



## AGENDA REPORT

**Meeting Date:** October 18, 2010  
**Item Number:** E-5  
**To:** Honorable Mayor & City Council  
**From:** Byron Pope, City Clerk  
**Subject:** DISCUSSION OF INITIATIVE MEASURE RELATED TO PARKING AT PARTICULAR CITY-OWNED PARKING FACILITIES AND DIRECTION TO ADOPT THE MEASURE, TO PLACE THE MEASURE BEFORE THE VOTERS, OR TO ORDER A REPORT ON THE MEASURE.

**Attachments:** 1. Initiative Measure

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### **RECOMMENDATION**

The City Clerk recommends that the City Council discuss the status of the initiative measure and pursuant to Elections Code Section 9215 take one of the following actions:

- (1) Adopt the initiative measure without alteration. If this action is taken, it would be appropriate for the City Council to direct the City Attorney to prepare the appropriate document to adopt the measure for the City Council's review and consideration at a continued regular meeting to occur within 10 days of October 18, 2010; or
- (2) Submit the initiative measure, without alteration, to the voters. If this action is taken, it would be appropriate for the City Council to direct the City Clerk and the City Attorney to prepare the appropriate resolutions to submit the measure to the voters at the March 8, 2011 election or at a special election to be held before that date. The resolutions can be placed on the agenda for City Council consideration at any of the City Council meetings in November; or
- (3) Order a report on the effect and impact of the proposed initiative. This report would be prepared pursuant to Elections Code Section 9212. The report must be prepared by staff and provided to the City Council within 30 days of October 18, 2010. If the City Council chooses this option, then staff recommends that the presentation of the report be scheduled for the City Council meeting of November 16, 2010. After receiving the report, the City Council will need to take one of the actions set forth in paragraphs (1) and (2) above.

## **INTRODUCTION**

An initiative petition was filed with the City on September 14, 2010 proposing to direct the City to provide free parking for two hours at particular City-owned parking facilities and limiting the amount of monthly parking at those facilities. The City Clerk examined the initiative petition and at this evening's meeting, presented to the City Council a certificate of sufficiency stating that the petition was signed by 12.8% of registered voters. This number of voters is sufficient to place the measure on the ballot at the next regular municipal election to be held on March 8, 2011. Accordingly, the Elections Code now requires that the City Council take certain actions as further described in this report.

## **DISCUSSION**

Elections Code Section 9215 requires that the City Council take one of the following actions:

1. Adopt the proposed measure, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented.
2. Submit the measure, without alteration, to the voters at the next regular municipal election (March 8, 2011) or at a special election to be held before that date.
3. Order a report on the effect of the proposed measure, including any impacts listed in Elections Code Section 9212. When the report is presented to the City Council, then the Council must either adopt the measure within 10 days or submit the measure to the voters, without alteration, at the next regular municipal election (March 8, 2011) or at a special election before that date.

Staff is seeking direction from the City Council as to which course of action it desires to take on the initiative petition. Each of these options is discussed in more detail below.

**Option 1.** If the City Council desires to adopt the measure set forth in the initiative petition, staff recommends that the City Council direct the City Attorney to prepare the appropriate document to adopt the ordinance for review and consideration at a continued regular meeting within 10 days of today's meeting. That meeting must occur prior to October 28, 2010.

**Option 2.** If the City Council desires to place the measure set forth in the initiative petition on the March 8, 2011 ballot (or schedule a special election before that date), staff recommends that the City Council direct the City Clerk and the City Attorney to prepare the appropriate resolutions to submit the ordinance to the voters at the next regular municipal election to be held on March 8, 2011 (or at a special election to occur between 88 and 103 days after calling the election). The City Clerk and City Attorney should also be directed to bring back those resolutions for City Council consideration at any of its meetings during the month of November.

