

Meeting Date: 12/8/09

AGENDA REPORT

Agenda Item # 583



City of Santa Clara, California



Date: December 1, 2009

To: The Honorable Mayor and Council Members for Information

From: Elizabeth H. Silver, Interim City Attorney

Subject: Process for Initiatives

The purpose of this memorandum is to provide the City Council with a summary of the initiative process.

I. Notice of Intent, Preparation of Ballot Title and Summary, and Publication

Notice of Intent to Circulate Petition. The initiative process is begun by the filing of a notice of intent to circulate the petition with the City Clerk together with text of the initiative, and may be accompanied by a written statement of 500 words or less setting forth the reasons for the proposed petition.¹

Ballot Title and Summary Request. Within 15 days of the filing of the notice of intention, the City Attorney must provide an impartial and non-argumentative ballot title and summary in fewer than 500 words.² Any elector of the City may seek a writ of mandate to amend the ballot title or summary if either is false, misleading or inconsistent with the requirements of the Elections Code.³

Publication or Posting. The notice of intention and the title and summary of the proposed initiative must be published or posted in a newspaper of general circulation at least once.⁴ The proponents of the petition shall file a copy of the notice and the title and summary as published or posted together with an affidavit made by a representative of the newspaper of general circulation that the notice was published within 10 days after the date of publication. This affidavit and a copy of the notice of intention and the title and summary shall be filed with the City Clerk.⁵

II. Circulation of Petition

Circulation. After publication or posting, the proponents may circulate the petition among the registered voters of the City for signatures by any registered voter. Each section of the circulated petition shall bear a copy of the notice of intention and the title and summary prepared by the City Attorney.⁶ The petition must be signed and circulated in accordance with the Elections Code.

¹ Elec. Code § 9202(a).

² Elec. Code § 9203(a).

³ Elec. Code § 9204.

⁴ Elec. Code § 9205.

⁵ Elec. Code § 9206.

⁶ Elec. Code § 9207. Duplicate copies of the petition are called "sections."

Referral of Petition by City Council. During the circulation of the petition or before the adoption of the ordinance or the setting of an election, the City Council may refer the petition to any City department or agency for a report on the petition's fiscal impacts, effect on general and specific plan consistency, effect on the use of land, impact on the availability and location of housing, impact on the ability of the City to meet its regional housing needs, impact on funding for infrastructure, impact on the community's ability to attract and retain employment and business, and "any other matters" the City Council requests to be in the report.⁷ The report shall be presented to the City Council within the time prescribed by the City Council, but no later than 30 days after the City Clerk certifies the sufficiency of the petition to the City Council.⁸

III. Filing the Petition

Submission with Signatures. A proposed initiative may be submitted to the City Council by a petition filed with the City Clerk after being signed by not less than the required number of voters. The petition may be in separate sections, providing each section complies with all the requirements. The first page of each section must contain the title of the petition and the text of the initiative.⁹

Timing of Filing. Signatures upon a petition must be secured, and the petition shall be filed within 180 days from the date of receipt of the title and summary. Petitions shall be filed with the City Clerk during normal office hours, and petitions not filed within this specified time are void for all purposes.¹⁰

Acceptance of Petition for Filing. The City Clerk shall ascertain the number of registered voters in the City last reported by the Santa Clara County Registrar of Voters. The City Clerk shall total the number of signatures affixed to the petition, and if the City Clerk determines that the number of signatures, on its face, equals or is in excess of the minimum number of signatures required, then the City Clerk shall accept the petition for filing. The petition shall be deemed as filed on that date.¹¹

IV. City Council Action After Filing of Petition

Regular Election. If the petition contains the signatures of at least 10 percent of the registered voters, or at least 15 percent of the registered voters for a charter amendment, the Council must do one of the following:

- 1) adopt the initiative, without alteration, at the regular meeting at which the certification of the petition is presented or within 10 days after it is presented;
- 2) submit the initiative, without alteration, to the voters at the next regular election held not fewer than 88 days after the date of the order of election; or
- 3) order a report from a City agency or department pursuant to Elections Code section 9212 at the regular meeting at which the certification of the petition is presented. When the report is presented to the City Council, the City Council shall adopt the initiative within 10 days or order an election.¹²

⁷ Elec. Code § 9212(a).

