

Report on Impacts of “Public Lands for Public Use Act” Initiative

For the City of Sunnyvale

August 11, 2015

Management
Partners



Summary of Proposed Initiative

- Modifies Chapter 2.07 of Municipal Code
- Requires voter approval of real property transactions (excluding purchase) for:
 - Land currently owned, leased or used by City as
 - Public park, or
 - “Community service amenity” (CSA)
 - Publicly accessible property

Overview

- Initiative requires a public vote for certain transactions related to certain property designations
- It does not necessarily protect open space, but it gives Sunnyvale voters an opportunity to review and approve significant decisions involving the disposition or use of community service amenities and public parks
- In doing so, it casts a fairly broad net of what properties and transactions require a vote
- This may lead to unintended consequences of having to deal with property and transactions with tangential park / open space benefit
- It is certain there will be a cost to City in terms of time and money
- Operational impacts unknown

*Example: **Sunnyvale Office Center***

- Approximately 20 small business leases, totaling > \$300,000 in annual lease revenue
- Cost range depends on ballot measure strategy, potential exposure

Analyzing the Proposed Initiative

Three Areas of Consideration

- 1. Property Types** – what types of properties are covered under the proposed initiative?
- 2. Property Transactions** – what types of transactions are covered under the proposed initiative?
- 3.** How many transactions involving covered property are apt to be required?

Summary of Proposed Initiative – Public Park and CSAs

Initiative language definitions

- Public parks include:
 - Outdoor recreation amenities
 - Open space
 - Outdoor recreation areas shared with public schools
- Community service amenities
 - List includes libraries, swimming pools, community centers, City Hall, City administration buildings

Summary of Initiative – Transactions Indicated in Initiative

- Sale
- Lease
- Lease extension
- Lease renewal
- Land swap
- Transfer
- Should be kept in mind that there is some ambiguity about transaction indicated
- Uncertainty for example about what a “lease” is. We know what legal definition is but that may not be what was contemplated in the initiative language

Real Property Types

City must analyze every property transaction

- Property types covered
 - Public parks
 - Libraries
 - Zoos
 - City Hall
- Property types not subject to initiative
 - City utility properties
 - Residential properties
 - Commercial properties
- Others are subject to interpretation...depends on primary use
 - Fire administration
 - Police administration
 - Corp Yard administration
 - Bike lanes, sidewalks, median landscaping

See Report, pp. 14-20

Real Property Transactions

City must analyze every property transaction

- Transactions covered
 - Sales or leases of property covered purpose
 - Leases on covered property (e.g., cell tower in park)
- Transactions not subject to initiative:
 - Facility use agreements
 - Concession agreements
 - Franchise agreements
- Others subject to interpretation...but transactional definitions in initiative are important
 - Use agreement for the exclusive daytime use of a park
 - Agreement to construct tennis courts in City park that reverts control to school district

See Report, pp. 21-28

Impacted Properties and Transactions

Uncertainty exists, and those with interest in outcome will have ideas about how uncertainty is resolved

Properties

- The City owns about 160 parcels with an individual Assessor's Parcel Number
- Between 83 and 109 appear to be covered by the initiative
 - **Approximately 52% to 68% of all City parcels**

Transactions

- The City has overseen at least 110 transactions over the past few years involving real property
- Between 31 and 36 of these transactions appear to be subject to initiative provisions
 - **Approximately 28% to 32% of all transactions**
- Approximately 12 agreements would require a vote by 2018 if the initiative were approved in 2016

Analysis Categories Allowed Under Cal Elec. Code §9212(a)

1. Fiscal impacts
2. Consistency with General Plan/Housing Element
3. Land use and housing
4. Infrastructure impacts
5. Business attraction, retention and employment
6. Vacant land
7. Agricultural land, open space, traffic, business districts and revitalization areas
8. Other matters requested by legislative body

Summary of Impacts by Cal Elec. Code §9212(a) Category

Category	Impact
1. Fiscal impacts	Election costs (from \$41,000 to \$700,000 per measure); lease revenue (\$600,000 annually, determination on needs to be established); legal/administration costs (\$100,000 per measure); unknown operational costs
2. General Plan/Housing Element	Ability to sell public sites and underutilized facilities to better serve underserved portions of the community
3. Land Use and Housing	No direct impact
4. Infrastructure impacts	Grant funding, debt financing, and maintenance costs for fiscally-burdened property
5. Business attraction, promotion, employment	Time delays/opportunity costs; business-friendly environment
6. Vacant land	Negligible impact
7. Agricultural lands, open space, etc.	Positive impact on open space protection; potential impact on El Camino Real Corridor priority development area

Other Matters Requested by City Council

Property/Topic	Analysis
Armory Site/Onizuka Air Force Station/Fire Station #5	• Transfer for Affordable Housing – Covered as CSA (cold-weather homeless shelter) • Fire Station #5 Property Swap – Likely not covered unless fire station viewed as CSA
Non-City Property	
• <i>School District Property under Joint Use Agreement</i>	Not covered, unless nature of agreement considered lease
• <i>Santa Clara Valley Water District Property</i>	Not covered, unless City wished to lease property for a covered use
• <i>Private Property that includes open space</i>	Not covered (private property)
• <i>Successor Agency</i>	Not covered – Not owned by City

Other Matters Requested by City Council

Property/Topic	Analysis
Non-City Property (cont)	
• <i>Private Property Leased by City</i>	Covered if for covered purpose
• <i>Raynor Activity Center/Stratford School</i>	• Sale of property – Covered as facility is adjacent to park and provides supplemental parking for park • Joint Use Agreement – Not covered, as JUA does not convey exclusive property rights, similar to agreements with other local sports leagues
Google Fiber Project	Not covered (rights-of-way), unless above-ground utilities required in covered property (e.g., park) under a covered transaction (e.g., lease)
Community Choice Energy Project	Not covered, unless above-ground facilities placed on covered property (e.g., City facility) under a covered transaction (e.g., lease or sale)

Other Matters Requested by City Council

Property/Topic	Analysis
Charles Street Properties	Not covered (residential sites, land banking for Downtown Specific Plan)
Unilever Building	Not covered (never used for a covered purpose)
Stevens Creek Trail Feasibility Study	Not covered unless City wished to lease or swap property to extend the Trail on City property
Effect on Negotiating Community Benefits	Undetermined; requires case-by-case analysis

Conclusion

- Initiative Impacts
 - Gives Sunnyvale voters an opportunity to review and approve significant decisions involving the disposition or use of community service amenities and public parks
- Operational and Financial Impacts on City
 - A significant number of properties and transactions are covered
 - Transactions involving covered properties happen with regularity
 - Business processes require significant change and associated costs will be incurred
 - Significant impact on city-owned leased property transactions will impact ability to generate revenue

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