

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Board of Supervisors

BOARD AGENDA # *A-7

Urgent

Routine

AGENDA DATE January 26, 2016

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Consolidate the City of Modesto Special Municipal Election with the Presidential Primary Election to be Held on Tuesday, June 7, 2016

STAFF RECOMMENDATIONS:

Approve the consolidation of the City of Modesto Special Municipal Election with the Presidential Primary Election to be Held on Tuesday, June 7, 2016.

Contact person: Christine Ferraro Tallman, Clerk of the Board

Telephone: 525-4494

FISCAL IMPACT:

There is no fiscal impact associated with this item.

BOARD ACTION AS FOLLOWS:

No. 2016-47

On motion of Supervisor Withrow, Seconded by Supervisor Chiesa
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, De Martini, and Chairman Monteith

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

- 1) X Approved as recommended
- 2) _____ Denied
- 3) _____ Approved as amended
- 4) _____ Other:

MOTION:

ATTEST: Christine Ferraro
CHRISTINE FERRARO TALLMAN, Clerk

File No.



**City of Modesto
Office of the City Clerk**

1010 Tenth Street, Suite 6600
Modesto, CA 95354

BOARD OF SUPERVISORS

2016 JAN 21 P 2:57

January 20, 2016

Ms. Lee Lundrigan
Stanislaus County Elections Division
Registrar of Voters
1021 I Street
Modesto, CA 95354

Re: June 7, 2016 Election

Dear Lee:

This letter is to request the Stanislaus County Registrar of Voters furnish election services to the City of Modesto in conducting a Special Municipal Election on June 7, 2016 for the purpose of submitting to the electors of the Modesto City Schools Board of Education a proposal to amend Section 1500 of the City Charter relating to the method of election for the Board of Education.

Attached are the following certified Resolutions:

2016-05 - Resolution at the Request of the Modesto Board of Education Calling a Special Municipal Election to be held on June 7, 2016, for the purpose of submitting to the Electors of the Modesto City Schools Board of Education a Proposal to Amend Section 1500 of the City Charter relating to the Method of Election for the Board of Education; and

2016-06 – Resolution of the City of Modesto Requesting the Stanislaus County Board of Supervisors to Consolidate a City of Modesto Special Municipal Election to be held on June 7, 2016, and Requesting the Services of the Registrar of Voters, Elections Division of the County of Stanislaus to Conduct the Election on Behalf of the City of Modesto and the Modesto City Schools Board.

Ms. Lee Lundrigan
Page Two
January 20, 2016

Also attached is the City Attorney's Impartial Analysis on this ballot measure. Please note that per the language in Resolution 2016-05 and the City Attorney's Impartial Analysis, this ballot measure is to be submitted to all qualified voters of the Modesto City Schools District.

If you have any questions, please let me know. We look forward to working with you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephanie Lopez", written in a cursive style.

Stephanie Lopez
City Clerk

sl
Encs.

cc: Christine Ferraro Tallman, Clerk of the Board (w/Encs.)
Adam Lindgren, City Attorney

**MODESTO CITY COUNCIL
RESOLUTION NO. 2016-05**

**A RESOLUTION AT THE REQUEST OF THE MODESTO BOARD OF
EDUCATION CALLING A SPECIAL MUNICIPAL ELECTION TO BE HELD ON
JUNE 7, 2016, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF
THE MODESTO CITY SCHOOLS BOARD OF EDUCATION A PROPOSAL TO
AMEND SECTION 1500 OF THE CITY CHARTER RELATING TO THE
METHOD OF ELECTION FOR THE BOARD OF EDUCATION**

WHEREAS, Article XV, Section 1500 of the Charter of the City of Modesto (“Charter”) vests the control, management and administration of the Modesto City School District of Stanislaus County and the Modesto High School District of Stanislaus County, jointly referred to as “Modesto City Schools” or “the District,” in the Modesto Board of Education (“the Board of Education”); and

WHEREAS, Section 1500 the Charter requires that all seven (7) members of the Board of Education be elected at large from the territory within the District’s boundaries. The District’s boundaries encompass the City of Modesto and other surrounding territory; and

WHEREAS, an at large election system may be challenged as violating the California Voting Rights Act if it impairs the ability of a protected class to elect preferred candidates or influence the outcome of elections; and

WHEREAS, the method of election for a board of education is only subject to the jurisdiction of a city when it is set by city charter; if not established by a city charter, the method of election is governed by California Education Code Section 5019 et seq. and may be changed by the local board of education or voters petitioning the County Committee on School District Organization subject to either voter approval or granting a waiver of the voter approval requirement by the State Board of Education; and

WHEREAS, the City of Modesto does not desire to restrict the authority of the Board

of Education to determine the method of election of its members pursuant to the California Education Code; and

WHEREAS, on June 22, 2015, the Modesto Board of Education adopted a resolution requesting that the City, on its own motion, submit to voters a proposal to amend the Charter to eliminate the requirement that Board elections be at large, and allow the Board determine its election system in accordance with the California Education Code on the November 3, 2015 ballot; and

