



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
May 16, 2012**

TO: Mayor and City Council

FROM: Dina Tasini, Contract Planner
Michael Chandler, Senior Management Analyst

SUBJECT: Notice of a Special All Mailed Ballot Municipal Election on August 28, 2012

DATE: May 11, 2012

RECOMMENDATION:

Adopt Resolutions Calling and Giving Notice of a Special All Mailed Ballot Municipal Election On August 28, 2012 and Requesting Election Services from the Contra Costa County Elections Division for the North Pacheco Area Annexation as follows:

- Resolution calling and giving notice of the holding of a Special All Mailed Ballot Municipal Election to be held Tuesday, August 28, 2012, and requesting election services from the Contra Costa County Elections Division.
- Resolution ordering the Submission to the Voters of the affected territory in the proposed North Pacheco Annexation a measure at an All Mailed Ballot Special Municipal Election to be held on Tuesday, August 28, 2012.
- Resolution setting priorities for filing written arguments regarding a City Measure and acknowledging that the Local Area Formation Commission (Lafco) Executive Director will prepare the Impartial Analysis.
- Resolution providing for the filing of Rebuttal Arguments for City Measures submitted at Municipal Elections.

BACKGROUND:

The City Council has been discussing and analyzing the feasibility of annexing parcels in the North Pacheco area since 2008. Additionally, the City's Community and Economic Development Department began discussions with the Contra Costa Local Area Formation Commission (LAFCO) in 2008. During the past four years, staff has conducted extensive economic analysis and planning reviews; and conducted the requisite environmental review pursuant to CEQA in order to prepare the LAFCO application for submittal to LAFCO.

The public hearing process began with the Planning Commission public meeting of November 23, 2010, at which time the Commission discussed the proposed annexation of North Pacheco and related planning actions. At that meeting, the Commission reviewed the materials presented and took public testimony. Based on the public testimony and the information provided to the Commission, the annexation and related actions were unanimously approved. On January 19, 2011, the City Council held a public hearing and adopted a resolution of intent to annex the North Pacheco Area, along with

supported actions including rezoning; general plan amendments; and adoption of a Negative Declaration. The City Council also instructed staff to submit a completed application to LAFCO and initiate the annexation process.

On January 11, 2012, LAFCO held a public hearing to consider the North Pacheco Annexation and took unanimous action to approve the annexation subject to a protest hearing because two protest votes were received by property owners residing within the annexation area. On March 6, 2012, LAFCO held a protest hearing and 47 protest ballots were received. The votes were certified by the County Elections Department. The Executive Director provided the City with a certificate of sufficiency stating that a sufficient number of protest votes were received and a vote of the registered voters within the annexation area is required. On April 11, 2012, LAFCO ordered the annexation subject to an election.

DISCUSSION

Once the City Council is informed that an election must be conducted the Council shall “call, provide for, and give notice of a special election upon that question” pursuant to Government Code Section 57000(e)(1)(A) of the Cortese-Knox-Hertzberg Act. In addition, the election may be conducted solely by mailed ballot pursuant to Cortese-Knox-Hertzberg Act, Chapter 1, commencing with Section 4000 of Division 4 of the Elections Code and Pursuant to Government Code section 57125. All State election regulations will apply including Fair Political Practices Commission (FPPC) Campaign Disclosure regulations. In addition, any group financially supporting or opposing this election will need to form a Ballot Measure Committee.

The Ballot-Priority for Written Arguments

Elections Code Section 9282 sets priorities for filing written arguments as follows: (b) For measures placed on the ballot by the legislative body, the legislative body, or any member or members of the legislative body authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations, may file a written argument for or against any city measure. (c) No argument shall exceed 300 words in length. (d) The city elections official shall include the following statement on the front cover, or if none, on the heading of the first page, of the printed arguments: "Arguments in support or opposition of the proposed laws are the opinions of the authors." (e) The city elections official shall enclose a printed copy of both arguments with each sample ballot; provided, that only those arguments filed pursuant to this section shall be printed and enclosed with the sample ballot. The printed arguments are "official matter" within the meaning of Section 13303. (f) Printed arguments submitted to voters in accordance with this section shall be titled either "Argument In Favor Of Measure ____" or "Argument Against Measure ____," accordingly, the blank spaces being filled in only with the letter or number, if any, designating the measure. At the discretion of the elections official, the word "Proposition" may be substituted for the word "Measure" in these titles.

