

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: November 19, 2012

Reviewed by: BP

SUBJECT: Referendum against Ordinance No. 2012-04 Approving University Village Mixed Use Project Development Agreement - full analysis of options and potential next steps

REPORT BY: Nicole Almaguer, City Clerk

SUMMARY

This report provides additional analysis regarding options for City Council to consider with regard to the referendum petition against Ordinance No. 2012-04 Approving University Village Mixed Use Project Development.

STAFF RECOMMENDATION

That the Council:

- a) Introduce and approve for First Reading Ordinance No. 2012-07, Repealing Ordinance No. 2012-04, or
- b) Direct staff to return to Council with a prepared Resolution to submit Ordinance No. 2012-04 to the voters of the City of Albany, and identify the preferred future election date.

BACKGROUND

A referendum petition to refer or repeal Ordinance 2012-04 was filed with the City Clerk on August 16, 2012. The petition was examined to confirm sufficient number of signatures of registered Albany voters, and the referendum was reviewed to confirm compliance with the California Elections Code.

Pursuant to the California Elections Code Sections 9235 – 9247, if during a 30 day period following the passage of a legislative action, a referendum petition is filed with the City Clerk that is signed by not less than 10 percent of the voters of the city according to the

county elections official's last official report of registration to the Secretary of State, the effective date of the ordinance shall be suspended and the legislative body shall reconsider the ordinance. The last official report of registration to the Secretary of State identified a total of 9,933 registered voters within the City of Albany. Therefore, a total of 993 signatures are required to satisfy the 10 percent threshold as identified in the Elections Code. As reported at the October 1, 2012 City Council meeting, the Alameda County Registrar of Voters Office (ROV) confirmed a total of 993 signatures as required to satisfy the 10 percent threshold identified in the Elections Code, and certified the referendum petition as valid.

DISCUSSION

Pursuant to the Elections Code, upon confirmation of a valid referendum against an ordinance, the City Council is required to reconsider the ordinance in question. The Council now has two primary options to consider:

- (1) Repeal Ordinance No. 2012-04 Approving University Village Mixed Use Project Development Agreement, or
- (2) Submit Ordinance No. 2012-04 to the voters of the City of Albany at an upcoming election.

The following identifies upcoming election opportunities, cost and scheduling considerations. In addition, analysis regarding the potential repeal of the ordinance and potential impact on the University Mixed-Use Project is provided as a separate staff report.

Upcoming Elections

Per the Elections Code, if the Council does not entirely repeal the ordinance against which the petition is filed, the Council shall submit the ordinance to the voters, either at the next general municipal election or a special election, occurring not less than 88 days after the order of the Council. The City's next general municipal election will be held on November 4, 2014.

Staff has conferred with the Alameda County ROV to identify upcoming possible special election dates and associated costs for an election. The dates available for a special election include the following:

- March 5, 2013 – Polls Election
- May 7, 2013 – Vote By Mail Election
- June 4, 2013 – Polls Election
- August 27, 2013 – Vote By Mail Election

It should also be noted that Council must request via Resolution that the Alameda County ROV carry out an election a minimum of 88 days prior to the intended election. Scheduling consideration should also be given to allow sufficient time for the filing of direct and

rebuttal arguments.

Polls Election

Per the Alameda County ROV, the estimated cost for a stand-alone (non-consolidated) polls election is \$12.25 per registered voter, equating to an approximate total of \$121,679. It should be noted that this number could vary should the number of registered voters change between now and the future election date. Additional costs to the City will be incurred to administer election materials including the cost of translation and publication.

Vote By Mail Election

Per the Alameda County ROV, the estimated cost for a vote by mail election is \$5.25 per registered voter, equating to an approximate cost of \$52,148. As discussed above, additional costs to the City will be incurred to administer election materials including the cost of translation and publication. In discussions with the Registrar of Voters, staff has been informed that the voter turnout is typically higher with a vote by mail election in comparison to a polls election. Vote by mail elections are subject to particular dates during the year as identified in the Elections Code.

SUSTAINABILITY IMPACT

N/A.

FINANCIAL IMPACT

If a special election is pursued, costs associated with the election range between \$5.25 and \$12.25 per registered voter depending on type of election, amounting to an estimated total of \$52,148 - \$121,679, as well as additional costs to the City for staff time involved in administering an election including publication and translation services.

Attachments

1. Correspondence from the Alameda County Registrar of Voters Office (Elections Information)
2. Ordinance No. 2012-07 Repealing Ordinance No. 2012-04