



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### REPORT TO COUNCIL

#### **SUBJECT**

Consideration of Potential Elections Code Section 9212 Report from City Agencies on the Effect of the Proposed Initiative Ordinance to Amend the City of Sunnyvale's Municipal Code to Require Voter Approval for any Sale, Lease, Lease Extension, Lease Renewal, Land Swap, or Transfer of Property Owned, Leased, or Used by the City as a Public Park or Community Service Amenity

#### **BACKGROUND**

On December 2, 2014, proponents of an initiative entitled "Public Lands for Public Use Act" filed a Notice of Intent to Circulate Petition and a Request for Ballot Initiative Title and Summary with the City Clerk. The City Attorney prepared the ballot title and summary for inclusion in the petition form pursuant to Elections Code Section 9203, and the City Clerk furnished a copy to the proponents on December 17, 2014. A copy of both the ballot title and summary prepared by the City Attorney, as well as the full text of the proposed measure is attached for the Council's consideration (Attachment 1). The ballot title is as follows:

"An Initiative Ordinance Amending the City of Sunnyvale's Municipal Code to Require Voter Approval for any Sale, Lease, Lease Extension, Lease Renewal, Land Swap, or Transfer of Property Owned, Leased, or Used by the City as a Public Park or Community Service Amenity."

Circulation of the petition for signatures has commenced. Pursuant to Elections Code Section 9208, the proponents have 180 days from the date of receipt of the title and summary to secure signatures and file the petition with the City Clerk. If the proponents obtain the requisite signatures, and they are verified by the County Registrar, the Council will have to consider whether to adopt the proposed ordinance as drafted, or refer it to a vote of the electorate. The timing for these actions is governed by the date on which the petitions are filed with the Clerk, and the number of signatures gathered.

#### **DISCUSSION**

Elections Code Section 9212 allows the Council to direct preparation of an "impact report" on proposed initiatives. One purpose of this law is to allow the Council to generate information to inform the public about the positive or negative effects of a proposed initiative. The earliest the report may be requested is after circulation of the petition has commenced. Most typically, so-called "9212 reports" are requested after the petitions have been shown to contain the requisite number of signatures to qualify for the ballot. If the report is requested after the petitions have qualified, the 9212 report must be completed in 30 days. If it is requested during circulation of the petition, the 9212 report must be "presented to the legislative body within the time prescribed by the legislative body."

Specifically, Elections Code Section 9212 provides that:

(a) During the circulation of the petition, or before taking either action described in subdivisions (a) and (b) of Section 9214, or Section 9215, the legislative body may refer the proposed initiative measure to any city agency or agencies for a report on any or all of the following:

(1) Its fiscal impact.

(2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs.

(4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.

(5) Its impact on the community's ability to attract and retain business and employment.

(6) Its impact on the uses of vacant parcels of land.

(7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.

(8) Any other matters the legislative body requests to be in the report.

(b) The report shall be presented to the legislative body within the time prescribed by the legislative body, but no later than 30 days after the elections official certifies to the legislative body the sufficiency of the petition.

As Council can see from the above-quoted full text of Section 9212, the 9212 report can be quite comprehensive and time consuming to prepare. Some of the subjects Council may wish to consider are:

- Scope of the property and types of transactions covered by the proposed ordinance;
- Fiscal and financial impacts on the City and community, including but not limited to implementation costs and benefits;
- Impacts on operation and utilization of affected property;
- Any other matters the Council would like to consider.

In terms of timing, staff estimates that at least six weeks will be needed to complete the 9212 report. Additionally, this effort would compete with other priorities but may be implemented through the use of consultants.

### **FISCAL IMPACT**

While dependent on the specific subject matter areas Council would want investigated, staff believes existing resources could be utilized to conduct the analysis and prepare the 9212 report.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

### **STAFF RECOMMENDATION**

Pursuant to Elections Code Section 9212, consider directing preparation of a report from City agencies on the effect of the proposed initiative to amend the City of Sunnyvale's Municipal Code to require voter approval for any sale, lease, lease extension, lease renewal, land swap, or transfer of property owned, leased, or used by the City as a public park or community service amenity. If direction is given to prepare a 9212 report, Council must also specify which subject matter areas it wants City staff to investigate, and an appropriate deadline for the report's completion.

Prepared by: Joan A. Borger, City Attorney  
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Reviewed by: Robert A. Walker, Assistant City Manager  
Reviewed by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Ballot Title and Summary and Proposed Initiative Measure