RD:LH
11/04/08

RES NO 74658

FILED
NOV 3 4 2008
REGISTRAR OF VOTERS
COUNTY OF SANTA CLARA
Deputy

# RESOLUTION NO. 74658

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ CALLING AND GIVING NOTICE OF A RECALL ELECTION TO BE HELD IN DISTRICT 7 OF THE CITY OF SAN JOSÉ ON MARCH 3, 2009 AND REQUESTING VARIOUS SERVICES FROM THE COUNTY OF SANTA CLARA REGISTRAR OF VOTERS**

**WHEREAS,** on April 22, 2008, the City Clerk received a Notice of Intention to Circulate Recall Petition which proposed the recall of District 7 Councilmember Madison Nguyen; and

**WHEREAS,** on April 29, 2008, the City Clerk received an Answer to Notice of Intention to Circulate Recall Petition from Councilmember Nguyen; and

**WHEREAS,** on August 29, 2008, the City Clerk accepted the Recall Petition for filing; and

**WHEREAS,** on October 21, 2008, the City Council accepted a Certificate of Sufficiency of the Recall Petition from the Registrar of Voters and scheduled for the November 4, 2008 Council meeting an agenda item calling a Recall Election in District 7 for March 3, 2009; and

**WHEREAS,** California Elections Code Section 11240 requires that the City Council, within 14 days after the meeting at which it accepts the Certificate of Sufficiency, call for an election to be held to determine whether or not the officer named in the petition shall be recalled; and



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**WHEREAS,** California Elections Code Section 11242 requires that the election be held not less than 88, nor more than 125, days from the call of the election.

**NOW, THEREFORE,** BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSÉ THAT:

**SECTION 1.** A Recall Election is hereby called and ordered to be held in City of San José Council District 7 on March 3, 2009, in accordance with California Elections Code Sections 11240 and 11242 to determine whether Councilmember Madison Nguyen of City Council District 7 will be recalled from the Office of Councilmember.

**SECTION 2.** The following question will appear on the ballot of the Recall Election:

| | | |
|---|---|---|
| Shall Madison Nguyen be recalled (removed) from the office of Councilmember, District 7, of the City of San José ? | YES | |
| | NO | |

**SECTION 3.** The City Council hereby requests that the Registrar of Voters of the County of Santa Clara consolidate the Recall Election called and ordered to be held on March 3, 2009 with any other election that may be held on that date.

**SECTION 4.** The City Council hereby requests the Board of Supervisors of the County of Santa Clara, California to permit the Registrar of Voters of Santa Clara County to

render to the City of San José such services as the City Clerk of the City of San José may request relating to the Recall Election with respect to the following matters:

> Coordination of election precincts, polling places, voting booths, voting systems and election officers; Printing and mailing of voter information pamphlets, sample ballots, and ballots; Preparation of tabulation of result of votes cast.

**SECTION 5.** The City Council hereby authorizes the Board of Supervisors of Santa Clara County, California to canvass the returns of the Recall Election.

**SECTION 6.** The City Council hereby directs the City Clerk to reimburse the County of Santa Clara in full for any of the above-mentioned services which may be performed by the Registrar of Voters, upon presentation of a bill to the City, with funds already appropriated to the City Clerk for election purposes.

**SECTION 7.** The City Council hereby directs the City Clerk to take all actions necessary in order to facilitate the Recall Election in the time frame specified herein and comply with provisions of the Elections Code of the State of California, City Charter, Ordinances, Resolutions and Policies with regard to the conduct of the Recall Election.

**SECTION 8.** Pursuant to Section 12111 of the California Elections Code and Section 6061 of the California Government Code, the City Council hereby directs the City Clerk to (a) cause a notice of the measure to be voted on to be published in the San José Mercury News, a newspaper of regular circulation within the City of San José; (b) consolidate the Notice of Measure to be Voted with the Notice of Recall Election into a

single notice; (c) cause copies of the proposed measure to be printed in convenient pamphlet form and in type of not less than 10-point; (d) cause copies of that pamphlet to be mailed to each of the qualified electors of the City of San José; and (e) do all other things required by law to submit the specified measure above to the electors of the City of San José at the Recall Election.

ADOPTED this 4th day of November, 2008, by the following vote:

| | |
|---|---|
| AYES: | CHIRCO, CHU, CONSTANT, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED. |
| NOES: | WILLIAMS. |
| ABSENT: | CAMPOS, CORTESE. |
| DISQUALIFIED: | NONE. |

Chuck Reed

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

The foregoing instrument is a correct copy of the original on file in this office.
Attest:
LEE PRICE
City Clerk
City of San Jose
County of Santa Clara, State of California
By Susan M Bruns, Deputy
Date 11/21/08