



DATE: October 21, 2019

TO: Mayor and Members of the City Council

VIA: Jeff Moneda, City Manager

FROM: Priscilla Schaus, Communications Director/City Clerk

SUBJECT: CERTIFICATION OF PETITION SUBMITTED TO RECALL
COUNCILMEMBER PEREZ AND SCHEDULE CALL FOR ELECTION

RECOMMENDATION

It is recommended that the City Council adopt the attached resolution accepting the City Clerk/Election Official's Certificate of Sufficiency of Recall Petition and placing on the City Council's November 4, 2019 agenda a resolution calling a Special Recall Election for March 3, 2020.

EXECUTIVE SUMMARY

The San Mateo Assessor/County Clerk-Recorder and Elections Office (County Elections Office) has completed its review of the Petition to Recall Councilmember Perez (Petition) and provided information for the Certificate of Sufficiency, confirming that the Petition has been signed by the requisite number of voters. As required by Elections Code Section 11240, at tonight's regular City Council meeting the City Clerk will present the Certificate of Sufficiency for City Council acceptance. As required by Elections Code Section 11240, the City Council must, within 14 days of this meeting, call an election and issue an order stating that an election shall be held to determine whether or not Councilmember Perez shall be recalled. The call for an election can be done at the next regular City Council meeting on November 4, 2019, or at a special meeting held before that date. If the City Council fails to call for an election by November 4, 2019, the County Elections Official will, within 5 days thereafter, set the date for the election. (Elections Code Section 11241)

The election must be held no sooner than 88 days and no later than 125 days after it is

called. If a regular or special election is set to occur within that timeframe, the recall election must be consolidated with that election. (Elections Code Section 11242) If the election is called between October 30 and November 4, then it will be consolidated with the March 2020 statewide primary election to be held on March 3, 2020. If the election is called before October 30, the election will be a standalone election occurring before the March election.

BACKGROUND

On June 24, 2019 a Notice of Intention to Circulate Recall Petition was filed with the City Clerk. Councilmember Perez filed an Answer to the Notice of Intention July 1, 2019. On July 11, 2019 the form of the Petition was determined to meet the statutory requirements, thus allowing for the proponents to begin gathering signatures. The Secretary of State's Handbook "Procedures for Recalling State and Local Officials" and Elections Code Section 11221(a) state the number of requisite signatures must be equal in number to not less than the following percent of registered voters in the electoral jurisdiction: twenty percent (20%) if registration is less than 50,000 but at least 10,000. According to the Report of Registration filed with the Secretary of State, Foster City has 16,568 registered voters, and thus 3,314 verified signatures were required in order to place this question on a ballot.

Per Elections Code Section 11220(d), 120 days were provided to collect signatures (i.e., until November 8, 2019). On September 18, 2019, the Petition was filed with the City Clerk's Office in accordance with Elections Code Sections 11220 and 11221(a). The City Clerk completed the prima facie review of signatures and identified 4,389 unverified signatures. On September 18, 2019, the City Clerk provided the Petition to the County Elections Office for examination and verification of signatures.

Pursuant to Elections Code Section 11224, the County Elections Office examined the Petition and, from the records of voter registration, ascertained that the Petition was signed by the requisite number of voters. The County Elections Office submitted results of their examination and verification of signatures to the City Clerk/Elections Official on October 16, 2019. Per Elections Code Section 11227, the Certificate of Sufficiency is now submitted to the City Council for acceptance.

ANALYSIS

Pursuant to Elections Code Sections 11224 and 11225, the County Elections Office has examined the Petition and ascertained it was signed by the requisite number of voters. Upon finding the Petition sufficient, the County Elections Office provided the results of their examination and verification of signatures to the City Clerk on October 16, 2019.

The City Council must now accept the Certificate of Sufficiency as provided by Elections Code Section 11240 and schedule a City Council meeting within 14 days to call for the election (i.e., no later than November 4, 2019). The election must be held not less than 88 days, nor more than 125, days after the issuance of the order. (Elections Code Section 11242) If the City Council does not act within 14 days as specified, Elections Code Section 11241 stipulates that the County Elections Official must, within 5 days, set the date for the election.

The next election in San Mateo County is scheduled for March 3, 2020. For the recall election to be consolidated with the March election, the recall election must be called between October 30, 2019 (120 before the election) and December 6, 2019 (88 days before the election).

