

RESOLUTION NUMBER R- **300648**

ADOPTED ON **JUN 28 2005**

A RESOLUTION REQUESTING THE CONSOLIDATION OF
A MUNICIPAL SPECIAL RUN-OFF ELECTION TO BE HELD
IN THE CITY OF SAN DIEGO ON NOVEMBER 8, 2005, WITH
THE CALIFORNIA STATE SPECIAL ELECTION TO BE
HELD ON THE SAME DATE.

WHEREAS, on April 27, 2005, Mayor Dick Murphy submitted a letter of resignation effective July 15, 2005, causing a vacancy in the office of the Mayor; and

WHEREAS, Section 24 of the Charter of the City of San Diego provides that in the event of a vacancy occurring in the office of the Mayor, existing by reason of any cause, the Council shall have authority to fill such vacancy, provided, however, that if the Council shall fail to fill such vacancy by appointment within thirty days after the vacancy, the Council must immediately cause an election to be held to fill such vacancy; and

WHEREAS, on May 2, 2005, the City Council called a special election for July 26, 2005, to fill the Mayoral vacancy; and

WHEREAS, if one candidate receives the majority of votes cast at the special election, the candidate shall be deemed to be and declared by the Council to be elected to the vacant office. However, San Diego Municipal Code section 27.0906 provides that if no candidate receives a majority of the votes cast, a special run-off election shall be held within 49 calendar days of the first election between the two candidates receiving the highest number of votes, unless there is a regular municipal, statewide, or countywide election scheduled to be held within

90 days of the proposed special run-off election date, in which case the special election may be consolidated with that regular election; and

WHEREAS, the Governor of California has called a special statewide election for November 8, 2005; and

WHEREAS, the Registrar of Voters has advised that, due to the statewide special election, it cannot conduct a special run-off election for the City of San Diego before November 8, 2005, unless the election is conducted by mail ballots only; and

WHEREAS, the City Attorney advised in Report No. RC-2005-16 dated June 21, 2005, that City Charter section 24 requires that the City Council "must immediately cause an election to be held" to fill the mayoral vacancy and that the City Council has declined to follow that advice; and

WHEREAS, at a meeting on JUN 28 2005, the City Council adopted Ordinance No. O-19393(N.S.), calling a Municipal Special Run-off Election in the City of San Diego on Tuesday, November 8, 2005; and

WHEREAS, it is desirable that this Municipal Special Run-off Election be consolidated with the California State Special Election to be held on the same date; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. The Board of Supervisors of the County of San Diego is hereby requested to consolidate the Municipal Special Run-off Election for the office of Mayor to be held in the City of San Diego on November 8, 2005, with the California State Special Election to be held on the same date.

2. That the Registrar of Voters is hereby authorized to canvass the returns of the Municipal Special Run-off Election and is requested to conduct the election in all respects as if there were only one election using only one form of ballot.

3. That the Registrar of Voters is requested to issue to all officers of the County charged with duties pertaining to the California State Special Election appropriate instructions to take any and all steps necessary for the holding of a consolidated election.

4. That the Board of Supervisors of the County of San Diego is hereby requested to authorize and direct the Registrar of Voters of the County of San Diego to perform the following:

- (a) Furnish a tabulation of the number of registered voters in each Council district by precinct;
- (b) Examine and verify the signatures on nominating petitions;
- (c) Provide minority language election materials in accordance with federal law;
- (d) Canvass the returns of the election, including absent voter ballots;
- (e) Furnish a tabulation of the number of votes given in each precinct; and
- (f) Furnish a tabulation of the number of votes given in each Council district by precinct.
- (g) Complete any and all tasks related to the legal conduct of this election as required of the City Clerk upon the request of the City Clerk or the City Council.

5. Because the County Registrar of Voters is authorized to canvass the returns of this Municipal Special Election, the method of voting shall be as provided in the California Elections Code.

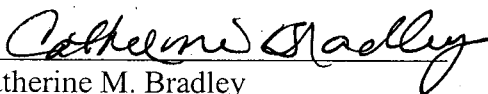
6. That the City Clerk of the City of San Diego is hereby directed to file a certified copy of this resolution with the Board of Supervisors and Registrar of Voters of the County of San Diego.

BE IT FURTHER RESOLVED that to the extent that a waiver of any provision of San Diego Municipal Code section 27.0906 may be required to permit consolidation of this Municipal Special Run-off Election with a special statewide election, the City Council hereby waives said provision.

BE IT FURTHER RESOLVED, that the City Auditor and Controller is authorized to reimburse the County of San Diego for the actual and direct cost of the services performed by the Registrar of Voters for the City of San Diego in connection with the election services herein described, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer.

BE IT FURTHER RESOLVED, that the City of San Diego agrees to indemnify and to save free and harmless the County, its officers, agents, and employees from expense or liability, including reasonable attorney's fees, as the result of an election contest initiated pursuant to the California Elections Code sections 16000 through 16900.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Catherine M. Bradley
Deputy City Attorney

CMB:jab
06/27/2005
Or.Dept: Clerk
R-2005-1389