If this option is pursued, further direction is requested from the City Council. First, the City Council may adopt a resolution setting priorities for filing a written argument regarding the initiative measure. That is, if more than one ballot argument is filed regarding the measure, Elections Code Section 9287 allows the City Council to give priority to City Council members who wish to file a ballot argument. Second, the City

Council may adopt a resolution providing for the filing of rebuttal arguments. Pursuant to state law, a sample ballot for this measure will include an argument in favor and an argument against the measure (assuming that someone submits an argument for each viewpoint). However, pursuant to Elections Code Section 9285 rebuttal arguments are optional and at the discretion of the City Council. Accordingly, direction should be provided as to whether to allow rebuttal arguments. Absent adoption of a resolution, no rebuttal arguments will be permitted. Third, the City Council may direct the City Attorney to prepare an impartial analysis of the measure pursuant to Elections Code section 9280. As with rebuttal arguments, this is not required. Absent direction of the City Council no impartial analysis will be included in the sample ballot.

**Option 3.** Alternatively, before adopting the ordinance or calling an election, the City Council may refer the proposed ordinance to any City department or departments for the preparation of a report regarding the following:

- (1) Fiscal impact;
- (2) Effect on the internal consistency of the City's General and Specific Plans, including the housing element, the consistency between planning and zoning, and the limitations on city actions under Government Code Section 65008 (prohibiting certain types of discrimination), Government Code Section 65913 et. seq. (addressing housing development approvals) and Government Code Section 65915 et. seq. (addressing density bonuses);
- (3) 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) Impact on funding for infrastructure of all types, infrastructure costs or savings, or infrastructure maintenance;
- (5) Impact on the community's ability to attract and retain business and employment;
- (6) Impact on the uses of vacant parcels of land;
- (7) Impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization; and,
- (8) Any other matters the City Council requests to be in the report.

Pursuant to Elections Code Section 9212, the report must be presented to the City Council no later than thirty days after the Elections Official certifies to the City Council the sufficiency of the petition. Because this certification will occur at tonight's City Council meeting, the report must be presented to the City Council by November 17, 2010. If the City Council chooses this option, staff recommends that the City Council direct City Staff to prepare the report and return with the report at the November 16, 2010 City Council meeting. Direction should also be provided as to what matters the City Council desires to be discussed in the report.

After reviewing the report, the City Council either must adopt the ordinance, or call an election within ten days after the report is presented to the Council. (E.C. 9214).

**FISCAL IMPACT**

Cost estimates to place the initiative measure on the ballot at the March 8, 2011 General Municipal Election will increase the cost budgeted for that election from \$122,814 to \$150,000, an additional \$27,186. Calling a special election is estimated to cost approximately \$125,000. The costs for this initiative measure have not been budgeted in the City Clerk's Office operating budget for FY 10-11. If a report is ordered, there will be staff time involved in researching and providing the report.

Byron Pope, CMC  
Approved By



# **Attachment 1**

## **FREE CITY PARKING INITIATIVE MEASURE**

The people of the City of Beverly Hills do ordain as follows:

### **SECTION 1: INTRODUCTION**

A. We, the people of the City of Beverly Hills, affirm our intent to encourage parking within the City that is convenient, available and reasonably priced in support of the local retail and restaurant community and other non-merchant uses. We seek to ensure, while parking remains available to and compatible with the surrounding community, that City-owned parking structures also provide revenue that assists the City with financing the construction, operation, maintenance and repair of these off-street parking facilities. Accordingly, we hereby affirm our intent to amend the Comprehensive Schedule of Taxes, Fees and Charges as it applies to hourly parking rates in City-owned parking facilities, as identified below, operating prior to June 30, 2008, to provide that the first two hours of parking shall be free to all users of these facilities, except as otherwise exempted or excepted in Section 2. of this initiative measure. At the conclusion of the first two hours of use, the City may establish hourly parking rates for succeeding hours or portions of hours on a lot-by-lot basis. Such rates shall be reflected on the City's Parking Rate Information Sheet. A revised sample Parking Rate Information Sheet for City-owned facilities included in this initiative is included as Attachment A. This initiative measure shall not apply to and shall have no effect upon any provision of the Comprehensive Schedule of Taxes, Fees and Charges other than as shown in Attachment A.

