



Agenda Item 7B

Approvals:

City Manager RJG
Dept. Head WEC
Attorney JAG
Finance JV

AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: October 15, 2013

Department: Public Works / Engineering
Prepared By: Tom Bonigut, Assistant City Engineer TB

Subject: *ELECTION FOR RENEWAL OF THE CLEAN OCEAN FEE.*

Fiscal Impact: None. The City Council already approved funds and a contract for Clean Ocean fee mail ballot election services. If the proposed fee renewal and increase is not approved, then an alternate source of funding would need to be identified to continue providing Clean Ocean Program services.

Summary: Assuming that there is no majority protest as described below, staff recommends that the City Council proceed with a special mail ballot election to seek a renewal and increase of the existing Clean Ocean fee. If the City Council calls a mail ballot election, then staff also recommends that the City Council authorize the Mayor to vote, as directed by Council, on the ballots for City-owned parcels subject to the Clean Ocean fee.

Background: The goals of the City's Clean Ocean Program are to protect local water quality and ensure that the City remains in compliance with State and Federal stormwater regulations. Clean Ocean Program activities are supported by a fee that was originally approved for a five-year term by San Clemente property owners in late 2002 and subsequently renewed for a six-year term in 2007. The fee programs were approved for set periods so that property owners would have an opportunity to evaluate the Clean Ocean program and consider continuation of the Clean Ocean fee. Although the current Clean Ocean fee will expire in December 2013, the City needs to continue the program to maintain progress toward environmental protection as well as compliance with ongoing and future State and Federal regulatory requirements. The City Council identified renewal of the Clean Ocean fee as its highest priority during its Spring 2013 Strategic Priorities workshop and in August the City Council unanimously directed staff to start the process for seeking renewal of the Clean Ocean fee. This report provides a very brief overview of the Clean Ocean Program and summarizes recent and planned actions to seek property owner approval of a renewed and increased Clean Ocean fee.

Discussion: Existing Clean Ocean Program

The Clean Ocean Program consists of a number of activities to comply with State and Federal stormwater regulations and to help improve local water quality, including:

- ✓ Treatment projects to clean urban runoff before it reaches the beach and ocean;
- ✓ Street sweeping to pick up trash from City streets before it gets into storm drains;
- ✓ Storm drain system repair and maintenance;
- ✓ Enforcement to identify and correct water quality violations;
- ✓ Inspections of commercial, industrial, municipal and construction sites to identify and correct potential water quality problems;
- ✓ Water quality monitoring to identify potential problem areas and to track progress over time; and
- ✓ Outreach to raise awareness and provide pollution prevention information.

Clean Ocean Program progress and accomplishments were reviewed during the 2013 Long Term Financial Plan process. The City will continue to be subject to State and Federal stormwater regulations, and a new regional Stormwater Permit, which becomes effective in 2014, was recently adopted by the State. In addition to stormwater permit requirements, the City is subject to a Total Maximum Daily Load (TMDL) for south Orange County coastal cities which places limits on the amount of bacteria that can be discharged to the ocean from City storm drains. The Clean Ocean Program and fee provide dedicated resources to address these regulatory requirements.

Proposed Fee Renewal and Increase

Per City Council direction in August, the Clean Ocean fee is proposed to be extended at a fixed rate for a 6.5-year term to expire June 30, 2020 to coincide with the end of Fiscal Year 2020. The new rate would be increased from the current amount per the attached fee rate schedule, which presents the current and proposed fee rates for various parcel types (refer to Attachment 1). The Clean Ocean fee has never been increased since it first became effective in January 2003, even though the Consumer Price Index (CPI) has increased an average of 2.8% annually since then. During the 2007 renewal, the fee was not increased because the City had received grant funds for several projects which increased the Clean Ocean fund balance and allowed the program to continue for six additional years. Had the fee been indexed to the CPI, it would be even greater than the proposed increase. As previously discussed with the City Council, an increased fee is necessary to continue full implementation of the Clean Ocean Program. A detailed financial forecast of the proposed upcoming Clean Ocean Program term and increased fee is presented in Attachment 2.