The deadlines for submitting rebuttal arguments is provided in Section 9286 of the Elections Code as follows: (a) Based on the time reasonably necessary to prepare and print the arguments and sample ballots and to permit the 10-calendar-day public examination as provided in Article 6 (commencing with Section 9295) for the particular election, the city elections official shall fix a date 14 days from the calling of the election as a deadline, after which no arguments for or against any city measure may be submitted for printing and distribution to the voters, as provided in this article. Arguments may be changed or withdrawn by their proponents until and including the date fixed by the city elections official during the normal business hours of the elections official's office, as posted. (b) The

requirement in subdivision (a) that the period for submitting arguments for inclusion with the sample ballot materials must be 14 days from the calling of the election is not applicable when the election is consolidated with another election pursuant to Part 3 (commencing with Section 10400) of Division 10.

Additionally, the Council through adoption of a Resolution requests LAFCO Executive Officer prepare an impartial analysis on the annexation election as required by the Cortese-Knox-Hertzberg Act governing annexations. Within five days after the City Council calls the election, the Executive Director shall forward to the Commission for its approval and/or modification an impartial analysis of the proposed annexation. The impartial analysis shall not exceed 500 words in length in addition to a general description of the boundaries of the affected area. LAFCO has scheduled a public meeting on May 18, 2012 to review the proposed impartial analysis.

FISCAL IMPACT:

There will be a cost to mail to all registered voters in the area. The County estimates the cost to be approximately \$3,000. The cost may vary based on the number of voters at the time of the election. This expenditure was not anticipated in the current budget.

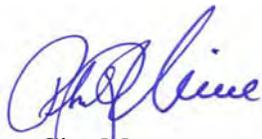
ACTION:

Adopt resolutions calling for a Special Mail Ballot Election:

- A. Resolution calling and giving notice of the holding of a Special All Mailed Ballot Municipal Election to be held Tuesday, August 28, 2012, and requesting election services from the Contra Costa County Elections Division.
- B. Resolution ordering the Submission to the Voters of the affected territory in the proposed North Pacheco Annexation a measure at an All Mailed Ballot Special Municipal Election to be held on Tuesday, August 28, 2012.
- C. Resolution setting priorities for filing written arguments regarding a City Measure and acknowledging that the Local Area Formation Commission (Lafco) Executive Director will prepare the Impartial Analysis.
- D. Resolution providing for the filing of Rebuttal Arguments for City Measures submitted at Municipal Elections.

Attachments:
Resolutions

APPROVED BY:


City Manager

RESOLUTION NO.XXX-12

**CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL ALL MAILED
BALLOT MUNICIPAL ELECTION TO BE HELD TUESDAY, AUGUST 28, 2012,
AND REQUESTING ELECTION SERVICES FROM THE
CONTRA COSTA COUNTY ELECTIONS DIVISION**

WHEREAS, the City of Martinez has filed an application which has been approved by the Local Agency Formation Commission ("Commission") proposing the annexation of the area given the assigned distinctive short-form designation of North Pacheco Annexation to the City of Martinez; and

WHEREAS, the North Pacheco Annexation to the City of Martinez proposal has been conducted by the Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 of Title 5 (commencing with Section 56000) of the California Government Code; and

WHEREAS, on April 11, 2012, the Commission ordered the North Pacheco Annexation to the City of Martinez subject to confirmation of the registered voters within the annexation area; and

WHEREAS, on May 16, 2012, the Commission requested the City Council to direct the elections official to conduct the necessary election, pursuant to Government Code Section 57000(d); and

