

Meeting Date: 3/4/08

AGENDA REPORT

Agenda Item # 5.B

Santa Clara

City of Santa Clara, California



DATE: February 28, 2008

TO: City Manager/Executive Director for City Council/Redevelopment Agency Action

FROM: Assistant City Manager

SUBJECT: Issues Pertaining to a Possible November 2008 Ballot Measure Regarding the Proposed San Francisco 49ers Stadium in the City of Santa Clara

EXECUTIVE SUMMARY:

At their January 22, 2008 meeting the Council reviewed a number of staff reports pertaining to the inclusion of a ballot measure regarding the 49ers proposed stadium to be constructed in the North Bayshore area of Santa Clara. The City Manager, City Attorney and City Clerk detailed the various types of possible ballot measures that could be considered, the costs and timing of ballot measure information per the Santa Clara County Registrar of Voters Office, and the staff recommendation that a November 2008 ballot measure, written by the City Council, go forward. The ballot measure language would contain details of the Term Sheet currently under negotiation between the City and the 49ers. Additionally, the ballot language would clearly state that the ballot measure being voted on was subject to the stadium project completing the California Environmental Quality Act (CEQA) review.

Council considered the information presented and referred the issues to the City Manager for further review and analysis, returning to the Council's March 4, 2008 meeting. Staff will be presenting the additional information and clarification in a Study Session format on March 4th. The Study Session will precede the regular Council meeting and will allow staff the opportunity to present their reports and Council the opportunity to respond and ask questions. The stadium ballot measure issue will also be agendized during the regular meeting so that Council may take action if they so choose and the public will then have opportunity for comment.

Attached to this report are two information items: 1) A report from the City Attorney addressing the various types of ballot measures that may be brought under California law and various issues relevant to the different types of measures, and; 2) A report from the City Clerk/Auditor addressing the costs and timing of a November 2008 ballot measure. The City Attorney's report addresses key issues pertaining to the binding versus advisory nature of a particular ballot measure. As described in the January 22, 2008 staff report it is required that with any City ballot measure the CEQA process must be completed before certain types of ballot measures can be binding, except where the ballot measure is advisory or a citizen initiated measure. An outline was presented of the various types of ballot measures affected by CEQA:

<u>Type of Ballot Measure</u>	<u>CEQA Completion Required</u>
1. Council Initiated Measures	
a. Advisory	No
b. Establishes Negotiations Parameters/Limits Pending CEQA Review	No (deemed adopted or rejected based on majority vote)
c. Approval of Specific Action	Yes

- 2. Citizen Initiated Measures
 - a. Advisory No
 - b. Adopting a Specific Action No
 - c. Consideration of a City Council Specific Action No (requires CEQA completion before Council action)

ADVANTAGES / DISADVANTAGES OF ISSUE:

The option of the Council placing a City-initiated measure (Option 1b) on the November 2008 ballot has a number of advantages over an alternative of putting a binding measure on the ballot upon completion of CEQA in 2009. Putting the measure on the November 2008 ballot would allow the citizens of the City to vote on the stadium at the earliest possible time after the City and the 49ers have developed a Term Sheet describing the stadium transaction. The ballot measure would incorporate all of the key issues resulting from the Term Sheet, giving the electorate the opportunity to vote on the stadium and the stadium transaction. However, the measure would be conditioned on the requirement to complete CEQA before a stadium project could go forward. Putting a measure on the 2009 ballot would also entail completion of the Stadium CEQA required Environmental Impact Report (EIR) and all the transaction agreements and actions prior to putting the measure on the ballot. CEQA completion is not required for an advisory measure, but since the issue of binding versus advisory is a concern to the Council, a proposed advisory measure should be very clear in its objectives and language so that it can later be used to bind all parties at the completion of CEQA. If the voters reject the advisory measure, all further negotiations on a stadium project would cease.

On June 6, 2007 a letter was received from J. Byron Fleck addressing the issue of the stadium project being placed on the ballot. Mr. Fleck has indicated to staff that he will be sending additional information on a ballot measure for inclusion in the March 4, 2008 Council discussion.

ECONOMIC/FISCAL IMPACT:

The November 2008 ballot is a regularly scheduled statewide and presidential election. As a result, as noted above, the cost to the City of holding the election will be lower than the cost for holding a special election in 2009 when no regular elections are scheduled. Also, since voter turnout tends to be larger for statewide and presidential elections, a November 2008 vote on a stadium project measure also makes it likely that more Santa Clara citizens may participate in the election.

RECOMMENDATION:

Staff recommends that Council determine that a November 2008 City ballot measure (Option 1b) will be held on the proposed 49ers stadium project with information for the ballot measure being taken from the Term Sheet currently under negotiations between the City and the 49ers, and the ballot language would clearly state that the measure was subject to the stadium project completing CEQA review.

