



CITY OF

NEWPORT BEACH

City Council Staff Report

May 10, 2022
Agenda Item No. 9

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Leilani I. Brown, City Clerk - 949-644-3005,
lbrown@newportbeachca.gov

PREPARED BY: Leilani I. Brown, City Clerk

TITLE: Resolution Nos. 2022-30 to 2022-32: Calling the November 8, 2022
General Municipal Election

ABSTRACT:

Under the provisions of Newport Beach City Charter Section 1000, a General Municipal Election shall be held on the first Tuesday after the first Monday of November in each even numbered year for the election of Municipal Officers and for such other purposes as the City Council may prescribe.

RECOMMENDATION:

- a) Determine that the action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because it will not result in a physical change to the environment, directly or indirectly;
- b) Adopt Resolution No. 2022-30, *A Resolution of the City Council of the City of Newport Beach, California, Calling for the Holding of a General Municipal Election to be Held on Tuesday, November 8, 2022, for the Election of Members of the City Council as Required by the Provisions of the City Charter,*
- c) Adopt Resolution No. 2022-31, *A Resolution of the City Council of the City of Newport Beach, California, Requesting the Board of Supervisors of the County of Orange to Consolidate a General Municipal Election to be Held on Tuesday, November 8, 2022, with the Statewide General Election to be Held on the Same Date Pursuant to California Elections Code Section 10403 for the Purpose of Electing Members of the City Council;* and
- d) Adopt Resolution No. 2022-32, *A Resolution of the City Council of the City of Newport Beach, California, Adopting Regulations for Candidates for Elective Office Pertaining to Candidates Statements Submitted to the Voters at an Election to be Held on Tuesday, November 8, 2022.*

DISCUSSION:

City Charter Section 1002 indicates that, unless otherwise provided by ordinance, all elections shall be held in accordance with the provisions of the Elections Code of the State of California for the holding of municipal elections, as long as they do not conflict with the City Charter.

Prior to June 20, 2022, the City Council must submit to the County of Orange Registrar of Voters (ROV) a resolution calling and giving notice of the November 8, 2022 General Municipal Election to elect four Council Members for Districts One, Three, Four and Six; request consolidation with the Statewide General Election; and set regulations pertaining to candidates' statements.

The candidate filing period for the November 8, 2022, election will open at 8:00 a.m. on Monday, July 18, 2022, and close at 4:30 p.m. on Friday, August 12, 2022. If the incumbent for District Six does not file, the filing period is extended for that district to 5:30 p.m. on Wednesday, August 17, 2022, for candidates other than the incumbent to file.

It is optional for each candidate to submit a candidate's statement. If the candidate chooses to have a statement included in the Sample Ballot, the resolution stipulates that the costs involved are paid by the candidate at the time the nomination paper is filed. Based on an estimate from the ROV, the deposit for printing each statement (maximum 200 words) in the Sample Ballot is \$1,500.

The resolutions calling and giving notice of the November 8, 2022, General Municipal Election to elect four City Council Members, requesting consolidation with the Statewide General Election, and setting regulations for Candidates Statements are presented as Attachments A, B, and C, respectively.

The Notice of the Election will be provided in accordance with Elections Code requirements.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – Resolution No. 2022-30: Calling Election

Attachment B – Resolution No. 2022-31: Requesting Consolidation

Attachment C – Resolution No. 2022-32: Establishing Candidates Statement Regulations

ATTACHMENT A

RESOLUTION NO. 2022-30

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, FOR THE ELECTION OF MEMBERS OF THE CITY COUNCIL AS REQUIRED BY THE PROVISIONS OF THE CITY CHARTER

WHEREAS, pursuant to Section 1000 of the City Charter of the City of Newport Beach, a General Municipal Election shall be held on the first Tuesday after the first Monday of November in each even numbered year for the election of municipal Officers and for such other purposes as the City Council may prescribe; and

WHEREAS, under the provisions of Sections 400 *et seq.* and 1000 of the City Charter of the City of Newport Beach, a General Municipal Election shall be held on Tuesday, November 8, 2022, for the election of members of the City Council to represent the First, Third, Fourth and Sixth Districts, for a term of four years.

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

Section 1: Pursuant to the provisions of Sections 400 *et seq.* and 1000 of the City Charter, there is called and ordered to be held in the City of Newport Beach, California, on Tuesday, November 8, 2022, a General Municipal Election for the purpose of electing members of the City Council to represent the First, Third, Fourth and Sixth Districts for the full term of four years.

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

Section 3: The City Clerk is authorized, instructed, and directed to coordinate with the County of Orange Registrar of Voters to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary to properly and lawfully conduct the election.

Section 4: In accordance with the provisions of law governing the Statewide General Election, including Elections Code Section 10418, the precincts, ballot drop box locations and hours of operations, vote center locations and hours of operations, vote-by-mail procedures and timing, the election officers, and all other services, staff, and procedures for the General Municipal Election, shall be the same as those utilized by the County of Orange and in compliance with the Elections Code of the State of California.

Section 5: In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 6: 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 7: In the event of a tie vote (if any two or more persons receive an equal and the highest number of votes) as certified by the County of Orange Registrar of Voters, the tie vote shall be settled by the casting of lots pursuant to Section 400 of the City Charter of the City of Newport Beach.

Section 8: The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

Section 9: The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City of Newport Beach upon presentation of a properly submitted bill.

Section 10: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 11: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 12: The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 13: This resolution shall take effect immediately upon adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 10th day of May, 2022.

