



# CITY OF DEL REY OAKS

650 CANYON DEL REY BLVD, DEL REY OAKS, CALIFORNIA 93940  
PHONE (831) 394-8511 FAX (831) 394-6421

## SPECIAL MEETING AGENDA OF THE CITY OF DEL REY OAKS CITY COUNCIL THURSDAY, FEBRUARY 09, 2023 AT 6:00 PM

*Notice is hereby given that the City Council of the City of Del Rey Oaks has called and will convene a special meeting of the City Council at the time and location stated on this agenda. The public may view the meeting online or may participate in-person in the Council Chamber.*

[View Via Zoom Meeting](#)

<https://us02web.zoom.us/j/84251484997>

Meeting ID: 84251484997

- 1. ROLL CALL - Council**
- 2. PLEDGE OF ALLEGIANCE**
- 3. PUBLIC COMMENTS:** General Public Comment must deal with matters subject to the jurisdiction of the City and the Council that are not on the Agenda. Anyone wishing to address the City Council on matters not appearing on the Agenda may do so now. The public may comment on any other matter listed on the Agenda at the time the matter is being considered. There will be a time limit of not more than three minutes for each speaker. No action will be taken on matters brought up under this item and all comments will be referred to staff.
- 4. NEW BUSINESS:**
  - A.** City Councilmember Vacancy: Possible Action to Make an Appointment to Fill the Vacancy for the Remaining Term and Administer the Oath of Office to the Newly Appointed Councilmember (Continued from January 24, 2023 City Council Meeting) or Call a Special Election for November 7, 2023 as per the Elections Code (§36512).
- 5. Closed Session:** As permitted by Government Code Section 54956 et. seq. the Council may adjourn to a Closed Session to consider specific matters dealing with certain litigation, personnel, or labor/real property negotiations.

**A. Public Comment on Closed Session Items: Anyone wishing to address the City Council on an item to be discussed in closed session may do so now. There will be a time limit of not more than three minutes for each speaker. No action will be taken on matters brought up under this public comment period.**

**B. Closed Session Items:**

- 1. Conference with Legal Counsel – Existing Litigation (California Government Code § 54956.9 (d)(1)): California Native Plant Society v. Fort Ord Reuse Authority et al. Monterey County Superior Court Case No. 20CV001529.**

**6. NEXT MEETING DATE:**

- A. Tuesday, February 28, 2023 at 6:00pm**

**7. ADJOURNMENT**

*Information distributed to the Council at the meeting becomes part of the public record. A copy of written material, pictures, etc. must be provided to the secretary for- this purpose. All enclosures and materials regarding these agenda items are available for public review at the Del Rey Oaks City Hall, 650 Canyon Del Rey Road, Del Rey Oaks.*



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 PHONE (831) 394-8511 FAX (831) 394-6421

**DATE:** February 9, 2023

**TO:** Honorable Mayor and City Council

**FROM:** John Guertin, City Manager

**SUBJECT:** Action to Make an Appointment to Fill the Vacancy for the Remaining Term and Administer the Oath of Office to the Newly Appointed Councilmember (Continued from January 24, 2023 City Council Meeting) or Call a Special Election for November 7, 2023, Pursuant to Government Code §36512

**CEQA:** Enactment of this resolution is not subject to the California Environmental Quality Act (CEQA) as it is not a project pursuant to Guidelines Section 15378 (b)(5) because it is an organizational or administrative activity of the City that will not result in direct or indirect physical changes in the environment.

## **Recommended Action**

Continue the appointment process from the meeting on January 24, 2023, deliberate and possible action to appoint one person to fill the City Council vacancy, and potentially administer the oath of office for the newly appointed Councilmember.

## **Background**

When a vacancy occurs on the City Council, the Council has two options and 60 days to decide how to act. The Council may either appoint a successor or call a special election to fill the vacant seat. February 10, 2023, is the last day for the Council to act to appoint or call a special election.

