



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Lee Price, MMC  
City Clerk

**SUBJECT: OPTIONS FOR THE NAMING OF  
THE RETAIL AREA  
ON STORY ROAD BETWEEN  
SENER ROAD AND US 101**

**DATE:** 2/22/08

## RECOMMENDATION

Select one of the following options:

- (1) Adoption of a resolution or ordinance ordering the submission to the electors of the City of San José at the General Municipal Election to be held on June 3, 2008 asking voters: “Shall the Story Road retail area between Senter Road and US 101 be named Little Saigon”; *or*
- (2) Adoption of a resolution or ordinance ordering the submission to the electors of a designated and specific area of the City of San José at the General Municipal Election to be held on June 3, 2008 asking voters: “Shall the Story Road retail area between Senter Road and US 101 be named Little Saigon?”; *or*
- (3) Adoption of a resolution or ordinance ordering the submission to the electors of the City of San José at the General Municipal Election to be held on June 3, 2008 asking voters the following three questions: (1) “Shall the Story Road retail area between Senter Road and US 101 be named Little Saigon”?, (2) “Shall the Story Road retail area between Senter Road and US 101 be named Saigon Business District?”, (3) “Shall the Story Road retail area between Senter Road and US 101 be named at this time?”; *or*
- (4) Adoption of a resolution or ordinance ordering the submission to the electors of a designated and specific area of the City of San José at the General Municipal Election to be held on June 3, 2008 asking voters the following three questions: (1) “Shall the Story Road retail area between Senter Road and US 101 be named Little Saigon”?, (2) “Shall the Story Road retail area between Senter Road and US 101 be named Saigon Business District?”, (3) “Shall the Story Road retail area between Senter Road and US 101 be named at this time?”; *or*

- (5) Adoption of a resolution or ordinance ordering the submission to the electors of the City of San José at the General Municipal Election to be held on June 3, 2008 asking voters the following six questions: (1) “Shall the Story Road retail area between Senter Road and US 101 be named Little Saigon”?, (2) “Shall the Story Road retail area between Senter Road and US 101 be named Saigon Business District?”, (3) “Shall the Story Road retail area between Senter Road and US 101 be named New Saigon?”, (4) “Shall the Story Road retail area between Senter Road and US 101 be named Vietnam Town?”, (5) “Shall the Story Road retail area between Senter Road and US 101 be named Vietnam Business District?” (6) “Shall the Story Road retail area between Senter Road and US 101 be named Vietnamese-American Business District?” (7) “Shall the Story Road retail area between Senter Road and US 101 be named at this time?”; *or*
- (6) Adoption of a resolution or ordinance ordering the submission to the electors of a designated and specific area of the City of San José at the General Municipal Election to be held on June 3, 2008 asking voters the following six questions: (1) “Shall the Story Road retail area between Senter Road and US 101 be named Little Saigon”?, (2) “Shall the Story Road retail area between Senter Road and US 101 be named Saigon Business District?”, (3) “Shall the Story Road retail area between Senter Road and US 101 be named New Saigon?”, (4) “Shall the Story Road retail area between Senter Road and US 101 be named Vietnam Town?”, (5) “Shall the Story Road retail area between Senter Road and US 101 be named Vietnam Business District?” (6) “Shall the Story Road retail area between Senter Road and US 101 be named Vietnamese-American Business District?” (7) “Shall the Story Road retail area between Senter Road and US 101 be named at this time?”; *or*
- (7) Provide direction to the City Clerk to return to the City Council not later than the end of June 2008 with all necessary actions to place one or more of the proposed measures on the November 4, 2008 ballot.

## **OUTCOME**

Selecting one of the above seven (7) options will take the issue of the naming of the retail area on Story Road to voters either in June or November of 2008.

## **BACKGROUND**

In June of 2007, the City Council/RDA directed the Redevelopment Agency Executive Director to solicit community input on City recognition of Story Road between Highway 101 and Senter/Keyes Road as a “Vietnamese Business District”. The Agency conducted outreach to business owners and residents in the vicinity, including the Tully/Senter and Spartan/Keyes Strong Neighborhood Initiative (SNI) areas. Names submitted for consideration included: Little Saigon, New Saigon, Saigon Business District, Vietnamese Business District, Vietnam Town and Vietnamese-American Business District. In addition, survey participants were also given an opportunity to choose a “No Name” option. On November 20, 2007, following a long public

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hearing, the City Council adopted Resolution No. 74127 recognizing Story Road, between Senter Road and US 101 as a Vietnamese Retail Area and selecting “Saigon Business District” to identify the area.