WHEREAS, this ballot measure was placed on the November 3, 2015 ballot by City Council Resolution No. 2015-223, but was erroneously omitted from the ballots of qualified Board voters residing outside City boundaries and therefore the City has agreed to place the measure on the ballot for the June 7, 2016 presidential primary election; and

WHEREAS, Article XI, Section 3 of the California Constitution and Government Code Section 34458 provide that the governing body of a city, on its own motion, may submit a proposal to amend its charter to voters; and

WHEREAS, Article IX, Section 16 (b) of the California Constitution establishes that city charter amendments changing the manner in which members of boards of education are elected must be submitted to and approved by a majority of all of the qualified electors of the school district, not just the qualified electors of the City; and

WHEREAS, pursuant to Elections Code Section 1415(a)(2), the City, on its own motion, may submit to voters a proposal to amend the Charter to comply with federal or state voting rights laws at the next statewide primary election, and Section 12001 of the Elections Code allows the City Council to call for a special municipal election; and

WHEREAS, while Section 1604 of the Charter requires the City to review the Charter at least every ten (10) years, and while the City has established a charter review

committee to assist it with such review, the City is authorized by Article XI, Section 3 of the California Constitution and Government Code Section 34458 to amend the Charter without convening a charter review committee; and

WHEREAS, if approved by the voters, this ballot measure would allow the Board of Education to transition from at large elections to trustee area, .i.e., district elections.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Pursuant to Article XI, Section 3 and Article IX, Section 16 of the California Constitution, California Government Code Section 34458, and California Elections Code Sections 1415(a)(2) and 12001, the City Council of the City of Modesto proposes to and does hereby, by its own motion, submit to the qualified electors of the Modesto City Schools District, a proposal to amend Section 1500 of the Charter of the City of Modesto, at a special municipal election to be held on June 7, 2016 as set forth below, and hereby designates and refers said proposal to be set forth in the form of a ballot measure as hereinafter prescribed for use at said special municipal election:

PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF

MODESTO

Special Municipal Election

June 7, 2016

The Council of the City of Modesto hereby proposes, on its own motion, to amend Section 1500 of the Charter of the City of Modesto as follows:

MEASURE _

SECTION 1500. - BOARD OF EDUCATION.

The control, management and administration of the public schools of the City of Modesto, and the territory that is now or may hereafter be annexed thereto for school purposes, in accordance with the Constitution and general laws of the State of California, are hereby vested in a Board of Education. In all matters not specifically provided for in this article, the Board shall be governed by the

provisions of the general law relating to such matters and shall be vested with all the powers and charged with all the duties provided by the laws of the State for city boards of education. The Board of Education shall be the governing body of the Modesto City School District of Stanislaus County and the Modesto High School District of Stanislaus County.

The Board of Education shall consist of seven (7) members who may receive compensation pursuant to the applicable provisions of the Education Code of the State of California. ~~The members of the Board of Education shall be elected at large from the territory within the boundaries of the school district or districts which are under the jurisdiction of the Board.~~ The Board of Education shall select a method of election for its members, by resolution, including but not limited to trustee or at large, in accordance with Chapter 1, Part 4, Division 1, Title 1 of the California Education Code, or any succeeding statute. The members of the Board of Education shall hold office for a period of four (4) years from and after the first Tuesday following the Regular Municipal Election at which they are elected and continuing until their successors are elected and have qualified. No person shall be eligible to be nominated for or to hold office as a member of the Board of Education unless the person is and shall have been for at least thirty (30) days preceding the person's nomination or appointment a resident and registered elector of the school district or districts which are under the jurisdiction of the Board of Education.

Note: Any wording stricken would be deleted by this measure. All of the above wording which is shaded would be added by this measure.

SECTION 2. On the ballots to be used at said election, in addition to any other matter required by law to be printed thereon, shall be printed the following question:

MEASURE __

Shall the Modesto City Charter be amended to allow the Board of Education for Modesto City Schools to change the method of election of the Board of Education in accordance with the California Education Code ?	Yes	<input type="radio"/>
	No	<input type="radio"/>

SECTION 3. The City Council hereby orders the City Clerk to submit the proposed charter amendment to the voters of the Modesto City Schools Board at a Special Municipal Election on June 7, 2016.

SECTION 4. Pursuant to Elections Code section 12101 et seq., the City Clerk of the City of Modesto is hereby authorized to prepare all required notices related to the ballot

measures and to publish such notices as required by law in *The Modesto Bee*, the official newspaper of said City and a newspaper of general circulation printed and published in said City.

SECTION 5. The Stanislaus County Elections Department is hereby authorized to canvass the returns of the Special Municipal Election.

SECTION 6. The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Elections Department of the County of Stanislaus, and the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

SECTION 7. Pursuant to Elections Code Section 9280, the City Clerk is hereby directed to transmit a copy of the ballot measure to the City Attorney, who is hereby directed to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2016, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour,
Zoslocki, Mayor Marsh

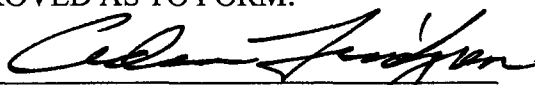
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

THIS IS TO CERTIFY THAT THIS
IS A TRUE COPY OF THE DOCUMENT ON
FILE WITH THIS OFFICE.