In order to consolidate the recall election with the March 3, 2020 election, the City Council may call the election at a special meeting on or after October 30, or its next regular meeting on November 4, 2019. Staff recommends that the election be called at the November 4, 2019 City Council meeting. The City Council could also choose to hold a special meeting prior to November 4, 2019. However, if the election is called before October 30, it will not be consolidated with the March 3, 2020 election and instead will be a special standalone election.

If consolidated with the March 3, 2020 election, the San Mateo County Elections Office estimates the election cost will be between \$71,900 and \$86,280. If held as a special election, the election is estimated to cost between \$257,904.79 and \$309,485.75.

Next Steps

The resolution before the City Council this evening accepts the Certificate of Sufficiency and sets November 4, 2019 as the date to call for the election.

FISCAL IMPACT

There is no fiscal impact associated with the adoption of the resolution accepting the Certificate of Sufficiency.

There will be a cost associated with the recall election. As the City budgets for municipal elections in even-years, no funding has been approved for the cost of an election in FY 2019-2020. Based on the cost estimates provided by the San Mateo Assessor/County Clerk-Recorder and Elections Office funding in the amount of \$86,280 will need to be appropriated to the Municipal Elections account 001-0220-414-4251 from the General Fund if the election is consolidated with the scheduled March 3, 2020 election. Funding in the amount of \$309,485.75 will need to be appropriated to the Municipal Elections account 001-0220-414-4251 if the election is to be held as a

special election.

Staff will prepare the resolution calling for the election and requesting the funding appropriation for the November 4, 2019 City Council meeting unless instructed to hold a special meeting prior to that date.

Attachments:

- Attachment 1 – Resolution Accepting Certificate of Sufficiency
- Attachment 2 – Certificate of Sufficiency
- Attachment 3 – Letter from the San Mateo County Assessor-County Clerk-Recorder & Elections Office

CERTIFICATE OF SUFFICIENCY

I, PRISCILLA SCHAUS, City Clerk of the City of Foster City, State of California, hereby certify:

That the "Petition to Recall Councilmember Herb Perez" was filed with my office on September 18, 2019.

That each section contains signatures purporting to be the signatures of qualified electors of this county;

That attached to this petition at the time it was filed was an affidavit purporting to be the affidavit of the person who solicited the signatures, and containing the dates between which the purported qualified electors signed this petition;

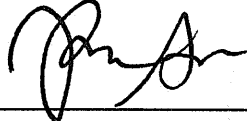
That the affiant stated his or her own qualification that he or she had solicited the signatures upon that section, that all of the signatures were made in his or her presence, and that to the best of his or her knowledge and belief each signature to that section was the genuine signature of the person whose name it purports to be;

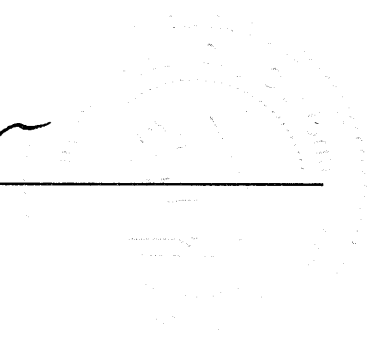
That after the proponent filed this petition I requested the San Mateo County Assessor-County Clerk – Recorder & Elections Office to verify the required number of signatures by examining the records of registration in this county, current and in effect at the respective purported dates of-such of signing, to determine what number of qualified electors signed the petition. The results of the examination by the San Mateo County Assessor-County Clerk – Recorder & Elections Office are as follows:

1. The name of the officer whose recall is sought: Herb Perez
2. The title of his or her office: Councilmember of the City of Foster City, County of San Mateo
3. The number of signatures required by law: 3,314
4. The total number of signatures on the petition: 4,380
5. Number of signatures verified: 4,380
6. The number of valid signatures on the petition: 3,913
7. The number of signatures which were disqualified: 467

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 16th day of October, 2019.

Priscilla Schaus
City Clerk







OFFICE OF
**ASSESSOR-COUNTY CLERK-
RECORDER & ELECTIONS**
COUNTY OF SAN MATEO

MARK CHURCH
CHIEF ELECTIONS OFFICER &
ASSESSOR-COUNTY CLERK-RECORDER

October 16, 2019

Ms. Priscilla Tam
610 Foster City Blvd.
Foster City, CA 94404

Dear Ms. Tam,

We have completed the review of signatures on the "RECALL OF HERBERT PEREZ, PETITION" requested by you on September 18th, 2019. Of the 4,380 signatures submitted, 4,380 were checked and 3,913 signatures were verified as valid.

