



AGENDA REPORT

TO: Honorable Mayor and Members of City Council

FROM: David C. Laredo, City Attorney

MEETING DATE: January 20, 2016

SUBJECT: Calling a Special Municipal Election on April 19, 2016 and Submitting the American Tin Cannery (ATC) ballot initiative, adding Section 23.31.025 to the Pacific Grove Municipal Code

CEQA: Does not Constitute a “Project” per California Environmental Quality Act (CEQA) Guidelines

RECOMMENDATION

Adopt a Resolution to call the special municipal election for April 19, 2016 and submit to voters an initiative to add Section 23.31.025 to the Pacific Grove Municipal Code.

DISCUSSION

An election initiative has been circulated within the City of Pacific Grove, entitled: “American Tin Cannery (ATC) ballot initiative, adding Section 23.31.025 to the Pacific Grove Municipal Code.”

On January 7, 2016, the Monterey County Registrar of Voters determined that 1,108 signatures on the Initiative were valid. This is sufficient number to qualify the initiative measure for the ballot and to call a special election.

The draft Resolution calls for a Special Municipal Election on April 19, 2016. The last day to submit arguments for or against the proposed measure is January 29, 2016. The last day to submit rebuttal arguments for the proposed measure is February 8, 2016. The City Attorney must prepare an impartial analysis of the measure pursuant to Elections Code § 9280 no later than February 8, 2016.

FISCAL IMPACT

Costs charged to the City by the Monterey County Elections Department to add a ballot measure for a special election are estimated at \$14-\$20 per voter or \$129,850-\$185,500.

OPTIONS

Pursuant to Elections Code § 9215, the Council has the option to place the initiative on the ballot at the next statewide election occurring not less than 88 days after the date of the order of election. The cost of consolidating the matter at the next statewide election (June 7 or November 8) is estimated at \$6-\$8 per voter or \$55,650-\$74,200.

ATTACHMENTS

1. Certificate of Initiative
2. Resolution Calling Special Municipal Election
3. Service Agreement for the Provision of Election Services by Monterey County Registrar of Voters

RESPECTFULLY SUBMITTED,

David C. Laredo

David C. Laredo
City Attorney

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MONTEREY COUNTY ELECTIONS



PO Box 4400
Salinas, CA 93912

1370-B South Main Street
Salinas, CA 93901

831-796-1499 Phone
831-755-5485 Fax

www.MontereyCountyElections.us

elections@co.monterey.ca.us

Claudio Valenzuela
Registrar of Voters

Gina Martinez
Assistant Registrar of Voters

Agenda No. 13C, Attachment 1
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Certificate to Initiative

American Tin Cannery (ATC) ballot initiative, adding Section 23.31.025 to the Pacific Grove Municipal Code

WHEREAS, The American Tin Cannery (ATC) ballot initiative, adding Section 23.31.025 to the Pacific Grove Municipal Code, was filed in the office of the Pacific Grove City Manager on December 2, 2015 and transferred to Elections for signature verification on December 3, 2015.

WHEREAS, the petition consists of 249 sections and 1,326 signatures;

WHEREAS, each section contains signatures purporting to be the signatures of qualified Electors of this county; that attached to each petition at the time it was filed was an affidavit purporting to be the affidavit of the persons who solicited the signatures, and containing the dates between which the purported qualified electors signed the petition; that the affiant stated his or her own qualifications, that he or she had solicited the signatures upon that section, that all of the signatures were made in his or her presence, and that to the best of his or her knowledge and belief each signature to that section was the genuine signature of the person whose name it purports to be;

WHEREAS, pursuant to Elections Code § 9115, of the 1,326 signatures submitted, Elections verified a random sampling of 500 signatures by examining the records of registration of this County, current and in effect at the respected purported dates of such signing, to determine what number of qualified electors signed the petition;

WHEREAS, Elections Code § 9215 provides that the minimum number of signatures required for an initiative petition submitted to the City is not less than 10 percent of the voters in the City, according to the last report of registration by the County Elections Official to the Secretary of State pursuant to Section 2187, and there are 9,193 voters in the City.

