

BOARD ACTION SUMMARY

DEPT: Board of Supervisors

BOARD AGENDA:5.A.7
AGENDA DATE: July 17, 2018

SUBJECT:

Approval of the Requests to Consolidate the City of Modesto's and the Modesto City Schools Board of Education's Measures Regarding Charter Amendments Changing their Elections to Even-Numbered Years with the Gubernatorial General Election to be Held on November 6, 2018


BOARD ACTION AS FOLLOWS:

RESOLUTION NO. 2018-0354

On motion of Supervisor Chiesa , Seconded by Supervisor Withrow
and approved by the following vote,
Ayes: Supervisors: Olsen, Chiesa, Withrow, Monteith, and Chairman DeMartini
Noes: Supervisors: None
Excused or Absent: Supervisors: None
Abstaining: Supervisor: None

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

MOTION:

ATTEST: 
ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: Board of Supervisors

BOARD AGENDA:5.A.7
AGENDA DATE: July 17, 2018

CONSENT:

CEO CONCURRENCE: YES

4/5 Vote Required: No

SUBJECT:

Approval of the Requests to Consolidate the City of Modesto's and the Modesto City Schools Board of Education's Measures Regarding Charter Amendments Changing their Elections to Even-Numbered Years with the Gubernatorial General Election to be Held on November 6, 2018

STAFF RECOMMENDATION:

1. Approve the consolidation of City of Modesto's and the Modesto City Schools Board of Education's measures regarding charter amendments changing their elections to even-numbered years with the Gubernatorial General Election to be held on November 6, 2018.

CONTACT PERSON:

Elizabeth King, Clerk of the Board

Phone number: 209-525-4494

ATTACHMENT(S):

1. City of Modesto Resolution 2018-207
2. City of Modesto Resolution 2018-271



BOARD OF SUPERVISORS

2018 JUN -7 A 9:41

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

1010 Tenth Street, Suite 6600
Modesto, CA 95354

June 7, 2018

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

Re: City of Modesto re Charter Amendments re Even-Numbered
Year Elections - November 6, 2018 Election

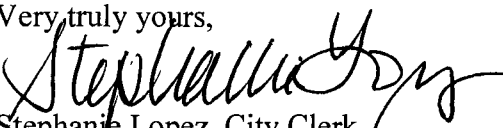
Dear Ms. Lundrigan:

Attached is a certified copy of Modesto City Council Resolution No. 2018-207 requesting submittal of a Measure to be placed on the November 6, 2018 Municipal Election for the City of Modesto. The Resolutions included are listed below:

Resolution No. 2018-207 directing the City Clerk to Place a Measure on the November 2018 Ballot for Voter Approval that Would Propose Charter Amendments Sufficient to Change the Date of the City's Regular Municipal Elections to the Date of Statewide General Elections held in November of Even-Numbered Years, and Provide a One-Time Extension of Existing Four-Year Council and Mayoral Terms to Five Years.

The City Attorney Impartial Analysis will be provided to you next week. If you have any questions, please contact me at (209) 577-5398.

Very truly yours,


Stephanie Lopez, City Clerk

sl
Enclosure

cc: Liz King, Clerk of the Board

**MODESTO CITY COUNCIL
RESOLUTION NO. 2018-207**

RESOLUTION DIRECTING THE CITY CLERK TO PLACE A MEASURE ON THE NOVEMBER 2018 BALLOT FOR VOTER APPROVAL THAT WOULD PROPOSE CHARTER AMENDMENTS SUFFICIENT TO CHANGE THE DATE OF THE CITY'S REGULAR MUNICIPAL ELECTIONS TO THE DATE OF STATEWIDE GENERAL ELECTIONS HELD IN NOVEMBER OF EVEN-NUMBERED YEARS, AND PROVIDE A ONE-TIME EXTENSION OF EXISTING FOUR-YEAR COUNCIL AND MAYORAL TERMS TO FIVE YEARS

WHEREAS, Article III, Section 300 of the Charter of the City of Modesto establishes that the regular municipal election for the election of officers shall be held on the first Tuesday after the first Monday in November of each odd-numbered year, and

WHEREAS, the City's Charter also provides that the Office of Mayor and all members of Council shall hold office for a term of four years (Art. VI, § 600; Art. VII, § 700.), and

WHEREAS, in 2015, the California Legislature adopted and the Governor signed Senate Bill 415, the California Voter Participation Rights Act ("CVPRA"), and

WHEREAS, the CVPRA prohibits a city from holding a regular election other than on a statewide election date, if holding an election on an odd-numbered year has previously resulted in voter turnout being at least twenty-five (25%) less than the average voter turnout for the previous four statewide general elections, and

WHEREAS, voter turnout data for the City of Modesto showed that average voter turnout at statewide general elections in November is between 56.3 and 56.9 percent, while average voter turnout at regularly scheduled municipal elections in odd-numbered years is between 25.6 and 26 percent. This equates to an average of 30.3 to 31.3 percent difference in voter turnout, which means that the City has experienced a "significant decrease in voter turnout" as defined under the CVPRA, and

