



DISCUSSION ITEMS

Agenda Item # 15

AGENDA REPORT SUMMARY

Meeting Date: July 10, 2018

Subject: City-owned land measure

Prepared by: Staff

Attachment(s):

1. Resolution No. 2018-25

Initiated by:

City Council

Previous Council Consideration:

May 22, 2018, June 12, 2018 and June 26, 2018

Fiscal Impact:

Should the Council choose to place the measure on the ballot, the estimated cost to do so from the Registrar of Voters Office is approximately \$50,000 for the November 2018 ballot

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

- Does the Council wish to submit a measure to the voters requiring voter approval for the sale or transfer of City-owned land? What types of land would this apply to?
- Does the Council wish to include the lease of City-owned land in such a measure?

Summary:

- Council must adopt a resolution by August 10, 2018 to place a measure on the November 2018 ballot

Staff Recommendation:

Adopt Resolution No. 2018-25 submitting to the qualified voters of the City of Los Altos a measure requiring voter approval for the sale or transfer of title of City-owned parcels of land or the re-designation of Parks and Other Open Space, and 2/3rds approval of the City Council for the lease of City-owned land, and consolidating said election with the Statewide General Election to be held on November 6, 2018



Subject: City-owned land measure

Purpose

To submit a measure to voters regarding City-owned land

Background

On May 22, 2018, the City Council directed staff to prepare a measure to be placed on a ballot which would require voter approval for the sale or transfer of any property designated as a park and the re-designation of parkland within the City of Los Altos. On June 12 and June 26, 2018, the City Council provided further direction to staff regarding the elements of the measure.

Discussion/Analysis

Based on Council direction provided at the May 22, 2018 and June 12, 2018 meetings, staff has prepared the attached Resolution.

Recommendation

Adopt Resolution No. 2018-25

RESOLUTION NO. 2018-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS, CALIFORNIA, SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY A PROPOSED MEASURE AMENDING THE GENERAL PLAN TO REQUIRE VOTER APPROVAL FOR: (1) THE SALE OR TRANSFER OF TITLE OF CITY-OWNED LAND DESIGNATED AS "PARKS", "OTHER OPEN SPACE", OR "PUBLIC AND INSTITUTIONAL"; (2) THE REDESIGNATION OF CITY-OWNED LAND DESIGNATED AS "PARKS" OR "OTHER OPEN SPACE", AND (3) REQUIRING TWO-THIRDS CITY COUNCIL APPROVAL FOR THE NEW LEASING OF CITY-OWNED LAND DESIGNATED AS "PARKS", "OTHER OPEN SPACE", OR "PUBLIC AND INSTITUTIONAL" FOR LONGER THAN _____ YEARS, AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 6, 2018; REQUESTING THE COUNTY OF SANTA CLARA TO CONSOLIDATE SAID ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE; AND SETTING RULES FOR ARGUMENTS AND REBUTTALS FOR AND AGAINST THE MEASURE

WHEREAS, pursuant to the California Elections Code, a petition has been filed with the City Council of the City of Los Altos, California, proposing an amendment to the City of Los Altos General Plan to require voter approval of the sale, lease or certain changes in use of certain land designated as "Parks", "Other Open Space" or "Public and Institutional" in the City's General Plan (the "Petition Measure"); and

WHEREAS, the City Clerk's office has examined the records of voter registration and ascertained that the Petition Measure was signed by the requisite number of voters, and has so certified; and

WHEREAS, the City Council has not voted in favor of adoption of the Petition Measure and therefore, pursuant to the California Elections Code, adopted Resolution No. 2018-_____ to place the Petition Measure before the City's voters on the November 6, 2018 General Municipal Election ballot; and

WHEREAS, the City Council desires to place a competing measure on the November 6, 2018 General Municipal Election ballot that would amend the City of Los Altos General Plan differently from the Petition Measure. Specifically, this Measure would (i) require voter approval of the sale or transfer of title of any City-owned land with a General Plan land use designation of "Parks", "Other Open Space", or "Public and Institutional;" (ii) require voter approval of the redesignation of any City-owned land with a General Plan land use designation of "Parks" or "Other Open Space" to any other use, and (iii) require a two-thirds (2/3) supermajority vote of the membership of the City Council to enter into any new lease of City-owned land with a General Plan land use designation of "Parks", "Other Open Space", or "Public and Institutional" for a term longer than _____ years; and

