



Memorandum

**TO: HONORABLE MAYOR
AND CITY COUNCIL**

**FROM: RICHARD DOYLE
DENNIS HAWKINS**

**SUBJECT: ACTIONS RELATED TO THE
MINIMUM WAGE INITIATIVE**

DATE: April 27, 2012

As recommended by the Rules and Open Government Committee on April 25, 2012:

RECOMMENDATION

1. Accept the Certificate of Sufficiency issued by the County of Santa Clara Registrar of Voters regarding the Minimum Wage Initiative.
2. Refer to staff preparation of a report on the effects of the proposed ordinance consistent with California Elections Code Section 9212 to be presented to the Council no later than May 22, 2012.
3. Agendize for the May 22, 2012 City Council meeting a discussion of the report prepared under Section 9212 and Council action on options consistent with San Jose City Charter, Article 16, Sections 1601 (b) and 1603 (a) (2) and California Elections Code Section 9215:
 - a. Adopt the proposed ordinance as submitted no later than June 1, 2012;
 - b. Adopt a resolution calling an election to submit the initiative to the voters at a Special Municipal Election on a date to be decided; or
 - c. Adopt a resolution no later than August 10, 2012 calling an election to submit the initiative to the voters at the next General Election on Tuesday, November 6, 2012

SUMMARY

The Santa Clara County Registrar of Voters has certified the petition to be sufficient (see attachments 1 and 2). The initiative petition would amend the San Jose Municipal Code, Title 4 to create a minimum wage for the City of San Jose (see attachments 3 and 4). By adopting the

above recommendation, the Council is directing staff to prepare a report on the effects of the proposed ordinance. The report would include elements defined in California Elections Code Section 9212 (listed below). The Council must receive the report within 30 days of the acceptance of the certification of the sufficiency of the petition – in this case, by May 31, 2012. The Rules Committee has directed that the Council receive the 9212 report on May 22 and make a determination at that time of whether to: a) adopt the proposed ordinance as specified; b) adopt a resolution calling an election to submit the initiative to the voters at a Special Municipal Election on a date to be decided, but no earlier than 88 days before the date of the resolution; or c) adopt a resolution by August 10, 2012 calling for an election to submit the initiative to the voters at the next General Election on November 6, 2012.

BACKGROUND

On January 19, 2012, proponents of an initiative which would amend the San Jose Municipal Code, Title 4 filed a Notice of Intent to circulate a petition which would increase the minimum wage paid in San Jose to \$10.00 per hour. At the time that the Notice of Intention was filed, the voter registration report on file with the California Secretary of State showed 383,220 registered voters within San Jose. City Charter Section 1603 (b) requires that an initiative petition be signed by at least Five Percent (5%) of the total number of eligible registered voters to qualify the measure for either a Special Municipal Election or the next General Election (which is November 6, 2012). Based on that registration, the initiative requires 19,161 valid signatures of eligible San Jose registered voters for the initiative to qualify.

On March 29, 2012, the proponents of the initiative petition submitted 36,225 signatures on 5,084 sections. 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.

On April 2, 2012, the petition was transferred to the County of Santa Clara Registrar of Voters for signature verification. The Registrar of Voters began the process of verifying all signatures contained on the petitions with instructions to stop the count once 19,500 valid signatures were confirmed. The Registrar reported on April 24, 2012 that the petition has qualified with the sufficient number of signatures, as summarized below. Therefore, the Registrar has certified the petition to be sufficient to initiate further Council action as described below.

Total Number of Signatures Submitted	36,225
Number of Signatures Verified	27,757
Number of Signatures found Sufficient	19,518
Number Signatures found Not Sufficient	8,250
Number of signatures Not Sufficient – Duplicate	606
Number of signatures Not Checked	8,468

ANALYSIS

The initiative process in San José is guided by the City Charter and the California Elections Code. Once certified as qualified, under Elections Code Sections 9114 and 9211, the City Clerk has a duty to bring the Certificate of Sufficiency to the City Council at its next regularly scheduled meeting. The City Council must make a determination of how to proceed within ten (10) days of notice of the certification.