B. We find that establishment of a two hours free parking requirement at City-owned parking facilities operating prior to June 30, 2008 and listed in Attachment A by this initiative is appropriate and desirable and benefits both residents of the City and visitors thereto. The revisions to the Parking Rate Information Sheet hereby ordained will have no effect on surrounding development.

## **SECTION 2: EXEMPTIONS AND EXCEPTIONS**

A. This initiative measure shall not apply to 3-Hour Metered Parking, Monthly Parking Permits, Daily Parking Passes, Special Events Parking, Commercial Valet Storage, Early Bird Parking or other special parking rates offered by the City at City-owned parking facilities.

B. The number of Monthly Parking Permits sold in each City-owned parking facility regulated by this initiative may not be increased beyond the number of Monthly Parking Permits sold on April 30, 2010.

## **SECTION 3: INTENT AND IMPLEMENTATION OF THIS MEASURE**

A. Determining Consistency.

To ensure that our intent prevails and is subject to express, objective standards that cannot be changed through subsequent discretionary actions or interpretations, words shall be incorporated according to the intent expressed in this initiative measure and shall be applied in accordance with their plain meaning, rather than according to any contrary provision or interpretation in the Beverly Hills Municipal Code.

B. Effective Date.

This initiative measure shall be considered adopted and effective upon the earliest date legally possible, and in no event later than 10 days after the date the vote is declared as provided in Elections Code Section 9217.

C. Severability.

If any word or words of this initiative measure, or its application to any situation, are held invalid or unenforceable, in a final judgment that is no longer subject to rehearing, review or appeal by a court of competent jurisdiction, then the word or words are severed and the remaining part of this initiative measure, and the application of any part of this initiative measure to other situations, shall continue in full force and effect. We, the people of the City of Beverly Hills, declare that we would have adopted this initiative measure, and each word of it, irrespective of the fact that any other condition, word or application to any situation, be held invalid.

D. Incorporation of Attachments.

All attachments as listed below are incorporated by reference and comprise part of this initiative measure.

Attachment A: Sample Parking Rate Information Sheet for City-owned parking facilities subject to initiative measure

Attachment A

Sample Hourly Parking Rate Information Sheet for City-owned Facilities Subject  
to Initiative Measure

221 North Crescent Drive

First Hour	Free
Second Hour	Free
Per ½ Hour Thereafter	City Discretion

321 South La Cienega Boulevard

First Hour	Free
Second Hour	Free
Per ½ Hour Thereafter	City Discretion

333 North Crescent Drive

First Hour	Free
Second Hour	Free
Per ½ Hour Thereafter	City Discretion

9361 Dayton Way

First Hour	Free
Second Hour	Free
Per ½ Hour Thereafter	City Discretion

440 North Camden Drive

First Hour	Free
Second Hour	Free
Per ½ Hour Thereafter	City Discretion

461 North Bedford Drive

First Hour	Free
Second Hour	Free
Per ½ Hour Thereafter	City Discretion

9510 Brighton Way

First Hour	Free
Second Hour	Free
Per ½ Hour Thereafter	City Discretion

216 South Beverly Drive

First Hour	Free
Second Hour	Free
Per ½ Hour Thereafter	City Discretion

438 North Beverly Drive/439 North Canon Drive

First Hour	Free
Second Hour	Free
Per ½ Hour Thereafter	City Discretion

450 North Rexford Drive

First Hour	Free
Second Hour	Free
Per ½ Hour Thereafter	City Discretion

345 North Beverly Drive

First Hour	Free
Second Hour	Free
Per ½ Hour Thereafter	City Discretion