



OFFICE OF THE CITY CLERK

CITY HALL
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CITY COUNCIL STAFF REPORT

Meeting: December 18, 2018

Subject

Receive the City Clerk's Certification of Sufficiency for referenda petitions against the following resolutions and ordinances, and direct staff to bring back options at the next regular meeting for Council to take as required by California Elections Code Section 9241. (Those actions include (1) repealing any or all of the resolutions or ordinances against which the petition is filed; and (2) submitting any or all of the resolutions or ordinances to the voters, either at the next regular municipal election or at a special election called for the purpose):

Resolution No. 18-085: A Resolution of the City Council of the City Of Cupertino Approving a General Plan Amendment to Development Allocations, the General Plan Land Use Map and Development Standards Related to the Vallco Town Center Special Area

Resolution No. 18-086: A Resolution of the City Council of the City of Cupertino Adopting the Vallco Town Center Specific Plan

Ordinance No. 18-2178: An Ordinance of the City Council of the City of Cupertino Rezoning the Parcels within the Vallco Special Area

Ordinance No. 18-2179: Ordinance of the City Council of the City of Cupertino Approving a Development Agreement by and Between the City of Cupertino and Vallco Property Owner LLC for the Development of Vallco Town Center

Recommended Action

Receive the City Clerk's Certification of Sufficiency for referenda petitions against Resolution Nos. 18-085 and 18-086, and Ordinance Nos. 18-2178 and 18-2179, and direct staff to bring back options at the next regular meeting for Council to take as required by California Elections Code Section 9241. (Those actions include (1) repealing any or all of the resolutions or ordinances against which the petition is filed; and (2) submitting any or all of the resolutions or ordinances to the voters, either at the next regular municipal election or at a special election called for the purpose).

Discussion

On October 29, proponents filed four referendum petitions with the Cupertino City Clerk's Office regarding the Vallco Town Center Specific Plan. On October 31, the Clerk's Office performed a prima facie signature count on each petition as per California Elections Code Sections 9239 and 9210, as well as checking the petition forms per Elections Code Section 9238. The raw count on each petition equaled or exceeded the minimum number of signatures required, were accepted for filing and subsequently filed with the Santa Clara County Registrar of Voters Office on October 31. The Registrar's Office validated the signatures on each petition using 100% signature verification, and has determined that all four petitions have sufficient signatures.

In order to qualify for a referendum, the proponents were required to obtain signatures of 10% of the registered voters in Cupertino, or 2,888 signatures, on each petition.

The petition regarding Resolution No. 18-085 had 4,736 valid signatures; the petition regarding Resolution No. 18-086 had 4,139 valid signatures; the petition regarding Ordinance No. 18-2178 had 4,124 valid signatures; the petition regarding Ordinance No. 18-2179 had 4,115 valid signatures.

On December 6, 2018, the City Clerk received a letter from the Nielsen Merksamer law firm writing on behalf of Vallco Property Owner, LLC. The Nielsen letter contends that the Referendum protesting the City's adoption of Resolution No. 18-085—regarding the General Plan Amendment ("GPA") for the Vallco Project—fails to provide the full text of that GPA. The Nielsen letter accordingly contends that this Referendum is procedurally defective and that the City has a mandatory duty to reject the Referendum petition and not process it any further. The City has asked the attorney for the referendum proponents to respond to this letter. The City Attorney's office is in the process of evaluating the claims in the Nielsen letter and will advise the City Clerk and the City Council regarding the results of that evaluation prior to the Council's next regularly scheduled meeting.

Fiscal Impact

Information regarding election costs will be brought back at the next regular meeting along with options for Council to take.

Sustainability Impact

None

Prepared by: Grace Schmidt, City Clerk

Approved for Submission by: Amy Chan, Interim City Manager

Attachments:

A – Validation Letters from the Registrar of Voters Office