WHEREAS, pursuant to Section 9222 of the California Elections Code, the City Council has authority to place measures on the ballot to be considered at a Municipal Election; and

WHEREAS, by adoption of Resolution No. 2018- , on July 10, 2018 the City Council has called a General Municipal Election to elect 2 members to the City Council, said Election to be consolidated with the Statewide General Election to be held on Tuesday, November 6, 2018; and

WHEREAS, the City Council also desires to request that the election for this Measure be consolidated with the Statewide General Election to be held on November 6, 2018; and

WHEREAS, pursuant to California Elections Code Section 9285 and 9286, the City Council further desires to establish rules and regulations for the preparation, submittal and printing of arguments and rebuttals for and against the Measure described herein; and

WHEREAS, the specific terms relating to the General Plan amendment are provided for in the resolution to be considered by the qualified voters, attached hereto as Exhibit “A” (the “Measure”) and by this reference made an operative part hereof, and in accordance with all applicable laws.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOS ALTOS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Recitals. The City Council hereby finds and determines that the foregoing recitals are true and correct, are incorporated herein and by this reference and made an operative part hereof.

SECTION 2. Submission of Ballot Measure. The City Council, pursuant to its right and authority as contained in Elections Code section 9222 and any other laws applicable to general law cities, hereby orders the Measure attached hereto as Exhibit A” to be submitted to the qualified voters of the City at the General Municipal Election to be held and consolidated with the Statewide General Election on Tuesday, November 6, 2018. The proposed Measure shall be in the form attached hereto as Exhibit “A” to this Resolution and is hereby incorporated by this reference as if fully set forth herein.

SECTION 3. Ballot Measure. The City Council, pursuant to its right and authority, does hereby order that the Measure shall be presented and printed upon the ballot submitted to the qualified voters in the manner and form set forth in this Section 3. On the ballot to be submitted to the qualified voters at the General Municipal Election to be consolidated with the Statewide General Election on Tuesday, November 6, 2018, in addition to any other matters required by law, there shall be printed substantially the following:

<p>“Shall an amendment to the City of Los Altos General Plan be adopted requiring voter approval for the sale or transfer of title of City-owned land designated as “Parks”, “Other Open Space”, or “Public and Institutional”, the redesignation of City-owned land designated as “Parks” or “Other Open Space”; and requiring a 2/3 Council <i>approval</i> for new leasing of City-owned land designated as “Parks”, “Other Open Space”, or “Public and Institutional” lands if longer than __ years?”</p>	YES	
	NO	

SECTION 4. Election Procedures.

- A. The City Council consents to the consolidation of the election on this measure with all other elections being held in the same territory on November 6, 2018, and to hold and conduct the consolidated election in the manner prescribed in Elections Code Section 10418.
- B. The ballots to be used at the election shall be in the form and content as required by law.
- C. In accordance with Section 10002 of the Elections Code, the Board of Supervisors of Santa Clara County is hereby requested to consent to having the Registrar of Voters render such election services to the City of Los Altos as may be requested by the City Clerk of said City, the County of Santa Clara to be reimbursed in full for such services as are performed.
- D. The election services which the City of Los Altos requests the Registrar of Voters, or such other official as may be appropriate, to perform and which such officer is hereby authorized and directed to perform, if said Board of Supervisors consents, include: the preparation, printing and mailing of sample ballots and polling place cards; the establishment or appointment of precincts, polling places, and election officers, and making such publications as are required by law in connection therewith; the furnishing of ballots, voting booths and other necessary supplies or materials for polling places; the canvassing of the returns of the election and the furnishing of the results of such canvassing to the City Clerk of the City of Los Altos; and the performance of such other election services as may be requested by the City Clerk.
- E. The City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.
- F. The polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, except as provided in Section 14401 of the Elections Code of the State of California.
- G. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections in the City.

