

ATTACHMENT 2

RESOLUTION NO. 16-55

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ORDERING, AND GIVING NOTICE OF THE SUBMISSION TO THE VOTERS OF A PROPOSITION FOR THE ENACTMENT OF AN ORDINANCE RELATING TO FUTURE DEVELOPMENT AND DEVELOPMENT-FUNDED OPEN SPACE AND RECREATION AT THE NOVEMBER 8, 2016 CONSOLIDATED REGULAR ELECTION

WHEREAS, under the provisions of the laws relating to general-law cities in the State of California, a General Municipal Election shall be held on November 8, 2016; and

WHEREAS, pursuant to the requirements of the laws of the State of California relating to general law cities, the City Council of the City of Costa Mesa requests that a measure, known as the Measure for Sensible Community Development and Development-Funded Open Space and Recreation (the "Measure"), be placed on the ballot for an election to be held in the City of Costa Mesa; and

WHEREAS, the City Council is authorized by the law of the State of California to submit the proposed ordinance to the voters;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The foregoing recitals are true, correct, and adopted by the City Council as if set forth in full.

SECTION 2. That pursuant to the requirements of the laws of the State of California relating to general law cities there is called and ordered to be held in the City of Costa Mesa, California on November 8, 2016, a General Municipal Election for the purpose of submitting a proposed ordinance.

SECTION 3. Pursuant to Election Code Section 9222, the City Council hereby orders an election to be held at which the ordinance proposed by the City Council known as the Measure for Sensible Community Development and Development-Funded Open Space and Recreation, attached hereto as Exhibit A, without alteration, be submitted to a vote of the voters of the City of Costa Mesa. The City Clerk is directed to make a copy of the attached ordinance available to any voter upon request.

SECTION 4. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question:

Measure __: Measure for Sensible Community Development and Development-Funded Open Space and Recreation	Response	Vote
Shall the Costa Mesa Measure for Sensible Community Development and Development-Funded Open Space and Recreation, which ratifies the City's existing land use regulations, ensures that approximately 25% of the State Developmental Hospital on Harbor Boulevard would be zoned as passive or recreational open space, and establishes a fee paid for by developers for the purpose of funding new active recreation, open space, and public park facilities within the City, be adopted?	Yes	
	No	

SECTION 5. That the proposed complete text of the ordinance submitted to the voters is attached as Exhibit A.

SECTION 6. That the vote requirement for the measure to pass is a majority (50% +1) of the votes cast.

SECTION 7. That the ballots to be used at the election shall be in the form and content as required by law.

SECTION 8. That the City Clerk is authorized, instructed, and directed to coordinate with the County of Orange Registrar of Voters to procure and furnish any and all official ballots, notices, printed matter, and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 9. That the polls for the election shall be open at 7 a.m. of the day of the election and shall remain open continuously from that time until 8 p.m. of the same day when said polls shall be closed, pursuant to Election Code Section 10242, except as provided in Section 14401 of the Elections Code of the State of California.

SECTION 10. That the Orange County Registrar of Voters is authorized to canvass the returns of the General Municipal Election.

SECTION 11. The ballot measure shall not take effect, unless and until the ballot measure receives the approval of a majority of the votes cast by the voters of the City voting upon the ballot measure at the November 8, 2016 general municipal election.

SECTION 12. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law and in accordance with the provisions of law regulating the statewide election.

SECTION 13. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 14. The adoption of the Measure, which merely ratifies previously approved planning and zoning regulations and thus maintains the status quo, is not a "project" under the California Environmental Quality Act ("CEQA") (Pub. Res. Code §§ 21000 et seq.; 14 Cal. Code Regs. § 15378(a)(2)) because it does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Even in the event that the adoption of the Measure was considered a "project" as that term is defined by CEQA, it can be seen with certainty that there is no possibility that the adoption of the Measure could have a significant effect on the environment because the Measure is merely the continuation of existing general plan, specific plan, and zoning code provisions in the City. Hence, the City Council finds that the approval of the Measure (i) is exempt from CEQA because it is not a "project" under CEQA, and (ii) it is exempt under the "common-sense" exemption set forth in section 15061(b)(3) of the CEQA Guidelines.

SECTION 15. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED ON July 5, 2016.

