



City of Salinas

OFFICE OF THE MAYOR

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March 6, 2007

The Honorable Russell D. Scott
2007 Presiding Judge of the Superior Court
County of Monterey
240 Church Street
Salinas, CA 93901

**RE: Response of the Salinas City Council to 2006 Grand Jury Final Report
Regarding Elected Officeholders Residency Requirements**

Dear Judge Scott:

On March 6, 2007, the Salinas City Council approved the following responses to the findings and recommendations in the 2006 Grand Jury Final Report regarding "Elected Officeholders Residency Requirements." The responses follow the findings and recommendations found on pages twenty-two through twenty-four of the Final Report.

Findings

1. "Review of "Monterey County Petition In Lieu of Filing Fee" and "State of California, County of Monterey Voter Registration" forms showed that two members of the Board of Supervisors, one Mayor, and two City Council members listed a business address as their residence."

RESPONSE: The City Council disagrees as it pertains to Salinas.

As part of the nomination filing process in the City of Salinas, an elected official must certify under penalty of perjury that he/she is a qualified voter of the City of Salinas and that he/she resides within the District for which they will run for at least twenty-eight (28) days prior to the date of election. (Salinas City Charter, Section 5.) City staff reviewed the Nomination Filing forms for each member of the City council and confirmed their residency in compliance with section 5 of the City Charter. Additionally, staff reviewed the Mayor's and Councilmembers' Voter Registration Forms with the Monterey County Elections Department. The Registration Forms confirm the elected officials are qualified voters and contain their certification under penalty of perjury that they are U.S. citizens, at least 18 years old, and are not in prison or parole for a felony conviction.

Further, in response to Finding 1, the City Attorney has reviewed and confirmed the residency of the Mayor and Councilmembers at the present time.

2. “Visual surveys of residences of all Supervisors, Mayors, and City Council members who listed their business address as their address of residence indicated that all but one appeared to be a residence in addition to being a business. The one exception was a Pacific Grove Council member who listed a business address that could not possibly be a residence.”

RESPONSE: The City Council disagrees as it pertains to the Mayor and Councilmembers of Salinas.

Please refer to the Response to Finding 1 regarding a candidate’s certification under penalty of perjury of residency within the district in the City for which he/she is running for at least twenty-eight days preceding the opening date for the filing of nomination papers.

Recommendations

1. “The City Attorney of each city in conjunction with the Monterey County District Attorney should review and determine the residency of its Mayor and City Council members. If any Mayor or City Council Member is found not to meet the residency requirements for elected public office as required by the city’s charter or general law, the Mayor or Council member should be required to vacate his or her office.”

RESPONSE: As outlined above, the City Attorney has reviewed and confirmed the residency of the Mayor and City Council members. This recommendation has already been implemented and is an existing City practice. Cal. Gov’t. Code § 36502 and the Salinas City Charter both provide for the forfeiture of office if residency requirements cease to be met.

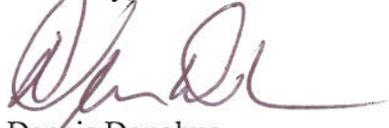
Pursuant to Section 5 of the Salinas City Charter, “no person shall be eligible to hold the office of Mayor or Councilmember unless on the date of his filing of nomination papers, he is a qualified elector of the City of Salinas, and unless he shall have been a resident of the district of the City of Salinas for which he is running, or territory lawfully annexed thereto, for at least twenty-eight days preceding the opening date for the filing of nomination papers, or his appointment to fill a vacancy therein and shall forfeit his office upon ceasing to reside therein.” (emphasis added.)

Under the authority of the City’s Charter, the City Attorney is authorized to prosecute on behalf of the people “all criminal cases arising upon violation of this Charter and of the City ordinances...” (Salinas City Charter, Section 45.) However, as noted above, no remedial action is required at this time.

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On behalf of the City Council and community of the City of Salinas, thank you for the opportunity to review and comment on the findings and recommendations of the 2006 Grand Jury concerning procedures used by the City of Salinas with respect to elected officials residency requirements.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dennis Donohue", written in a cursive style.

Dennis Donohue
Mayor of Salinas

DD/vv

cc: City Councilmembers
Dave Mora, City Manager
Vanessa W. Vallarta, City Attorney