Attorney this week that she had obtained a full-time job and thus was not able to provide us with her services. Another person referred to us by Martin and Chapman Co. is the retired City Clerk of Cerritos. We have subsequently been informed that she is already committed to assist a city in Central California.

V. FISCAL IMPACT

It is estimated that contract services for an elections official who would work the "full-time" hours that would be required to serve in City Hall through the canvass of the election could cost as much as \$20,000 to \$25,000. This estimate is based on a conversation with one person who subsequently declined to provide the service. A part-time elections official who "oversees" the process but does not provide full time office hours in City Hall would cost less, depending on the hourly rate charged.

VI. EXHIBITS

1. Exhibit A, List of Election Tasks for March 6, 2001 Election.
2. Exhibit B, List of Election Code Sections Regarding Recount Procedures.
3. Exhibit C, Resolution Designating an Elections Official for the General Municipal

Reviewed by:

City Clerk	Finance
Community Development	Human Resources
Engineering Services	Public Safety
Facilities & Maintenance	Recreation & Community Services

Action taken by City Council	
Date _____	Action _____

EXHIBIT A

**Election Tasks Currently Planned to be Performed by
the City Elections Official, County of Los Angeles, and the City's Contract Consultant
from January 4, 2001 Through Canvass of the Election to be Held on March 6, 2001**

Task No.	Election Duty	City Elections Official Tasks	County Tasks	Contracting Firm Tasks
1	Elections Official appoints Election Officers (4 per precinct with 30 precincts = 120 persons total) and designates Polling Places (30), provides Notices of Appointment and instructions to Elections Officers.	X		
2	Training Class for Election Officers scheduled for February 17, 2001			X
3	Prepare sample ballots, voter pamphlets and other election materials			X
4	Elections Official Publishes and Posts Notice of Nominees (Candidates)	X		
5	Elections Official sends Postmaster check for cost of mailing sample ballot and voter information pamphlet	X		
6	Election Official publishes and posts list of election officers and polling places	X		
7	Provide computer software to operate absentee ballot application process			X
8	Absentee Ballot Application Processing: (i) process applications, input information into a computerized absentee ballot processing system, and issue absentee ballots; (ii) hand deliver application forms to County for signature verification; (iii) return of application forms back from County by way of Code Enforcement Officers to be secured in Clerk's Vault; (iv) comparison of signatures that appear on voted ballot envelope with signatures that appear on application form previously verified by the County; (v) securing of application forms and ballots in Clerk's vault until election night; (vi) preparing list of absent voters for public inspection; (vii) on election night, check absentee ballot envelopes against precinct rosters to make sure no one has voted twice; (viii) submit absentee ballots for counting. (See Attachment for full description of absentee ballot processing.) <i>(The City Clerk has indicated that she will not participate in this duty.)</i>	X		
9	Verification of signatures on absentee ballot applications		X	



Task No.	Election Duty	City Elections Official Tasks	County Tasks	Contracting Firm Tasks
10	Election Official Appoints Absentee Ballot Canvassing Officers and Posts Notice of the Absentee Ballot Canvass	X		
11	Elections Official Publishes and Posts Notice of Central Counting Place	X		
12	Notification to Precinct Inspectors of Persons who Requested an Absentee Ballot	X		
13	Conducting Logic and Accuracy Tests of Ballot Counting Machines			X
14	Election Day Functions (March 6, 2001 commencing at about 6:00 a.m. to 8:00 p.m.): (i) code enforcement officers are mobilized to ensure polls are open; (ii) receive complaints of problems and violations and resolves them; (iii) receipt of status on voter turnout at the polls; (iv) assemble supplies and set up central ballot counting place; (v) take calls from voters inquiring as to polling locations; (vi) ensure pick-up from post office of last group of absentee ballots; (vii) continue absentee ballot processing; (viii) and monitoring the staffing of precincts; (ix) close office at 8:00 p.m. <i>(The City Clerk has indicated that she will not be in City Hall.)</i>	X		
15	Election Night Functions: (i) mobilize code enforcement officers to transport absentee ballots from vault to central ballot counting place; (ii) stage ballot inspection board members and stage absentee ballot canvassing board members; (iii) stage the ballot counter and the operator; (iv) set up public information area and information technology staff; (v) stage maintenance staff and code enforcement to receive sealed precinct supplies, including ballots, from precinct inspectors (30 precincts) and transport supplies to central counting place; (vi) distribution of sealed boxes and envelopes of precinct supplies and ballots to inspection board members and absentee ballot canvassing board members; (vii) conduct logic and accuracy test with witnesses of ballot counting machines; (viii) submit ballots to ballot counting operators; (ix) announcement of precinct election returns; (x) announcement of absentee ballot and provisional envelopes to be processed; and (xi) at end of election night, mobilize code enforcement to transport all materials back to City Clerk's vault. <i>(The City Clerk has indicated that she will remain "outside of the ropes" and be treated as other candidates are treated.)</i>	X		
16	Operate ballot counting machines			X



