

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Lee Price, MMC
City Clerk

**SUBJECT: CERTIFICATE OF SUFFICIENCY
OF PETITION TO RECALL COUNCIL
MEMBER MADISON NGUYEN,
DISTRICT #7**

DATE: October 10, 2008

RECOMMENDATION

Accept the Santa Clara County Registrar of Voters' Certificate of Sufficiency of Recall Petition and set November 4, 2008 as the date to call a Special Recall Election on March 3, 2009.

BACKGROUND

On August 29, 2008 proponents of the petition to recall Council Member Madison Nguyen submitted the petition. The Office of the City Clerk conducted a prima facie review and raw count of the petition and transferred it to the County Registrar of Voters for signature verification. The recall petition contained 5,180 signatures. City Charter Section 1603 (d) requires that a recall petition be signed by at least 12% of the total number of persons residing in the District who are eligible to vote. In order for this petition to qualify for the ballot, 3,162 valid signatures were needed.

The Registrar performed a random sampling technique, as is permissible under the California Elections Code (Section 11225), utilizing petition verification guidelines issued by the California Secretary of State. 500 signatures were randomly selected and of those 461 signatures were valid. The random sampling projects that of the 5,180 unverified signatures submitted, 4,775 would be valid. From this examination, the registrar has certified the petition to be sufficient to initiate proceedings of recall. (See attached Certificate of Sufficiency and letter from the County Registrar of Voters).

ANALYSIS

Elections Code Section 11227 requires that the City Council accept the Certificate of Sufficiency at the next regular meeting following the date the Registrar of Voters certifies the results of the petition verification. Elections Code Section 11240 requires that the City Council, within 14 days after the meeting at which it accepts the Certificate of Sufficiency, call for an election to be held to determine whether or not the officer named in the petition shall be recalled. Further, Elections Code Section 11242 requires that the recall election be held not later than 88-125 days from the call of the

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election. It is, therefore, recommended that the City Council place on the November 4th City Council agenda a resolution calling for a Special Recall Election on March 3, 2009.

COST IMPLICATIONS

Cost estimates for the conduct of the Recall Election will be presented to the City Council on November 4, 2008.



LEE PRICE, MMC
City Clerk

For questions please contact Lee Price, City Clerk, at (408) 535-1252

CLERK'S CERTIFICATE TO RECALL PETITION

I, JESSE DURAZO, Registrar of Voters of the **County of Santa Clara**, State of California, hereby certify:

That the "**Petition to Recall Madison Nguyen, Councilmember – District # 7**" has been filed with this office on August 29, 2008.

That said petition consists of 1,111 sections;

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;

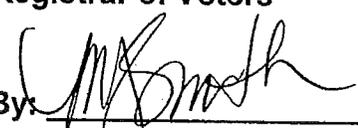
That after the proponent filed this petition I verified the required number of signatures by examining the records of registration in this county, current and in effect at the respective purportive dates of such of signing, to determine what number of qualified electors signed the petition, and from that examination I have determined the following facts regarding this petition:

- | | | |
|----|--|--------------|
| 1. | Number of unverified signatures filed by proponent (raw count) | <u>5,180</u> |
| 2. | Number of signatures verified | <u>500</u> |
| | a. Number of signatures found SUFFICIENT | <u>461</u> |
| | b. Number of signatures found NOT SUFFICIENT | <u>39</u> |
| | 1. NOT SUFFICIENT because DUPLICATE | <u>0</u> |

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 9th day of October, 2008.

(SEAL)

Jesse Durazo
Registrar of Voters

By: 

Deputy

County of Santa Clara

Registrar of Voters

1555 Berger Drive, Building 2
San Jose, California 95112
Mailing Address: P.O. Box 1147, San Jose, CA 95108
(408) 299-VOTE (8683) (866) 430-VOTE (8683) FAX (408) 998-7314
www.sccvote.org



October 9, 2008

Ms. Lee Price
City Clerk
City of San Jose
200 E Santa Clara St, Wing 2nd Floor
San Jose, CA 95113

RE: Petition to Recall Madison Nguyen, Councilmember – District # 7

Dear Ms. Price:

The recall petition submitted to our office on August 29, 2008 contained 5,180 signatures. In order for this petition to pass, 3,162 valid signatures were required to pass, based on the 12% requirement of the registered voters in San Jose City Council District # 7, pursuant to California Elections Code Section 2187.

We performed verification of 5% random selection of the total signatures utilizing petition guidelines issued by the Secretary of State. Of the 500 signatures in the random selection, we found 461 void signatures. This projects to 4,775 total valid signatures which is greater than the number of valid signatures required to pass. Therefore these petitions has qualified.

If you have any questions concerning this matter, please feel free to contact me at (408) 282-3051.

Sincerely,

Maggy Smith
Election Division Coordinator
County of Santa Clara



Petition Result Breakdown

JobC58 City of SJ CC # 7 Recall

JobC58 City of San Jose City Council District # 7 Recall

Signatures Required	3162		
Raw Count	5,180		
Sample Size	500	<i>Percent of</i>	<i>Percent of</i>
Sigs Checked	500	<i>Sigs Checked</i>	<i>Sample Size</i>
Sigs Not Checked	0		0.0 %
Sigs Valid	461	92.2 %	92.2 %
Sigs Invalid	39	7.8 %	7.8 %
Duplicated	0	0.0 %	0.0 %
Non-duplicate Invalids	39	8.0 %	7.8 %

RESULT ABBR	RESULT DESCRIPTION		
Approved	Approved	461	92.2 %
NotReg	Not Registered	4	0.8 %
OutOfDist	Out of District	1	0.2 %
Withdrawn	Withdrawn	8	1.6 %
RegLate	Registered Late	7	1.4 %
RegDiffAdd	Registered at a Different Address	1	0.2 %
PrintedSig	Printed Signature	2	0.4 %
SigNoMatch	Signatures Don't Match	16	3.2 %

Petition Abbr: JobC58 City of SJ CC # 7 Recall

Petition Name: JobC58 City of San Jose City Council District # 7 Recall

Status: **In Process** ▼

District: San Jose—Council District 7 ▼

Details	Statistics Summary	Statistics Detail	Management	Time Management
Values				
Raw	5180	Sigs Found Valid in Sample:	461	
Sample	500	Sigs Withdrawn:	8	
Num of Sigs	500	Dup Sigs Found:	0	
Num Not Checked:	0	Other Invalid:	31	
		Sigs Found Not Valid in Sample:	39	
Calculations				
Percent Of Valid = Number Found Valid/Number in Sample			92.2%	
Uncorrected Total Valid = Raw Count * Percent of Valid			4775	
Duplicate Signature Factor = Raw Count/Sample Size			10	
Dup Sig Weight = Dup Sig Factor * (Dup Sig Factor - 1)			97	
Dup Sig Adjustment = Dup Sig Weight * Number of Dup Sigs			0	
Total Valid Based on the Sample =				
Uncorrected Total Valid - Dup Sig Adjustment			4775	
Results				
Total Valid Based on the Sample			4775	
Required Valid			3162	
Minimum Required (95%)			3003.9	
Minimum Valid Required to Pass based on Sample (110%)			3478.2	