



CITY COUNCIL AGENDA REPORT

MEETING DATE: November 3, 2009

ITEM NUMBER: VIII-1

SUBJECT: Report by the City Attorney regarding Placement of an Initiative on the Ballot relating to the Orange County Fairgrounds Land Use Designation

DATE: October 29, 2009

FROM: City Manager's Office

PRESENTATION BY: Kimberly Hall Barlow, City Attorney

FOR FURTHER INFORMATION CONTACT: Allan L. Roeder, City Manager
(714) 754-5327

RECOMMENDATION:

Provide direction on preparation of a ballot initiative.

BACKGROUND:

In early Spring 2009, Governor Schwarzenegger announced consideration of the selling of State property and other assets to ease the State's budget crises. Identified in the Governor's announcement were seven State owned sites with an estimated value of \$1 billion dollars. The Orange County Fair & Exposition Center (OCFEC) was among the properties identified. In response, the City Council adopted Resolution 09-41 opposing the sale, closure and/or relocation of the OCFEC. A copy of the staff report and the resolution are attached as Attachment A.

The proposed sale of the OCFEC was the second such proposal by the State in the past five years and the third time since the mid-1990's. On each occasion, the proposal was the result of fiscal difficulties at the State level. In July 2009, the Legislature passed Assembly Bill 22 which authorized the sale of the property through the Department of General Services (DGS). Since that time, the City has been in regular contact with DGS advising of the City's continued opposition to the sale for any use beyond a Fair & Exposition Center and its full intent to enforce the City's current General Plan designation for the site as Fairgrounds with the zoning as Institutional & Recreational. On October 7, 2009, DGS released its Request For Proposals (RFP) for sale of the site with a deadline for submission of bids as January 8, 2010. The RFP is available on line at www.dgs.ca.gov/OCFair.htm. Despite the City's repeated advisement regarding the local land use designation, DGS refused to limit or in any way condition the sale of the property for continued operation of the Fairgrounds. Additionally, the RFP includes a "State Profit Participation Requirement" which gives the State the right to participate in future profits associated with the property in the event that all or a portion of it is no longer used for fairground and event uses.

At the City Council meeting of October 20, 2009, the City Council authorized the preparation of a Specific Plan for the OCFEC. A copy of the staff report for this item is attached as Attachment B. The intent in authorizing preparation of a Specific Plan was to (a) clearly define and reinforce the City's objectives to preserve the property for uses that complement the Fairgrounds uses and (b) formally adopt policies, regulations and standards for the proposed build out of the existing Fairgrounds Master Plan. Adoption of the Specific Plan does not require participation from the State of California or future property owners.

At the regular meeting of October 20, 2009, the City Council reiterated a prior request for advisement from the City Attorney's Office regarding the legality of the initiative process to reassert - by vote of the public - the current land use designation for the OCFEC.

ANALYSIS:

The City Attorney has completed her analysis and is prepared to provide the City Council and the public a complete report on this matter. This will be an oral report with opportunity for questions and answers on the initiative process generally and specifics as they apply to the OCFEC site.

Since the last City Council meeting, staff has done some preliminary investigation with the Orange County Registrar of Voters to determine the required timing for placement of an initiative on the June 2010 ballot. If the initiative is to be placed on the June ballot by the City Council, the last regular meeting in which this could be accomplished is February 16, 2010. This would allow time for public review, arguments and rebuttals prior to its due date to the Registrar of Voters by March 2010.

Staff has also obtained a preliminary estimate of the cost for an initiative consolidated with the June 2010 election. The calculation of estimates for consolidated elections is based upon a projection of total jurisdictional participation and an average cost per voter. The total jurisdictional participation is calculated by taking the current number of registered voters and projecting a 10% increase in voter registration. The average cost per projection formulae are based upon experience over past elections of this type. Using this projection formula, the cost to the City for the election would range from between \$112,267 to \$136,794.

CONCLUSION:

The City of Costa Mesa has consistently opposed any change in use for the Orange County Fair & Exposition Center. Similarly, the City has opposed current and prior efforts by the State of California to market the site solely to maximize profit (as recently stated in correspondence from DGS "...to obtain the highest, most certain return from the sale of the Fairgrounds."). Based on advisement by the City Attorney and on the presumption that an initiative to reassert the land use for the OCFEC by vote of the public is legally valid, the City Council should provide direction to staff regarding its desire for preparation of a ballot initiative and supporting documentation.

ALLAN L. ROEDER
City Manager

KIMBERLY HALL BARLOW
City Attorney

ATTACHMENTS: A [Staff Rpt of June 2, 2009](#)
B [Staff Rpt of October 20, 2009](#)

DISTRIBUTION: City Attorney
Interim Development Svcs Director

