



AGENCY: City Council
MEETING DATE: November 9, 2015
DEPARTMENT: Administration
PRESENTED BY: L. Ruffing

AGENDA ITEM SUMMARY

TITLE:

RECEIVE REPORT, ACCEPT COUNTY CERTIFICATION OF SIGNATURES AFFIXED TO THE INITIATIVE MEASURE PROHIBITING SOCIAL SERVICE ORGANIZATIONS IN THE CENTRAL BUSINESS DISTRICT, AND CONSIDER ADOPTION OF CITY COUNCIL RESOLUTION CALLING A SPECIAL ELECTION PERTAINING TO THE MEASURE

ISSUE:

A citizens' initiative has been submitted with a sufficient number of signatures to qualify for a special election. The initiative measure would prohibit "social service organizations" in the Central Business District of Fort Bragg. The initiative measure is intended to apply retroactively to all social service organizations located in the Central Business District after January 1, 2015.

RECOMMENDED ACTION:

Accept the County certification by motion and adopt a resolution placing the initiative measure on the June 7, 2016 ballot.

ALTERNATIVE ACTION(S):

1. Modify the resolution to call for a non-consolidated special election on a date between February 5 and 20, 2016, or
2. Adopt the ordinance set forth in the initiative measure, or
3. Order a report on the initiative.

ANALYSIS:

On July 8, 2015, opponents of the Mendocino Coast Hospitality Center's acquisition of the Old Coast Hotel property filed a petition to place an initiative on the ballot that would prevent any social service organization from being located in the Central Business District ("Measure"). The full text of the Measure is presented in Attachment 1. The Initiative did not include a sufficient number of signatures.

The proposed measure purported to be retroactive to all social service organizations that located in the Central Business District (CBD) after January 2015. Specifically, the Measure sought to amend Section 18.22.020(c) of the Fort Bragg Inland Land Use and Development Code ("Zoning Code"), and to redefine the CBD to state:

"[a] social service organization is not a permitted use under any circumstances unless such organization was established and existed at a location within the CBD zoning district prior to January 1, 2015."

The Measure further sought to amend Table 2.6, located in Section 18.22.030 of the Zoning Code, to change the description of "social service organization" from a "Permitted Use" to "Not Allowed" in the CBD.

Zoning Code Section 18.100.010 defines a "social service organization" as:

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A public or quasi-public establishment providing social and/or rehabilitation services, serving persons with social or personal problems requiring special services, the handicapped, and the otherwise disadvantaged. Examples of this land use include: counseling centers, welfare offices, job counseling and training centers, or vocational rehabilitation agencies. Includes organizations soliciting funds to be used directly for these and related services, and establishments engaged in community improvement and neighborhood development. Does not include day-care services, emergency shelters and transitional housing, or "Residential Care," which are separately defined.

After failing to secure sufficient signatures to place the Measure on the ballot, the proponents of the Measure requested that the Council place the Initiative on the ballot. The Council discussed this issue on September 14, 2015 and declined to place the Measure on the ballot.

Thereafter, according to County examination certified on October 26, 2015, the proponents collected sufficient signatures to qualify the measure for a special election.

Analysis

The proponents of the Measure have received the requisite number of signatures for a special election according to the County examination. There are now two actions before the Council. First, the Council is requested to accept the County certification. Second, the Council is required to take one of three actions set forth in Elections Code section 9214:

- 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.
- b. Immediately order a special election, to be held pursuant to subdivision (a) of Section 1405, at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city.
- c. Order a report pursuant to Elections Code section 9212 at the meeting at which the certification is presented. When the report is presented, the City Council shall either adopt the ordinance within 10 days or order an election.

As stated above, the Council may elect to adopt the ordinance (*i.e.*, the Measure) without alteration. The Council may also order a report on the Measure, although the City Attorney previously provided information on the Measure at the September 15th Council meeting as noted above. Should the Council decide to submit the Measure to a vote of the City's electorate, the following timing for the election would apply:

In accordance with Elections Code Section 1405(a) a special election shall be held not less than 88 days nor more than 103 days after the order of election. However, pursuant to Elections Code Section 1405(a)(1):

"When it is legally possible to hold a special election on an initiative measure that has qualified pursuant to Section 9116, 9214, or 9310 within 180 days prior to a regular or special election occurring wholly or partially within the same territory, the election on the initiative measure may be held on the same date as, and be consolidated with, that regular or special election."

Since it is legally possible to hold a special election on the initiative measure within 180 days prior to the June 7, 2016 Statewide Primary Election, this special election may be consolidated with that election.

In the event that the Council decides to hold a non-consolidated special election, the time frame for required actions would be extremely tight. A non-consolidated special election would be held in mid- to late-February 2016.

Should the City Council choose to order an election, staff recommends that the City Council consolidate the election with the June 7, 2016 Statewide Primary Election in order to provide an appropriate amount of time to file arguments and rebuttals to the Measure and to save a substantial amount of money in conducting the election. The last two special elections cost the City between \$18,000 and \$23,000. The last consolidated election cost the City \$3,000.

Following the calling and setting of an election, California Elections Code Section 9280 authorizes the City Council to refer any City ballot measure to the City Attorney for preparation of an impartial analysis showing the effect of the measure on existing law and the operation of the measure. The analysis is printed in the ballot pamphlet immediately preceding the arguments for and against the measure. Should the City Council order an election, it should direct the City Attorney to prepare the impartial analysis.

The Elections Code also allows for the preparation of arguments for and against the proposed Measure and rebuttals to arguments for and against the proposed measure. The City Council itself can prepare an argument for or against the Measure, although it is not obligated to do so. The project proponents may prepare an argument in favor of the Measure. Other organizations or individual voters may also submit ballot arguments for or against the Initiative.

If the City Council would like to file an argument for or against the Measure, an ad hoc committee should be appointed by the Mayor to prepare the argument, and it can be considered by the full Council on the November 23, 2015 agenda. State law provides that the City Clerk is vested with authority to select the best arguments for the ballot. State law also gives the City Council's argument priority if the City Council chooses to submit one.

Also, it should be noted that the filers of the arguments for and against a measure have the first right to file rebuttal arguments, but may assign in writing that right to another party.

Finally, independent of any decision by City Council on whether or not it wishes to file an argument, the City Council may, at any time prior to the election, take a position either for or against the Initiative. Should the City Council wish to consider taking a formal position on the Initiative independent of preparation of a ballot argument, staff suggests the City Council select a date for a future meeting at which this issue may be considered.

IMPLEMENTATION/TIMEFRAMES:

If the Council would like to consider moving forward with placing the Measure on the ballot, the recommendation is to place the Initiative on the June 7, 2016 ballot.

ATTACHMENTS:

1. Initiative Measure
2. County Certification
3. Resolution Calling for Consolidated Special Election on June 7, 2016

NOTIFICATION:

1. Proponents of Initiative
2. Mendocino Coast Hospitality Center

3. Susan Ranochak, Mendocino County Registrar of Voters

City Clerk's Office Use Only

Agency Action	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Approved as Amended
Resolution No.:	_____	Ordinance No.:	_____
Moved by:	_____	Seconded by:	_____
Vote:	_____		
<input type="checkbox"/> Deferred/Continued to meeting of:	_____		
<input type="checkbox"/> Referred to:	_____		