



CITY COUNCIL AGENDA REPORT

MEETING DATE: March 15, 2016

ITEM NUMBER: NB-3

SUBJECT: INITIATIVE PETITION QUALIFYING FOR BALLOT; CONSIDERATION OF ADOPTING NEW ORDINANCE, OR ORDERING REPORT

DATE: MARCH 9, 2016

FROM: CITY CLERK'S OFFICE; CITY ATTORNEY'S OFFICE

PRESENTATION BY: BRENDA GREEN, CITY CLERK;
TARQUIN PREZIOSI, DEPUTY CITY ATTORNEY

FOR FURTHER INFORMATION CONTACT: BRENDA GREEN, CITY CLERK, 714-754-5225

RECOMMENDATION:

A. Staff recommends that the City Council:

1. Accept the Certificate of Sufficiency issued by the County of Orange Registrar of Voters regarding, "An Initiative To Require Voter Approval On Certain Development Projects".

B. Further, it is recommended that the City Council approve one of the following options:

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; or
2. Order placement of the measure on the November 8, 2016 consolidated municipal election. Resolutions calling for a consolidated municipal election, and submission of the measure to the ballot, to be adopted at the June 7, 2016 City Council meeting; or
3. Order a report pursuant to Election Code (EC) §9212 at the regular meeting at which the certification of the petition is presented.

BACKGROUND:

The procedures for placing an initiative to enact an ordinance on the ballot are set forth in California Election Code §§9200-9226.

On June 29, 2015 the City of Costa Mesa, City Clerk, received a voter initiative petition by its proponents (Proponents) "To Require Voter Approval On Certain Development Projects" (Attachment 1). As required by the California Elections Code, the City Attorney's Office provided a title and summary (Attachment 2).

The Proponents of the initiative published the Notice of Intent to Circulate and were legally permitted to circulate the petition June 17, 2015 to January 6, 2016. The petition required 4,995 valid signatures to qualify for the 2016 General Election ballot. At the time the Notice of Intention was filed, the voter registration report on file with the California Secretary of State revealed 49,959 registered voters within Costa Mesa. California Election Code §9215 required that an initiative petition be signed by at least ten percent (10%) of the total number of eligible registered voters to qualify for the next General Municipal Election.

On January 4, 2016, the Proponents of the initiative petition filed the signed petitions. The City Clerk conducted a prima facie review and determined there was a sufficient number of signatures to proceed: 6908 total tally. On January 5, 2016, the petition was delivered to the County of Orange Registrar of Voters Office for signature verification. The Orange County Registrar of Voters has examined the records of voter registration for the City of Costa Mesa and has determined that the initiative petition has been signed by no less than 10 percent of City of Costa Mesa registered voters. Therefore the initiative petition is sufficient to be certified to the City Council. The Election Code requires the City Clerk to certify to the City Council any initiative petition which qualifies for an election. (EC §§9211, 9114). Refer to Attachments No. 3 for Certifications.

ANALYSIS:

Election Code Requirements

Pursuant to Elections Code §9214 if an initiative petition is signed by not less than 10 percent of the registered voters of a city, the legislative body shall do one of the following:

- 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; or
- b) Submit the ordinance, without alteration, to the voters pursuant to subdivision (b) of EC §1405; or
- c) Order a report pursuant to EC §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).

Elections Code §9212 [“Referral of proposed initiative measure to city agency for report”] provides that the City Council may refer the proposed initiative measure to any city agency or agencies for a report on any matter the City Council requests to be in the report, including but not limited to:

1. Its fiscal impact; and/or
2. Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code; and/or
3. Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city to meet its regional housing needs; and/or
4. Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses; and/or
5. Its impact on the community's ability to attract and retain business and employment; and/or
6. Its impact on the uses of vacant parcels of land; and/or
7. Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization; and or
8. Any other matters that the legislative body wishes to be considered in the report.

The report(s) shall be presented to the City Council no later than 30 days after the elections official certifies to the legislative body the sufficiency of the initiative petitions. Because the March 15, 2016 meeting is when certification of the initiative petitions will occur, any reports requested shall be returned to the City Council at the April 5, 2016 regular City Council meeting.

Keyser Marston Associates, Inc.'s Proposal

Due to the complex analysis required on the initiative, and due to time constraints, City staff has retained the services of Keyser Marston Associates, Inc. Staff has received the attached proposal (Attachment 4) from Keyser Marston Associates, Inc. to prepare the Elections Code section 9212 report. The proposal focuses on the potential impacts of the Initiative on future development within the City and the potential impacts to the City's general fund. Keyser Marston Associates, Inc. is an outside consultant with demonstrated expertise in such matters that is able to prepare an un-biased and objective analysis. The proposal submitted by Keyser Marston is within the CEO's authority, and sufficient funds remain in the CEO Administration Consulting Account, 530201-101-11100-50250.

FISCAL REVIEW:

The cost for the signature verification of the initiative by the Orange County Registrar of Voters Office is \$20,746.80. The estimated election costs to add the initiative to the consolidated general election is \$20,000.00

The estimated cost for Keyser Marston Associates, Inc. to prepare a financial analysis of the potential impact of the Initiative is estimated to be approximately \$15,000.00, based on their proposal.

At present the estimated costs of implementing the ordinance is indeterminate.

LEGAL REVIEW:

The City Attorney's office has reviewed this report and has approved it as to form and legal content.

THOMAS P. DUARTE
City Attorney

BRENDA GREEN
City Clerk

RICHARD FRANCIS
Assistant CEO

- ATTACHMENTS:
1. [Petition](#)
 2. [Ballot Title & Summary](#)
 3. [Certification](#)
 4. [Proposal from Keyser Marston Associates, Inc.](#)