



Atascadero City Council

Staff Report - City Clerk

Initiative Petition to Amend the General Plan and Zoning Code

RECOMMENDATIONS:

Council:

1. Receive the Certificate of Sufficiency from the City Clerk, certifying the *Initiative Petition to Amend the General Plan and Zoning Code to Prohibit Commercial Establishments in Excess of 150,000 Square Feet of Gross Floor Area or Retail Discount Stores in Excess of 90,000 Square Feet with at Least 5% of Gross Floor Area Dedicated To Items Such As Groceries* that was filed with the City Clerk on May 8, 2008;

AND

2. Take one of the following actions:
 - a. Adopt the proposed Ordinance, without alteration, amending the General Plan and Zoning Code to Prohibit Commercial Establishments in Excess of 150,000 Square Feet of Gross Floor Area or Retail Discount Stores in Excess of 90,000 Square Feet with at Least 5% of Gross Floor Area Dedicated to Items Such as Groceries.

OR

- b. Call for an election.
 - i. Submit the Ordinance, without alteration, to the voters by adopting the Draft Resolution A, ordering the submission, to the qualified electors of the City, of a certain measure relating to amending the General Plan and Zoning Code, at the General Municipal Election to be held on Tuesday, November 4, 2008, as called by Resolution No. _____; and,
 - ii. Adopt Draft Resolution B, setting priorities for filing written arguments regarding a City measure and directing the City Attorney to prepare an impartial analysis.

OR

- c. Order a report on the impact the adoption of this ordinance would have on the City. (*Once the Council receives this report, the Council shall either adopt the ordinance within 10 days or order an election.*)

DISCUSSION:

A proposed ordinance may be submitted to the City Council by a petition filed with the City Clerk. This type of petition is called an initiative petition. Proponents of an initiative petition must file a Notice of Intention to Circulate a Petition, and publish the Notice of Intention in a newspaper of general circulation, and circulate the petition to acquire signatures of registered voters.

The initiative petition must be signed by not less than 10 percent of the registered voters of the City. The number of registered voters is determined by the San Luis Obispo County Clerk/Recorder's last official report of registration to the Secretary of State. The number of registered voters for the City of Atascadero, as per the last report of registration to the Secretary of State, is 15,114. Therefore, an initiative petition would need 1,511 (10%) valid signatures to be sufficient.

Proponents circulated the *Initiative Petition to Amend the General Plan and Zoning Code to Prohibit Commercial Establishments in Excess of 150,000 Square Feet of Gross Floor Area or Retail Discount Stores in Excess of 90,000 Square Feet with at Least 5% of Gross Floor Area Dedicated To Items Such As Groceries*, and submitted it to the City Clerk on May 8, 2008. The California Elections Code (CEC) requires that the signatures be verified. The Petition contained an unofficial prima facie count of 2,218 signatures. The number of signatures reviewed was 1,971. The number of signatures found to be insufficient was 375, and the number of signatures found to be sufficient was 1,596.

The California Elections Code states that if the City Clerk finds the petition to be sufficient, she shall certify the results to the City Council. The City Council is to accept the Certificate of Sufficiency and take one of the following three actions:

1. Adopt the Ordinance (attached to this report), without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented. The ordinance would go into effect 10 days from adoption.
2. Call for an election. Any election must be not less than 88 days after the call for an election by the City Council, and must be scheduled on a Tuesday. The Council will need to adopt a Resolution ordering the submission of a Ballot Measure to the registered voters of the City on the November 4, 2008 ballot.
3. Order a report, at the regular meeting at which the certification of the petition is presented, on the impact the adoption of this ordinance would have on the City. When the report is presented to the legislative body, which must be no later than 30 days from Council's request for the report, the legislative body shall either adopt the ordinance within 10 days or order an election.

If the City Council calls for an election, a ballot measure will be placed on the ballot, asking the voters (approximate wording):

<i>Should the City amend the General Plan and Zoning Code to Prohibit Commercial Establishments in Excess of 150,000 Square Feet of Gross Floor Area or Retail Discount Stores in Excess of 90,000 Square Feet with at Least 5% of Gross Floor Area Dedicated To Items Such As Groceries</i>	YES
	NO

The summary of the proposed ordinance, prepared by the City Attorney in January 2008, and the full text of the proposed ordinance, would be included in the voter pamphlet. These documents are attached to this report.

The City Council may direct the City Attorney to prepare an impartial analysis of the measure, showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis would be printed preceding the arguments for and against the measure in the voter pamphlet, and shall not exceed 500 words in length.

The persons filing an initiative petition may file a written argument in favor of the ordinance, and the legislative body may submit an argument against the ordinance. Also, any registered voter may file with the City Clerk written arguments in opposition or in favor of the ballot measure. Arguments shall not exceed 300 words in length. These arguments would be included in the voter pamphlet. If more than one argument in favor is filed, or more than one argument opposed is filed, the City Clerk will select one of each to be included in the Voter Pamphlet, as directed in the California Election Code Section 9287.

The City Clerk has fixed July 8, 2008 as the last day for submitting arguments for and against the ballot measure, and the impartial analysis by the City Attorney. This will allow ample time for the 10-calendar-day public examination period, translation, typesetting, printing and submission to the County. A notice of this deadline will be posted on the front window of City Hall.

Rebuttal arguments may be filed by the authors of the selected arguments in favor and/or opposed as approved in Atascadero City Council Resolution No. 2002-028. The City Clerk has fixed July 22, 2008 as the deadline for the filing of rebuttal arguments.

Except for the written arguments, the City must remain neutral concerning this issue until after the election. Public funds must not be used to advocate for or against the ballot measure.

FISCAL IMPACT:

The cost to the City is determined by the number of registered voters on Election Day, and the number of pages used in the Voter Pamphlet for the Ballot Measure text, impartial analysis and arguments. The City Clerk’s estimate is \$2,000.00.

ALTERNATIVES:

The Council must take one of the actions recommended.

ITEM NUMBER:
DATE:

B - 1
6-24-08

ATTACHMENTS:

1. Certificate of Sufficiency
2. Proposed Ordinance
3. Draft Resolution A
4. Draft Resolution B
5. Resolution No. 2002-028
6. Ballot Summary