

AGENDA SUMMARY

RE: MARINA CENTER LCP AMENDMENT BALLOT MEASURE	FOR AGENDA DATE: JUNE 15, 2010 AGENDA ITEM NO.:	
<p>RECOMMENDATION:</p> <ol style="list-style-type: none"> 1. Hold a public hearing; and 2. Adopt the following resolutions pertaining to the General Municipal Election to be held November 2, 2010 <ol style="list-style-type: none"> a. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010 AS REQUIRED BY THE PROVISIONS OF THE CHARTER, FOR THE SUBMISSION TO THE VOTERS THE MARINA CENTER LOCAL COASTAL PROGRAM AMENDMENT BALLOT MEASURE. b. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT TO PROVIDE ELECTION SERVICES AND TO CONSOLIDATE THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010 WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THAT DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE. c. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY BALLOT MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS. d. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA, CALIFORNIA PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES SUBMITTED AT MUNICIPAL ELECTIONS. 		
<p>SUMMARY:</p> <p>On May 18, 2010, the Council directed staff to bring back to the Council a ballot measure to be placed on the November general election ballot that if approved by the voters would amend the City's adopted and certified Local Coastal Program consistent with the amendments detailed in the certified Environmental Impact Report for the Marina Center Mixed Use Development Project, with the addition of a Q Qualified Combining zone to restrict the allowed uses on the property.</p> <p style="text-align: center;"><i>Continued page 2</i></p>		
<p>FISCAL IMPACT: Because Security National is funding the cost of placing the Marina Center LCP Amendment Ballot Measure on the November general election ballot, there is no fiscal impact with this action.</p>		
<p>DEPARTMENT HEAD SIGNATURE: <i>[original signed] Sidnie L. Olson</i> _____ Sidnie L. Olson, AICP Director of Community Development</p>	<p>CITY MANAGER SIGNATURE: _____ David W. Tyson City Manager</p>	
<p>REVIEWED BY: City Attorney</p>	<p>DATE: 06-10-10</p>	<p>INITIALS: SS</p>
<p>Council Action:</p> <p>Ordinance No. _____ Resolution No. _____</p>		

ATTACHMENTS:

Attachment 1 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010, AS REQUIRED BY THE PROVISIONS OF THE CHARTER, FOR THE SUBMISSION TO THE VOTERS THE MARINA CENTER LOCAL COASTAL PROGRAM AMENDMENT BALLOT MEASURE.

Attachment 2 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT TO PROVIDE ELECTION SERVICES AND TO CONSOLIDATE THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010 WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THAT DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE.

Attachment 3 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY BALLOT MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS.

Attachment 4 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA, CALIFORNIA PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES SUBMITTED AT MUNICIPAL ELECTIONS.

DISCUSSION:

A General Municipal Election will be held November 2, 2010, for the submission to the voters of the Marina Center LCP Amendment Ballot Measure which would submit the question to voters whether or not to amend the City's certified Local Coastal Program (LCP) to revise text and maps associated with the LCP's Land Use Plan (LUP), which is the relevant portion of the City of Eureka's General Plan, and to revise maps associated with the LCP's Implementation Plan (IP), which includes the zoning district maps, with respect to approximately 43 acres generally bounded by Waterfront Drive to the north and west, Washington Street to the south, and Broadway (Highway 101) to the east and commonly referred to as the "Balloon Track" property. In addition, the ballot measure would add a Q Qualified Combining District to ensure that uses at the site are restricted to development that causes no more or more intense environmental impacts than those already examined in the Marina Center Mixed Use Development Project Environmental Impact Report (EIR). The EIR analyzed the potential impacts of 313,500 square feet of retail space, 104,000 sq. ft of office space, 72,000 sq. ft. of multi-family residential housing (54 dwelling units), 70,000 sq. ft. of light industrial space, 14,000 sq. ft. of restaurant space, 12,500 sq. ft. of museum space, 1,590 parking spaces, and an 11.89-acre wetland reserve.