Task No.	Election Duty	City Elections Official Tasks	County Tasks	Contracting Firm Tasks
17	Placement of counted ballots back into ballot boxes and sealed and initialed.			X
18	On Wednesday, March 7, 2001, conduct hand count of one precinct to validate the machine count for that precinct.	X		
19	Comparison of signatures for absentee ballots returned at the polls and received by the City Clerk on election night and secured in vault before being counted in the final tally of votes.	X		
20	Photocopy all provisional ballot envelopes for signature verification by the County and photocopies are hand delivered by Code Enforcement to County on Wednesday, March 7, 2001. Original provisional ballots are secured in the vault before being counted in the final tally of votes.	X		
21	Verification of registration and signatures on provisional ballot envelopes		X	
22	Retrieve the photocopies of the provisional envelopes back from the County and sort provisional ballot envelopes into those that can be opened and counted and those that cannot be counted (as determined by the County).	X	X	
23	Notification to candidates and observers to witness the counting of absent voter ballots and provisional voter ballots returned at the precincts and received by the City Clerk on Election Night.	X		
24	Check signatures on absent voter ballot envelopes submitted at the polls against the applications for absent voter ballots previously verified by the County. Auditing against voter rosters ensures that no one has voted twice.	X		
25	Opening of absent voter ballot envelopes and provisional voter ballot envelopes and submission of such ballots to the ballot counting machine operator for final vote tally.	X		
26	Operate ballot counting machines for absent voter ballots and provisional ballots submitted on election day for final vote tally.			X
27	Canvass Process: (i) audit and reconciliation of precinct inspector records; and (ii) receipt of mailed information from precinct inspectors.	X		



Task No.	Election Duty	City Elections Official Tasks	County Tasks	Contracting Firm Tasks
28	Completion of Canvass Process: (i) signs certified statement of election results; (ii) prepares certification of canvass and resolution declaring the results of the election, which resolution is to include the statement of the vote.	X		
29	Conduct any recount in accordance with statutory requirements (See Election Code Section 15600 et. seq., attachment hereto.)	X		
30	Prepare Certificates of Election	X		
31	Administer the Oath of Office to Elected Candidates	X		
32	Provide payment information regarding compensation of precinct officers to Finance Department	X		



EXHIBIT B

Procedures for Conducting Recounts of Election Results (California Elections Code Sections 15600 et. seq.)

15600. Application of chapter to all elections

Except as provided in this chapter, this chapter applies to all elections. The recount of votes cast for candidates for presidential electors shall be governed by this chapter.

15610. Grounds

If no election contest is pending wherein a recount of the ballots in a precinct has been or will be ordered, the elections official may order that the ballots voted in the precinct be publicly recounted if both of the following apply:

(a) The elections official has reasonable cause to believe the ballots in the precinct have been miscounted.

(b) The elections official has examined, under oath, the precinct board members or, in the case of ballots counted by a central counting system, the counting board members, and they are unable to explain the returns of their respective precincts.

15620. Written request; time; contents

Following completion of the official canvass, any voter may, within five days thereafter, file with the elections official responsible for conducting an election in the county wherein the recount is sought a written request for a recount of the votes cast for candidates for any office, for slates of presidential electors, or for or against any measure, provided the office, slate, or measure is not voted on statewide. The request shall specify on behalf of which candidate, slate of electors, or position on a measure (affirmative or negative) it is filed. If an election is conducted in more than one county, the request for the recount may be filed with the elections official of, and the recount conducted within, any or all of the affected counties. For the purposes of this section "completion of the canvass" shall be presumed to be that time when the elections official signs the certified statement of the results of the election except that, in the case of a city election, if a city council canvasses the returns itself and does not order the elections official to conduct the canvass as permitted by Section 10263, "completion of the canvass" shall be presumed to be that time when the governing body declares the persons elected or the measures approved or defeated.

15621. Statewide election; filing with secretary of state; requirements

Following completion of the official canvass, any voter may, within five days beginning on the 29th day after a statewide election, file with the Secretary of State a written request for a recount of the votes cast for candidates for any statewide office or for or against any measure voted on statewide. The request shall specify in which county or counties the recount is sought and shall specify on behalf of which candidate, slate of electors, or position on a measure (affirmative or negative) it is filed. The Secretary of

State shall forthwith send by registered mail one copy of the request to the elections official of each county in which a recount of the votes is sought. All the other provisions of this article shall apply to recounts conducted under this section.