Proposition 218 Fee Renewal Process

To renew and increase the Clean Ocean Fee, the City must provide San Clemente property owners the opportunity to vote on the fee renewal in accordance with Proposition 218. As required by law, the City Council established a public hearing date of October 15, 2013 and written notices of the proposed fee renewal and public hearing were mailed to property owners on August 30. If written protests against the fee renewal are presented by a majority of property owners, then the City may not

MB-J

proceed with an election on the proposed fee renewal. If there is not a majority protest, the Council may:

- 1) Pursue a mail ballot election of property owners, no earlier than 45 days from the date of the public hearing, which requires a simple majority of property owners (50% plus 1 of the returned ballots); or
- 2) Decide to not conduct a mail ballot election, and instead divert funding from other sources to provide Clean Ocean Program services¹.

If the Council decides to call a mail ballot election, it would do so by adopting the attached resolution (Attachment 3), which includes the proposed ballot and election procedures. These procedures have been reviewed and approved by the City Clerk and City Attorney, and are consistent with those used for the previous Clean Ocean fee mail ballot election conducted in late 2007. The proposed election schedule is presented in the table below.

Anticipated Date	Task / Milestone
October 25	Mail official ballots to property owners along with postage-paid return envelopes addressed to City Clerk.
December 10	Ballots due (Election Date).
December 13	Ballot tabulation completed.
December 17	Adopt Resolution to certify election results, and introduce Ordinance for continuing the Clean Ocean Fee.
January 7, 2014	Second reading of Clean Ocean Fee Ordinance.
February 7, 2014	Renewed fee goes into effect.

City-Owned Parcels

The City of San Clemente is the record owner of 25-30 parcels which are subject to the Clean Ocean fee². Per the prior Clean Ocean fee elections, the City is entitled to cast votes in the election for these parcels. Thus, the City Council may authorize the Mayor to cast votes as the City Council directs in the election to renew the Clean Ocean Fee, should the City Council approve conducting an election.

Recommended

Action: Staff Recommends That the City Council, if there is no majority protest against the proposed Clean Ocean Fee renewal and increase:

1. Adopt Resolution No. _____ entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, CALLING A SPECIAL MAIL BALLOT ELECTION FOR SUBMITTAL OF A RENEWAL AND INCREASE OF THE EXISTING CLEAN OCEAN FEE TO THE OWNERS OF REAL PROPERTY SUBJECT TO THE FEE;" and

¹ Under Proposition 218 the City Council could also seek fee renewal approval via a special election of registered voters (which requires supermajority approval), but the Council previously indicated its preference for a mail ballot election.

² Staff is confirming this number and will present this at the October 15, 2013 City Council meeting.

7B-3

2. Authorize the Mayor to vote on the ballots for those properties on which the City currently pays a Clean Ocean Fee, as directed by the Council.

- Attachments:**
1. Current and proposed Clean Ocean fee rates
 2. Clean Ocean Program 6-Year Financial Forecast
 3. Proposed Resolution to Authorize a Clean Ocean Fee Mail Ballot Election

Notification: None.

I:\Engineering\Admin\2013 Admin\10-15-2013\10-15-13-5r.docx

7B.4

ATTACHMENT 1

CLEAN OCEAN FEE EXISTING AND PROPOSED FEE RATES

The proposed renewed fee is equal to six dollars and twenty three cents (\$6.23) per month for a single family residential parcel on a public street, and five dollars and ten cents (\$5.10) per month for a single family residential parcel on a private street. The fee includes different rates for public and private streets to account for the different level of service benefits provided related to street sweeping services. The renewed fee would be fixed for the entire proposed term (i.e. there would be no fee increase during the whole time the renewed fee is in effect). The tables below present the Clean Ocean Fee rates for different parcel types.

