



MEMORANDUM

TO: CITY COUNCIL

FROM: JAMES A. BERGMAN, CITY MANAGER

SUBJECT: RESEARCH RELATED TO THE PLACEMENT OF ADVISORY MEASURE(S) ON THE BALLOT DURING AN ELECTION

DATE: JUNE 26, 2018

SUMMARY OF ACTION:

Receive and discuss information related to placing an advisory measure(s) on the topic of commercial cannabis on the November 2018 General Municipal Election ballot.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

This report involved approximately 6 hours of time by the City Clerk, the City Manager, and the City Attorney.

RECOMMENDATION:

It is recommended that the City Council provide direction to staff on whether or not to proceed with consideration of advisory measure(s) on the topic of commercial cannabis to appear on the November 2018 General Municipal Election ballot.

BACKGROUND:

Summary of the Issue

At the June 12, 2018 City Council meeting, Mayor Pro Tem Ray requested, and Council Member Brown agreed, that an item researching the requirements and discussing the use of an advisory measure related to commercial cannabis be placed on the next agenda.

ANALYSIS OF ISSUES:

Advisory Measures – General Information

An advisory vote on the ballot is a type of ballot measure in which citizens vote on a non-binding question. Cities put this type of measure on the ballot to gauge the opinion of a majority of voters without having a legally binding result. The largest difference between an advisory vote and any other type of ballot measure is that the outcome of the ballot question will not result in a new, changed, or rejected law. Rather, the advisory question provides the general opinion of the voting population concerning the issue at hand. Advisory measures about how to spend revenue are commonly put on the ballot in tandem with a specific revenue measure.

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California Elections Code Section 9603 (below) allows a City Council to hold elections in which advisory measures can be placed on the ballot, as follows:

9603.

(a) Each city, county, school district, community college district, county board of education, and special district may hold, at its discretion, an advisory election on any date on which that jurisdiction is currently permitted to hold a regular or special election for the purpose of allowing voters within the jurisdiction, or a portion thereof, to voice their opinions on substantive issues, or to indicate to the local legislative body approval or disapproval of the ballot proposal.

(b) An advisory vote will be indicated as a ballot heading, above the ballot proposal, and by only the following description: "Advisory Vote Only."

(c) As used in this section, "advisory vote" means an indication of general voter opinion regarding the ballot proposal. The results of the advisory vote will in no manner be controlling on the sponsoring legislative body.

Other specific requirements for ballot measures include the following:

- Ballot measure question not to exceed 75 words
- City Attorney Impartial Analysis not to exceed 500 words
- Primary Argument not to exceed 300 words
- Rebuttal Argument not to exceed 250 words

Examples

The following are examples of general cannabis advisory measures submitted to the voters in various counties and cities since 2006:

- City of Albany (2006)
 - Do you support the establishment of a single medical marijuana dispensary in the City of Albany, to be subject to regulations that the City Council will incorporate into the Municipal Code prior to consideration of any permit for such a dispensary?
- City of Weed (2014)
 - Shall the City of Weed prohibit the outdoor growth of medical Marijuana?
 - Shall the City of Weed permit the licensing and operation of one or more medical Marijuana dispensaries?
- County of Sierra (2016)
 - Should the County of Sierra adopt an ordinance which would allow commercial marijuana activities within the County, including but not limited to cultivation, processing, distribution, warehousing and transportation of marijuana?

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- County of Inyo (2016)
 - Should the County of Inyo adopt regulations which would allow COMMERCIAL cannabis businesses within the County, including but not limited to, cultivation, processing, manufacturing, sales, distribution, warehousing and transportation of MEDICAL cannabis?
 - If Proposition 64, the California Marijuana Legalization Initiative Statute, passes, should the County of Inyo adopt regulations which would allow COMMERCIAL cannabis businesses within the County, including but not limited to, cultivation, processing, manufacturing, sales, distribution, warehousing and transportation of RECREATIONAL cannabis?

Deadlines and Timing

The deadline for submitting a City Council Resolution to the San Luis Obispo County Clerk requesting placement of a measure(s) on the November 2018 ballot is August 10, 2018; however, there are a number of other deadlines associated with the measure relating to the submittal of the impartial analysis, potential arguments, and the required public review periods that are established once a measure is officially placed on the ballot by the City Council.

The City Council has two regular meetings in July to consider the placement of a measure on the ballot; however, the City Council has already taken action on April 24th to cancel the first meeting in July (July 10th) consistent with past practice during the summer months, and the July 24th regular meeting shortens the amount of time available for preparing and providing sufficient time for public review of documents associated with the measure, such as the impartial analysis and potential arguments in support or opposition of the advisory measure. As a result, if the Council opts to proceed with the placement of an advisory measure(s) on the November 2018 ballot, it is recommended the Council reconsider holding its regular July 10th meeting or consider scheduling a special meeting not later than July 10th to provide sufficient time for preparation of the documents and public review.

In order to allow sufficient time to process the required paperwork and fall within the County's deadlines for submitting a measure(s) on the November 6, 2018 ballot, listed below is the order of events and timeline if Council were to take action on July 10th. Dates can be adjusted based on an earlier meeting date (i.e., if a special meeting were to occur earlier than July 10):

July 10	Adopt a Resolution adding a measure(s) to an existing Election, a Resolution setting priorities for filing written arguments and directing the City Attorney to prepare an impartial analysis, and a Resolution providing for rebuttal arguments regarding City measures
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July 11	Post Notice of Deadline for Filing Arguments
By July 16	Publish Notice of Election and Measure(s) to be voted on
July 20	Impartial Analysis due from City Attorney
July 20	Last Day to File Primary Arguments
July 21-July 30	Public Examination Period
July 31	Last Day to File Rebuttal Arguments
August 1-10	Public Examination Period
August 10	File final documents with County Clerk

ALTERNATIVES:

The following alternatives are provided for the Council's consideration:

1. Review the forgoing information and provide direction to staff whether or not to proceed with efforts to place an advisory measure(s) on the November 6, 2018 General Municipal Election ballot;
2. If the Council decides to move forward with placement of an advisory measure on the November 2018 ballot, provide direction to staff regarding the advisory question(s) as it relates to allowing or prohibiting certain cannabis activities;
3. Do not proceed with an advisory measure at this time and consider other options for seeking community input, such as through public workshops, surveys, and/or the retention of a polling firm; or
4. Provide other direction to staff.

ADVANTAGES:

Placing an advisory measure(s) on the November 2018 General Election ballot would advise the City Council of the opinion of the voters on the subject of commercial cannabis land uses and activities in the City. Results of an advisory measure in November 2018 could provide information on public sentiment that would inform possible revenue tax measures in 2020.

DISADVANTAGES:

Placing an advisory measure(s) on the General Election is estimated to increase the cost of the City's general municipal election by \$3,000 to \$5,000 and would also require time

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commitments from the City Clerk, City Manager, and City Attorney to prepare the required documents necessary for placing a measure(s) on the November ballot. Public sentiment related to commercial cannabis activities could change between November 2018 and 2020. Results of the advisory measure(s) may not accurately reflect voter opinions in the future.

ENVIRONMENTAL REVIEW:

No environmental review is required for this item.

PUBLIC NOTIFICATION AND COMMENTS:

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

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