- H. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form, and manner as required by law.
- I. All ballots shall be tallied at a central counting place and not at the precincts. Said central counting place shall be at a County center as designated by the Registrar of Voters.
- J. The Santa Clara County Registrar of Voters is hereby authorized to canvass the returns of said election.
- K. The City Clerk of the City of Los Altos shall receive the canvass as it pertains to the election on the measure, and shall certify the results to the City Council, as required by law.

SECTION 5. Direct Arguments and Impartial Analysis.

- A. The City Council authorizes (i) the City Council or any member(s) of the City Council, (ii) any individual voter eligible to vote on the above measure, (iii) a bona fide association of such citizens or (iv) any combination of voters and associations, to file a written direct argument in favor of or against the Measure, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and may change the direct argument until and including August 14, 2018 after which no direct arguments for or against the measure may be submitted to the City Clerk. Direct arguments in favor of or against the Measure shall each not exceed 300 words in length. Each direct argument shall be filed with the City Clerk, signed, and include the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the direct argument.
- B. The City Clerk shall comply with all provisions of law establishing priority of arguments for printing and distribution to the voters and shall take all necessary actions to cause the selected arguments to be printed and distributed to the voters.
- C. Pursuant to Section 9280 of the Elections Code, the City Council directs the City Clerk to transmit a copy of the Measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the Measure, not to exceed 500 words in length, showing the effect of the Measure on the existing law and the operation of the measure. The City Attorney shall transmit such impartial analysis to the City Clerk, who shall cause the analysis to be published in the voter information guide along with the Measure as provided by law. The impartial analysis shall be filed by the deadline set for filing of direct arguments as set forth in subsection (A) above. The impartial analysis shall include a statement indicating whether the Measure was placed on the ballot by a petition signed by the requisite number of voters or by the City Council. In the event the entire text of the Measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-font bold type, the following:

“The above statement is an impartial analysis of Measure _____. If you desire a copy of the measure, please call the election official’s office at (_____) and a copy will be mailed at no cost to you.”

SECTION 6. Rebuttals. That pursuant to Section 9285 of the Elections Code of the State of California, when the City Clerk has selected the direct arguments for and against the Measure which will be printed and distributed to the voters, the City Clerk shall send copies of the direct argument in favor of the Measure to the authors of the direct argument against, and copies of the direct argument against to the authors of the direct argument in favor. The authors or persons designated by them may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the City Clerk not later than August 21, 2018. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

SECTION 7. Placement on the Ballot. The full text of the Measure shall be printed in the voter information guide, and a statement shall be printed in the ballot pursuant to Section 9223 of the Elections Code advising voters that they may obtain a copy of this ballot Measure, at no cost, upon request made to the City Clerk.

SECTION 8. Delivery of Resolution to County. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions. The City Council directs the City Clerk to deliver copies of this Resolution, including the Measure attached hereto as Exhibit “A”, to the Clerk of the Board of Supervisors of Santa Clara County and to the Registrar of Voters of Santa Clara County.

SECTION 9. CEQA. The City Council hereby finds and determines that the ballot Measure relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is not a project within the meaning of the California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines, section 15378(b)(5). Alternately, the ballot measure is exempt from CEQA pursuant to State CEQA Guidelines, section 15061(b)(3), “the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment” as the measure has no potential to result in a direct, or reasonably foreseeable indirect, impact on the environment.