Single Family Residential Monthly Fee		
	Current Fee	Proposed New Fee
Private street	\$ 4.39	\$ 5.10
Public street	\$ 5.02	\$ 6.23

Multi-Family Residential Monthly Fee		
	Current Fee (per residential unit)	Proposed New Fee (per residential unit)
Private street	\$3.51	\$4.08
Public street	\$4.01	\$4.98

Non-Residential (Commercial, Industrial, Business Park) Monthly Fee		
	Current Fee (per acre or fraction thereof)	Proposed New Fee (per acre or fraction thereof)
Private street	\$43.90	\$51.00
Public street	\$50.20	\$62.30

Note: Almost all non-residential streets within the City are public streets.

Undeveloped, Graded Property Monthly Fee				
	Current Fee		Proposed New Fee	
	2 acres or less	Each acre over 2 add:	2 acres or less	Each acre over 2 add:
Private street	\$2.20	\$0.44	\$2.55	\$0.51
Public street	\$2.51	\$0.50	\$3.12	\$0.62

Note: There is no clean ocean fee charge for undeveloped, ungraded parcels.

Private vs. Public Street

Although there are a few exceptions, streets that are owned and maintained by a property owner and/or homeowner association are generally considered private streets. All other streets are then considered public streets. Please contact the City's Engineering Division at (949) 361-6119 if you wish to check whether your street is public or private.

Fee Expiration

The renewed fee would be limited to approximately six and one-half (6.5) years and would expire on June 30, 2020.

Fee Increases

The renewed fee would be fixed, and would not be increased during the entire period noted above.

7B-5

ATTACHMENT 2
Clean Ocean Program Financial Forecast

Clean Ocean Fund Expenditures and Cash Flow						
	Fiscal Year (dollars in \$1,000s)					
	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Beginning Net Working Capital Balance	1314	1030	720	382	146	115
Receipts						
Service Charges (Clean Ocean Fee)	2325	2325	2325	2325	2325	2325
Interest	25	25	25	25	25	25
Fines (Sweeping and WQ Violations)	298	301	304	307	310	313
Total Receipts	2648	2651	2654	2657	2660	2663
Disbursements						
Water Quality Inspection - Program 541						
Personnel ¹	393	401	409	417	425	434
Supplies ²	60	61	61	61	62	62
Contractual/Professional Services ³	320	323	326	330	333	336
NPDES Permits	190	192	194	196	198	200
Interdepartmental Charges ⁴	377	382	388	394	400	406
General Fund Transfer ⁵	173	173	173	173	173	173
Transfer to Storm Drain Fund ⁶	343	343	343	343	343	343
Subtotal - Program 541	1856	1874	1894	1913	1933	1953
Street Cleaning - Program 542	556	567	578	590	602	614
Transfer to Capital Improvements - Program 543 ⁷	520	520	520	390	156	78
Total Disbursements (Programs 541+542+543)	2931	2961	2992	2893	2691	2645
Ending Net Working Capital Balance	1030	720	382	146	115	133

Notes:

1. Current FY2014 staffing = 3.4 FTE. No additional FTE proposed through FY2020.
2. Supplies include office, protective, field equipment and educational material (main component of this line item).
3. Includes annual payment to County for Poche system operation, water quality testing, and selected storm drain maintenance services.
4. Insurance, communications, fleet, and General Fund overhead charges.
5. Fixed charge for increased cost to comply with Federal/State requirements.
6. Fixed transfer for storm drain repair projects.
7. Funds to implement the Poche Action Plan and Comprehensive Bacteria Load Reduction Plan.