Stephen M. Mensinger, Mayor

ATTEST:

APPROVED AS TO FORM:

Brenda Green, City Clerk

Thomas Duarte, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that foregoing Resolution No. 16-55 was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 5th day of July, 2016, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 6th day of July, 2016.

BRENDA GREEN, CITY CLERK

EXHIBIT A

COUNCIL SPONSORED INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The City Council for the City of Costa Mesa submits the following ordinance to the voters of the City for approval and enactment:

ORDINANCE NO. 2016 – XX

AN ORDINANCE OF THE CITY OF COSTA MESA CALIFORNIA, KNOWN AS THE COSTA MESA MEASURE FOR SENSIBLE COMMUNITY DEVELOPMENT AND DEVELOPMENT-FUNDED OPEN SPACE AND RECREATION

WHEREAS, an initiative known as the Initiative to Require Voter Approval of Certain Development Projects (the “Initiative”) has been submitted to the voters pursuant to Elections Code Section 9215; and

WHEREAS, the City Council has determined that adoption of the Initiative is not in the best interests of the community and desires to submit a directly competing measure to the voters for consideration pursuant to Elections Code Section 9222; and

WHEREAS, the City Council has submitted the following measure (the “Measure”) to the voters for said purpose; and

WHEREAS, the Measure, if adopted, would ratify the City’s existing General, Specific, and Overlay Plans, as well as the City’s Zoning Code; and

WHEREAS, the City is approximately 98% built out, and hence few opportunities exist for the creation of new athletic fields, and to provide new recreational opportunities for the community; and

WHEREAS, Notwithstanding the impact of the development of the City on the ability to create new recreational opportunities, the City Council has adopted a policy by which it has declared that it is dedicated to creating partnerships with local youth sports organizations to ensure there is ample opportunity to participate in athletics at various ability levels, with a primary goal of providing athletic opportunities and ensuring athletic fields remain safe and of a high quality; and

WHEREAS, despite the impact of the development of the City on the ability to create new recreational opportunities, and in particular the opportunity to create new athletic fields, there exists a critical need for such facilities as demonstrated, for instance, by facts such as:

(i) in 2014 the City permitted youth sports organizations to use 51,016 hours (which is equivalent to six years) of field time on all the City's existing athletic fields,

(ii) there are 13 organized sports groups who compete for the ability to use Costa Mesa athletic fields,

(iii) approximately 5,000 adults and children use Costa Mesa's athletic fields each year; and

(iv) the State has contemplated the repeal of daylight savings time, and should that occur, an additional 4000 hours of field time will be lost, causing further concerns that there will not be enough fields available for all of the individuals and sports who desire to use them;

(v) in order to accommodate the estimated 2016 demand for athletic field usage, the city is in need of new multi-purpose athletic fields; and

WHEREAS, the pending closure of the Fairview Developmental Center presents the community with a unique opportunity to create additional outdoor recreational experiences, including but not limited to youth sports fields, within the City of Costa Mesa; and

WHEREAS, this Measure, if passed, would ratify the existing General, Specific, and Overlay Plans, as well as the City's Zoning Code to ensure that if the State proceeds with the closure of Fairview Developmental Center, approximately 25.6 of the 102.6 total acres will be required to be zoned as either passive or recreational open space;

WHEREAS, the area north of the 405 Freeway and West of Fairview Drive, presents another unique opportunity for the creation of athletic fields and other recreational opportunities, in that it contains large parcels that the City anticipates will be redeveloped in the near future; however, current plans for the redevelopment of such sites do not appear to contemplate uses for recreational activities; and

WHEREAS, this Measure, if passed, would facilitate development of new recreational opportunities, including the development of sports fields, by imposing a new development impact fee (the "Open Space and Public Park Impact Fee") on all new development north of the 405 and west of Fairview Drive, to offset impacts created by such development upon recreational opportunities, including the elimination of the ability to construct athletic fields and otherwise implement recreational opportunities in such areas; and

WHEREAS, in order to ensure oversight, transparency, and input from all affected stakeholders, this Measure, if passed would also form a new citizen committee called the Open Space & Recreation Advisory Committee, which would be subject to the Brown Act and the Fair Political Practices Act, and which would be responsible for providing guidance regarding expenditures of the new Open Space and Public Park Impact Fee, and the recreational needs of the community to the City Council.