WHEREAS, of the 500 signatures verified in the random sampling, 421 were deemed valid, 79 signatures were found not sufficient, 2 of which were not sufficient because of duplicate.

WHEREAS, the projected number of valid signatures on said petition is 1,108 signatures or 12% of the registered voters in the City of Pacific Grove.

IN WITNESS WHEREOF, I have here unto set my hand affixed my official seal this 7th Day of January 2016.

Claudio Valenzuela, Registrar of Voters
County of Monterey



RESOLUTION NO. 16- ____

**RESOLUTION OF THE PACIFIC GROVE CITY COUNCIL
ORDERING A SPECIAL ELECTION
TO BE HELD APRIL 19, 2016, AND REQUESTING COUNTY ELECTIONS TO
CONDUCT THE ELECTION**

WHEREAS, on October 16, 2015, Renee Crocker submitted to the City of Pacific Grove (City) a Notice of Intent to Circulate an Initiative Petition entitled the “American Tin Cannery (ATC) ballot initiative, adding Section 23.31.025 to the Pacific Grove Municipal Code,” and Proof of Publication of the Notice; and

WHEREAS, the stated reasons for the Initiative Petition are that the American Tin Cannery (ATC) site is one of the major gateways to the City of Pacific Grove (City). The current land uses at the ATC site do not provide necessary public revenue to the City nor the full range of uses sought by residents or visitors to the adjacent Monterey Bay Aquarium and the Cannery Row vicinity. Without voter authority, the ATC site could not be re-developed with “overnight lodging,” which the Pacific Grove Local Coastal Program Land Use Plan (Land Use Plan) identifies as a “principal permitted use.” The California Coastal Act also establishes “visitor-serving uses,” which include overnight lodging, as priority uses in the California coastal zone. The existing voter approved zoning restrictions allow only the uses allowed in the C-V (Visitor Commercial) and C-2 (Heavy Commercial), but hotels are not allowed. Voter authority is required to enhance the commercial viability of this area and to provide for the uses envisioned in the Land Use Plan and California Coastal Act; and

WHEREAS, the Initiative Petition contains a proposed Ordinance (Measure) that adds Section 23.31.025 to the Pacific Grove Municipal Code; and

WHEREAS, on January 7, 2016, the Monterey County Registrar of Voters verified that the projected number of valid signatures on the Initiative Petition is 12% of the registered voters in the City of Pacific Grove; and

WHEREAS, pursuant to California Elections Code § 9215, the City Council must either (a) Adopt the ordinance, without alteration, either at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented; (b) Submit the ordinance, without alteration, to the voters pursuant to subdivision (b) of Section 1405, unless the ordinance petitioned for is required to be, or for some reason is, submitted to the voters at a special election pursuant to subdivision (a) of Section 1405; or (c) Order a report pursuant to Section 9212 at the regular meeting at which the certification of the petition is presented; and

WHEREAS, California Elections Code section 1405(a) provides that with certain exceptions, the election for a municipal initiative that qualifies pursuant to Section 9215 shall be held not less than 88 nor more than 103 days after the date of the order of election; and

WHEREAS, pursuant to Section 9215(b), the City Council has determined the ordinance petitioned for is required to be submitted to the voters at a special election pursuant to subdivision (a) of Section 1405 due to concerns regarding the economic importance of the project and the amendment of the City's Land Use Plan; and

WHEREAS, the City Council requests the Board of Supervisors to permit the Monterey County Elections Department to provide any and all services necessary for conducting the election and the City shall reimburse the county in full for the services performed upon presentation of a bill pursuant to Elections Code Section 10002; and