SECTION 10. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

SECTION 11. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on 10th day of July 2018

by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jean Mordo, MAYOR

Attest:

Jon Maginot, CMC, CITY CLERK

ATTACHMENT 1

EXHIBIT “A”

RESOLUTION NO. _____

A RESOLUTION OF THE PEOPLE OF THE CITY OF LOS ALTOS, CALIFORNIA, AMENDING THE GENERAL PLAN TO REQUIRE VOTER APPROVAL FOR THE (1) THE SALE OR TRANSFER OF TITLE OF CITY-OWNED LAND DESIGNATED AS “PARKS”, “OTHER OPEN SPACE”, OR “PUBLIC AND INSTITUTIONAL”; (2) THE REDESIGNATION OF CITY-OWNED LAND DESIGNATED AS “PARKS” OR “OTHER OPEN SPACE” AND (3) REQUIRING TWO-THIRDS CITY COUNCIL APPROVAL FOR THE NEW LEASING OF CITY-OWNED LAND DESIGNATED AS “PARKS”, “OTHER OPEN SPACE”, OR “PUBLIC AND INSTITUTIONAL” FOR LONGER THAN _____ YEARS.

NOW THEREFORE, THE PEOPLE OF THE CITY OF LOS ALTOS DO RESOLVE AS FOLLOWS:

SECTION 1. Subject to the approval of a majority of the voters of the City of Los Altos at the scheduled election so designated by the City Council in a resolution placing the proposal on the ballot for such election, the Los Altos General Plan is hereby amended by adding or amending the following Goals and Policies, to read as follows:

A. Additions to General Plan. The following Goals 1A, 1B, 1C and Policies 1A.1, 1A.2, 1B.1, and 1B.2 are hereby added to the General Plan immediately following Goal 1 on page 10 of the Open Space, Conservation and Community Facilities Element of the General Plan:

Goal 1A: Require Voter Approval for the Sale or Transfer of Title of City-owned Land Designated as “Parks”, “Other Open Space”, or “Public and Institutional”, or Redesignation of City-owned Land Designated as “Parks” or “Other Open Space” in the General Plan.

Policy 1A.1: Voter approval shall be required for any of the following:

a. The sale or transfer of title of City-owned land with a General Plan land use designation of “Parks”, “Other Open Space”, or “Public and Institutional” to another party, whether public or private; and

b. The redesignation of City-owned land with a land use designation of “Parks” or “Other Open Space” to a different land use designation, except that the redesignation of any City-owned land from “Parks” to “Other Open Space”, and vice versa, shall not require voter approval.

ATTACHMENT 1

Policy 1A.2: Procedure and Exemptions. For purposes of this Policy, approval by a vote of the People is accomplished when an action is placed on the ballot at a general or special election through any procedure authorized in the California Elections Code, and a majority of the voters voting on the measure vote in favor of it.

Goal 1B: Require Two-Thirds City Council Approval for the Lease of City-Owned Land for Longer than _____ Years.

Policy 1B.1: A two-thirds supermajority vote of the membership of the City Council shall be required for the City to approve any new lease of City-owned land for a period of _____ years or longer with a General Plan land use designation of “Parks”, “Other Open Space”, or “Public and Institutional”.

Policy 1B.2: The City Council may, without a two-thirds supermajority vote of its membership, approve any amendment to or extension of a lease of City-owned land with a General Plan land use designation of “Parks”, “Other Open Space”, or “Public and Institutional” whose original term commenced prior to the effective date of this Policy provided the action is otherwise in compliance with existing law.

Goal 1B or 1C The voter approval requirement and City Council supermajority requirement contained in Policy 1.A.1 and 1.B.1 may be waived by the City Council where necessary to comply with State or Federal law governing the provision of housing, including but not limited to affordable housing requirements.

B. Conforming Amendments to General Plan. In order to promote internal consistency among the various sections of the General Plan amended by Section 1(A) above, the following Policies of the General Plan are hereby amended:

1. Policy 3.6 on page 12 of the General Plan Community Design & Historic Resources Element is amended as follows:

“Evaluate the public benefit of City-owned parking plaza and the best use thereof, while preserving or increasing public parking Downtown, *consistent with the requirements of Goal 1A and 1B of the Open Space, Conservation and Community Facilities Element of the General Plan and their respective Policies.*”

2. The Open Space and Conservation Plan on page 3 of the General Plan Open Space, Conservation and Community Facilities Element is amended as follows:

“In order to preserve and enhance community open space resources, *and consistent with the requirements of Goals 1A and 1B of the Open Space, Conservation and Community Facilities Element of the General Plan and their respective Policies,* the City will implement a program that