WHEREAS, the CVPRA requires that at least one regular municipal election coincide with a statewide election no later than November 2022, and

WHEREAS, a recent California Attorney General opinion found that charter cities must comply with the CVPRA, and

WHEREAS, municipal elections held in November of odd-numbered years may be challenged as violating the California Voting Rights Act and the City could be responsible for attorney's fees for a successful challenge, and

WHEREAS, at the December 12, 2017 regular meeting, the City Council approved Resolution 2017-527, directing City Staff to prepare a ballot measure that would, if successful, amend the City Charter to require regular municipal elections be held in November of even-numbered years to coincide with statewide elections and comply with the CVPRA, 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, 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 general 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 propose amendments to the Charter without convening a charter review committee, and

WHEREAS, if approved by the voters, this ballot measure would bring the City's regular municipal elections into compliance with the CVPRA, and

WHEREAS, the City Council, pursuant to Resolution 2018-55, called for a general municipal election to be held on and consolidated with the November 6, 2018 statewide general election and for the Stanislaus County Elections Department to conduct such election on behalf of the City of Modesto and therefore the Council now desires to include this measure on the ballot at said election.

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

1. Pursuant to Article XI, Section 3 of the California Constitution, California Government Code Section 34458, and California Elections Code Sections 1415(a)(2)(b) and 1200, the City Council of the City of Modesto proposes to and does hereby, by its own motion, submit to the qualified electors of the City, a proposal to amend Sections 300, 600, and 700 the Charter of the City of Modesto, at a municipal election to be held on November 6, 2018 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 municipal election:

PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF
MODESTO

General Municipal Election

November 6, 2018

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

MEASURE __

SECTION 300. REGULAR MUNICIPAL ELECTIONS

Regular Municipal Elections for the election of officers and for such other purposes as the Council may prescribe shall be held biennially on the first Tuesday after the first Monday in November of each ~~even~~-numbered year, to coincide with the statewide general election.

To transition to even-numbered year elections, the municipal election normally held in November 2019 shall be moved to November 2020 and the municipal election normally held in November 2021 shall be moved to November 2022. This transition results in a one-time, one-year extension of the terms of city council members elected in November 2015, the mayor elected in the November 2015 election which resulted in his election in the February 2016 run-off election, and the city council members elected in the November 2017 election.

If, at a regular municipal election held on the first Tuesday, after the first Monday in November of each ~~even~~-numbered year, no candidate for the elective office of Mayor for the City of Modesto receives a majority of the valid votes cast for said office at said regular municipal election, a ~~second regular municipal~~ run-off election shall be held for said office on the first Tuesday in February of each ~~even~~-numbered year commencing with the Mayoral election held in November 2020 ~~the year 2012~~. At said ~~second regular municipal~~ run-off election, the two (2) candidates for the elective office of Mayor receiving the highest number of votes at the ~~first regular~~ prior municipal election shall have their names placed on the ballot for election to said office.

SECTION 600. – TERM OF OFFICE

The Mayor shall hold office for a term of four (4) years, less any time required between a November election and a February run-off election, from and after the first Tuesday following the Mayor's election and until the Mayor's successor is qualified and elected. To allow for a transition to even-numbered year elections as required by state law, the term for the Mayor elected in the November 2015 election which resulted in his election in February 2016 shall be extended by one year to accommodate moving the November 2019 election to November 2020.

SECTION 700. – COUNCILMEMBERS, TERM OF OFFICE.

Except as otherwise provided in this Charter, the members of the Council shall hold office for a term of four (4) years from and after the first Tuesday following their election. The members of the Council in office at the time this Charter takes effect shall continue in office until the expiration of their terms or until their successors are elected and qualified. To accommodate the City's transition to even-numbered year elections, Councilmembers elected in the November 2015 and November 2017 elections shall have their terms extended by one year; meaning they will serve a term of five (5) years and their Council seats will be up for election in November 2020 and November 2022, respectively.

If a tie vote makes it impossible to determine which of two (2) or more candidates has been elected, said tie shall be settled by the drawing of lots, the procedure for which shall be determined by the Council. Each member of the Council shall have the right to vote on all matters coming before the Council.

No candidate shall file for more than one (1) elective office; and no incumbent member of the Council shall run for a seat other than that which the member holds, except that any incumbent member of the Council may run for the seat of Mayor, and an incumbent Mayor may run for the seat of Mayor or for any other seat on the Council, all subject to the limitations of terms of office in Section 503 of this Charter.

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

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 __

To increase voter participation in City of Modesto elections and to conform with state law, shall the City of Modesto Charter be amended to: (1) change the date for the City's future, regular elections to November of even-numbered years to coincide with State/Federal elections, and; (2) allow for a one time, one-year extension of the terms of City Council members and the mayor?	Yes	0
	No	0

3. The City Council hereby orders the City Clerk to submit the proposed charter amendment to the voters of the City of Modesto at a Municipal Election on November 6,

2018.