WHEREAS, pursuant to Elections Code Section 10400, whenever two or more elections, including bond elections, of any legislative or congressional district, public district, city, county, or other political subdivision are called to be held on the same day, in the same territory, or in territory that is in part the same, they may be consolidated upon the order of the governing body or bodies or officer or officers calling the elections; and

WHEREAS, pursuant to Elections Code Section 10400, such election for cities and special districts may be either completely or partially consolidated; and

WHEREAS, the City Council desires to call a special municipal election on the Measure for April 19, 2016.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE:

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. Pursuant to Articles 8 and 16 of the Pacific Grove Charter and the laws of the State of California relating to general law cities, the City Council hereby orders the Monterey County Elections Department to conduct a special election to approve or reject the Measure set forth in the "American Tin Cannery (ATC) ballot initiative, adding Section 23.31.025 to the Pacific Grove Municipal Code," on the April 19, 2016 ballot.

SECTION 3. The City Council hereby requests the Board of Supervisors to permit the Monterey County Elections Department to provide any and all services necessary for conducting the election and agrees to pay for said services.

SECTION 4. The City Manager is authorized to execute all documents and to perform all other necessary City acts to enter into a service agreement for the provision of election services with Monterey County Registrar of Voters.

SECTION 5. The text of the ballot measure is attached to this Resolution as Exhibit 1. The text of the measure shall be printed in the ballot materials; a copy of the measure shall be available for public inspection in the City Clerk's office at 300 Forest Avenue, Pacific Grove, and on the City's website at www.ci.pg.ca.us. If not provided in the voter guide, upon request, copies will be sent at the expense of the City.

SECTION 6. The ballot question for the Ballot Measure to Amend the Pacific Grove Municipal Code to add Section 23.31.025 shall be substantially as follows:

CITY MEASURE ()

Shall the Pacific Grove Municipal Code be amended to add Section 23.31.025 to change the zoning designation at the American Tin Cannery Site, located in Pacific Grove on Assessor Parcels (APN) 006-231-001, 006-234-004, 006-234-005, and the portion of Sloat Street between Eardley Avenue and Dewey Street, from Visitor Commercial (C-V) and Heavy Commercial (C-2) to Visitor Commercial (C-V-ATC) to re-establish hotels as a permissible land use?

Yes (_____)

No (_____)

SECTION 7. The ballots to be used at the election shall be in form and content as required by law.

SECTION 8. The notice of the time and place of holding the election is given and the City Clerk in time, form and manner as required by law.

SECTION 9. The last day to submit arguments for or against the proposed measure shall be January 29, 2016. Submittals are to be delivered to the City Clerk on or before 5:00 p.m.

SECTION 10. The last day to submit rebuttal arguments (250 words) for the proposed measure shall be February 8, 2016. Submittals are to be delivered to the City Clerk on or before 5:00 p.m.

SECTION 11. The City Council directs the City Clerk to transmit a copy of the measure to the City Attorney and directs the City Attorney to prepare an impartial analysis of the measure pursuant to Elections Code section 9280 no later than February 8, 2016.

SECTION 12. The initiative measure shall pass only if a majority of the votes cast on the measure are “yes” votes.

SECTION 13. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by the general law for holding special municipal elections.

SECTION 14. The Monterey County Election Department is authorized to canvass the returns of the Special Municipal Election.

SECTION 15. The City Council shall meet to declare the results of the election called for by this Resolution at their first regular meeting following certification of election results.

SECTION 16. The City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and the Monterey County Election Department.

SECTION 17. The City Clerk shall publish a copy of this Resolution in a newspaper of general circulation within the City once within fifteen (15) days after the adoption of this Resolution.

SECTION 18. The City Council finds that this is not a project under the California Environmental Quality Act by virtue of the State CEQA Guidelines, 14 Code of California Regulations section 15378, subdivision (b)(3) and, therefore, no environmental impact assessment is necessary.