7B-6

ATTACHMENT 3

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, CALLING A SPECIAL MAIL BALLOT ELECTION FOR SUBMITTAL OF A RENEWAL AND INCREASE OF THE EXISTING CLEAN OCEAN FEE TO THE OWNERS OF REAL PROPERTY SUBJECT TO THE FEE

WHEREAS, the City is faced with ongoing costs for the operation, maintenance, and improvement of water quality related to its storm drainage facilities; and

WHEREAS, the City Council finds that there is a need for funding the City's Clean Ocean Program and that a renewal and increase of the existing Clean Ocean Fee is necessary to adequately fund the program; and

WHEREAS, Article XIII D, Section 6 of the California Constitution (Proposition 218) requires the City to follow certain procedural and substantive requirements when proposing to impose "property-related" fees; and

WHEREAS, the Clean Ocean Fee and similar storm drainage fees are "property-related" which are subject to Proposition 218; and

WHEREAS, in accordance with Proposition 218, the City Council held a duly noticed public hearing on the proposed renewal and increase of the existing Clean Ocean Fee on October 15, 2013, and did not receive a majority protest against the proposed fee renewal and increase; and

WHEREAS, the City Council has determined to submit the question of renewing and increasing the existing Clean Ocean Fee to a vote of the owners of property subject to the fee.

NOW, THEREFORE, the City Council of the City of San Clemente, California, hereby resolves as follows:

Section 1: The City Council has:

- (a) reviewed the report discussing the reasons for the proposed fee renewal and increase, the activities and associated costs that the increased fee would fund, and the amount of the increased fee;

- (b) heard all persons owning real property subject to the increased fee;
- (c) heard all objections, protests, or other written communications from any persons owning real property subject to the fee;
- (d) taken and received oral and documentary evidence pertaining to the proposed fee renewal and increase;

and is fully informed of the matter.

Section 2: The Council determines that written protests have not been received from property owners representing a majority of the parcels subject to the proposed fee renewal and increase.

Section 3. The Council hereby calls a special election, to be held solely by mail ballot, for the purpose of submitting the proposed renewal and increase of the existing Clean Ocean Fee to a vote of the property owners of parcels subject to the fee. The date of the election shall be Tuesday, December 10, 2013. Ballots must be received by the City Clerk no later than 5:30 p.m. on the date of the election.

Section 4. At the special election called by this resolution, the following question shall be submitted to property owners voting on the ballot as shown in Exhibit "A" attached hereto:

City of San Clemente
Official Property Owner Ballot

Shall a Clean Ocean Fee be renewed and increased for a maximum period of six and one-half (6.5) years on all properties in the City of San Clemente (other than undeveloped and ungraded properties), with no further increases over the next six and one-half (6.5) years, to help the City clean up urban runoff that flows from the City's storm drain system into the ocean and to maintain, repair and replace that storm drain system?

Section 5. The special election called by this resolution shall be conducted in accordance with the procedures set forth in Exhibit "B" attached hereto.

Section 6. The City Council finds that the proposed Clean Ocean Fee renewal does not constitute a "project" and therefore is not subject to environmental review under the California Environmental Quality Act (CEQA).

Section 7. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

APPROVED AND ADOPTED this _____ day of _____, 2013.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

7B-9

STATE OF CALIFORNIA)
COUNTY OF ORANGE) §
CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. _____ was adopted at a regular meeting of the City Council of the City of San Clemente held on the _____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, 2013.

CITY CLERK of the City of
San Clemente, California

Approved as to form:

CITY ATTORNEY

MB-10

Resolution No. _____

Exhibit A
Clean Ocean Fee Renewal and Increase
Proposed Property Owner Ballot

7B-11



Property Owner Ballot
City of San Clemente
Clean Ocean Fee

Please vote on the renewal and increase of the Clean Ocean Fee for your property and return this Clean Ocean Fee Property Owner Ballot by 5:30 p.m. December 10, 2013.

- 1 Read the enclosed information about the Clean Ocean Fee.
2 Mark Yes or No on the ballot on back side.
3 Sign and Print your name and write the Date in ink on the ballot on the back side. (Ballots must be marked, dated and signed in ink to be counted.)

4 Return the ballot in the envelope provided or deliver to:
City Clerk
City of San Clemente
100 Avenida Presidio
San Clemente, CA 92672

Completed Clean Ocean Fee ballots must be received by the City no later than 5:30 p.m. Tuesday, December 10, 2013 at the City Clerk's Office, 100 Avenida Presidio, San Clemente, CA. If you wrongly mark or deface this Property Owner Ballot, you may receive another ballot by contacting the City Clerk's office.