⁸ Elec. Code § 9212(b).

⁹ Elec. Code § 9201.

¹⁰ Elec. Code § 9208.

¹¹ Elec. Code § 9210.

¹² Elec. Code §§ 9215, 1405, 9255(a)(3).

Special Election. If the petition contains the signatures of at least 15 percent of the registered voters and expressly requests a special election, the City Council must do one of the following:

- 1) 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;
- 2) immediately order a special election; or
- 3) order a report from a City agency or department pursuant to Elections Code section 9212 at the regular meeting at which the certification of the petition is presented. When the report is presented to the City Council, the City Council shall adopt the initiative within 10 days or order an election.¹³

If the City Council orders a special election, the special election must be held not fewer than 88, nor more than 103, days after the date of the order of election. However, a special election may be held on the same date as an election occurring wholly or partially within the same territory if the petition qualifies within 180 days prior to that election. Additionally, a special election may be held on the same date as the statewide general election if the petition qualifies during the period between the primary and general election in the same year. The City Council is not required to, but may, call a special election even if the initiative does not otherwise qualify for a special election.¹⁴

Ballot Arguments. The proponents of the initiative may file an argument in favor of the initiative and the City Council may file an argument against the initiative. Arguments may not exceed 300 words and both arguments shall be printed upon the same sheet of paper and mailed to each voter with the sample ballot before the election.¹⁵

Analysis of Initiative. The City Council may direct the City Clerk to transmit a copy of the initiative to the City Attorney. The City Attorney shall prepare an impartial analysis not to exceed 500 words. The analysis should explain the effect of the initiative on existing law and the operation of the initiative.¹⁶

V. Effective Date

Effective Date of Adoption or Repeal. A majority vote is required to adopt the initiative unless the initiative requires greater than a majority vote, such as where the initiative proposes to enact a special tax. The initiative shall be considered adopted the day the vote is declared by City Council and shall go into effect 10 days after that. If adopted by vote of the City Council without submission to the voters, or adopted by the voters, the initiative can only be repealed or amended by the voters unless the language of the initiative provides otherwise.¹⁷

¹³ Elec. Code § 9214.

¹⁴ Elec. Code §§ 9214, 1405.

¹⁵ Elec. Code § 9219.

¹⁶ Elec. Code § 9280.

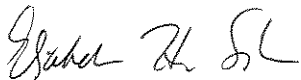
¹⁷ Elec. Code § 9217.

VI. Other Considerations

Conflicting Initiatives. When two or more conflicting initiatives are on the same ballot and both pass, the one receiving the higher number of affirmative votes controls. Initiatives “conflict” if they present themselves as conflicting, or if each creates a comprehensive regulatory scheme relating to the same subject.¹⁸

Council Measure. The City Council may, without a petition, submit a measure for the repeal, amendment, or enactment of any ordinance or resolution, to be voted on at any regular or special election. Such an election shall be held not less than 88 days after the date of the order of election.¹⁹ If the City Council places a measure before the voters and a voter initiative is on the same ballot, the provisions regarding conflicting initiatives apply.

City Charter. The City Charter calls for a regular election held in the City of Santa Clara on the first Tuesday following the first Monday in November of even numbered years. All other municipal elections not provided for in Section 600.01 of the City Charter that may be called under the authority of the City Charter, or the California Elections Code, shall be known as special elections. Any special election may be consolidated with a general municipal election and any municipal election may be consolidated with any State, County, or School District election held in the City or part thereof, in which case only one ballot need be printed for such consolidated election.



Elizabeth H. Silver
Interim City Attorney

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¹⁸ Elec. Code § 9221.

¹⁹ Elec. Code § 9222.