15622. Order in which precincts to be recounted

The request may specify the order in which the precincts shall be recounted.

15623. Request by other voter to recount precincts not recounted as result of original request

Any time during the conduct of a recount and for 24 hours thereafter, any other voter may request the recount of any precincts in an election for the same office, slate of presidential electors, or measure not recounted as a result of the original request.

15624. Daily deposit of sum to cover costs; refund; conditions amount

The voter filing the request seeking the recount shall, before the recount is commenced and at the beginning of each day following, deposit with the elections official a sum as required by the elections official to cover the cost of the recount for that day. The money deposited shall be returned to the depositor if, upon completion of the recount, the candidate, slate of presidential electors, or the position on the measure (affirmative or negative) for which the declaration is filed is found to have received the plurality of votes cast which it had not received according to the official canvass or, in an election where there are two or more candidates, the recount results in the candidate for whom the recount was requested appearing on the ballot in a subsequent runoff election or general election who would not have so appeared in the absence of the recount. The depositor shall be entitled to the return of any money deposited in excess of the cost of the recount if the candidate, slate, or position on the measure has not received the plurality of the votes cast or, in an election where there are two or more candidates, the recount does not result in the candidate for whom the recount was requested appearing on the ballot in a subsequent runoff or general election as a result of the recount. Money not required to be refunded shall be deposited in the appropriate public treasury.

15625. Special recount boards; members; appointment; compensation; supervision

The recount shall be conducted under the supervision of the elections official by special recount boards consisting of four voters of the county appointed by the elections official. Each member of a recount board shall receive the same compensation per day as is paid in the jurisdiction within which the recount is being conducted to members of precinct boards, other than inspectors, to be paid out of the appropriate public treasury. If the office of the elections official is the subject of the recount, the governing body shall appoint an officer, other than the elections official, to appoint and supervise the special recount boards.

15626. Commencement and duration of recount

The recount shall be commenced not more than seven days following the receipt



by the elections official of the request for the recount under Section 15620 or 15621, and shall be continued daily, Saturdays, Sundays, and holidays excepted, for not less than six hours each day until completed. The recount shall not be commenced until the first day following notification of the individuals specified in Section 15628.

15627. Method of recount

If in the election which is to be recounted the votes were recorded by means of a punchcard voting system or by electronic or electromechanical vote tabulating devices, the voter who files the declaration requesting the recount may select whether the recount shall be conducted manually or by means of the voting system used originally, or both.

15628. Notice; posting; persons to be notified

Not less than one day prior to commencement of the recount, the elections official shall post a notice as to the date and place of the recount and shall notify the following persons of it in person or by any federally regulated overnight mail service:

(a) All candidates for any office the votes for which are to be recounted.

(b) Authorized representatives of presidential candidates to whom electors are pledged if the votes to be recounted were cast for presidential electors.

(c) Proponents of any initiative or referendum or persons filing ballot arguments for or against any initiative, referendum, or measure placed on the ballot by the governing body the votes for which are to be recounted.

(d) The Secretary of State in the case of a recount of the votes cast for candidates for any state office, presidential electors, the House of Representatives of the United States, the Senate of the United States, or delegates to a national convention or on any state measure.

15629. Conduct in public

The recount shall be conducted publicly.

15630. Examination of all ballots and other relevant material; touching or handling of ballots

All ballots, whether voted or not, and any other relevant material, may be examined as part of any recount if the voter filing the declaration requesting the recount so requests. No examination of any ballot shall include touching or handling the ballot without the express consent of the elections official or the election officer supervising the special recount board. No ballot may be touched or handled during the examination unless the elections official or the elections officer supervising the special recount is present to observe the examination. Except as provided in this section no ballot shall be touched or handled by any person during the recount unless that person is the elections official, a person acting at the direction of the elections official, a member of the special recount board, or by order of the superior court.



15631. Challenge of ballots; grounds; procedure

On recount, ballots may be challenged for incompleteness, ambiguity, or other defects, in accordance with the following procedure:

- (a) The person challenging the ballot shall state the reason for the challenge.
- (b) The official counting the ballot shall count it as he or she believes proper and then set it aside with a notation as to how it was counted.
- (c) The elections official shall, before the recount is completed, determine whether the challenge is to be allowed. The decision of the elections official is final.

