



CITY COUNCIL AGENDA REPORT

MEETING DATE: DECEMBER 9, 2014

ITEM NUMBER: NB-1

SUBJECT: REVIEW OF AGENCY REPORT ON MEDICAL MARIJUANA; TWO MEDICAL MARIJUANA INITIATIVE PETITIONS QUALIFYING FOR BALLOT; CONSIDERATION OF ADOPTING A NEW ORDINANCE, OR ORDERING ELECTION; CONSIDERATION OF CITY MEDICAL MARIJUANA MEASURE(S)

DATE: DECEMBER 4, 2014

FROM: CITY ATTORNEY'S OFFICE; CITY CLERK'S OFFICE

PRESENTATION BY: CHRIS F. NEUMEYER, DEPUTY CITY ATTORNEY;
RICHARD L. FRANCIS, ASSISTANT CEO

FOR FURTHER INFORMATION CONTACT: RICK FRANCIS, ASSISTANT CEO, 714-754-5688

At the November 18, 2014 City Council meeting, City Council ordered a report pursuant to Election Code § 9212 for two qualifying medical marijuana ballot initiatives, a report for a proposed City's Medical Marijuana Ordinance, and a report on the City of Santa Ana's recently passed Medical Marijuana Ordinance. The reports are attached for City Council consideration.

RECOMMENDATION:

1. Staff recommends that the City Council approve (for each qualifying ballot initiative) one of the following options:
 - a. Adopt the ordinance (for either initiative), without alteration (yet not recommended due to "Taxation Issues," see attached 11/18/14 Report); or
 - b. Order a special election (for either initiative), to be held pursuant to subdivision (a) of Election Code § 1405 [which states that the election for a municipal initiative that qualifies shall be held not less than 88 nor more than 103 days after the date of the order of election], at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city; or
 - c. Order a regular election (for either initiative), to be consolidated with the next "regularly scheduled general election for members of the governing body of the local government," pursuant to Art XIII C § 2(b) of the California Constitution, which would be November 8, 2016; and

2. The City Council may consider taking action on the City Measure to Establish Regulation of Medical Marijuana Dispensaries and Regulation of Medical Marijuana Cultivation as proposed on August 5, 2014, or an amended version of that prior Measure.

BACKGROUND:

Refer to City Council Agenda Report dated November 18, 2014 (Attachment 2).

FISCAL REVIEW:

The fiscal impact of placing the two medical marijuana initiatives on the ballot is multifold. There are the costs of a special election (or consolidation with a general election, see "Taxation Issues" in the attached 11/18/14 Report) as well as the cost of implementing the proposed ordinances. Furthermore, there is the potential revenue generated by the taxes in each ordinance.

1. Estimated special election costs to the City of Costa Mesa are as follows:
 - a. Stand Alone Special Election for One Ballot Measure: \$234,067 - \$261,790.
 - b. Stand Alone Special Election for Up to Four Ballot Measures: \$252,980 - \$280,703.
 - c. Consolidated General Election for One Ballot Measure: \$15,000.
 - d. Consolidated General Election for Up to Four Ballot Measures: \$15,000 - \$60,000.
2. The estimated costs of implementing any of the ordinances is provided in the attached report (Attachment 1).

ELECTION DATES

Elections Code § 1405, pursuant to Election Code § 9214, provides that the election for a municipal initiative that qualifies for a special election shall be held not less than 88 nor more than 103 days after the date of the order of election.

If the City Council orders a special election at the December 9, 2014 meeting, then the window during which a special election would need to be held is between March 7, 2015 and March 21, 2015

If the City Council orders pursuant to the California Constitution in Art XIII C § 2(b), as amended by Proposition 218 in 1996, that the initiative petitions be sent to the voters at the next "regularly scheduled general election for members of the governing body of the local government," then the election would be held on November 8, 2016.

LEGAL REVIEW:

The City Attorney's office has prepared this report with its legal analysis, and the City Attorney's Office has reviewed the attached resolutions.

THOMAS P. DUARTE
City Attorney

BRENDA GREEN
City Clerk

RICHARD L. FRANCIS
Assistant CEO

ATTACHMENTS:

1. [Report pursuant to Election Code § 9212 and Report as requested by City Council on further matters \(includes Finance Dept. Attachments 1, 2, 3 & 4 and Fire Dept. Attachments 1, 2, & 3.\)](#)
2. [City Council Agenda Report dated November 18, 2014.](#)
3. [Text of Ordinance No. 1 - Entitled "Allow Operation of Up to Eight Medical Marijuana \(Cannabis\) Businesses in the City of Costa Mesa" by the City Attorney's Office \(and named "Medical Cannabis Control Act" by its proponents\) and submitted by proponents Robert Taft, Jr. and Kevin Gardner \(with the counsel of attorney Randall T. Longwith\).](#)
4. [Text of Ordinance No. 2 - Entitled "Allow Operation of Up to Four Licensed Medical Marijuana Businesses in the City of Costa Mesa" by the City Attorney's Office \(and named "An Initiative to Provide Revenue to Costa Mesa Citizens" by its proponents\) and submitted by proponents Taylor Webster and Michael Levesque \(with the counsel of attorney David Welch\)](#)
5. [Matrix Comparison Chart for Four Ordinances](#)
6. [Text of Ordinance No. 3 - Entitled "Establish Regulation of Medical Marijuana Dispensaries and Regulation of Medical Marijuana Cultivation" and proposed by the City.](#)
7. [Outline of Ordinance No. 3 - Entitled "Establish Regulation of Medical Marijuana Dispensaries and Regulation of Medical Marijuana Cultivation" and proposed by the City.](#)
8. [City of Santa Ana's Measure BB, including City Attorney Impartial Analysis, Direct Arguments and Rebuttals](#)
9. – 18. [Resolutions pertaining to a Special Election.](#)
19. – 28. [Resolutions pertaining to a General Election November 8, 2016.](#)
29. [Initiative 1 Map](#)
30. [Initiative 2 Map](#)
31. [City Draft Measure Map A](#)
32. [City Draft Measure Map B](#)
33. [City Draft Measure Map C](#)