WHEREAS, on May 16, 2012, the City Council ordered the submission of a measure to the voters of the affected territory of the North Pacheco Annexation to confirm the Commission order of the North Pacheco Annexation to the City of Martinez; and

WHEREAS, notice is hereby given that a special all mailed ballot municipal election will be held in the affected territory of North Pacheco (LAFC 11-05); and

WHEREAS, the City requires assistance for the proper conduct of the special election; and desires to request services of the Contra Costa County Elections Official to conduct said special election; and

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Martinez that:

Section 1. Notice is hereby given and there is called and ordered to be held in the affected territory of North Pacheco (LAFC 11-05), County of Contra Costa, California, on Tuesday, August 28, 2012, a special municipal election conducted by all-mail ballot.

Section 2. The County Elections Official is permitted to render specified services to the City of Martinez relating to the conduct of an all mailed ballot special election on Tuesday, August 28, 2012, and said Elections Official is hereby authorized to canvass the returns of the special election and certify the results of the canvass of the returns of the special election to the Council of the City of Martinez, which shall declare the results thereof.

Section 3. The special election shall be held and conducted by an all mailed ballot, and shall be conducted pursuant to Chapter 2 of Division 4 (commencing with Section 4100) of the California Elections Code only insofar as required by law, and only where not inconsistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 of Title 5 (commencing with Section 56000) of the California Government Code. Notwithstanding Elections Code Section 4103, ballots cast in this special election shall be returned to the office of the County Registrar of Voters by mail or in person no later than 8:00 p.m. on Election Day, and only ballots received in the office of the Registrar of Voters by 8:00 p.m. on Election Day shall be counted.

Section 4. The City shall reimburse the County for services performed when the work is completed and upon presentation to the City of a properly approved bill pursuant to Section 51350 of the Government Code.

Section 5. The City Clerk is hereby directed to file certified copies of this resolution with the Elections Official of the County of Contra Costa and with the Board of Supervisors.

Section 6. Notice of the time and place of holding the special 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.

* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a Regular Meeting of said Council held on the 16th day of May, 2012, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, City Clerk
CITY OF MARTINEZ

RESOLUTION NO.XXX-12

ORDERING THE SUBMISSION TO THE VOTERS OF THE AFFECTED TERRITORY IN THE PROPOSED NORTH PACHECO ANNEXATION A MEASURE AT AN ALL MAILED BALLOT SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, AUGUST 28, 2012 AS CALLED BY RESOLUTION NO. XXX-12

WHEREAS, a Special All Mailed Ballot Municipal Election has been called on Tuesday, August 28, 2012, by Resolution No. xxx-12; and

WHEREAS, the City of Martinez approved a Resolution of Application on January 19, 2011, regarding the North Pacheco Annexation (LAFC 11-05); and

WHEREAS, on January 11, 2012, the Local Agency Formation Commission ("Commission") held a public hearing and adopted Resolution No. 11-05, approving said annexation; and

WHEREAS, pursuant to Government Code Section 57000(c), the Commission Executive Officer held a Conducting Authority Hearing (Protest Hearing) on March 6, 2012; and

WHEREAS, the Contra Costa County elections official issued a certificate of sufficiency confirming that sufficient protests were received to necessitate an election on March 8, 2012; and

WHEREAS, the Commission received the results of the Protest Hearing on March 14, 2012; and

WHEREAS, the Commission ordered the annexation subject to confirmation of the registered voters within the annexation area on April 11, 2012; and

WHEREAS, on May 16, 2012, the Commission requested the City Council to direct the elections official to conduct the necessary election; and

WHEREAS, on May 16, 2012, the City Council called, provided for, and gave notice of an All Mailed Ballot Special Municipal Election upon the question set forth hereinbelow and fixed the date of the election as Tuesday, August 28, 2012, and provided for the conduct and canvass of returns of the election, as determined by the Commission.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Martinez that:

SECTION 1. The City Council, pursuant to its right and authority, does order submitted to the voters in the North Pacheco Annexation Area at the All Mailed Ballot Special Municipal Election to be held on Tuesday, August 28, 2012, the following question:

| | |
|---|-----|
| Shall the order adopted on April 11, 2012, by the Contra Costa Local Agency Formation Commission ordering the annexation to the City of Martinez of the territory described in that order and designated as North Pacheco Annexation to the City of Martinez be confirmed subject to the terms and conditions specified in the order? | Yes |
| | No |

SECTION 2. The proposed measure will pass only if a majority of the votes cast by electors voting on the measure are yes votes.

