RESOLUTION NO. 2012-201

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VERNON, CALIFORNIA, RECITING THE FACT OF THE SPECIAL MUNICIPAL ELECTION HELD ON SEPTEMBER 18, 2012, DECLARING THE RESULTS AND SUCH OTHER MATTERS AS PROVIDED BY LAW

WHEREAS, a Special Election was held and conducted in the City of Vernon, California, on Tuesday, September 18, 2012, as required by law; and

WHEREAS, pursuant to Ordinance No. 1196, the election was conducted entirely by vote-by-mail ballot pursuant to Section 4000, et seq., of the Elections Code of the State of California; and

WHEREAS, notice of the election was given in time, form and manner as provided by law; and

WHEREAS, an election officer was appointed, vote-by-mail ballots were properly sent to all registered voters, and in all respects the election was held and conducted, the votes were cast, received and canvassed, and the returns were made and declared in the time, form and manner required by the City Charter and the Elections Code of the State of California; and

WHEREAS, the Acting City Clerk canvassed the returns of the election and has certified the results to the City Council, which certification and results are received, attached and made part hereof as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERNON AS FOLLOWS:

SECTION 1: The City Council of the City of Vernon hereby finds and determines that the recitals contained hereinabove are true and correct.
SECTION 2: One (1) voting precinct was established for the purpose of holding said Election, consisting of the regular election precinct in the City as established for the holding of State and County elections.

SECTION 3: The whole number of vote-by-mail voter ballots legally cast in the City for the Special Election held on September 18, 2012, was 41 and 1 provisional ballot was cast in the City; provided, however, that two (2) additional ballots were cast by persons determined by the counting board, upon written evidentiary findings by a neutral hearing officer in connection with a contemporaneous election contest stemming from the Special Municipal Election on June 5, 2012, to be non-residents of the City. These two ballots were not counted.

SECTION 4: The proposition voted upon at the September 18, 2012, Special Election was as follows:

<table>
<thead>
<tr>
<th>PROPOSITION: UTILITY USERS TAX</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shall the City of Vernon be authorized to levy a utility users tax to fund general government purposes at the rate of not to exceed 9.8% of utility charges for electricity, gas, telecommunications, video and water utility services provided in the City of Vernon for a period of two years, commencing in fiscal year 2012-13, all as further described in Ordinance No. 1196 adopted on June 19, 2012?</td>
</tr>
<tr>
<td>YES</td>
</tr>
<tr>
<td>NO</td>
</tr>
</tbody>
</table>

SECTION 5: The number of votes given in the one voting precinct in the City for and against the proposition is as listed in Exhibit A attached hereto.
SECTION 6: The City Council does declare and determine that as a result of the Special Election, a simple majority of the voters voting on the above proposition did not vote in favor of the proposition, and the proposition therefore failed to carry.

SECTION 7: The Acting City Clerk of the City of Vernon shall certify to the passage, approval and adoption of this Resolution, and the Acting City Clerk of the City of Vernon shall cause this Resolution and the Acting City Clerk’s certification to be entered in the File of Resolutions of the Council of this City.

APPROVED AND ADOPTED this 23rd day of October, 2012.

Name: William J. Davis
Title: Mayor / Mayor Pro-Tem

ATTEST:

Dana Reed, Acting City Clerk
STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

I, Dana Reed, Acting City Clerk of the City of Vernon, do hereby certify that the foregoing Resolution, being Resolution No. 2012-201, was duly passed, approved and adopted by the City Council of the City of Vernon at a special meeting of the City Council duly held on Tuesday, October 23, 2012, and thereafter was duly signed by the Mayor or Mayor Pro-Tem of the City of Vernon.

Executed this 25th day of October, 2012, at Vernon, California.

Dana Reed, Acting City Clerk

(SEAL)
EXHIBIT A
CITY OF VERNON – SPECIAL MUNICIPAL ELECTION HELD SEPTEMBER 18, 2012
CITY CLERK'S CERTIFICATION OF CANVASS

I, Dana Reed, Acting City Clerk of the City of Vernon, County of Los Angeles, State of California, do hereby certify that I have canvassed the returns of the Special Municipal Election held on September 18, 2012, and find that the number of votes cast for Proposition A were as follows:

<table>
<thead>
<tr>
<th>Proposition A</th>
<th>Total Votes Cast</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>September 18, 2012</td>
<td>16</td>
</tr>
<tr>
<td>October 11, 2012</td>
<td>0</td>
</tr>
<tr>
<td>October 15, 2012</td>
<td>0</td>
</tr>
<tr>
<td>TOTAL VOTES CAST</td>
<td>16</td>
</tr>
</tbody>
</table>

Dana Reed, Acting City Clerk

Dated: October 18, 2012
Recommendation

This report recommends that the City Council, at its duly noticed Special Meeting on October 23, 2012, adopt a resolution of the City of Vernon declaring the results of the City of Vernon’s Special Election held on September 18, 2012, on Proposition A, a proposed utility user tax.

Proposition A required a majority vote of the electors of the City to pass. It failed to garner the necessary votes.

Background

On September 18, 2012, a special municipal election was held in the City of Vernon on Proposition A, a proposal to assess a utility user tax on the amount of electricity, gas, water, and telecommunications services used by Vernon residents and businesses. Pursuant to Section 4000 et seq. of the Elections Code, the election was conducted as an all mail ballot election; provided that, pursuant to Chapter 5.3 of the City of Vernon City Charter, such all mail ballot election was held on September 18, 2012, rather than one of the mail ballot election dates set forth in the Elections Code.