15632. Entry of result of recount to be official returns of precincts; completion in each and every precinct

In lieu of the returns as reported in the official canvass, upon completion of the recount showing that a different candidate was nominated or elected, that a different presidential slate of electors received a plurality of the votes, or that a measure was defeated instead of approved or approved instead of defeated, there shall be entered the result of the recount in each precinct affected, which result shall, for all purposes thereafter, be the official returns of those precincts for the office, slates of presidential electors, or measure involved in the recount. If the office, slates of presidential electors, or measure are not voted on statewide, the results of any recount which is not completed by counting the votes in each and every precinct in the jurisdiction within which votes were cast on the candidates for the office, on the slates of electors, or on the measure in question shall be declared null and void. If the office, slates of presidential electors, or measure are voted on statewide, the results of any recount will be declared null and void where there is not recounted each vote cast for the office, slates, or measure in any county specified in the request for recount filed with the Secretary of State.

15633. Results; posting in office of elections official.

A copy of the results of any recount conducted pursuant to this chapter shall be posted conspicuously in the office of the elections official.

15634. Authorization to open or recount ballots for purposes of chapter only; application of chapter to other laws.

This chapter does not:

- (a) Authorize the opening or recounting of ballots for any precinct except for the purposes specified in this chapter.
- (b) Limit other provisions of law regarding an election contest or recount.

15640. Order directing public recount; petition by district attorney upon request by board of supervisors or grand jury; grounds; hearing; findings; determination and order of corrections; costs

(a) When requested by the board of supervisors or the grand jury, the district attorney may petition the superior court for an order directing a public recount to be made



of ballots tabulated by a voting system in any precincts in the county that it designates for any election occurring not over 25 days before the request. The request and petition shall be made only on one or more of the following grounds, and the order may be issued only with a finding that there is probable cause to believe that one or more of the grounds exist:

(1) Misconduct by anyone sufficient to make it likely that the result of the election was affected as to the successful candidates or propositions or tie holders, including any of the conduct specified in Section 16100.

(2) Errors or failures, whether electronic, mechanical or otherwise, in the safekeeping, handling, tallying, counting, recording, or certification of the ballots or votes cast, sufficient to make it likely that the result of the election was affected as to the successful candidates or propositions or tie holders, or sufficient to cast substantial doubt on the substantial accuracy of the results without regard to affecting any result. The petition shall be set for hearing and may be opposed by any interested party.

(b) The court may order any further recounts that it may deem proper based on the results of the recounts provided for in subdivision (a) or in Section 15645, and shall declare the results of all the recounts, and shall determine and order corrected the results of any election affected by any recount.

(c) The court may order payment of the costs of any such recount in whole or in just proportion by any person or any public agency, or both, who petition for a recount. In the case of public agencies the costs shall be provided for and paid pursuant to Section 19212.

15641. Filing computer vote count program; exception; litigation or official recount; availability upon written request

Section 17500 shall apply unless a court orders the program held pending the conclusion of litigation challenging the outcome of an election. If court action or an official recount is initiated while the program is on deposit, the Secretary of State shall make the program available to the court or the elections official in whose jurisdiction the court action or recount takes place, upon written request.

15642. Safekeeping of tapes; affidavit of nonalteration

Any tape, diskette, cartridge, or other magnetic or electronic storage medium used in the programming of vote totals shall be kept in a secure location and, if there is a recanvass of votes, the officer entrusted with the magnetic storage medium shall submit his or her affidavit stating that they are the true media used in the election and have not been altered.



EXHIBIT C

RESOLUTION NO. 01-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DESIGNATING AN ELECTIONS OFFICIAL FOR THE GENERAL MUNICIPAL ELECTION TO BE HELD IN THE CITY OF CARSON ON TUESDAY, MARCH 6, 2001 FOR THE ELECTION OF CERTAIN OFFICERS

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, a general municipal election shall be held on Tuesday, March 6, 2001, for the election of Municipal Officers; and

WHEREAS, the City Council desires to appoint an elections official to perform the tasks required by the Elections Code for the March 6, 2001 election.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That pursuant to Government Code section 36505 and Elections Code section 320, _____ is hereby designated as the elections official in and for the City of Carson, in connection with all proceedings arising out of or related to the general municipal election on March 6, 2001.

Section 2. That the elections official is authorized, instructed, and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election, including but not limited to, the use of any existing City personnel and consultants.

Section 3. That Section 3 of Resolution No. 99-011, of the City Council of the City of Carson, as it applies to the March 6, 2001 general municipal election is hereby repealed and superceded to the extent it conflicts with the provisions of this Resolution.

Section 4. That pursuant to Section 10263 of the Elections Code of the State of California, the canvass of the general municipal election to be held on March 6, 2001 is to be made by the elections official.

