



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Adopt a Resolution Calling a General Municipal Election to be Held in the City of Sunnyvale on Tuesday, November 8, 2016, for the Purpose of Submitting to City Voters an Initiative Ordinance 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 (The "Public Lands For Public Use Act"); Requesting Consolidation with the Statewide General Election and Election Services from Santa Clara County; Directing the City Attorney to Prepare an Impartial Analysis; and Setting Priorities for Ballot Arguments

REPORT IN BRIEF

On August 11, 2015, in accordance with California Elections Code Section 9215, Council took action to submit an initiative ordinance, without alteration, to the voters at the next general municipal election to be held on November 8, 2016, and directed staff to bring the necessary actions back at the appropriate time to order an election.

This report provides a summary of the background of the initiative ordinance and presents the following resolution required for placing the measure on the ballot:

A Resolution of the City Council of the City of Sunnyvale Calling a General Municipal Election to be Held in the City of Sunnyvale on Tuesday, November 8, 2016, for the Purpose of Submitting to City Voters an Initiative Ordinance 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 (The "Public Lands for Public Use Act"); Requesting Consolidation with the Statewide General Election and Election Services from Santa Clara County; Directing the City Attorney to Prepare an Impartial Analysis; and Setting Priorities for Ballot Arguments

BACKGROUND

On December 2, 2014, proponents of an initiative titled "Public Lands for Public Use Act" (the "Initiative," "Ordinance," or "Measure") filed a Notice of Intent to circulate a petition to modify the City's municipal code by requiring prior 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. Proponents began circulating the petition for signatures on or about February 6, 2015.

Section 1404 of the Sunnyvale City Charter provides that the municipal initiative process is governed by State law (California Elections Code Sections 9200 et. seq.). During circulation of a petition, a legislative body may refer the proposed initiative measure for a report on its impacts (Elections Code Sec. 9212).

On April 21, 2015, Council considered RTC 15-0362, and requested that a Section 9212 report be prepared on the impacts of the proposed initiative ordinance, to be provided to Council at the time the Certificate of Sufficiency was presented.

On June 15, 2015, the initiative petition was filed with the Office of the City Clerk. The City Clerk, as the city elections official, determined there were a sufficient number of signatures to proceed, and requested the Santa Clara County Registrar of Voters (ROV) to provide services for verification of signatures.

On July 27, 2015, the City received a Certificate of Sufficiency from the ROV indicating the petition contained a sufficient number of valid signatures for submission to the voters at the City's next regular election.

On August 11, 2015, Council considered RTC 15-0747 (Attachment 2), and took action to accept the Certificate of Sufficiency. At that time, Council also received and considered the "Report on Impacts of the 'Public Lands for Public Use Act' Initiative prepared under Elections Code Section 9212". Council took action to order the submission of the initiative ordinance, without alteration, to the voters at the next general municipal election to be held on November 8, 2016, and directed staff to bring the necessary actions back at the appropriate time to order an election.

ENVIRONMENTAL REVIEW

Environmental review of voter-initiated ballot measures is not required under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15378(b)(3).

DISCUSSION

Consistent with the Council's August 11, 2015 direction to return with the actions necessary to place the initiative on the November 8, 2016 ballot, this report provides the Resolution Calling the Election, which is required in order to place the initiative measure on the ballot. In addition to placing the initiative on the ballot, the resolution also provides for:

- Direction to the City Attorney to prepare an impartial analysis for the measure pursuant to Elections Code Section 9280.
- Submission of ballot arguments (in support and in opposition) to the City Clerk to be printed in the Sample Ballot.

Assuming that the proponents will prepare an argument in favor, below are options for the Council to consider relative to an opposition argument.

Ballot Arguments

Elections Code Section 9282(a) provides that the proponents who filed the initiative petition may file a written argument in favor of the ordinance, and the legislative body may submit an argument against the ordinance. Although the Council has not taken an official position on the ordinance, pursuant Elections Code Section 9282(a), the Council may wish to discuss and consider whether to authorize the City Council or any member or members of the City Council to submit an argument against the ordinance. Elections Code Section 9287(a) provides that if more than one argument for or against any city measure is submitted, the city elections official shall give preference and priority in

the following order: (a) The legislative body, or member or members of the legislative body authorized by that body; (b) The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure, (c) Bona fide associations of citizens; (d) Individual voters who are eligible to vote on the measure.