In placing this item on the May 1, 2012 City Council Agenda, the Rules and Open Government Committee directed the City Clerk to present two actions to the Council: 1) Acceptance of the Certificate of Sufficiency and 2) Direction to staff to complete a report on the effects of the proposed ordinance in Section 9212 as outlined below.

If the Council adopts the recommended actions, the City will comply with legal requirements. In addition, this action provides staff direction and some time to prepare a report to the Council on the effects of the proposed ordinance. The Council would then have information available to either adopt the ordinance as proposed or submit the initiative to the voters.

Consistent with California Elections Code §9215, the Council has four options to consider:

1) Report on the Effect of the Initiative:

Under Elections Code §9215, the City Council may order a report on the effect of the proposed initiative as defined in California Elections Code §9212, which provides that the Council may refer the initiative measure to any city agency or agencies for a report, which may include the following topics:

- 1) Its fiscal impact.
- 2) Its effect on the internal consistency of the city's general and specific plans.
- 3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the city 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.
- 8) Any other matters the City Council requests to be in the report.

The report shall be presented to the legislative body within the time specified by the Council, but no later than 30 days after the elections official certifies the sufficiency of

the petition. The Rules Committee recommends that the Council refer preparation of this report to staff and agendize the report for discussion on May 22, 2012. The Council must then take one of the actions described in Elections Code Section 9215 as detailed below.

2) Adopt Ordinance as proposed:

Under City Charter Section 1603 (a) (1) and California Elections Code §9215 (a), the Council may adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after the 9212 report is presented. If this option is pursued, the Council must act on the adoption of the proposed ordinance as submitted no later than June 1, 2012.

3) Order a Special Municipal Election:

If the City Council does not adopt the proposed ordinance in its entirety, then under City Charter, Article 16, Section 1603 (a) (2), if the petition is signed by at least five percent (5%) of eligible registered voters in effect at the time the notice of intent to circulate the petition is published, then the proposed ordinance, without alteration, may be submitted by the Council to the voters at a Special Municipal Election. The Council would have to adopt a resolution calling an election to submit the initiative to the voters at a Special Municipal Election on a date to be decided, but no earlier than 88 days and no later than 103 days from the date of the resolution.

4) Order an election on the next General Election Date:

If the City Council does not adopt the proposed ordinance in its entirety, then under City Charter, Article 16, Section 1603 (a) (2), if the petition is signed by at least five percent (5%) of eligible registered voters in effect at the time the notice of intent to circulate the petition is published, then the proposed ordinance, without alteration, shall be submitted by the Council to the voters at the next General Election, which is November 6, 2012. The Council would have to adopt a resolution to submit the proposed ordinance to the voters by August 10, 2012; the last regular Council meeting before that date is August 7, 2012.

COST SUMMARY/IMPLICATIONS

The cost for the signature verification already incurred with the County of Santa Clara is estimated to be approximately \$2.25 per signature plus overhead charges. Any cost impact from passing the ordinance without going to election would be information researched and presented with the 9212 Report.

As for election costs, one of the biggest variables is whether or not the election is consolidated with any other election. For a special election that is not consolidated with another election, the

City of San José would bear the full cost of the election including printing, mailing and personnel costs with the Santa Clara County Registrar of Voters. The Office of the City Clerk is in the process of obtaining updated cost projections from the Santa Clara County Registrar of Voters for a "stand-alone" special election and estimated costs for the November 2012 General Election. The estimated election costs and assumptions will be presented with the 9212 report.

To provide some reference, however, in the November 2010 General Election, the City had three citywide measures on the ballot plus three Council district elections. The total cost for the three measures was \$968,677, which averages to \$322,892 per measure. Measure U was the first citywide measure and cost \$545,484, and the costs for Measures V (\$213,073) and W (\$210,120) were the second and third measures. The above costs were based upon the City not publishing the full text of the measure in the sample ballot and allowing only ballot arguments, but not including rebuttal arguments. These are options that the Council would consider in any resolution calling an election for this measure.

CEQA:

Not a project.


