



A Tradition of Stewardship
A Commitment to Service

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NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors

FROM: Silva Darbinian for Jeffrey Richard - Acting County Counsel
County Counsel

REPORT BY: Jeffrey Richard, Chief Deputy County Counsel - 253-4234

SUBJECT: Receive 9111 Reports on Initiatives and provide direction on adopting resolution placing Initiatives on June 2018 ballot

RECOMMENDATION

County Counsel and Director of Planning, Building and Environmental Services request the following actions related to (1) the Napa County Watershed and Oak Woodland Protection Initiative of 2018, (2) the Initiative to Disallow the Use of Personal Airports and Helipads, and (3) the Blakeley Construction Initiative:

1. Receive Elections Code Section 9111 reports on each of the above referenced initiatives, and
2. Take one of the following actions on each of the above referenced initiatives:
 - a. Adopt a resolution placing the initiative on the ballot of the June 5, 2018 Primary Election enabling the people of Napa County to approve or reject the initiative, or
 - b. Adopt the initiative without change at the meeting on March 13, 2018.

EXECUTIVE SUMMARY

On January 30, 2018, the Board accepted the certification by the Registrar of Voters of three initiatives [(1) the "Napa County Watershed and Oak Protection Initiative of 2018," (2) the "Initiative to Disallow the Use of Personal Airports and Helipads," and (3) the "Blakeley Construction Initiative." On the date of acceptance of the certification, the Board of Supervisors was required to adopt a county ordinance that contains the text of the initiatives without alteration within 10 days, order an election on the initiatives, or order the preparation of a report addressing the impacts and effects of the initiatives. The Board elected to order the preparation of a report addressing the impacts and effects of each of the initiatives prior to deciding whether to adopt the initiatives or to submit them to the voters for approval or rejection.

The reports addressing the impacts and effects of each of the initiatives have been prepared and submitted to the Board. The Board is now required to receive the reports, order them filed with the Clerk of the Board and, with

respect to each initiative, either:

1. Adopt a county ordinance that contains the text of the initiative without alteration at the next Board meeting;
or
2. Order an election to be held on June 5, 2018 to enable the voters to approve or reject each initiative.

PROCEDURAL REQUIREMENTS

1. The Chair announces the agenda item.
2. The staff reports on the item.
3. Questions by the Board.
4. The Chair invites public comments.
5. For each initiative a motion to receive the 9111 report and order it filed with the Clerk of the Board, second, and vote.
6. For each initiative if roll call vote is requested by any member of the Board of Supervisors, the Clerk calls the roll and the Chair announces the result of the vote.
7. For each initiative a separate motion to either (a) direct staff to prepare an ordinance that contains the text of the applicable initiative without alteration and submit it to the Board of Supervisors for adoption on March 13, 2018 or (2) adopt a resolution for each initiative placing the applicable initiative on the June 5, 2018 ballot; second and vote on this motion.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
What is the revenue source?	General fund would cover approximately \$15,000 per initiative, which includes printing and mailing of voter material and ballots and tabulation of results.
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	Yes
Future fiscal impact:	No future fiscal impact because expenditures are initiative and election specific
Consequences if not approved:	Failure to place the initiatives on the ballot would expose the Board to litigation for failing to comply with Election Code section 9118.

Additional Information:

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: None Required, regardless of the Board's decision [Calling an election required to be held as a result of the gathering of sufficient signatures pursuant to Elections Code section 9118 is ministerial and therefore not subject to CEQA [*Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.4th 165, 189]; Adopting an ordinance in lieu of calling an election is ministerial and therefore not subject to CEQA [*Native American Sacred Site and Environmental Protection Association et al. v. City of San Juan Capistrano* (2004) 120 Cal.App.4th 961, 969].

BACKGROUND AND DISCUSSION

Three initiatives have been certified by the Registrar of Voters ("ROV") identified as: (1) the "Napa County Watershed and Oak Protection Initiative of 2018," (2) the "Initiative to Disallow the Use of Personal Airports and Helipads," and (3) the "Blakeley Construction Initiative" (hereafter collectively "the Initiatives").

Proponents of each of the Initiatives circulated their petitions and submitted their signatures within the deadlines set forth in Elections Code Section 9110. The signed petitions of the "Napa County Watershed and Oak Protection Initiative of 2018" were submitted on December 1, 2017. The signed petitions of the "Initiative to Disallow the Use of Personal Airports and Helipads," were submitted on December 4, 2017. The signed petitions of the "Blakeley Construction Initiative" were submitted on December 5, 2017.

Pursuant to Elections Code Section 9114, the ROV completed its review of the signatures on the Initiative petitions and determined that more than the requisite number of registered voters signed each of the Initiative petitions. The ROV certificates showing the sufficiency of signatures were prepared and submitted to the Clerk of the Board of Supervisors on or about January 9, 2018. At its January 30, 2018 meeting, the Board of Supervisors received and ordered its clerk to file the ROV's certificate.

Elections Code Section 9118 outlines the steps the Board is required to take if an initiative petition is signed by at least 10 percent but not more than 20 percent of the entire vote cast in Napa County for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intent to circulate an initiative. In such a case, the Board is required to take one of the following actions:

1. Adopt the initiative as an ordinance without alteration within 10 calendar days of the date of the meeting at which the certificate of sufficiency is presented, or
2. Submit the ordinance, without alteration, to the voters at the next statewide election occurring not less than 88 days after the date of the order of the election, or
3. Order a report addressing the various impacts and effects of the initiative.

9111 Reports

At its January 30, 2018 meeting the Board elected to order reports pursuant to Elections Code section 9111 addressing the various potential impacts of the passage of each of the Initiatives. The Board ordered that these reports be returned within 30 days. The statute that controls the content of any report the Board may order is found in Elections Code section 9111 and therefore the report is commonly referred to as a 9111 Report.

Any report that is ordered, in lieu of immediately calling an election or adopting any of the initiatives without alteration, may address the effect of each initiative on any or all of the following matters:

1. Its fiscal impact;
2. Its effect on the internal consistency of the county's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on county actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code [NOTE: the limitations referenced relate to Affordable Housing and discrimination in housing issues];
3. Its effect on the use of land, the impact on the availability and location of housing, and the ability of the county to meet its regional housing needs;
4. Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in

increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses;

5. Its impact on the community's ability to attract and retain business and employment;
6. Its impact on the uses of vacant parcels of land;
7. Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization; or
8. Any other matters the board of supervisors request to be in the report.

The Board ordered that the 9111 Reports address the areas set forth in Section 9111 in addition to relevant questions presented by staff and the public. The County Counsel's Office and the Department of Planning, Building and Environmental Services, in consultation with other County departments, worked with Miller, Starr and Regalia to address the questions presented.

Actions to be Taken

At the meeting at which the 9111 Report is presented to the Board, the Board must take one of the following actions: 1) Adopt the initiatives as ordinances without alteration within 10 calendar days of the date of the meeting at which the 9111 report was presented; or 2) Submit the initiatives to the voters without alteration at the next statewide election occurring not less than 88 days after the date of the order of the election (June 5, 2018 Primary Election).

SUPPORTING DOCUMENTS

- A . 9111 Report- Oaks Watershed
- B . 9111 Report- Personal Use Airport
- C . 9111 Report- Blakeley
- D . Resolution Calling Election- Oaks- Measure C
- E . Resolution Calling Election- Personal Use Airport- Measure D
- F . Resolution Calling Election- Blakeley- Measure E

CEO Recommendation: Approve

Reviewed By: Helene Franchi