DATE January 15, 2016



SIGNATURE
CITY CLERK
CITY OF MODESTO, CA

**MODESTO CITY COUNCIL
RESOLUTION NO. 2016-06**

RESOLUTION OF THE CITY OF MODESTO REQUESTING THE STANISLAUS COUNTY BOARD OF SUPERVISORS TO CONSOLIDATE A CITY OF MODESTO SPECIAL MUNICIPAL ELECTION TO BE HELD ON JUNE 7, 2016, AND REQUESTING THE SERVICES OF THE REGISTRAR OF VOTERS, ELECTIONS DIVISION OF THE COUNTY OF STANISLAUS TO CONDUCT THE ELECTION ON BEHALF OF THE CITY OF MODESTO AND THE MODESTO CITY SCHOOLS BOARD

WHEREAS, pursuant to Elections Code Sections 1415(a)(2) and 12001 the City of Modesto will hold a special municipal election on June 7, 2016 for the purpose of submitting to the electors of the Modesto City Schools (“District”) an amendment to section 1500 of the City Charter regarding the method of election for the Board of Education; and

WHEREAS, the City of Modesto respectfully requests that the Stanislaus County Registrar of Voters, Elections Division, furnish all other services, facilities, supplies, equipment, etc. necessary for the election; and

WHEREAS, the City of Modesto City Clerk’s Office will be responsible for issuing/collecting election information, publishing the Notice of Election and all related materials; and

WHEREAS, the City Manager is authorized to reimburse the County of Stanislaus for all actual costs for services performed to conduct the special municipal election on behalf of the City that are determined to be owed by the City; and

WHEREAS, the District will not be required to pay for the costs of conducting the election; the City will work with the County to determine the allocation of the costs of conducting the election.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto

that it hereby formally requests from the Board of Supervisors of Stanislaus County, California, to consolidate the City of Modesto's Special Municipal Election with the County's Presidential Primary Election to be held on June 7, 2016, and requests the services of the Registrar of Voters, Elections Division of the County of Stanislaus to conduct the election on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of January, 2016, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Marsh

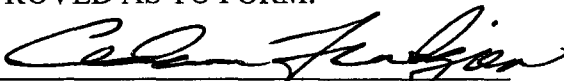
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
STEPHANIE LOPEZ, City Clerk


(SEAL)

APPROVED AS TO FORM:

By: 
ADAM U. LINDGREN, City Attorney

THIS IS TO CERTIFY THAT THIS
IS A TRUE COPY OF THE DOCUMENT ON
FILE WITH THIS OFFICE.

DATE January 15, 2016


SIGNATURE
CITY CLERK
CITY OF MODESTO, CA

RECEIVED
MODESTO CITY CLERK

16 JAN 20 PM 1:09

CITY ATTORNEY'S IMPARTIAL ANALYSIS

The City Council of the City of Modesto placed this Measure on the ballot in response to a request from the Board of Education for the Modesto City Schools. This Measure would amend the City of Modesto Charter regarding the method of election for the Board of Education.

The method of election for boards of education is governed by the California Education Code, unless a city charter establishes the method of election. The California Education Code provides that boards of education may be elected at large, through a trustee or "district" system, or a combination of both of these methods.

Currently, the City's Charter requires that members of the Board of Education be elected at large from the territories within the boundaries of the school district. This means that all registered voters within the school district's boundaries are able to vote for all of the candidates running for a seat on the Board. Alternatively, in a trustee- or district-based method of election, members of the Board would be elected by registered voters residing only in a particular trustee's area or district. The California Education Code provides a process for establishing a trustee method of election, including determining the boundaries of the trustee areas.

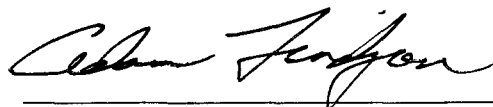
The proposed City Charter amendment would delete the requirement that the Board be elected at large, and add language authorizing the Board of Education to select a method of election for its members in accordance with the California Education Code.

The California Voting Rights Act prohibits at large elections that impair the ability of a protected class to elect preferred candidates or influence the outcome of elections. This proposed City Charter amendment would provide the Board of Education with the flexibility to initiate the process to transition from an at large to a trustee or district-based method of election.

A "Yes" vote is a vote to amend the City Charter and allow the Board of Education to select a method of election for its members consistent with the California Education Code. A "No" vote would keep the City Charter as is, and members of the Board of Education would be elected at large. This Measure would be approved if it received a simple majority of "Yes" votes from registered voters in the Modesto City Schools boundaries.

The above statement is an impartial analysis of this Measure. If you desire a copy of this Measure, please call the City Clerk's office at 209-577-5396 and a copy will be mailed at no cost to you.

DATED: January 19, 2016



Adam U. Lindgren, City Attorney