After several months of controversy and debate, the Rules and Open Government Committee met on February 13, 2008, and heard additional public testimony. Several Council proposals were submitted to the Committee and they are included in the Council Agenda packet. The Committee took formal action to recommend to the City Council that Resolution No. 74127 be rescinded, and, among other things, that the Council direct staff to provide options for placing on the ballot, in either June or November, a measure (or measures) seeking voter approval of a name for the retail area. The Committee specifically requested that all alternatives be explored, including a single ballot measure with all seven naming choices previously surveyed, as well as a discussion about whether the election should be citywide or area-specific. At the Rules and Open Government Committee meeting on February 20, 2008, one additional option was referred to the Clerk/Attorney: to ask voters to decide between three choices: (1) Little Saigon, (2) Saigon Business District, or (3) No Name.

## **ANALYSIS**

### **Considerations for placing a measure (or measures) on the June 3, 2008 Ballot:**

#### **Timing:**

March 7<sup>th</sup> is the legal last day to submit to the County Registrar of Voters measures for inclusion on the June 3, 2008 General Municipal Election ballot. The City Council must take formal action to place an item on the June ballot and the meeting of March 4<sup>th</sup> is the last opportunity to do so without calling a special meeting. In order to fully notice any potential action by the City Council on March 4<sup>th</sup>, and further, to properly prepare the City Clerk for submitting a measure (or measures) to the County, the City Attorney has prepared two resolutions and four ordinances for Council’s consideration.

Timing, therefore, is of the essence if the measure is to be placed on the June ballot. The City Council must make a decision about what to put on the ballot: one measure, three measures or six measures and adopt the appropriate enabling resolution or ordinance. In addition, a decision needs to be made about who may vote on the measure/s: all registered voters in San Jose, registered voters in District 7 or voters in some other specific area designated by the Council.

There is sufficient time to accept ballot arguments, however the “window” of opportunity would be narrow – ballot arguments in favor of and in opposition to the measure/s would be due no later than March 12<sup>th</sup>. The number of arguments would depend on the number of ballot measures the Council places on the ballot. Ballot arguments may be submitted by: (1) the City Council, or any member of the City Council as designated by the City Council, (2) any individual voter who is eligible to vote on the measure/s; (3) a bona fide association of citizens; or (4) any combination of the above. Arguments are limited to 300 words each and there are costs associated with translating and printing ballot arguments.

Citywide or Area Specific:

The Rules and Open Government Committee recommended that the City Council discuss and decide whether the measure (or measures) should be put to a vote by all registered voters in the City, registered voters in District 7 or voters in some other specific area (for example: the Tully/Senter and Spartan/Keyes Strong Neighborhood Initiative (SNI) areas, all residents within a certain radius of the area, or property owners within a certain radius of the area).

Since there is no citywide election scheduled for June, any one of these choices will result in the need to call a Special Election to be held concurrent with the Regular Municipal Election in June to elect Council Members in Districts 2, 4, 6, 8, and 10. The City Council, therefore, must provide some direction about whether the ballot question (or questions) should be submitted to voters citywide, to voters in District 7, or to voters in some other specific, designated area.

Ballot Measure Options:

The Rules and Open Government Committee referred to the City Clerk and City Attorney a creative alternative for a ballot measure: Ask one question – shall the area be named - and give voters a list of names to choose from. This type of “multiple choice” question is not allowed under the California Elections Code. However, an inquiry was made to the County Registrar of Voters about the feasibility of putting such a measure on the ballot. The Registrar provided the City with a formal response (see Attachment #1) and in that response indicated that a multiple choice measure is not allowable under State law. The Registrar further advised that each proposed name be set forth in a separate ballot measure.

Although San Jose is a Charter city, Section 1603 of the Charter specifies, in part, that the provisions of the Elections Code of the State of California governing the initiative, referendum and recall process shall be applicable insofar as the same are not in conflict with the Charter. The City’s Charter therefore relies on State law as it relates to ballot measures. Insofar as the County Registrar of Voters acts as the City’s “agent” for the conduct of elections, it is recommended that the Registrar’s determination be accepted.