Furthermore, the Q Qualified Combining District would prohibit the development of “Discount Superstores” on the property. “Discount superstore” means a discount retail store that also contains a full service grocery department under the same roof that shares entrances and exits with the discount store area. Such retail stores exceed one hundred thousand (100,000) square feet of gross floor area and devote at least five (5%) percent of the total sales floor area to the sale of non-taxable merchandise. “Sales floor area” means only interior building space devoted to the sale of merchandise, and does not include restrooms, office space, storage space, automobile service areas, or open-air garden sales space. “Nontaxable merchandise” means products, commodities, or items the sale of which is not subject to California State sales tax. These stores usually offer a variety of customer services, centralized cashing, and a wide range of products. They usually maintain long store hours seven (7) days a week. The stores are often the only ones on the site, but they can also be found in mutual operation with a related or unrelated garden center or service station. Discount superstores are also sometimes found as separate parcels within a retail complex with their own dedicated parking.

The Marina Center LCP Amendment Ballot Measure also includes a provision that specifies that the LCP Amendment may only be amended by simple majority vote of the voters of the City of Eureka. Ten years after the effective date of the Amendment, however, the City Council may repeal all or part of the Q Combining District without further vote of the people, so long as the City complies with CEQA before approving any such amendment. In the event that the City Council repeals the Q Combining District, the regulations of the underlying zoning districts applicable to the property would apply.

If the voters pass the Marina Center LCP Amendment Ballot Measure, it would result in an amendment to the City’s adopted and certified Local Coastal Program (LCP), which would require certification by the Coastal Commission prior to the amendments taking effect. If the Coastal Commission fails to certify the LCP amendments they would not take effect and there would be no change to the current general plan land use designations or zoning designations on the subject property.

The City Council should review the language of the draft ballot measure and, if there are no modifications, approve the language. If the Council determines that amendments must be made to the ballot measure, the Council may state those amendments and approve the language of the ballot measure as modified. At the time that the Council approves the ballot language, it should also establish the process for the submission of arguments for and against the measure, order public notice as required by the Elections Code, as well as seek the City Attorney’s Impartial Analysis.

The Council should then consider action to place the ballot measure on the November general election ballot. The City Council’s action to place the ballot measure on the ballot is a “project” under the California Environmental Quality Act and is subject to environmental review. Because the amendments described in the ballot measure are the same as those analyzed in the Environmental

Impact Report (EIR) for the Marina Center Mixed Use Project, no subsequent or supplemental EIR is required, and no addendum to the certified EIR is necessary. The City Council, on October 27, 2009, certified the Marina Center Mixed Use Development Project EIR prepared for the Marina Center project as complete and accurate. Therefore, the certified EIR for the Marina Center Mixed Use Development Project serves as the environmental analysis required under CEQA for the Council's action to place the ballot measure on the November ballot.

Under CEQA, prior to action to place the Marina Center LCP Amendment Ballot Measure on the November ballot, the Council must adopt findings for each significant effect identified in the EIR, and include the rationale for each finding. The possible findings, briefly, are (1) changes or alterations have been made to the project to avoid the significant effect; (2) changes or alterations to avoid the effect are under the jurisdiction of another agency; or (3) other considerations make mitigation infeasible.

Approval by the voters of the Marina Center LCP Amendment Ballot Measure would facilitate the development of uses specifically identified in the Marina Center Mixed Use Development Project EIR. The analysis and conclusion of the certified Marina Center Mixed Use Development Project EIR is that the development of those uses could result in significant impacts to the environment that cannot be mitigated to a level that is considered "less than significant." The action of the Council to place the Marina Center LCP Amendment Ballot Measure on the ballot is the final action prior to potential approval of the LCP Amendments by the voters; because approval of the Marina Center LCP Amendment Ballot Measure would result in potential unmitigable significant impacts, the City Council's action to place the measure on the ballot must include adoption of a Statement of Overriding Considerations.

The statement of overriding considerations is a statement of the views of the Council on the ultimate balancing of the merits of approving placement of the Marina Center LCP Amendment Ballot Measure on the November general election ballot despite the environmental damage that would result if the ballot measure passes and the Marina Center Mixed Use Development Project were developed.

The above described actions are accomplished by adoption of the attached resolutions.

Staff recommends that the City Council adopt the attached resolutions calling and giving notice of the November 2, 2010, General Municipal Election; requesting the County Board of Supervisors to provide election services and consolidate the election with the Statewide General Election to be held on that date; and directing the City Attorney to prepare an impartial analysis and set priorities for filing written arguments regarding the Marina Center LCP Amendment Ballot Measure.