Billing for our services will be sent separately.

If you have any questions regarding this matter, please feel free to call Travis Dunn at 650.312.5298.

MARK CHURCH
Chief Elections Officer &
Assessor-County Clerk-Recorder

By: 
Jim Irizarry, Assistant Chief Elections
Officer & Assessor-County Clerk-Recorder

RESOLUTION NO. 2019-96

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOSTER CITY ACCEPTING THE CERTIFICATE OF SUFFICIENCY OF SIGNATURES ON THE PETITION TO RECALL COUNCILMEMBER HERB PEREZ AND SCHEDULING THE CALL FOR ELECTION TO OCCUR ON NOVEMBER 4, 2019

CITY OF FOSTER CITY

WHEREAS, on June 24, 2019, the City Clerk/Election Official received a copy of the Notice of Intention to Circulate Recall Petition which proposed the recall of Councilmember Herb Perez; and

WHEREAS, on July 1, 2019, Councilmember Perez filed an Answer to the Notice of Intention; and

WHEREAS, on July 11, 2019, the Petition for Recall form was determined to meet the statutory requirements and thus approved for signature gathering; and

WHEREAS, Elections Code 11220 states the number of requisite signatures must be equal in number to not less than the following percent of registered voters in the electoral jurisdiction: twenty percent (20%) if registration is less than 50,000 but at least 10,000; and

WHEREAS, according to the Report of Registration filed with the Secretary of State, Foster City has 16,568 registered voters, and thus 3,314 verified signatures were required for this Petition; and

WHEREAS, on September 18, 2019, the Petition to Recall Councilmember Herb Perez was filed with the City Clerk's Office in accordance with Elections Code 11220, prior to the established deadline of November 8, 2019; and

WHEREAS, after completing the prima facie review of signatures, the City Clerk/Election Officer identified 4,389 unverified signatures, which is greater than the minimum 3,314 required, and provided the petition to the San Mateo Assessor/County Clerk-Recorder and Elections Office for examination and verification of the signatures on September 18, 2019; and

WHEREAS, on October 16, 2019, San Mateo Assessor/County Clerk-Recorder and Elections Office provided information for the Certificate of Sufficiency of the Recall Petition, indicating the following, and attached herein.

- (a) The name of the officer whose recall is sought – Herb Perez

- (b) The title of his or her office – Councilmember of the City of Foster City, County of San Mateo
- (c) The number of signatures required by law – 3,314
- (d) The total number of signatures on the petition – 4,380
- (e) The number of valid signatures on the petition – 3,913
- (f) The number of signatures which were disqualified – 467

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Foster City, California hereby accepts the Certificate of Sufficiency of the Signatures on the Petition to Recall Councilmember Herb Perez and determines that the call for election shall be scheduled for City Council action on November 4, 2019.

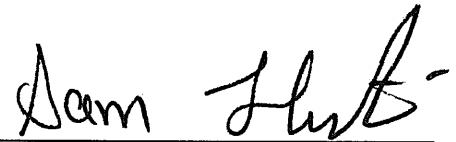
PASSED AND ADOPTED as a resolution of the City Council of the City of Foster City at the regular meeting held on the 21st day of October 21, 2019, by the following vote:

AYES: Councilmembers Awasthi, Gehani, Mahanpour, and Mayor Hindi

NOES: None

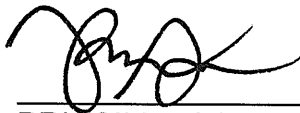
ABSENT: Councilmember Perez

ABSTAIN: None



SAM HINDI, MAYOR

ATTEST:



PRISCILLA SCHAUS, CITY CLERK

CERTIFICATE OF SUFFICIENCY

I, PRISCILLA SCHAUS, City Clerk of the City of Foster City, State of California, hereby certify:

That the "Petition to Recall Councilmember Herb Perez" was filed with my office on September 18, 2019.

That each section contains signatures purporting to be the signatures of qualified electors of this county;

That attached to this petition at the time it was filed was an affidavit purporting to be the affidavit of the person who solicited the signatures, and containing the dates between which the purported qualified electors signed this petition;

That the affiant stated his or her own qualification that he or she had solicited the signatures upon that section, that all of the signatures were made in his or her presence, and that to the best of his or her knowledge and belief each signature to that section was the genuine signature of the person whose name it purports to be;

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City Clerk

