



City of Sunnyvale

Agenda Item

15-0747

Agenda Date: 8/11/2015

REPORT TO COUNCIL

SUBJECT

Consider 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)

REPORT IN BRIEF

On June 15, 2015, an initiative petition to require voter approval prior to the sale or lease of certain public land was filed with the Office of the City Clerk. The City Clerk conducted a screening review and determined there were a sufficient number of signatures to proceed, and delivered the petition to the Santa Clara County Registrar of Voters (ROV) 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, which is scheduled for November 8, 2016. The following actions are currently before Council:

- A. Receive the Certificate of Sufficiency dated July 27, 2015, indicating that the initiative ordinance petition has sufficient valid signatures to be submitted to the voters at the next regular municipal election.
- B. After consideration of the "Report on Impacts of the 'Public Lands for Public Use Act' Initiative prepared under Elections Code Section 9212", the City Council must do one of the following:
 - 1. Adopt the Public Lands for Public Use Act Initiative Ordinance in its entirety, or
 - 2. Order that the Initiative be submitted to the voters at the next municipal general election to be held on November 8, 2016.

BACKGROUND

On December 2, 2014, proponents of an initiative entitled "Public Lands for Public Use Act" 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. A copy of the Notice of Intent and Proposed Initiative Ordinance is included as Attachment 1.

The initiative process is governed by State law, which provides that the petition must be signed by at least 15 percent of the registered voters to qualify for a special election (Election Code Sec. 9214), or at least 10 percent to be placed on the ballot at the City's next regular election (Election Code Sec. 9215). At the time the Notice of Intent was filed, the voter registration report on file with the Secretary of State reported 55,309 registered voters within Sunnyvale. Therefore, the proponents needed 8,296 signatures to qualify for a special election, or 5,531 to qualify for the next general election.

ENVIRONMENTAL REVIEW

Environmental review of initiatives is not required under the California Environmental Quality Act (CEQA) before putting a voter-initiated measure on the ballot. Likewise, a city council's decision to adopt a proposal with sufficient signatures rather than submitting it to the voters is not subject to CEQA.

DISCUSSION

On June 15, 2015, the proponents submitted signatures on 193 petition sections, and the Office of the City Clerk conducted a prima facie review and determined there were 7,335 signatures, enough to meet the 10 percent threshold, and then transmitted the petition to the ROV for verification of the signatures. The ROV reported on July 27, 2015 that upon verifying **6,315** signatures out of the 7,335 total, the petition had qualified with 5,533 valid signatures. (Attachment 2)

Upon receipt from the ROV, the City Clerk has a duty to bring the Certificate of Sufficiency to the City Council at its next regularly scheduled meeting. The City Council must make a determination of how to proceed at the meeting when Certificate is presented, or within 10 days of the meeting. Elections Code Section 9215 provides that if the initiative petition is signed by not less than 10 percent of the voters, the Council must take one of the following actions:

- (a) Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented;
- (b) Submit the ordinance, without alteration, to the voters pursuant to subdivision (b) of Section 1405 [at the jurisdiction's next regular election];
- (c) Order a report pursuant to Section 9212 at the regular meeting at which the certification of the petition is presented. When the report is presented to the legislative body, the legislative body shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

Section 9212 Report

California Elections Code Section 9215 provides that a city council can request a report pursuant to Elections Code Section 9212 analyzing the impacts of any proposed initiative. The purpose of the report is to aid the city council in its consideration of whether to adopt the initiative or submit it to the voters. In the interest of time, a city council may request a Section 9212 report any time during circulation of a petition. Accordingly, on April 21, 2015, Council considered RTC 15-0362 (Attachment 3), 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. The report is included as Attachment 4.

Please note the Elections Code allows Council to request the report during the circulation of the petition or when the Certification is presented; in either case, the report must be submitted no later than 30 days after the Certification is presented, which in this instance would be September 10, 2015. Council is required to act within 10 days of receiving the report, which, if Council accepts the report tonight (August 11, 2105), would be August 21, 2015. If Council wanted additional information beyond that which is included in the attached report, it could choose not to accept the report tonight, direct staff to prepare additional analysis, and direct that the report be brought back for further consideration, so long as that occurs by September 10, 2015.

FISCAL IMPACT

The cost already incurred with the County of Santa Clara for the signature verification is \$3,085. Cost impacts from adopting the ordinance without going to election are included in the Section 9212 Report. The estimated cost for the initiative to be included as a ballot measure on Sunnyvale's next general election is \$78,000.

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. Accept the Certificate of Sufficiency issued by the County of Santa Clara Registrar of Voters regarding the Public Lands for Public Use Initiative.
2. Accept the report prepared under Section 9212 of the Elections Code.
3. Do either one of the following:
 - a) Adopt the proposed initiative ordinance as submitted, or
 - b) Submit the initiative ordinance, without alteration, to the voters during the next general municipal election to be held on November 8, 2016, and direct staff to bring the necessary actions back at the appropriate time to order an election.
4. Accept the Certificate of Sufficiency but defer action for further information consistent with Elections Code timing requirements.

STAFF RECOMMENDATION

Alternatives 1, 2 and 3: 1) Accept the Certificate of Sufficiency issued by the County of Santa Clara Registrar of Voters regarding the Public Lands for Public Use Initiative; 2) Accept the report prepared under Section 9212 of the Elections Code, and 3) Do either one of the following: a) Adopt the proposed initiative ordinance as submitted, or b) Submit the initiative ordinance, without alteration, to the voters during the next general municipal election to be held on November 8, 2016, and direct staff to bring the necessary actions back at the appropriate time to order an election.

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Reviewed by: Kent Steffens, Assistant City Manager
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Notice of Intent and Proposed Initiative Ordinance
2. Certification of Results of Examination of Initiative Petition
3. RTC 15-0362 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

4. Elections Code Section 9212 Report ordered April 21, 2015