On January 24, 2023, the Council interviewed six candidates for the vacancy. After deliberation, the Council was unable to reach consensus on a candidate and continued the discussion to this Special Meeting of the Council.

## **Discussion**

### *Appointment:*

On January 5, 2023, the City Council selected an appointment process for filling the vacant seat on the City Council. The City Clerk advertised the vacant seat and accepted applications up until January 18, 2023, at 12:00 p.m. Six (6) applications meeting the minimum requirements to move forward in the process were received.

On January 24, 2023, the City Council interviewed each applicant and deliberated the merits of each. During the deliberations, four (4) of the candidates withdrew their applications leaving two candidates for Council consideration. The Council was unable to reach a consensus on appointment of one of the two remaining candidates. Council directed staff to schedule a Special Meeting of the City Council for continued discussion of the two remaining candidates, potential action to appoint and installation of the appointed Councilmember.

*Special Election:*

Should the Council be unable to agree on an appointment, it shall be necessary for the City Council to call for a special election to be held on Tuesday, November 7, 2023, for the election of an unexpired term of one City Council seat, which will expire in December 2024.

It is desirable that the City election be consolidated with any other election to be held on the same date to take advantage of any possible reduction in election costs. It is also desirable that the Registrar of Voters of the County of Monterey administer the elections and all duties necessary.

**Fiscal Impacts**

An appointment would have no additional financial impact other than those already incurred for staff and consultant time associated with preparing for and staffing meetings and advertising the appointment applications. No funding is currently budgeted in the FY 2022-23 budget for a special election. The estimated cost for a standard, stand-alone election on November 7, 2023, would be \$17,164 to \$24,520 (1,226 registered voters at \$14 to \$20 each), subject to change. This cost does not include staff workload impacts, legal fees, or miscellaneous expenses.

**Attachments:**

- Resolution No. 2023-01

Respectfully Submitted,

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John Guertin  
City Manager

## **RESOLUTION NO. 2023-01**

### **RESOLUTION ORDERING A SPECIAL ELECTION, REQUESTING THE COUNTY ELECTIONS DEPARTMENT TO CONDUCT THE ELECTION, AND REQUESTING CONSOLIDATION OF THE NOVEMBER 7, 2023 VACANCY ELECTION FOR THE CITY OF DEL REY OAKS**

**WHEREAS**, pursuant to Elections Code Section 10002, the governing body of any city or district may by resolution request the Board of Supervisors of the county to permit the county elections official to render specified services to the city or district relating to the conduct of an election. The city or district shall reimburse the county in full for the services performed upon presentation of a bill to the City or district; and

**WHEREAS**, pursuant to Elections Code Section 10400, whenever two or more elections, including bond elections, of any legislative or congressional district, public district, city, county or other political subdivision are called to be held on the same day, in the same territory, or in territory that is in part the same, they may be consolidated upon the order of the governing body or bodies or officer or officers calling the elections; and

**WHEREAS**, pursuant to Elections Code Section 10403, whenever an election called by a district, city or other political subdivision for the submission of any question, proposition, or office to be filled is to be consolidated with a statewide election, and the question, proposition, or office to be filled is to appear upon the same ballot as that provided for that statewide election, the district, city or other political subdivision shall, at least 88 days prior to the date of the election, file with the board of supervisors, and a copy with the elections official, a resolution of its governing board requesting the consolidation, and setting forth the exact form of any question, proposition, or office to be voted upon at the election, as it is to appear on the ballot. Upon such request, the Board of Supervisors may order consolidation. The resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution, or order calling the election; and

**WHEREAS**, pursuant to Elections Code Section 13307, whenever an election called by a district, city, or other political subdivision has offices to be filled, it is required to fix and determine the number of words that a candidate may submit on the candidate's statement to be either 200 words and to determine if the candidate shall be responsible for the cost of the statement; and

**WHEREAS**, Elections Code Section 15651 requires the city to determine the means and manner in which a tie vote is to be resolved in the event that two or more persons receive an equal number of votes and the highest number of votes ("tie votes") for an office to be voted upon; and

**WHEREAS**, various district, county, state and other political subdivision elections may be or have been called to be held on November 7, 2023; and

**NOW THEREFORE, BE IT RESOLVED AND ORDERED** that the governing body of the City of Del Rey Oak hereby orders an election be called and consolidated with any and all elections

also called to be held on **November 7, 2023** insofar as said elections are to be held in the same territory or in territory that is in part the same as the territory of the Board of Supervisors of the County of Monterey to order such consolidation under Elections Code Section 10400.