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.

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

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.

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 5th day of June, 2018, by Councilmember Grewal, who moved its adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Mayor Brandvold

NOES: Councilmembers: Ridenour

ABSENT: Councilmembers: Zoslocki

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Adam U. Lindgren
ADAM U. LINDGREN, City Attorney

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

DATE June 7, 2018

Stephanie Lopez

SIGNATURE

CITY CLERK

CITY OF MODESTO, CA



City of Modesto
Office of the City Clerk
1010 Tenth Street, Suite 6600
Modesto, CA 95354

BOARD OF SUPERVISORS

2018 JUL -5 P 1:54

July 5, 2018

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

Re: City of Modesto re School Board Districts / Even-Numbered
Year Elections - November 6, 2018 Election

Dear Ms. Lundrigan:

Attached is a certified copy of Modesto City Council Resolution No. 2018-271 requesting submittal of a Measure to be placed on the November 6, 2018 Municipal Election by the City of Modesto for the Modesto Board of Education. The Resolution included is listed below:

Resolution No. 2018-271 Resolution at the request of the Modesto Board of Education 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 to change the election dates for the Board of Education to the date of the statewide general elections held in November of even-numbered years and provide for a one-time extension of existing four-year terms for board members.

The City Attorney Impartial Analysis will be provided to you next week. If you have any questions, please contact me at (209) 577-5398.

Very truly yours,

Cathi Erbe, Assistant City Clerk for
Stephanie Lopez, City Clerk

ce
Enclosure

cc: Liz King, Clerk of the Board

**MODESTO CITY COUNCIL
RESOLUTION NO. 2018-271**

BOARD OF SUPERVISORS

**RESOLUTION AT THE REQUEST OF THE MODESTO BOARD OF
EDUCATION 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 TO CHANGE THE
ELECTION DATES FOR THE BOARD OF EDUCATION TO THE DATE OF
THE STATEWIDE GENERAL ELECTIONS HELD IN NOVEMBER OF EVEN-
NUMBERED YEARS AND PROVIDE FOR A ONE-TIME EXTENSION OF
EXISTING FOUR-YEAR TERMS FOR BOARD MEMBERS**

2018 JUL -5 P 1:54

WHEREAS, in 2015, the California Legislature adopted and the Governor signed Senate Bill 415, the California Voter Participation Rights Act (“CVPRA”), and

WHEREAS, the CVPRA prohibits a school district from holding a regular election other than on a statewide election date, if holding an election on an odd-numbered year has previously resulted in voter turnout being at least twenty-five (25%) less than the average voter turnout for the previous four statewide general elections, and

WHEREAS, on December 11, 2017, the Modesto Board of Education adopted Resolution No. 17/18-10, requesting that the City, on its own motion, submit to voters a proposal to amend the Charter to transition School Board elections to November of even-numbered years to ensure compliance with the CVPRA, and

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 references the fact that all seven (7) members of the Board of Education are elected at regular municipal elections, and

although the City of Modesto will submit to voters in November a measure to transition all future regular municipal election dates to even-numbered years, to ensure that the District's elections also happen in November of even-numbered years it is necessary to seek an amendment to Section 1500 of the City Charter related to District Board of Education elections and when they occur, 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

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 ensure compliance with state law by moving its elections to November of even-numbered years, and

WHEREAS, the City Council, pursuant to Resolution 2018-55, called for a general municipal election to be held on and consolidated with the November 6, 2018 statewide general election and for the Stanislaus County Elections Department to conduct such election on behalf of the City of Modesto and the Modesto City Schools and therefore the Council now desires to include this measure on the ballot at said election on behalf of the Modesto City Schools Board of Education.

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

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), 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 the municipal election to be held on November 6, 2018 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 municipal election:

PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF

MODESTO

Municipal Election

November 6, 2018

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 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~~ California Statewide Election on the first Tuesday after the first Monday in November of each even numbered year at which they are elected and continuing until their successors are elected and have qualified. Each Board of Education member term commencing in 2015 shall be extended one year to December 2020 and each member term commencing in 2017 shall be extended one year to December 2022.

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 underlined would be added by this measure.

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 __

To increase voter participation and to conform with State law, shall the City of Modesto Charter be amended to (1) hold future Modesto City Schools Board of Education elections in November of even-numbered years to coincide with State/Federal elections, and; (2) allow for a one-time, one-year extension of the terms of current Board of Education members?	Yes	<input type="radio"/>
	No	<input type="radio"/>

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 the regular Municipal Election on November 6, 2018.

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.

5. The Stanislaus County Elections Department is hereby authorized to canvass the returns of the Municipal Election related to this measure.

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.

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 26th day of June, 2018, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Ah You

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Adam U. Lindgren
ADAM U. LINDGREN, City Attorney

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

DATE July 5, 2018

Stephanie Lopez

SIGNATURE
Assistant CITY CLERK
CITY OF MODESTO, CA