THE PEOPLE OF THE CITY OF COSTA MESA DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Name.

This ballot measure shall be known and may be cited as the “Costa Mesa Measure for Sensible Community Development and Development-Funded Open Space and Recreation” and shall be referred to herein as “the Measure.”

SECTION 2: Purpose.

The purpose of this Measure is to directly compete with the Initiative, which proposes a number of amendments to the Municipal Code. The Measure, if adopted, will:

(a) ratify the City’s General Plan, approved by the City Council on June 21, 2016, which specifically designates not less than 25%, or approximately 25.6 of the 102.6 total acres, of the Fairview Developmental Center as either passive or recreational open space, in anticipation of the Center’s future closure;

(b) ratify the City’s Zoning Code, as well as all of the City’s Specific Plans and Overlay Plans as those documents exist on the effective date of this Ordinance, including but not limited to: the 2015-2035 General Plan, adopted on June 21, 2016; the Baker Street and Paularino Avenue Specific Plan (SP-78-02); the Placentia/Hamilton/Pomona/19th Specific Plan (SP-79-01); the Bristol Street Specific Plan (SP-82-01); the East 17th Street Specific Plan (SP-84-01); the Harbor/Bernard/Parsons/Ford Specific Plan (SP-84-02); the North Costa Mesa Specific Plan (SP-94-01); the Avocado Street Specific Plan (SP 86-01); the Newport Boulevard Specific Plan (SP-96-01); the Costa Mesa Theater & Arts District Plan (SP-03-01); the SoBECA Urban Plan (SP-05-06); the 19 West Urban Plan (SP-05-07); the Mesa West Bluffs Urban Plan (SP-05-08); the Mesa West Residential Ownership Urban Plan (SP-05-09); and Title 13 of the Costa Mesa Municipal Code (Planning, Zoning and Development).

(c) Amend the City’s Municipal Code to add a development impact fee known as the Open Space and Public Park Impact Fee in an amount not to exceed \$1.50/square foot, which shall be collected on all new development north of the 405 freeway and west of Fairview Drive, to be used by the City for the purpose of increasing active recreation, open space and public park facilities within the City, upon the advice and recommendation of a newly created citizen committee called the Open Space & Recreation Advisory Committee.

This Measure is intended to comprehensively regulate the same subject as the Initiative – the General Plan, Specific Plan(s), Overlay Plan(s) and applicable provisions of the Municipal Code. If a majority of voters approve both the Initiative and the Costa Mesa Measure for Sensible Community Development and Development Funded Open Space and Recreation, the ballot measure with the higher percentage of the vote will control. Therefore, if both measures are approved and the Costa Mesa Measure for Sensible Community Development and Development Funded Open Space and Recreation

receives a higher percentage of the vote than the Initiative, none of the changes or additions proposed by the Initiative will be implemented.

SECTION 3. Ratification of General Plan

By this Measure, the People of the City of Costa Mesa hereby ratify the existing General Plan, as approved by the City Council on June 21, 2016. The existing text of the General Plan is attached hereto as Exhibit B and incorporated herein by reference.

SECTION 4. Ratification of Zoning Code, Specific Plan(s), and Overlay Plan(s)

By this Measure, the People of the City of Costa Mesa hereby ratify the City's existing zoning and related land use provisions. This would include the City Council's recently approved 2015-2035 General Plan, adopted on June 21, 2016. It would also include the following (including any subsequent amendments): the Baker Street and Paularino Avenue Specific Plan (SP-78-02); the Placentia/Hamilton/Pomona/19th Specific Plan (SP-79-01); the Bristol Street Specific Plan (SP-82-01); the East 17th Street Specific Plan (SP-84-01); the Harbor/Bernard/Parsons/Ford Specific Plan (SP-84-02); the North Costa Mesa Specific Plan (SP-94-01); the Avocado Street Specific Plan (SP 86-01); the Newport Boulevard Specific Plan (SP-96-01); the Costa Mesa Theater & Arts District Plan (SP-03-01); the SoBECA Urban Plan (SP-05-06); the 19 West Urban Plan (SP-05-07); the Mesa West Bluffs Urban Plan (SP-05-08); the Mesa West Residential Ownership Urban Plan (SP-05-09); and Title 13 of the Costa Mesa Municipal Code (Planning, Zoning and Development.) The existing text of the Zoning Code, Specific Plan(s) and Overlay Plan(s) are attached hereto as Exhibit C and incorporated herein by reference.