Proposed Ballot - Front Side

Property Owner Ballot
City of San Clemente - Clean Ocean Fee

Shall a Clean Ocean Fee be renewed and increased for a maximum period of six and one-half (6.5) years on all properties in the City of San Clemente (other than undeveloped and ungraded properties), with no further increases over the next six and one-half (6.5) years, to help the City clean up urban runoff that flows from the City's storm drain system into the ocean and to maintain, repair and replace that storm drain system?

- Yes, I SUPPORT renewing and increasing the existing Clean Ocean Fee for a maximum of six and one-half (6.5) years.
No, I OPPOSE renewing and increasing the existing Clean Ocean Fee for a maximum of six and one-half (6.5) years.

APN No. <<apn>>
<<owner>>
<<careof>>
<<mail1>>
<<mail2>><<zipcode>>

I hereby declare under penalty of perjury that I am a record owner of the parcel listed hereon. (Ballots must be marked and signed in ink to be counted.)

<<yes code>>

Signature (Required) _____ Date _____
Printed Name _____

<<no code>>

Proposed Ballot - Back Side

7B-12

SUMMARY OF PROPERTY OWNER BALLOT PROCEDURES

If you are the owner of record, or authorized representative of the record owner, of the property described on the enclosed Property Owner Ballot, you may submit the enclosed Property Owner Ballot to the City to support or oppose the proposed renewal and increase of the existing Clean Ocean Fee. Please follow the instructions below to complete and return your Property Owner Ballot.

1. Mark your vote on the enclosed Property Owner Ballot in favor or against the proposed Clean Ocean Fee by placing an "X" in the corresponding box. Only Ballots with one (1) box marked will be counted.
2. Mark, print, sign and date your Property Owner Ballot in ink. Do not use pencil. Property Owner Ballots received without a legibly printed name, signature, date, or not completed in ink will not be counted.
3. Place your ballot into the provided return postage pre-paid envelope and seal the envelope.
4. Property Owner Ballots may be delivered or mailed to: City Clerk, City of San Clemente, 100 Avenida Presidio, San Clemente, CA 92672.
5. The City Clerk **must** receive all Property Owner Ballots no later than 5:30 p.m. on December 10, 2013. **Ballots received after the deadline, regardless of the date mailed or the date of the postmark, will not be counted.**
6. One ballot will be mailed per parcel. The City Clerk will not determine proportionate interests in property. The City Clerk will assume by its execution that the owner returning the ballot has done so with the authorization of the other owners.
7. In the event of a dispute regarding whether the signer of a Property Owner Ballot is the owner of the parcel to which the Property Owner Ballot applies, the City will make such determination from the latest equalized tax assessment roll of the County of Orange, unless a grant deed or buyer's closing statement is submitted to the City to demonstrate that another party, not listed on the latest equalized assessment roll of the County of Orange, is the current owner of the parcel in question. The City's determination of ownership will be final and conclusive.
8. In the event of a dispute regarding whether the signer of a Property Owner Ballot is an authorized representative of the owner of the parcel, the City shall rely on the statement on the Property Owner Ballot, signed under penalty of perjury, that the person completing the Property Owner Ballot is the owner's authorized representative. The City shall be under no obligation to obtain or consider any other evidence as to whether the signer of the Property Owner Ballot is an authorized representative of the owner. The City's determination shall be final and conclusive.
9. If a Property Owner Ballot is lost, destroyed or never received, the City Clerk's office will provide an "official" Replacement Property Owner Ballot to the owner upon receipt of a written request stating, under penalty of perjury, that the property owner has failed to receive, lost or destroyed his or her original ballot. The City Clerk's office will keep a record of each Replacement/Original Property Owner Ballot provided to an owner and will verify that only one Property Owner Ballot has been returned for the parcel. If an owner returns both the original Property Owner Ballot and a Replacement Property Owner Ballot, the City will count the Replacement Property Owner Ballot and disregard the Original Property Owner Ballot.
10. The City Clerk will only accept the original Property Owner Ballots (and original Replacement Property Owner Ballots, as applicable) mailed or otherwise provided to property owners by the City. Photocopies, faxes, and other forms of the Property Owner Ballot will not be accepted.
11. The tabulation of Property Owner Ballots will be performed in the City Clerk's office, during normal business hours, following the end of the Property Owner Balloting period. Each parcel upon which the fee is to be imposed has one (1) vote, except for timeshare parcels which each have a one-fiftieth (1/50) weighted vote. The results of the tabulation will be announced at the City Council meeting following the completion of the tabulation and entered into the minutes of the meeting.

