



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: DENNIS HAWKINS, CMC
CITY CLERK

SUBJECT: CERTIFICATE OF SUFFICIENCY
OF REFERENDUM PETITION TO
REPEAL ORDINANCE 28960

DATE: January 4, 2012

RECOMMENDATION

1. Place on the City Council January 10, 2012 Agenda the acceptance of the Certificate of Sufficiency issued by the County of Santa Clara Registrar of Voters regarding the referendum to repeal Ordinance 28960.
2. Refer to staff further analysis and the development of options for City Council action no later than March 6, 2012 to either a) repeal Ordinance 28960 or b) call a municipal election.

OUTCOME

The Santa Clara County Registrar of Voters has certified the petition to repeal Ordinance 28960 to be sufficient. The Council's options for action are to: a) repeal Ordinance 28960; or b) adopt a resolution calling a Municipal Election on the issue.

BACKGROUND

Based on the latest report to the California Secretary of State, there are 370,666 registered voters within San Jose. City Charter Section 1603 (b) requires that a referendum petition be signed by at least 8% of the total number of eligible registered voters, which means that 29,653 valid signatures are necessary for a referendum to qualify for action.

HONORABLE MAYOR AND CITY COUNCIL

Subject: Certificate of Sufficiency of Medical Marijuana Referendum

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On October 28, 2011, the proponents of a referendum petition regarding the repeal of Ordinance 28960 submitted 49,224 signatures on 2,224 sections calling on the City Council to repeal the ordinance or to submit the Ordinance to a vote of the people pursuant to San Jose City Charter Section 1603 (b) and California Elections Code 9241. The Office of the City Clerk conducted a prima facie review and raw count of the petition and determined that there appeared to be a sufficient number of signatures to proceed.

The petition was transferred to the County of Santa Clara Registrar of Voters (ROV) on October 31, 2011 for signature verification. Consistent with California Elections Code Section 9115, the Registrar of Voters performed a random sample of three-percent (3%) of the signatures submitted. From this examination, it was determined that the results of the sample fell within the range which required the Registrar to complete the verification of every signature submitted to determine if there were sufficient signatures to qualify the referendum.

On January 3, 2011, the Registrar provided the attached certification that the referendum proponents have successfully gathered a sufficient number of signatures to qualify the measure for Council action. The Registrar reports that of the 49,224 signatures obtained, 31,103 are valid and the referendum has qualified.

ANALYSIS

Under the Elections Code, the Council may place the item on the ballot or the Council may rescind the Ordinance in question. If the City Council does not repeal the ordinance in its entirety, then Elections Code Section 9241 requires that the City Council submit the ordinance to the voters either at the next regular municipal election or at a special election called for that purpose. The referendum election must be held not less than 88 days from the call of the election. If the Council decides to place the measure on the ballot, I recommend that it be submitted to the voters at the June 5, 2012 Primary Election. The deadline to submit Resolutions to the ROV for measures on the June 2012 ballot is March 9.

If an election were to be called, the City Council would need to adopt a Resolution. The Resolution would request that the election be consolidated with any other elections taking place in the County since – at a minimum - other City elections will already be on the June 2012 ballot. Specifically, the Council has previously adopted resolutions

HONORABLE MAYOR AND CITY COUNCIL

Subject: Certificate of Sufficiency of Medical Marijuana Referendum

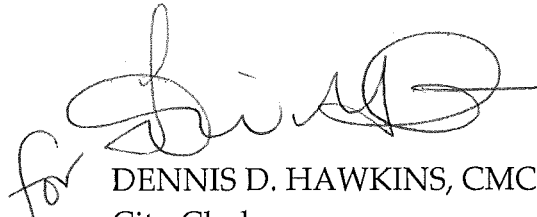
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calling for elections in Council Districts 2, 4, 6, 8, and 10 and the pension reform Charter amendment. This would be the most cost-effective approach if the referendum was submitted to the electorate.