**BE IT FURTHER RESOLVED AND ORDERED** that pursuant to Elections Code section 10002 said governing body hereby requests the Board of Supervisors to permit the Monterey County Elections Department to provide any and all services necessary for conducting the election and agrees to pay for said services.

**BE IT FURTHER RESOLVED AND ORDERED** that the Monterey County elections department conduct the election for the purpose of electing one (1) Member to its Governing Body on the November 7, 2023 ballot.

#### RECITALS

**SECTION I.** The Vacancy Election for the year 2023 is hereby called and shall be held in Del Rey Oaks, under and by virtue of the provisions of Article 3 of California Elections Code, on the 7th day of November 2023, said date being the first Tuesday following the first Monday in November 2023.

**SECTION II.** The following officers of Del Rey Oaks shall be elected at said General Municipal Election, to wit:

- Councilmember, one (1), for a term of one year.

**SECTION III.** Nomination papers shall be filed with the Del Rey Oaks City Clerk's Office not later than 5:00 p.m. on Friday, August 11, 2023.

**SECTION IV.** Pursuant to the provisions of Section 13307 of the Elections Code of the State of California, the City Council has determined that candidates for office may file a written statement of qualifications with their nomination papers, said statement not to exceed 200 words in length, with those candidates filing said statements to pay the cost of such statement as determined by the Registrar of Voters.

**SECTION V.** The official ballot to be used at said election shall conform to the provisions of said City and the laws of the State of California with relation thereto.

**SECTION VI.** The City authorizes the Registrar of Voters to consolidate this election with any other election on November 7, 2023 for the convenience of the registered voters and to effectuate any cost savings by such consolidation.

SECTION VII. The County of Monterey Elections Department is hereby directed to publish such notices as are provided by law for the holding of the municipal election, which said notices shall be published in an adjudicated newspaper and circulated in the City of Del Rey Oaks and hereby designated for that purpose.

SECTION VIII. Said Vacancy Election shall be held and conducted, and the votes thereof canvassed, and the return thereof made, and the results thereof ascertained and determined as herein provided, and in all particulars not described by this Resolution, said General Municipal Election shall be held as provided by law for the holding of municipal elections in said City; and the Registrar of Voters of the County of Monterey is authorized to canvass the return and certify the results to said Council of Del Rey Oaks.

SECTION VIII. Pursuant to Section 6. That in the event of a tie vote (if any two or more persons receive an equal and the highest number of votes for an office) as certified by the County of Monterey Registrar of Voters, the City Council, in accordance with Election Code Section 15651(a), shall set a date and time and place and summon the candidates who have received the tie votes to appear and will determine the tie by lot.

SECTION VIII. The City Clerk shall enter the results into the record following receipt of the declared results in accordance with Elections Code Section 10264. The City Clerk shall sign and deliver to each person elected a certificate of election and administer the oath of office to each person elected. This Resolution shall be forthwith entered upon the minutes of this Council and kept and maintained by the City Clerk of Del Rey Oaks.

SECTION X. The City Clerk is hereby authorized and directed to certify the due adoption of this Resolution and to transmit a certified copy to the Elections Department and the Board of Supervisors of Monterey County.

**PASSED AND APPROVED** by City of Del Rey Oaks, this 9th day of February 2023 by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

**Signed:**

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Scott Donaldson, Mayor

**Attest:**

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John Guertin, City Clerk