Kevin Muldoon
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:



Aaron C. Harp
City Attorney

ATTACHMENT B

RESOLUTION NO. 2022-31

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10403 FOR THE PURPOSE OF ELECTING MEMBERS OF THE CITY COUNCIL

WHEREAS, the City Council of the City of Newport Beach, California called a General Municipal Election to be held on Tuesday, November 8, 2022, for the purpose of the election members of the City Council to represent the First, Third, Fourth and Sixth Districts for a term of four years;

WHEREAS, California Elections Code Section 10400 *et seq.* authorizes a municipality to consolidate its election with a statewide election to be held on the same day; and

WHEREAS, it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that, within the City, the precincts, vote center locations, ballot drop box locations, and election officers of the two elections be the same; the County Election Department of the County of Orange canvass the returns of the General Municipal Election; and the election be held in all respects as if there were only one election.

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

Section 1: Pursuant to the requirements of California Elections Code Section 10403, the Board of Supervisors of the County of Orange is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 8, 2022, for the purpose of the election of members of the City Council to represent the First, Third, Fourth and Sixth Districts for a term of four years.

Section 2: The County Election Department of the County of Orange is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating the Statewide General Election.

Section 3: The Board of Supervisors of the County of Orange is requested to issue instructions to the County Election Department to take any and all steps necessary for the holding of the consolidated election.

Section 4: The City of Newport Beach recognizes that additional costs will be incurred by the County of Orange by reason of this consolidation and agrees to reimburse the County of Orange for any costs.

Section 5: The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Department of the County of Orange.

Section 6: The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

Section 7: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 8: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 9: The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 10: This resolution shall take effect immediately upon adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

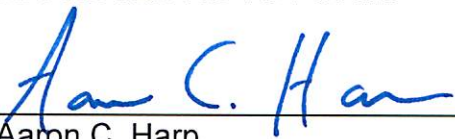
ADOPTED this 10th day of May, 2022.

Kevin Muldoon
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:



Aaron C. Harp
City Attorney

ATTACHMENT C

RESOLUTION NO. 2022-32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATES STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022

WHEREAS, California Elections Code Section 13307 provides that the governing body of any local agency may adopt regulations pertaining to materials prepared by any candidate for a municipal election, including costs of the candidate's statement.

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

Section 1: General Provisions. Pursuant to California Elections Code Section 13307, each candidate for elective office to be voted for at an election to be held in the City of Newport Beach on November 8, 2022, may prepare a candidate's statement on an appropriate form provided by the City Clerk. The statement may include the name, age and occupation of the candidate, and a brief description of no more than 200 words of the candidate's education and qualifications expressed by the candidate himself or herself. The statement shall not include party affiliation of the candidate, nor membership or activity in partisan political organizations. The candidate's statement shall be filed in type written form, as well as in electronic format, with the Office of the City Clerk at the time the candidate's nomination papers are filed. The candidate's statement may be withdrawn, but not changed, during the period for filing nomination papers and until 5:00 p.m. of the next working day after the close of the nomination period.

Section 2: Foreign Language Policy.

- A. Pursuant to the Federal Voting Rights Act, candidates' statements will be translated into all languages required by the County of Orange.
- B. The County will mail separate voter information guides and candidate statements in languages other than English to only those voters who are registered with the County of Orange as having requested a voter information guides in a particular language. The County of Orange will make the voter information guides and candidate statements in the required language available at all polling places and on the County's website.

Section 3: Payment.

A. Translations

1. The candidate shall be required to pay for the cost of translating the candidate's statement into any required foreign language pursuant to federal and/or state law.
2. The candidate shall be required to pay for the cost of translating the candidate's statement into any foreign language that is not required pursuant to state and federal law but is requested as an option by the candidate.

B. Printing

1. The candidate shall be required to pay for the cost of printing the candidate's statement in English in the main voter information guide.
2. The candidate shall be required to pay for the cost of printing the candidate's statement into any required foreign language pursuant to federal and/or state law, in the main voter information guide.
3. The candidate shall be required to pay for the cost of printing the candidate's statement in a foreign language requested by the candidate, in the main voter information guide.

The City Clerk shall estimate the total cost of printing, handling, translating and mailing the candidate statements filed pursuant to this section, including costs incurred as a result of complying with the Voting Rights Act of 1965, as amended, and require each candidate filing a statement to pay in advance to the City of Newport Beach his or her estimated pro rata share as a condition of having his or her statement included in the voter information guide. The estimate is just an approximation of the actual cost that varies from one election to another election and may be significantly more or less than the estimate, depending on the actual number of candidates filing statements. Accordingly, the City Clerk is not bound by the estimate and may, on a pro rata basis, bill the candidates for additional actual expenses or refund any excess paid depending on the final actual cost. In the event of underpayment, the City Clerk may require the candidates to pay the balance of the cost incurred. In the event of overpayment, the City Clerk shall prorate the excess amount among the candidates and refund the excess amount paid within thirty (30) days of the election.

Section 4: No candidate will be permitted to include additional materials in the voter information guide.

Section 5: The City Clerk shall provide each candidate or the candidate's representative a copy of this resolution at the time nominating petitions are issued.

Section 6: All previous resolutions establishing City Council policy on payment for candidates' statements are repealed.

Section 7: This resolution shall apply only to the General Municipal Election to be held on Tuesday, November 8, 2022, and shall then expire without further action by the City Council.

Section 8: The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

Section 9: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 10: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

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Kevin Muldoon
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Leilani I. Brown
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Aaron C. Harp
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