SECTION 19. If any provision of this Resolution, or any provision of the measure authorized by this Resolution, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this measure are severable.

SECTION 20. This resolution shall become effective immediately following passage and adoption.

PASSED AND ADOPTED by the City Council of the City of Pacific Grove at the regular meeting held on the 20th day of January 2016 on the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

BILL KAMPE, Mayor

ATTEST:

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney

EXHIBIT 1

FULL TEXT OF INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

THE PEOPLE OF THE CITY OF PACIFIC GROVE DO ORDAIN AS FOLLOWS:

SECTION 1. STATEMENT OF FINDING AND PURPOSE. The American Tin Cannery (ATC) site is one of the major gateways to Pacific Grove. The current land uses at the ATC site do not provide necessary public revenue to Pacific Grove nor the full range of uses sought by residents or visitors to the adjacent Monterey Bay Aquarium and the Cannery Row vicinity. Without voter authority, the ATC site could not be re-developed with “overnight lodging,” which the Pacific Grove Local Coastal Program Land Use Plan (Land Use Plan) identifies as a “principal permitted use.” The California Coastal Act also establishes “visitor-serving uses,” which include overnight lodging, as priority uses in the California coastal zone. The existing voter approved zoning restrictions allow only the uses allowed in the C-V (Visitor Commercial) and C-2 (Heavy Commercial), but hotels are not allowed. Voter authority is required to enhance the commercial viability of this area and to provide for the uses envisioned in the Land Use Plan and California Coastal Act.

SECTION 2. ZONING CODE AMENDMENT. Section 23.31.025 is added to Pacific Grove Municipal Code Section as follows:

Section 23.31.025. Visitor Commercial- American Tin Cannery (C-V-ATC)

(a) Boundaries of District. The C-V-ATC zoning district shall apply to the American Tin Cannery site that is comprised of Assessor’s Parcel Numbers: 006-231-001, 006-234-004, and 006-234-005 and that segment of Sloat Avenue that is contiguous to the American Tin Cannery site.

(b) Uses Permitted. Notwithstanding any other provision of the Pacific Grove Municipal Code, the following uses shall be permitted in the C-V -ATC zoning district:

1. Hotels and any accessory uses, such as restaurants, bars and lounges, meeting and event facilities, spa and fitness facilities, parking, and buildings, spaces, and structures incidental to such uses, subject to first securing a use permit.
2. All uses that are permitted in the C-V zoning district and additional uses permitted by subsequent amendment to the zoning ordinance.

(c) Development Standards. Development Standards in the C-V-ATC zoning district, including floor area coverage, density, setbacks and height limits shall be in accordance with the applicable standards set forth in the Local Coastal Program Land Use Plan, as updated or amended, or if no such standards are provided in the Local Coastal Program Land Use Plan, as updated or amended, in accordance with the standards set forth in the use permit or other required permit for a use allowed in the C-V-ATC zoning district.

(d) Except as modified by this Section 23.31.025, all provisions of the motel/hotel regulation ballot measure enacted by the people at the June 3, 1986, special municipal election, as set out at Chapter 23.52, shall remain unchanged and in full force and effect.

SECTION 3. SEVERABILITY. If any provision, section, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The People hereby declare that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 4. MEASURE PREVAILS. If any provision, section, paragraph, sentence, clause, or phrase of this measure, or any part thereof is for any reason found inconsistent with other provisions of the Pacific Grove Municipal Code, the provisions of this measure shall prevail.

SECTION 5. EFFECTIVE DATE. If approved by a majority of the voters voting on this ordinance, this ordinance shall be considered adopted upon the date that the vote is declared by the City Council and shall go into effect ten days following that date.