ATTACHMENT 1

supports the joint-venture use of open space areas to reduce City maintenance costs and increase City revenues for maintaining open space resources. Joint ventures could involve other local government agencies, non-profits, and private development of commercial recreation facilities. The City will also coordinate with public and private organizations to provide revenue generating open space uses to protect important open space resources, *consistent with the requirements of Goals 1A and 1B of the Open Space, Conservation and Community Facilities Element of the General Plan and their respective Policies.*

3. Goal 11 on page 14 of the Open Space, Conservation and Community Facilities Element is amended as follows:

“Maximize opportunities for joint public and private utilization of City, private sector, private school land and facilities, and public school district land, facilities, programs and resources to provide the most cost efficient and effective services for present and future Los Altos residents, *consistent with the requirements of Goals 1A and 1B of the Open Space, Conservation and Community Facilities Element of the General Plan and their respective Policies.*”

4. Policy 11.4 on page 14 of the Open Space, Conservation and Community Facilities Element is amended as follows:

“Encourage private sector provision of facilities and/or services, *consistent with the requirements of Goals 1A and 1B of the Open Space, Conservation and Community Facilities Element of the General Plan and their respective Policies.*”

SECTION 2. Exemptions. The provisions of this Measure shall not apply to the extent they would violate the Constitution or laws of the United States or the State of California.

SECTION 3. Severability. If any portion of this Measure is declared invalid by a court of law or other legal body with applicable authority, the invalidity shall not affect or prohibit the force and effect of any other provision or application of the Measure that is not deemed invalid. The voters of the City hereby declare that they would have voted for the adoption of this Measure, and each portion thereof, regardless of the fact that any portion of the Measure may be subsequently deemed invalid.

SECTION 4. Effective Date and Implementation.

A. Pursuant to California Elections Code Section 9217, this Measure shall take effect only if approved by a majority of the eligible voters of the City of Los Altos voting at a General Municipal Election to be held on November 6, 2018.

B. Pursuant to California Elections Code Section 9221, this Measure is expressly declared

ATTACHMENT 1

by the voters to conflict with Los Altos Measure “__” (the “Petition Measure” establishing different voter approval requirements for the sale, transfer, lease and redesignation of City-owned land). Therefore, if both this Measure and the Petition Measure are approved by a majority of eligible Los Altos voters, the one receiving the highest number of affirmative votes shall become effective and the other shall be of no force and effect.

C. Either this Measure or the Petition Measure, whichever receives the highest number of affirmative votes pursuant to California Elections Code Section 9221, shall be deemed adopted and take effect ten (10) days after the City Council has certified the results of that election by resolution.

D. Upon the effective date of this Measure, the provisions of Section 1 are hereby incorporated into the Los Altos General Plan, as an amendment thereof, except that if the four amendments of the mandatory elements of the General Plan permitted by State law for any given calendar year have already been utilized in the year in which this Measure becomes effective, this General Plan amendment shall be the first amendment incorporated into the City of Los Altos General Plan on January 1 of the following year.

SECTION 5. Repeal/Amendment of Measure. This Measure shall not be repealed or amended, except by a measure approved by a majority of the electors voting on the issue at a General Municipal Election, or at a special election called for that purpose.

SECTION 6. CEQA. The City Council hereby finds and determines that the Measure relates to organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment, and therefore is not a project within the meaning of the California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines, sections 15378(b)(5). Alternately, this Measure is exempt from CEQA pursuant to State CEQA Guidelines, section 15061(b)(3), “the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment” as the measure has no potential to result in a direct, or reasonably foreseeable indirect, impact on the environment.

SECTION 7. The Mayor is hereby authorized to attest to the adoption of this Measure by the People voting thereon on November 6, 2018, by signing where indicated below.

I hereby certify that the foregoing Measure was PASSED, APPROVED AND ADOPTED by the people of the City of Los Altos on the 6th day of November, 2018.

Jean Mordo, MAYOR

Attest:

ATTACHMENT 1

Jon Maginot, CMC, CITY CLERK

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