COST SUMMARY/IMPLICATIONS

Estimated costs for the June 5, 2012 elections are: \$445,000 for the City Council seats; the first city-wide measure is estimated at \$607,000; and \$401,000 for the second and each subsequent measure. Sufficient funds are currently appropriated in the FY 2011-12 Budget to cover these projected costs.


for DENNIS D. HAWKINS, CMC
City Clerk

For questions please contact Dennis Hawkins, City Clerk, at (408) 535-1275

County of Santa Clara

Registrar of Voters

1555 Berger Drive, Building 2
San Jose, California 95112
Mailing Address: P.O. Box 1147, San Jose, CA 95108
(408) 299-VOTE (8683) (866) 430-VOTE (8683) FAX (408) 998-7314
www.sccvote.org



December 30, 2011

Dennis Hawkins, CMC
City Clerk
200 E Santa Clara St
San Jose, CA 95113

RE: Referendum Against An Ordinance Passed By The City Council Ordinance No. 28960

Dear Mr. Hawkins,

The initiative petition submitted to our office on October 31, 2011 contained 49,224 signatures. Based on the registered voters in San Jose as of the last report of registration to the Secretary of State (Elections Code Sections 2187 & 9237), the petition needed 29,653 valid signatures to be found sufficient.

Per Election Code Section 9115(a), the Registrar of Voters performed an examination of the random sampling of 1,477 signatures, of which 986 signatures were found valid. The petition had a projected number of 30,070 valid signatures, which is 103.5% of the number of valid signatures required to pass.

Per EC 9115(b), "If the statistical sampling of valid signatures shows that the number of valid signatures was within 95 to 110 percent of the number of signatures of qualified voters needed to declare the petition sufficient, the elections official shall, within 60 days from the date of the filing of the petition, excluding Saturdays, Sundays, and holidays, examine and verify each signature filed."

The Office of the Registrar of Voters has completed an examination and verification of each signature submitted by your city. Of the 49,224 signatures submitted to our office, 31,103 were found valid. Attached are Clerks Certificate to Referendum Petition and the Petition Result Breakdown with statistical details.

If you have any questions concerning this matter, please feel free to contact me at (408) 299-2161, extension #2051.

Sincerely,

Maggy Smith
Election Division Coordinator
Voter Registration Division
County of Santa Clara

Attachments:

Clerks Certificate to Referendum Petition
Petition Result Breakdown

ms:local jur 95 110 100 results

CLERK'S CERTIFICATE TO REFERENDUM PETITION

I, Barry Garner, Registrar of Voters of the **County of Santa Clara**, State of California, hereby certify:

That the "**REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL ORDINANCE NO. 28960**" petition has been filed with this office on October 31, 2011.

That said petition consists of 2,224 sections;

That each section contains signatures purporting to be the signatures of qualified electors of this county;

That attached to this petition at the time it was filed was an affidavit purporting to be the affidavit of the person who solicited the signatures, and containing the dates between which the purported qualified electors signed this petition;

That the affiant stated his or her own qualification, 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;

That after the proponent filed this petition I verified the required number of signatures by examining the records of registration in this county, current and in effect at the respective purportive dates of such of signing, to determine what number of qualified electors signed the petition, and from that examination I have determined the following facts regarding this petition:

- | | | |
|----|--|---------------|
| 1. | Number of unverified signatures filed by proponent (raw count) | <u>49,224</u> |
| 2. | Number of signatures verified | <u>49,224</u> |
| a. | Number of signatures found SUFFICIENT | <u>31,103</u> |
| b. | Number of signatures found NOT SUFFICIENT | <u>18,121</u> |
| 1. | NOT SUFFICIENT because DUPLICATE | <u>502</u> |

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 30th day of December, 2011.

(SEAL)

Barry Garner
Registrar of Voters

By: 
Deputy



Petition Result Breakdown

JobC85 - Ref against an Ord passed by SJ CC #28960
Referendum against an Ordinance passed by SJCC. Ord. #28960

Signatures Required	29653		
Raw Count	49,224		
Sample Size	49,224	Percent of Sigs	Percent of
Sigs Checked	49,224	Checked	Sample Size
Sigs Not Checked	0		0.0 %
Sigs Valid	31,103	63.2 %	63.2 %
Sigs Invalid	18,121	36.8 %	36.8 %
Duplicated	502	1.0 %	1.0 %
Non-duplicate Invalids	17,619	36.0 %	35.8 %

RESULT ABBR	RESULT DESCRIPTION		
Approved	Approved	31,103	63.2 %
NotReg	Not Registered	12,390	25.2 %
OutOfDist	Out of District	1,700	3.5 %
Duplicate	Signed more than once	502	1.0 %
RegLate	Registered Late	244	0.5 %
RegDiffAdd	Registered at a Different Address	2,016	4.1 %
CantIdentfy	Cannot Identify	600	1.2 %
NoResAdd	No Residence Address Given	25	0.1 %
NoSig	No Signature	10	0.0 %
PrintedSig	Printed Signature	5	0.0 %
SigNoMatch	Signatures Don't Match	629	1.3 %