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CITY OF OAKLAND



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July 7, 2011

Dear Colleagues,

On May 4th, 2011, Oakland City Attorney John Russo submitted his resignation effective June 13, 2011. Subsequently, the Council formally declared the Office of City Attorney to be vacant.

Under Charter Section 401(4), the Office of the City Attorney shall be filled by appointment by the majority vote of the members of the Council; provided, that if the Council shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, the City Council shall cause an election to be held to fill such vacancy pursuant to the manner and method as provided for in Article II, Section 205 of the Charter. The Council may however, waive the 60 day appointment period by formally declaring its intent not to fill the vacancy by appointment and thereby trigger the calling of a special election.

On July 19th, 2011 the Council will consider filling the vacant Office of the City Attorney by appointment. On the same evening the Council will consider the second reading of an ordinance to call a Special Election on November 15th, 2011. Should the Council decide not proceed with an appointment for the Office of City Attorney, this meeting will represent the only opportunity to consolidate an election for the vacant Office of City Attorney with the Special Election of November 15th, 2011 and failure to adopt this resolution would result in the need to call a second special election just weeks after the November 15th election.

The City Council has the sole authority to determine the manner in which a vacancy in the Office of City Attorney may be filled. The Council may either appoint upon a vote of the majority of the members of the City Council within 60 days or call a special election.

The Alameda County Registrar of Voters requires the filing of a resolution calling for a special election no less than 88 days before the election is to be held. In addition, elected office requires a 25 day nomination period that is publicly noticed. According to City Clerk's office four days are needed to meet the

noticing requirement. Altogether, 117 days are needed in order to hold a special election for an elected office. There are only 119 days between July 19th and November 15th 2011. Should a special election be required to fill the vacancy in the Office of the City Attorney and the Council fail to act by July 20th to consolidate with the election of November 15th, 2011, a second special election would be required no later than December 6th 2011.

In the event that the Council doesn't fill the vacant Office of the City Attorney by appointment on July 19th, 2011, in order to consolidate these elections and avoid the cost of holding two separate special elections. I recommend the council to adopt a resolution declaring the Council's intent not to fill the vacancy by appointment and call a special election to fill the vacant Office of City Attorney on November 15th, 2011.

Sincerely,



Ignacio De La Fuente
Oakland City Council