SECTION 5. Establishment of Open Space and Public Park Impact Fee and Open Space & Recreation Advisory Committee.

By this Measure, the People of the City of Costa Mesa hereby add Article 4, to Chapter XII of Title 13 to the City's Municipal Code for the purpose of establishing a new open space and public park impact fee (the "Open Space and Public Park Impact Fee" or "Fee"). The Fee shall be applicable to all new development north of the 405 freeway and west of Fairview Drive. The Open Space and Public Park Impact Fee shall be due upon issuance of a certificate of occupancy. The Open Space and Public Park Impact Fee is established to offset the impact of development upon recreational opportunities and shall be used by the City for the purpose of increasing active recreation, open space and public park facilities within the City, which uses may include, but would not be limited to, the maintenance and development of Fairview Developmental Center upon its anticipated closure.

The amount of the Open Space and Public Park Impact Fee shall be the maximum amount permissible pursuant to the Mitigation Fee Act, and shall be established pursuant thereto; provided, however, in no event shall the Fee exceed \$1.50/square foot of new development.

A citizen committee is hereby created, and shall be known as the open space & recreation advisory committee (the “Open Space & Recreation Advisory Committee” or “Committee”), whose role shall be to advise the City Council on expenditures of the Open Space and Public Park Impact Fee. The Open Space and Public Park Impact Fee shall be only spent after receiving the advice and recommendation of the Committee.

The Open Space & Recreation Advisory Committee shall consist of seven (7) members of the public who are appointed by the City Council. The seven (7) members shall consist of: the Mayor, one (1) City Councilmember chosen by a majority of the City Council, one (1) representative of a Costa Mesa youth football organization chosen by a majority of the City Council, one (1) representative of a Costa Mesa youth baseball organization chosen by a majority of the City Council, one (1) representative of a Costa Mesa youth soccer organization chosen by a majority of the City Council, one (1) representative of the Newport Mesa Unified School District (“NMUSD”) chosen by a majority vote of the NMUSD trustees, and one (1) member from a properly formed and actively operating California corporation whose primary focus is issues of environmental concern chosen by a majority of the City Council. The members shall be appointed at a time and place pursuant to Council policy. The Committee shall comply with the Brown Act and the Fair Political Practices Act, including but not limited to all disclosures required therein. City Staff shall provide the necessary support for the Committee’s meetings and other official business. The City Council shall budget an appropriate amount of funds collected from the Open Space & Public Park Impact Fee for the Committee’s activities, recognizing that interfund transfers may be necessary at the beginning of the Committee’s formation before sufficient Open Space and Public Park Impact Fees have been collected. The Open Space & Recreation Advisory Committee shall sunset, and unless renewed by the City Council cease to exist, upon making its final recommendations to the City Council for active and passive recreational uses at Fairview Developmental Center, or 5 years after the effective date of this Measure, whichever shall first occur.

SECTION 6. Rejection of Initiative to Require Voter Approval of Certain Development Projects

By this measure, the People of the City of Costa Mesa hereby reject each and every change and addition to the Municipal Code proposed by the Initiative.

SECTION 7. Future Changes

Any future changes or amendments to this ordinance, if approved, including any future changes or amendments to the General Plan, Specific Plan(s), Overlay Plan(s), or Municipal Code provisions affected by the Measure, may occur in the manner set forth in State law and the City’s Municipal Code, and shall not require a vote of the people.

SECTION 8. Severability

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 9. Effective Date

This ordinance shall take effect according to law ten days after certification of the election at which it is adopted.

Exhibit B to ORDINANCE NO. 2016-_____

[Full Text of General Plan, As Adopted on June 21, 2016]

A full copy of the ordinance including attachments, is available for review on-line and in the City Clerk's office.

Exhibit C to ORDINANCE NO. 2016-_____

[Full Text of Zoning Code, Specific Plan(s) and Overlay Plan(s)]

A full copy of the ordinance including attachments, is available for review on-line and in the City Clerk's office.