Complete Property Owner Balloting Procedures are on file at the City Clerk's office and are also available on the City's website at www.san-clemente.org.

The information in this notice and the accompanying materials were compiled and are distributed at public expense by the City of San Clemente in compliance with Article XIID of the California Constitution. This information is presented in the public interest. It is not intended to influence or attempt to influence the actions of the voters to vote "yes" or "no" on the enclosed Property Owner Ballot.

7B-13

Resolution No. _____

Exhibit B
City of San Clemente
Clean Ocean Fee Renewal
Property Owner Balloting Procedures

The following procedures set forth the process for the completion, return and tabulation of Property Owner Ballots for the proposed Clean Ocean Fee renewal and increase. The City Clerk's office will officiate the Property Owner Balloting process for the City and may be assisted by outside professionals. These Procedures will be kept on file in the office of the City Clerk.

A. Completion of Property Owner Ballots

1. Who may complete a Property Owner Ballot

A Property Owner Ballot may be completed by the record owner of the parcel as defined in Government Code Section 53750(j). As used in these Procedures, the term "owner" includes the owner's authorized representative. If the owner of the parcel is a partnership, joint tenancy, or tenancy in common, a Property Owner Ballot may be completed by any of the general partners, joint tenants, or tenants in common. Only one Property Owner Ballot may be completed for each parcel upon which the fee is to be imposed.

2. Properties with Multiple Owners

One ballot will be mailed per parcel. The City Clerk will not determine proportionate interests in property. The Clerk will assume by its execution that the owner returning the ballot has done so with the authorization of the other owners.

3. Replacement Property Owner Ballots

If a Property Owner Ballot is lost, destroyed or never received, the City Clerk's office will provide an "official" Replacement Property Owner Ballot to the owner upon receipt of a written request stating, under penalty of perjury, that the property owner has failed to receive, lost or destroyed his or her original ballot. The City Clerk's office will keep a record of each Replacement/Original Property Owner Ballot provided to an owner and will verify that only one Property Owner Ballot has been returned for the parcel. If an owner returns both the original Property Owner Ballot and a Replacement Property Owner Ballot, the City will count the Replacement Property Owner Ballot and disregard the Original Property Owner Ballot.

MB-14

4. Marking and signing the Property Owner Ballot

To complete a Property Owner Ballot, the owner of the parcel must: (1) mark the appropriate box supporting or opposing the proposed Clean Ocean Fee renewal and increase, and (2) date, print in legible form and sign, under penalty of perjury, the statement on the Property Owner Ballot that the person completing the Property Owner Ballot is the owner of the parcel or the owner's authorized representative. Only one box may be marked on each Property Owner Ballot. Property Owner Ballots must be completed in ink.

5. Only Property Owner Ballots provided by the City will be accepted

The City will only accept the original Property Owner Ballots (and original Replacement Property Owner Ballots, as applicable) mailed or otherwise provided to property owners by the City. Photocopies, faxes, and other forms of the Property Owner Ballot will not be accepted.

B. Return of Property Owner Ballots

1. Who may return Property Owner Ballots

A Property Owner Ballot may be returned by the owner of the parcel or by anyone authorized by the owner to return the Property Owner Ballot.

2. Where to return Property Owner Ballots

Property Owner Ballots must either be mailed or personally delivered to: City Clerk, City of San Clemente, 100 Avenida Presidio, San Clemente, California, 92672. Property Owner Ballots may not be returned by fax.