SERVICE AGREEMENT FOR THE PROVISION OF ELECTION

SERVICES BETWEEN _____ AND
City

MONTEREY COUNTY REGISTRAR OF VOTERS

April 12, 2016 Election Date

This Agreement, entered into this ____ day of _____ 2016, by and between

_____ and Monterey County Registrar of Voters (hereinafter referred to as
City

Registrar of Voters);

WHEREAS, it is necessary and desirable that the Registrar of Voters be retained for the
purpose of conducting an election hereinafter described for the _____
City
(hereinafter referred to as the City);

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

SERVICES TO BE PERFORMED BY THE CITY:

- 1) No later than the 88th day prior to the election the City shall submit a resolution requesting the Registrar of Voters for Monterey County to conduct an election for the City on April 12, 2016, and requesting election related services of the Registrar of Voters.
- 2) The City shall publish the Notice of Election and the Notice to File Declarations of Candidacy for the offices to be voted on, and/or the Notice to File Arguments for or against any measure.
- 3) The City shall submit to the Registrar of Voters in writing the exact number of offices to be voted on and the names and ballot designations of the candidates for those offices, and/or the exact ballot wording to be voted by no later than the 88th day prior to the election, or by the 83rd day prior to the election if Elections Code §§ 10225, 10229, and 10407 are applicable.
- 4) The City shall prepare and deliver to the Registrar of Voters the Voter Guide information containing, as applicable, candidates' statements of qualifications, ballot measure, tax rate statements impartial analysis, arguments for or against and rebuttals thereto. The last day for the

Election Service Agreement
County of Monterey Registrar of Voters and
_____ City

April 12, 2016 Election Date

submission of primary arguments (300 words) shall be no later than January 22, 2016. The last day for the submission of rebuttal arguments (250 words) and impartial analysis shall be no later than February 1, 2016.

- 5) The City shall be responsible for reviewing and approving the language of the sample ballot and official ballot wording for the Candidates and Measures no later than _____ 2016.

SERVICES TO BE PERFORMED BY REGISTRAR OF VOTERS:

- 1) The Registrar of Voters shall select and contract with the sample and official ballot printer(s) on behalf of the City.
- 2) The Registrar of Voters shall prepare and deliver to the printer the official ballot information.
- 3) The Registrar of Voters shall issue, receive and process all ballots on behalf of the City matters.
- 4) The Registrar of Voters shall procure all necessary and appropriate polling place locations, hire polling place workers, and conduct the election in accordance with all applicable state, federal and local laws.
- 5) The Registrar of Voters shall prepare a Canvass of Votes Cast and submit a Certificate of Registrar of Voters to the City regarding the City matters.
- 6) The Registrar of Voters shall conduct other various and miscellaneous election activities as required including but not limited to all those required as the City's Election Official other than those described under "Services to be Performed by the City".

TERMS:

This Agreement shall be in effect for the performance of all services incident to the preparation and conduct of the election to be held on April 12, 2016.

In the event the Registrar of Voters is unable to perform services required under this Agreement, as a result of employer/employee relation conditions, vendor conditions or other conditions beyond the control of the Registrar of Voters, the Registrar of Voters will be relieved of all obligations under this Agreement. The Registrar of Voters may terminate this agreement after giving 72 hours written notice and the Registrar of Voters will be relieved of all obligations.

This agreement can be mutually terminated upon a 30 days' advance written notice.

CONSIDERATION:

Election Service Agreement
County of Monterey Registrar of Voters and
_____ City

April 12, 2016 Election Date

In consideration of the performance of services and supplies provided by the Registrar of Voters, the City shall pay to the Registrar of Voters a sum equal to the actual cost of such services, expenses, and supplies related to the work performed on behalf of City. In the event that this Agreement is terminated prematurely, the City shall pay to the Registrar a sum equal to the actual cost of such services performed or supplies/expenses incurred as of the effective date of the termination.

The City shall make payment within 30 days of receipt of invoice from Registrar of Voters.

CITY:

Signature: _____ Date: _____

Print Name: _____

Title: _____

COUNTY:

Signature: _____ Date: _____

Print Name: _____

Title: _____