If the Council decides to either submit an argument against the ordinance or authorize certain members to submit an argument, then pursuant to Election Code Section 9287(a) that argument will be given preference over any other argument submitted against the ordinance. If the Council chooses not to submit an argument, the City Clerk will follow the priorities described in Elections Code Section 9287(a) in selecting an argument to be printed in the Sample Ballot. If multiple arguments are submitted that meet the same priority, the City Clerk will choose the argument based on guidance provided by Martin and Chapman, a California-based elections consultant service to which the City subscribes. Criteria for selection of an argument from multiple bona fide associations include: the length of time the association has been in existence; whether an association's membership consists primarily of citizens residing in the City; the number of members enrolled in the association; and whether an officer of more than one bona fide association and/or one or more citizens of the City have signed the argument. If none of the above criteria are met and are equal in all arguments, the authors will be asked to witness a random drawing by a designee of the City elections official to determine which argument will be published.

The resolution is drafted with four options for the Council's consideration regarding the submission of the argument against the measure:

- a. Authorize the City Council as a body to submit a written argument against the measure;
- b. Authorize one member of the City Council to submit a written argument against the measure: [name] ;
- c. Authorize [#] members of the City Council to submit a written argument against the measure: [names] ;
- d. Take no action with regard to authorizing the Council, or member or members of the Council to submit a written argument against the measure.

The deadline for submitting arguments for and against the measure will be 14 days from the adoption of the Resolution Calling the Election (Elections Code § 9286). Rebuttal arguments may then be filed by the author(s) of the primary arguments no later than 10 days after the final filing date for primary arguments (Elections Code § 9285(4)).

If Council takes action to adopt the resolution calling the election and other necessary actions at this time, the period for filing primary arguments will start immediately and the deadline to file will be June 28, 2016. The period for filing rebuttal arguments will start June 29 and the deadline to file will be July 8, 2016.

If Council does not take action to adopt the resolution calling the election and other necessary actions at this meeting, the matter must be brought back because the Council must take action to place the measure on the ballot before the August 12, 2016 deadline for the November 8, 2016 election.

FISCAL IMPACT

The cost incurred with the County of Santa Clara Registrar of Voters for the petition signature

verification was \$3,085 in FY2015-16. The estimated, one-time cost for this initiative to be included as a ballot measure on Sunnyvale's next general election is approximately \$74,000. The Registrar of Voters estimates the cost of conducting the 2016 General Municipal Election for the City of Sunnyvale, including the election of officers and up to three possible ballot measures, to be \$441,000. The proposed FY 2016/17 budget for election costs is \$452,158. Following the election, the County will determine the actual costs and will bill the City for its pro-rata share. Should costs exceed the approved budget amount, staff will return to Council to request additional funds via a Budget Modification.

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.

ALTERNATIVES

1. Adopt a Resolution Calling a General Municipal Election to be Held in the City of Sunnyvale on Tuesday, November 8, 2016, for the Purpose of Submitting to City Voters an Initiative Ordinance 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 (The "Public Lands For Public Use Act"); Requesting Consolidation with the Statewide General Election and Election Services from Santa Clara County; Directing the City Attorney to Prepare an Impartial Analysis; and Setting Priorities for Ballot Arguments.
2. Do not adopt the Resolution calling an election and other necessary actions at this time, provide further direction to staff, and return with the appropriate actions before the August 12, 2016 deadline to submit the measures to the County Registrar of Voters for the November 8, 2016 election.

STAFF RECOMMENDATION

Alternative 1: Adopt a Resolution Calling a General Municipal Election to be Held in the City of Sunnyvale on Tuesday, November 8, 2016, for the Purpose of Submitting to City Voters an Initiative Ordinance 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 (The "Public Lands For Public Use Act"); Requesting Consolidation with the Statewide General Election and Election Services from Santa Clara County; Directing the City Attorney to Prepare an Impartial Analysis; and Setting Priorities for Ballot Arguments.

Prepared by: Kathleen Franco Simmons, City Clerk
Reviewed by: John Nagel, City Attorney
Reviewed by: Timothy J. Kirby, Interim Finance Director
Reviewed by: Walter Rossmann, Assistant City Manager
Reviewed by: Kent Steffens, Assistant City Manager
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Resolution Calling a General Municipal Election to be Held in the City of Sunnyvale on Tuesday, November 8, 2016, for the Purpose of Submitting to City Voters an Initiative Ordinance 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 (The "Public Lands For Public Use Act"); Requesting Consolidation with the Statewide General Election and Election Services from Santa Clara County; Directing the City Attorney to Prepare an Impartial Analysis; and Setting Priorities for Ballot Arguments.

2. RTC 15-0747: Actions Related to the Initiative Ordinance Petition 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 ("Public Lands for Public Use Act" Initiative)