Briefly stated, there are three alternatives available to the City Council:

- 1) One measure - Shall the area be named “Little Saigon” – Yes or No?
- 2) Three measures, three choices - Shall the area be named:
  - “Little Saigon” – Yes or No?
  - “Saigon Business District” – Yes or No?
  - Shall the area be named at this time – Yes or No?
- 3) Seven measures, seven choices - Shall the area be named:
  - “Little Saigon” – Yes or No?
  - “Saigon Business District” – Yes or No?
  - “New Saigon” – Yes or No?
  - Vietnam Town – Yes or No?
  - Vietnam Business District – Yes or No?
  - Vietnamese-American Business District – Yes or No?
  - Shall the area be named at this time – Yes or No?

An estimate of costs is included in the Cost/Summary Implications portion of this memorandum.

Plurality:

Section 1602 of the Charter states that all municipal elections be held in accordance with the California Elections Code, to the extent the Elections Code does not conflict with the Charter, unless otherwise provided by ordinance. The California Elections Code requires that a measure receive a majority of votes cast on it at an election to be enacted. If the Council poses three measures, three choices or seven measures, seven choices, it is possible that not one of the measures would receive a majority of the votes cast; a run-off election would have to be held to determine a “winner”. So that the measure that receives a plurality of the votes cast on it at the election may be determined the “winner”, the City Attorney has prepared ordinances calling the elections for three or seven measures and specifying that the measure that receives a plurality will be enacted accordingly.

Impartial Analysis/Analyses:

When a measure is put on the ballot – whether by qualifying petition or at the direction of the City Council – the City Council may direct the City Attorney to prepare an impartial analysis of the measure. The analysis is limited to 500 words or less and is printed in the voter information pamphlet immediately preceding the arguments for and against the measure. The purpose of the impartial analysis is to encourage a more informed electorate and may discuss the legality or constitutionality of the measure. There are costs associated with translating and publishing an impartial analysis. In this instance, the naming of a retail area does not have any legal implications, nor is the question complicated. Thus, the Council has discretion in directing the preparation of the impartial analysis and in this situation it may decide it unnecessary.

**Considerations for placing a measure (or measures) on the November 4, 2008 Ballot:**

Aside from the symbolic and emotional issues surrounding the naming of the retail area, there are pros and cons of placing a measure, or measures, on the ballot for November (instead of June). Although there would be further delay in finding resolution, giving the public more time to consider the questions and present arguments in favor or against any ballot measure is an advantage to waiting until November. Another likely positive outcome would be the potential for a greater turnout at the polls by voters in November because of the Presidential election. On the other hand, a negative result of placing measures on the November ballot is that election costs would be higher because expenses are directly tied to the number of ballots and Voter Sample Ballots printed for the election.

**PUBLIC OUTREACH/INTEREST**

City and Redevelopment Agency staff were directed by City Council on June 5, 2007, to use Council Public Outreach Policy 6-30 as a guide in implementing this project. Community meeting notices, translated in English, Vietnamese and Spanish for the proposed Vietnamese retail destination area were distributed to business owners, property owners and tenants located

within a 1,000-foot radius of the proposed site, along with the mainstream local media, Vietnamese, Hispanic and other ethnic media, Story Road Business Association, Tully/Senter and Spartan/Keyes Strong Neighborhoods, Strong Neighborhood Initiative (SNI) Project Advisory Committee (PAC), and a mass email to members of the community, which included members of the SNI Neighborhood Advisory Committee. The notice was also published in a general circulation local newspaper, San Jose Mercury News, posted on City and Redevelopment Agency websites and on the public information board at City Hall. Outreach for the 'name survey' was limited to stakeholders within a 1,000-foot radius of the proposed site.

On November 20, 2007, the City Council conducted a public hearing on the naming of the retail area, and the Rules and Open Government Committee considered the issue once more in an open meeting on February 13, 2008.

If the Council takes action to place a measure, or measures, on the ballot, the California Elections Code provides public noticing requirements which will be carried out by the City Clerk and the County Registrar of Voters.

### **COORDINATION**

Preparation of this report has been coordinated with the City Attorney's Office and the County Registrar of Voters.