Section 5. That the elections official shall complete the canvass of the election prior to the second Tuesday after the election, and shall certify the results to the City on the second Tuesday following the election.

Section 6. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED and ADOPTED this 9th day of January, 2001.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY



STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF CARSON)

I, Helen S. Kawagoe, City Clerk of the City of Carson, California, do hereby certify that the whole number of members of the City Council is five; that the foregoing resolution, being Resolution No. 01-___ was duly and regularly adopted by said Council at a adjourned regular meeting duly and regularly held on the 9th day of January, 2001, and that the same was passed and adopted by the following vote.

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

City Clerk, City of Carson, California



**ITEM NO. (15) OPTIONS FOR DESIGNATING THE ELECTIONS OFFICIAL FOR THE
MARCH 6, 2001 GENERAL MUNICIPAL ELECTION (CITY MANAGER)**

City Manager Groomes summarized the staff report and recommendation and offered background comments with respect to Option No. 4.

City Attorney Ennis discussed the four (4) available options with respect to the elections official for the March 5, 2001 General Municipal Election.

Public Comments

William H. "Bill" Brown, 17701 Avalon Boulevard, Sp. 410, Carson, California 90746, reiterated his comments expressed at the last City Council meeting and requested that City Clerk Kawagoe recuse herself from the election process.

Harry E. Barron, 286 E. 215th, Carson, California 90745, urged the City Council to approve Option A.

Brian Raber, 1843 E. Abbottson Street, Carson, California 90745, urged the City Council to approve Option A.

Upon inquiry, City Attorney Ennis reported that the cost to hire the retired city clerk from Poway, California, would be approximately \$15,000, based upon three (3) days per week; \$22,000, in the event she works an additional two (2) days. Furthermore, she has indicated the following terms: 1) she would charge \$60 an hour; 2) she had requested a transportation, housing, and subsistence stipend of \$400 per week; and 3) she would be here full time for three (3) days per week, and it may be more.

City Clerk Kawagoe stated that she is acquainted with Marge Wahlsten. However, because the City of Poway consolidates its election with the County of San Diego, Ms. Wahlsten was not a "hands-on" elections official.

City Attorney Ennis briefly discussed Ms. Wahlsten's background.

Council Member Ontal clarified that in the event Option C were approved, the elections official would have access to staff. Specifically, that person works with existing staff, reviews the processes and procedures, approve the processes and procedures, answer questions from the public. He further indicated that the ability to have someone come in and bring their own staff to replace existing staff was not an available option. The existing staff, including the Chief Deputy and all of the other staff within the City Clerk's Office, then would be taking direction, in terms of the election matters, from the elections official.

A discussion ensued regarding the necessity to ensure the integrity of the election process.

City Manager Groomes indicated that staff would obtain information on the size of the City of Poway.

RECOMMENDATION for City Council:

TAKE the following actions:

1. **DISCUSS** the following available options with respect to the elections official for the March 6, 2001 General Municipal Election:
 - A. Have the Elected City Clerk continue to perform the duties of elections official except for those duties specified on Exhibit A which the City Clerk has indicated will be delegated to the Chief Deputy City Clerk. (Option A in body of staff report.)
 - B. Designate the Chief Deputy City Clerk as the elections official. (Option B in body of staff report.)
 - C. Select a retired City Clerk (to the extent that a referral is provided) to be the elections official and direct staff to negotiate contract with the selected individual, which contract shall be executed by the Mayor after it is approved as to form by the City Attorney. (Option E in body of staff report.)
2. In the event the City Council chooses to designate an individual, other than the Elected City Clerk, to be the elections official and conduct the canvass for the March 6, 2001 General Municipal Election, the City Council should WAIVE further reading and ADOPT Resolution No. 01-007, DESIGNATING AN ELECTIONS OFFICIAL FOR THE GENERAL MUNICIPAL ELECTION TO BE HELD IN THE CITY OF CARSON ON TUESDAY, MARCH 6, 2001, FOR THE ELECTION OF CERTAIN OFFICERS. (See Exhibit C to this staff report.)

ACTION: It was moved to hire the retired City Clerk from the City of Poway, California, to be the elections official and direct staff to negotiate contract with the selected individual, seconded by Sweeney and carried with Calas voting Noe and Fajardo absent.

WITH FURTHER READING WAIVED, Resolution No. 00-007 was PASSED, APPROVED and ADOPTED, as read by title only, with the insertion of the name of Marjorie Wahlsten in Section 1, on motion of Ontal, seconded by Frank and carried with Calas voting Noe and Fajardo absent.

