



OFFICE OF THE CITY MANAGER

CITY HALL

10300 TORRE AVENUE • CUPERTINO, CA 95014-3255

TELEPHONE: (408) 777-3212 www.cupertino.org

CITY COUNCIL STAFF REPORT

Meeting: March 31, 2016

Subject

Proposed Initiative submitted by Vicky Tsai and Judy Wilson regarding the Vallco Town Center Specific Plan Initiative entitled, "Initiative adopting the Vallco Town Center Specific Plan to (1) provide that the Vallco Shopping District Special Area ("Area") contains a mixture of residential, office, retail, civic and education uses; (2) require any development to fund or provide community benefits such as transit, schools, a green roof, and recycled water; and (3) grant the property owner initial entitlements to develop in accordance with the Initiative and establish a process for future approvals; and making related amendments to Cupertino's General Plan and Municipal Code ("Vallco Initiative") and authorization to prepare a report under Elections Code 9212.

Recommended Action

Adopt a resolution directing City staff to prepare a report on the effects of the Vallco Initiative pursuant to Elections Code Section 9212 and appropriate \$180,000.00 for such purpose.

Background

On March 3, 2016, Vicky Tsai and Judy Wilson (Proponents) submitted to the City Clerk a Notice of Intent to circulate an initiative petition and a request for the City Attorney to prepare the official ballot title and summary. A copy of the proposed initiative measure ("Initiative") is attached to this report as Attachment A.

This is the third proposed initiative submitted to the City. At the March 31, 2016, Council Meeting, the Council will accept the Elections Code Section 9212 Report on the Cupertino Citizens' Sensible Growth Initiative ("CCSG Initiative") and make a decision whether to adopt the initiative or place it on the ballot. For the second initiative, relating to the property commonly known as the Oaks Shopping Center (at Stevens Creek and Highway 87, "Oaks Initiative"), the proponents are authorized to begin collecting signatures. On March 1, 2016, Council authorized the staff to begin preparation of the Elections Code 9212 Report for the Oaks Initiative. It is underway.

Turning to the Vallco Initiative, on March 18, 2016, the City Attorney prepared the official title and summary. The official title for the measure is: “Initiative adopting the Vallco Town Center Specific Plan to (1) provide that the Vallco Shopping District Special Area (“Area”) contains a mixture of residential, office, retail, civic and education uses; (2) require any development to fund or provide community benefits such as transit, schools, a green roof, and recycled water; and (3) grant the property owner initial entitlements to develop in accordance with the Initiative and establish a process for future approvals; and making related amendments to Cupertino’s General Plan and Municipal Code.” (*See*, Title and Summary, Attachment B.)

The Proponents have until September 14, 2016—which is 180 days from the time they received the official title and summary—to gather and submit the requisite number of signatures to qualify the measure for placement on the ballot.

As with the prior initiatives, the City Council now has the option, if it so chooses, to direct staff to prepare a report on the effects of the Vallco Initiative. As previously stated, the Elections Code section 9212 Reports are to enable elected officials and the community to obtain a thorough understanding of the potential fiscal, legal, and other impacts of proposed initiatives.

A 9212 Report may be ordered at any time during the period that the Initiative is being circulated for signatures, or alternatively, at any time up until the City Council is presented with the City Clerk’s certification that the proponents have submitted sufficient signatures to qualify the measure for placement on the ballot.

Discussion

The Elections Code grants city councils broad discretion whether to order preparation of a 9212 Report and what topics to cover in such a report. Specifically, section 9212 provides that the City Council “may refer the proposed initiative measure to any city agency or agencies for a report on any or all of the following:

- (1) Its fiscal impact.
- (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 [certain affordable housing and anti-discrimination in housing statutes].
- (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.
- (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.

- (5) Its impact on the community's ability to attract and retain business and employment.
- (6) Its impact on the uses of vacant parcels of land.
- (7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization; [and]
- (8) *Any other matters the legislative body requests to be in the report."*

Elections Code § 9212(a) (emphasis added).

The 9212 Report must be presented to the Council no later than 30 days after the City Council meeting at which the City Clerk certifies the Vallco Initiative has qualified for the ballot. Elections Code § 9212(b). As will be discussed at March 31, 2016 Council Meeting for the CCSG Initiative, after receiving the report, the Council would then have the option of either adopting the Vallco Initiative exactly as proposed, or ordering it placed on the ballot.

The Elections Code also gives the Council broad discretion as to *when* to order such a report. It can do so now, wait, or not prepare one at all. Although the Council may wait to authorize the preparation of a 9212 Report, the time is necessary to ensure a thorough analysis of the Vallco Initiative's impact. Staff recommends that the Council order preparation of a Section 9212 Report and that it do so now in order to ensure that staff has the maximum amount of time.

Staff further recommends that the Council direct that the report address each of the specific items identified in Elections Code section 9212, to the extent applicable, and any other specific matters the Council desires to be discussed, including comparisons with other pending initiatives.

In addition, in order assist with the timely preparation of the report and to perform certain types of analyses that require additional expertise, staff recommends that the Council authorize the City Manager to retain appropriate consultants. The analysis on the environmental impacts will not be as extensive as an Environmental Impact Report (EIR), but will provide detail to inform the public.

Fiscal Impact

Staff recommends that the Council authorize the City Manager to spend up to \$180,000.00 to retain the necessary economic, environmental, and legal consultants to help prepare the Report and to appropriate these funds.

Sustainability Impact:

There is no sustainability impact for the preparation of the report.

Submission by: David Brandt, City Manager

Attachments:

A - Proposed Vallco Initiative

B – Title and Summary

C - Draft Resolution Ordering Preparation of an Elections Code Section 9212 Report