### **COST SUMMARY/IMPLICATIONS**

Assuming a citywide ballot<sup>1</sup>, costs are *estimated* as follows:

#### For June 2008 (assumes no other ballot measures for San Jose)

One Measure	\$ 751,392
Three Measures	1,397,162
Seven Measures	2,688,704

#### For November 2008 (assumes at least one charter amendment/ballot measure for San Jose)

One Measure	\$ 256,054
Three Measures	768,162
Seven Measures	1,792,378

LEE PRICE, MMC  
CITY CLERK

For questions please contact Lee Price at (408) 535-1252

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<sup>1</sup> Costs for a district or area-specific election were not calculated for purposes of preparing this memorandum.

**County of Santa Clara****Registrar of Voters**

1555 Berger Drive, Bldg 2

San Jose, CA 95112

Mailing Address: PO Box 1147, San Jose, CA 95108

408-299-VOTE (8683) FAX 408-998-7314

www.sccvote.org



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February 20, 2008

Lee Price, City Clerk  
City of San Jose  
Office of the City Clerk  
200 East Santa Clara Street  
San Jose, CA 95113

Dear Lee,

I have researched your request for the feasibility of a multiple choice measure question on the November 4, 2008 Election ballot and also discussed it with Jesse Durazo, Registrar of Voters. In addition, I presented the question to our statewide election email network for feedback. A multiple choice ballot question is not possible. Per California Election Codes 13119, 13200, 13207, 13247, and 13280, each proposed name would have to be a separate ballot measure worded as a question that could be answered Yes or No. See attached code sections.

Please let me know if you have any further questions.

Sincerely,

A handwritten signature in cursive script that reads "Elaine Larson".

Elaine Larson  
Assistant Registrar of Voters

Attachment

Cc: Jesse Durazo, Registrar of Voters  
Shannon Bushey, Candidate Services Division Manager

## **Referenced California Election Codes**

13119. The ballots used when voting upon a proposed county, city, or district ordinance submitted to the voters of the respective local government as an initiative measure pursuant to Division 9 (commencing with Section 9000) shall have printed on them the words "Shall the ordinance (stating the nature thereof) be adopted?" Opposite the statement of the ordinance to be voted on, and to its right, the words "Yes" and "No" shall be printed on separate lines, with voting squares. If a voter stamps a cross (+) in the voting square after the printed word "Yes," his or her vote shall be counted in favor of the adoption of the ordinance. If he or she stamps a cross (+) in the voting square after the printed word "No," his or her vote shall be counted against its adoption.

13200. Ballots not printed in accordance with this chapter shall not be cast nor counted at any election.

13207. (a) There shall be printed on the ballot in parallel columns all of the following:

(1) The respective offices.

(2) The names of candidates with sufficient blank spaces to allow the voters to write in names not printed on the ballot.

(3) Whatever measures have been submitted to the voters.

(b) In the case of a ballot which is intended for use in a party primary and which carries both partisan offices and nonpartisan offices, a vertical solid black line shall divide the columns containing partisan offices, on the left, from the columns containing nonpartisan offices, on the right.

(c) The standard width of columns containing partisan and nonpartisan offices shall be three inches, but a elections official may vary the width of these columns up to 10 percent more or less than the three-inch standard. However, the column containing presidential and vice presidential candidates may be as wide as four inches.

(d) Any measures that are to be submitted to the voters shall be printed in one or more parallel columns to the right of the columns containing the names of candidates and shall be of sufficient width to contain the title and summary of each measure. To the right of each title and summary shall be printed, on separate lines, the words "Yes" and "No."

13247. (a) The statement of all measures submitted to the voters shall be abbreviated on the ballot. The statement shall contain not more than 75 words of each measure to be voted on, followed by the words, "Yes" and "No." Abbreviation of measures to be voted on throughout the state shall be composed by the Attorney General and shall be a condensed statement of the ballot title prepared by him or her.

(b) For purposes of measures to be voted on throughout the state, the limitation contained in subdivision (a) shall apply to the total number of words used in the condensed statement of the ballot title and the financial impact summary prepared pursuant to Section 9087, and Section 88003 of the Government Code.

13280. The ballot labels for measures shall contain a condensed statement in, where possible, not more than 20 words of each measure to be voted on, accompanied by the words "Yes" and "No."