SECTION 3. The City Council authorizes any and all members of the City Council to file written arguments in favor of the measure in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and to change the argument until and including the date fixed by the City Clerk after which no arguments for or against the measure may be submitted to the City Clerk.

SECTION 4. Within five days after the special election is called, the Executive Officer of the Local Agency Formation Commission shall submit to the Commission, for its approval and/or modification, an impartial analysis of the proposed change of organization. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

SECTION 5. That in all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections relating to annexation.

SECTION 6. 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 prescribed by law.

SECTION 7. That the City Clerk shall certify to the passage and adoption of this Resolution.

SECTION 8. That the City Clerk is hereby directed to file a certified copy of this Resolution with the Contra Costa County Clerk-Recorder and the Board of Supervisors.

* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a Regular Meeting of said Council held on the 16th day of May, 2012, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, City Clerk
CITY OF MARTINEZ

RESOLUTION NO.XXX-12

SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS
REGARDING A CITY MEASURE AND ACKNOWLEDGING THAT THE
LOCAL AREA FORMATION COMMISSION (LAFCO) EXECUTIVE DIRECTOR
WILL PREPARE THE IMPARTIAL ANALYSIS

WHEREAS, a special municipal election is to be held in the City of Martinez on Tuesday, August 28, 2012, at which time there will be submitted to the voters in the North Pacheco Annexation Area (LAFCO 11-05) the following measure:

| | |
|---|-----|
| Shall the order adopted on April 11, 2012, by the Contra Costa Local Agency Formation Commission ordering the annexation to the City of Martinez of the territory described in that order and designated as North Pacheco Annexation to the City of Martinez be confirmed subject to the terms and conditions specified in the order? | Yes |
| | No |

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Martinez that:

SECTION 1. The City Council authorizes any and all members of the City Council to file (a) written argument(s) not exceeding 300 words regarding the City measure as specified above, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Division 9, Chapter 3, Article 4, of the Elections Code of the State of California and to change the argument until and including the date fixed by the City Clerk, after which no arguments for or against the measures may be submitted to the City Clerk.

SECTION 2. All arguments shall be filed with the City Clerk, signed with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument.

SECTION 3. The City Council acknowledges the LAFCO Executive Director who shall within five days after the special election is called, submit to the Commission, for its approval or modification, an impartial analysis of the proposed change of organization. The impartial analysis shall not exceed 500 words in length in addition to a general description of the boundaries

of the territory affected. The impartial analysis shall be filed by the date set by the City Clerk no later than the last day for submission of rebuttal arguments.

* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a Regular Meeting of said Council held on the 16th day of May, 2012, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, City Clerk
CITY OF MARTINEZ

RESOLUTION NO.XXX-12

PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES
SUBMITTED AT MUNICIPAL ELECTIONS

WHEREAS, Section 9285 of the Elections Code of the State of California authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments for City measures submitted at municipal elections.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Martinez that:

SECTION 1. Pursuant to Section 9285 of the Elections Code of the State of California, when City Clerk has selected the arguments for and against the measure which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The author or the majority of the authors of an argument related to a City measure may prepare and submit a rebuttal argument not exceeding 250 words. A rebuttal argument may not be signed by more than five authors. The rebuttal arguments shall be filed with the City Clerk not more than 10 days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

SECTION 2. All previous resolutions providing for the filing of rebuttal arguments for City measures are repealed.

SECTION 3. The provisions of Section 1 shall apply at the next ensuing municipal election and at each municipal election after that time.

SECTION 4. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

* * * * *

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a Regular Meeting of said Council held on the 16th day of May, 2012, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