APPROVED:


for Ronald E. Garratt
Assistant City Manager


for Jennifer Sparacino
City Manager/Executive Director

Documents related to this report:

- 1. A report from the City Attorney addressing the various types and issues involved with ballot measures under California Law
- 2. A report from the City Clerk/Auditor addressing potential costs and timing of a ballot measure in November 2008

3/4/08

5B



CITY OF SANTA CLARA

CITY CLERK'S OFFICE



DATE: January 17, 2008

TO: City Manager

FROM: City Clerk/Auditor

SUBJECT: City of Santa Clara Recent Land-Use Ballot Measure History

See below an updated review of Santa Clara's recent land-use ballot measure history:

Multi-Use Arena and Convention Center, 1978 – Measure D:

At the City Council meeting of August 1, 1978, the Council approved an Advisory Vote Only measure to be placed on the November 7, 1978 ballot entitled, "Shall the City of Santa Clara encourage the development of a multi-use arena and convention center complex for cultural, entertainment, sports and meeting purposes on City-owned land in the vicinity of Marriott's Great America without City funding and funded in a manner in which there will be no tax liability of direct expense for construction, maintenance, and operation levied on City residents?". The official canvass of the results of Measure D were YES – 12,006 and NO – 10,653. There were 34,439 total registered voters.

Great America Theme Park Operation, 1984 – Measure B:

At the City Council meeting of February 14, 1984, the Council approved an Advisory Vote Only measure to be placed on the June 5, 1984 ballot entitled, "Should the City's Redevelopment Agency continue operation of the Great America Theme Park by a qualified Amusement Park Operator with no tax burden to the residents of the City?" The official canvass of the results of Measure B were YES – 13,161 and NO – 4,139. There were 41,745 total registered voters.

Giants Baseball Park, 1990 – City of Santa Clara Measure N:

At the City Council meeting of August 7, 1990, the Council approved an Advisory Vote Only measure to be placed on the November 6, 1990 ballot entitled, "Should the City of Santa Clara (CITY) work with a Joint Powers Authority (JPA) to locate a baseball park for use by the Giants baseball organization on approximately 98 acres of CITY owned land south of State Highway 237 between Great America Parkway and the Guadalupe River subject to the following conditions . . .". The official canvass of the results of Measure N were YES – 12,647 and NO – 12,137. There were 47,123 total registered voters.

Parking and Utility Users Tax - Joint Powers Finance Authority, 1990 – Measure G:

Also on the November 6, 1990 ballot was a measure initiated by the Joint Powers Finance Authority entitled “Shall the Ballpark Authority build and operate a Major League ballpark in Santa Clara County and levy a parking tax at the ballpark, as well as a utility users tax of not more than one per cent of the charges made for all taxable utility services, provided, that this tax on electrical utilities shall not be levied on the first \$50.00 per month of residential electrical services; also, this utility users tax shall not be levied for residential users of less than ‘lifeline’ service levels on other utilities; provided, further, that this utility users tax shall terminate upon payment in full of all bonds secured by this tax?”. The official canvass of the Authority-wide results of Measure G were YES – 134,523 and NO – 138, 014. The City of Santa Clara votes for the measure were YES – 13,089 and NO – 13,353.

Cardroom Facilities, 1992 – Measure E:

At the City Council meeting of August 4, 1992, the Council approved that a measure be placed on the November 3, 1992 ballot entitled, “Shall Ordinance No. 1636, entitled ‘An Ordinance of the City of Santa Clara, California, amending Article III (entitled ‘Card Rooms, Etc.’) of Chapter Twenty-Two (entitled ‘Public Amusement’) of ‘The Code of the City of Santa Clara, California’ which will permit cardroom facilities,” be adopted?”. The official canvass of the results of Measure E were YES – 15,220 and NO – 22,102. There were 54,196 total registered voters.

Sun Microsystems Development Agreement, 1997/1998 – Measure D:

On October 28, 1997, the City Council adopted Ordinance No. 1706, entitled, “An Ordinance of the City of Santa Clara Approving a Development Agreement between the City of Santa Clara and Sun Microsystems Corporation for Certain Real Property Consisting of Approximately Eighty-Two (82) Acres Located in the City at the Northeast Corner of Montague Expressway and Lafayette Street”. A referendum petition challenging Ordinance No. 1706 was submitted to the City Clerk with sufficient signatures to be submitted to the City Council for action. At the City Council meeting of January 6, 1998, the Council approved the holding of an election on June 2, 1998 for a ballot measure on whether or not the voters of Santa Clara should approve the adoption of Ordinance No. 1706. The official canvass of the results of Measure D were YES – 11,498 and NO – 6,431. There were 43,284 total registered voters.

Santa Clara Gardens Project (BAREC), 2007/2008 – Measures A and B:

On June 19, 2007, the City Council adopted Resolution No. 07-7430, entitled “A Resolution of the City Council of the City of Santa Clara, California, Approving The General Plan Amendment For The Santa Clara Gardens Project (90 N. Winchester Blvd.)”; and, Resolution No. 07-7432, entitled “A Resolution of the City Council of the City of Santa Clara, California, Rezoning The Parcels Located At 90 N. Winchester Boulevard And Granting A Density Bonus For The Senior Housing Project For The Santa Clara Gardens Project.” Referendum petitions challenging Resolution 07-7430 and 07-7432 were submitted to the City Clerk with sufficient signatures to be submitted to the City Council for action. At the City Council meeting of 9/11/07, the Council approved

the holding of an election on February 5, 2008 for the voters of Santa Clara to consider the approval of Resolutions 07-7430 and 07-7432. The results are pending the outcome of the election on February 5, 2008.

Please let me know if you would like additional information regarding the City of Santa Clara's recent land-use ballot measure history.

A handwritten signature in blue ink, appearing to read "RD", is positioned above a horizontal line.

Rod Diridon, Jr.
City Clerk/Auditor