RICHARD DOYLE
City Attorney


DENNIS D. HAWKINS, CMC
City Clerk

For questions please contact Dennis Hawkins, City Clerk, at (408) 535-1275 or
Lisa Herrick, Senior Deputy City Attorney at (408) 535-1963.

County of Santa Clara

Registrar of Voters

1555 Berger Drive, Bldg. 2
San Jose, CA 95112
Mailing Address: P.O. Box 611360, San Jose, CA 95161-1360
(408) 299-VOTE (8683) 866-430-VOTE (8683) FAX: (408) 998-7314
www.sccvote.org



April 24, 2012

Mr. Dennis Hawkins, CMC
City Clerk
City of San Jose,
200 East Santa Clara Street, Wing – 2nd Floor
San Jose, CA 95113

RE: "AN INITIATIVE ORDINANCE SEEKING TO IMPLEMENT AND ENFORCE THE
PAYMENT OF A MINIMUM WAGE IN THE CITY OF SAN JOSE"

Dear Mr. Hawkins:

The initiative petition submitted to our office on April 2, 2012 contained 36,225 signatures. Based on the registered voters in the City of San José as of the last report of registration to the Secretary of State (Election Code Section 2187) the petition needs 19,161 valid signatures to pass.

Your jurisdiction requested that the Registrar of Voters examine and verify a sufficient number of the signatures filed by the proponents until 19,500 signatures were verified and found sufficient, 339 more sufficient signatures than are required for the initiative to qualify for the ballot. We verified a total of 19,518 valid signatures, which is 357 more sufficient signatures than are required. In accord with Election Code sections 9114 and 9115, the Registrar of Voters verified 27,757 of 36,225 signatures submitted by the proponents. Your jurisdiction required 19,161 verified sufficient signatures, therefore the petition is sufficient.

If you have any questions concerning this matter, please feel free to contact me at (408) 282-3051.

Sincerely,

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

ms: JobC95 local jur ltr req 100 v042512

CLERK'S CERTIFICATE TO INITIATIVE PETITION

I, BARRY GARNER, Registrar of Voters of the **County of Santa Clara**, State of California, hereby certify:

That the **"AN INITIATIVE ORDINANCE SEEKING TO IMPLEMENT AND ENFORCE THE PAYMENT OF A MINIMUM WAGE IN THE CITY OF SAN JOSE"** Initiative measure has been filed with this office on April 2, 2012.

That said petition consists of 5,084 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>36,225</u> |
| 2. | Number of signatures verified | <u>27,757</u> |
| a. | Number of signatures found SUFFICIENT | <u>19,518</u> |
| b. | Number of signatures found NOT SUFFICIENT | <u>8,239</u> |
| 1. | NOT SUFFICIENT because DUPLICATE | <u>606</u> |

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 24th day of April, 2012.

(SEAL)

Barry Garner
Registrar of Voters

By: 
Deputy



Petition Result Breakdown

JobC95 City of San Jose to Implement Minimum Wage Minimum Wage for the City of San Jose

Signatures Required	19161		
Raw Count	36,225		
Sample Size	36,225	<i>Percent of Sigs</i>	<i>Percent of</i>
Sigs Checked	27,757	<i>Checked</i>	<i>Sample Size</i>
Sigs Not Checked	8,468		23.4 %
Sigs Valid	19,518	70.3 %	53.9 %
Sigs Invalid	8,239	29.7 %	22.7 %
Duplicated	606	2.0 %	1.7 %
Non-duplicate Invalids	7,633	27.0 %	21.1 %

RESULT ABBR	RESULT DESCRIPTION		
Approved	Approved	19,518	70.3 %
NotReg	Not Registered	5,508	19.8 %
OutOfDist	Out of District	787	2.8 %
Duplicate	Signed more than once	606	2.2 %
RegLate	Registered Late	62	0.2 %
RegDiffAdd	Registered at a Different Address	1,031	3.7 %
CantIdentify	Cannot Identify	192	0.7 %
MultAdd	More than One Address Given	2	0.0 %
NoResAdd	No Residence Address Given	9	0.0 %
NoSig	No Signature	3	0.0 %
PrintedSig	Printed Signature	1	0.0 %
SigNoMatch	Signatures Don't Match	38	0.1 %