On September 18, 2012, prior to the close of the polls, a Vernon voter timely submitted a letter to the Acting City Clerk challenging for lack of residency in the City of Vernon any vote-by-mail ballots cast in the special municipal election by 21 named voters. The letter challenged the voters on the same grounds as set forth in the election contest statement filed with the City Council on June 18, 2012, which relates to the Special Municipal Election held on June 5, 2012, to fill a vacancy on the City Council.
Pursuant to the procedures set forth in the Elections Code, after the close of the polls for the September 18, 2012, Special Municipal Election, a counting board of five members convened in City Council chambers. It was determined at that time that there were a total of forty-four (44) ballots returned prior to the close of the polls, and that four (4) ballots had been submitted by persons appearing on the list of 21 challenged voters. Accordingly, the four (4) challenged ballots were announced to the public, sequestered from the other ballots, and placed unopened in a sealed security envelop which was then placed in a locked, secured location. The Acting City Clerk then announced that the four (4) unopened challenged ballots would remain sealed and unopened until the hearing officer presiding over the pending election contest (re the June 5, 2012 election) issued her recommendation to the City Council, at which time the counting board would immediately thereafter reconvene to consider the challenged ballots for the September 18, 2012 election in accordance with law.

The four (4) unopened challenged ballots having been sequestered and secured, the counting board, on September 18, 2012, conducted the semiofficial canvass to tabulate the vote and compile the result. The result of the semiofficial canvass was 16 votes in favor of Proposition A and 24 votes against. The four (4) challenged ballots, therefore, could not have any effect on the passage or defeat of Proposition A.

On October 11, 2012, in accordance with applicable law, the counting board re-convened in City Council chambers, where it was reported that the hearing officer’s findings and recommendation on the June 5, 2012, election contest would be issued on October 15, 2012, and that the counting board would continue its meeting until that time.

On October 15, 2012, Hearing Officer Yang filed her Findings of Fact and Conclusions of Law with Acting City Clerk Dana Reed. Hearing Officer Yang ruled, in relevant part, that seven (7) of the nine (9) persons challenged in connection with the election held on June 5, 2012, did not properly cast ballots in that election.

As set forth above, four (4) persons challenged in the June 5, 2012, election contest were also challenged on the same non-residency grounds in connection with the election held on September 18, 2012. Hearing Officer Yang ruled that two (2) of these four (4) persons were not residents of the City of Vernon, as established in the election contest hearing. The counting board, on October 15, 2012, reconvened in City Council chambers to complete the canvass. Based on the findings of the hearing officer, it rejected the two (2) ballots of the persons named as non-residents in Hearing Officer Yang’s written ruling, and opened and counted the two (2) other ballots, which were voted against Proposition A. The final canvass was therefore 16 votes in favor of Proposition A and 26 votes against. Proposition A failed to garner the necessary votes to pass.

The Acting City Clerk’s Certification of Canvas of the Special Municipal Election held on September 18, 2012, is attached hereto.

Pursuant to the Vernon City Charter and Ordinance No. 1196, which called the Special Municipal Election on Proposition A, the City Council must therefore now adopt a “RESOLUTION RECITING FACT OF SPECIAL MUNICIPAL ELECTION HELD ON SEPTEMBER 18, 2012, DECLARING THE RESULT AND SUCH OTHER MATTERS AS PROVIDED BY LAW”. 
Authorization for City Council Action

The authorization for the above actions is found in Article XI, § 5 of the California Constitution, Chapter 2 of the City Charter of the City of Vernon, which states that: "The city shall have full power and authority to adopt, make, exercise and enforce all legislation, laws, and regulations and to take all actions in respect to municipal affairs, without limitation, which may lawfully be adopted, made, exercised, taken or enforced under the Constitution of the State of California subject only to such limitations as may be provided by this Charter," and in Ordinance No. 1196, Section 7(f), "[a]t the next meeting of the City Council occurring after the returns of the election have been canvassed and certified by the Elections Official, the City Council shall adopt a resolution reciting the fact of the election and a statement of the results of the election."
CITY OF VERNON – SPECIAL MUNICIPAL ELECTION HELD SEPTEMBER 18, 2012
CITY CLERK'S CERTIFICATION OF CANVASS

I, Dana Reed, Acting City Clerk of the City of Vernon, County of Los Angeles, State of California,
do hereby certify that I have canvassed the returns of the Special Municipal Election held on September 18, 2012, and
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Dana Reed, Acting City Clerk

Dated: October 18, 2012
DATE: November 8, 2012

TO: Mark C. Whitworth, City Administrator

FROM: Ana Barcia, Deputy City Clerk

RE: Resolution No. 2012-201 — A Resolution of the City Council of the City of Vernon, California, Reciting the Fact of the Special Municipal Election Held on September 18, 2012, Declaring the Results and Such Other Matters as Provided by Law

Transmitted herewith is a copy of Resolution No. 2012-201 referenced above, which was approved by City Council on October 23, 2012.

Thank you.

AB: yb

Attachment

c: Resolution No. 2012-201
   Dana Reed
   Ana Barcia
   Kristen Enomoto