3. When to return Property Owner Ballots

All ballots must be received by the City Clerk no later than 5:30 p.m. on Tuesday, December 10, 2013. Ballots received after the deadline, regardless of the date mailed or the date of postmark, will not be counted.

C. Tabulation of Property Owner Ballots

1. Which Property Owner Ballots will be counted

Only Property Owner Ballots which are completed and returned in compliance with these procedures will be counted:

- a. Only Property Owner Ballots received by the City Clerk's office by 5:30 p.m. on December 10, 2013 will be counted.
- b. Only Property Owner Ballots which are dated and signed in ink and have the full name of the owner or the owner's authorized representative printed in legible form in ink will be counted.
- c. Only Property Owner Ballots with one (1) box marked will be counted.

7B-15

The City Clerk's office will keep a record of each Replacement/New Property Owner Ballot provided to an owner and will verify that only one Property Owner Ballot has been returned for the parcel. If an owner returns both the original Property Owner Ballot and a Replacement Property Owner Ballot, the City will count the Replacement Property Owner Ballot and disregard the Original Property Owner Ballot.

2. When and where Property Owner Ballots will be tabulated

The tabulation of Property Owner Ballots will be performed in the City Clerk's office in the days following the date of the election, during normal business hours.

3. How Property Owner Ballots will be tabulated

Property Owner Ballots may be counted by hand, by computer or by any other tabulating device. Each Property Owner Ballot will count as one (1) vote, except for timeshare parcels in which case each timeshare parcel ballot will be counted as a one-fiftieth (1/50) weighted vote.

4. Who will tabulate Property Owner Ballots

Property Owner Ballots may be tabulated by the City Clerk's office or by any representative authorized by the City Clerk.

5. Results of tabulation

The results of the tabulation will be announced at the City Council meeting following the completion of the tabulation and entered in the minutes of the meeting.

D. Resolution of Disputes

1. Property Ownership

In the event of a dispute regarding whether the signer of a Property Owner Ballot is the owner of the parcel to which the Property Owner Ballot applies, the City will make such determination from the latest equalized tax assessment roll of the County of Orange, unless evidence satisfactory to the City is submitted to demonstrate that another party, not listed on the latest equalized assessment roll of the County of Orange, is the current owner of the parcel in question. Such evidence shall consist of either a grant deed or buyer's closing statement. The City's determination of ownership will be final and conclusive.

2. Authorized representative

In the event of a dispute regarding whether the signer of a Property Owner Ballot is an authorized representative of the owner of the parcel, the City shall rely on

the statement on the Property Owner Ballot, signed under penalty of perjury, that the person completing the Property Owner Ballot is the owner's authorized representative and any evidence submitted to the City Clerk's office prior to the end of the Property Owner Balloting period. The City shall be under no obligation to obtain or consider any other evidence as to whether the signer of the Property Owner Ballot is an authorized representative of the owner and the City's determination shall be final and conclusive.

E. General Information

1. The names and addresses of the owners of real property within the City were obtained from the latest equalized secured property tax assessment roll of the County of Orange Assessor. Any person not appearing on tax rolls shall not be allowed to vote in this proceeding, unless evidence is provided to the City Clerk's office to demonstrate that a person not listed on the latest tax roll is the owner of the real property in question. Such evidence shall consist of either a grant deed or buyer's closing statement. The City shall be under no obligation to obtain or consider any other evidence and the City's determination shall be final and conclusive.
2. The City Clerk, or the delegate of the City Clerk, may certify the proper mailing of ballots by affidavit, which shall constitute conclusive proof of mailing in the absence of fraud.
3. Property Owner Ballots will be nonforwardable. Any Property Owner Ballot that is returned to the City Clerk shall not be forwarded by the City Clerk. Any Property Owner Ballot that is returned to the City Clerk as "undeliverable" by the U.S. Postal Service will be retained by the City Clerk for the duration of the proceedings.
4. All ballots received shall remain confidential.