

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

A Resolution of the City Council of the )  
City of Lafayette calling a special )  
Election on June 5, 2018, requesting )  
that the special election be consolidated )  
with the Statewide Primary election )  
scheduled for June 5, 2018 )  
and submitting to the qualified voters )  
of the City of Lafayette a Referendum )  
measure regarding Ordinance No. 641 )

Resolution No. 2018-17

WHEREAS, on September 14, 2015, the City Council of the City of Lafayette adopted Ordinance No. 641, which in pertinent part amended the zoning of Parcel 27 (APN 232-150-027) from Administrative/Professional Office to Single Family Residential District - 20 to be consistent with the City’s recently adopted general plan amendment to reclassify Parcel 27 from Administrative Professional Office to Low Density Single Family Residential;

WHEREAS, a referendum petition to repeal in its entirety the legislative acts in Ordinance No. 641 was filed with the City Clerk on October 14, 2015;

WHEREAS, upon review, the City Clerk determined that the Referendum petition met the statutory requirements of the Elections Code and contained a sufficient number of signatures to qualify the referendum for the ballot, and the City Clerk submitted a certification of the Referendum to the City Council at its December 14, 2015 meeting;

WHEREAS, at the time of the City Clerk’s certification on December 14, 2015, the law provided that the Referendum was invalid in that it would create an inconsistency with the City’s general plan and, on that basis, the City Council did not repeal Ordinance No. 641 or submit the Referendum to the electorate;

WHEREAS, on March 10, 2016, a Petition for Writ of Mandate seeking to compel the City to either rescind Ordinance No. 641 or place the Referendum on the ballot was filed. The trial court denied the Writ of Mandate, which was then appealed. On February 21, 2018, the Court of Appeals issued its opinion, which overturned the trial court ruling, concluding that the City was required to either rescind Ordinance No. 641, or place the Referendum on the ballot;

WHEREAS, the City Council desires to call a special election on June 5, 2018 for the purpose of submitting the Referendum to the electorate; and

WHEREAS, the City Council desires to consolidate the special election for the Ordinance described herein with the Statewide Primary Election to be held on June 5, 2018.

NOW, THEREFORE, THE CITY COUNCIL DOES HEREBY RESOLVE AS FOLLOWS:

1. **Record; Recitals.** The recitals set forth are found to be true and correct and are incorporated herein by reference.
2. **Submission of Ordinance No. 641.** The City Council hereby calls and orders to be held in the City of Lafayette, California, on Tuesday, June 5, 2018, a special election for the purpose of submitting Ordinance No. 641 to the qualified voters of the City. A copy of the ordinance is available in the City Clerk's office at 3675 Mt. Diablo Blvd., #210, Lafayette, CA 94549, will be mailed at no cost and made available on the city's website.
3. **Ballot Measure.** The City Council does hereby order that the following ballot measure shall be presented and printed upon the June 5, 2018 ballot and submitted to the qualified voters in substantially the following form:

Shall the legislative actions in Ordinance #641 approving the Homes at Deer Hill Project, which include a rezone from Administrative/Professional Office (35 units/acre) to Single Family Residential District-20 (2 units/acre) and to Planned Unit Development to provide 44 single-family homes, and a Development Agreement to provide 11 acres, which include parklands, a sports field, a dog park, a tot-lot and a multi-use trail, be adopted?	YES
	NO

4. **Election Procedures.**
  - a. Consolidated Election. Per Elections Code section 10403, the Board of Supervisors of Contra Costa County is requested to consent to the consolidation of the special election for Ordinance No. 641 with the statewide primary election to be held on Tuesday, June 5, 2018 for the purpose of submitting Ordinance No. 641 to the voters of the City of Lafayette. The City acknowledges that the consolidated election will be held and conducted in the manner prescribed in Section 10418.
  - b. County Election Services. In accordance with Elections Code section 10002, the City of Lafayette requests the services of the Board of Supervisors of Contra Costa County and the Registrar of Voters of Contra Costa County to render such election services to the City of Lafayette as may be requested by the City Clerk, and Contra Costa County is to be reimbursed in full for such services as are performed. The election services which the City of Lafayette requests the Registrar of Voters, or such other official as may be appropriate, to perform and which such officer is hereby authorized and directed to perform, if said Board of Supervisors consents, include: the preparation, printing and mailing of sample ballots and polling place cards; the establishment or appointment of precincts, polling places, and election officers, and making such publications as are required by law in connection therewith; the furnishing

of ballots, voting booths and other necessary supplies or materials for polling places; the canvassing of the returns of the election and the furnishing of the results of such canvassing to the City Clerk of the City of Lafayette; and the performance of such other election services as may be requested by the City Clerk.

- c. City Clerk Election Services. The City Clerk is authorized, instructed and directed to prepare any documents and take any additional actions that may be necessary in order to properly and lawfully conduct the election.
  - d. Notice. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form, and manner as required by law.
  - e. Ballot Procedure; Certification. The ballots to be used at the election shall be in the form and content as required by law. All ballots shall be tallied at a central counting place and not at the precincts. The Contra Costa County Registrar of Voters is hereby authorized to canvas the returns of the election. The City Clerk of the City of Lafayette shall receive the canvass as it pertains to the election on the ballot measure, and shall certify the results to the City Council, as required by law.
  - f. Conduct of Election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections in the City.
5. **Impartial Analysis.** The City Clerk is directed to transmit a copy of the measure to the City Attorney, and directs the City Attorney to prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure. The impartial analysis shall be filed by March 19, 2018, at 5:00 p.m. (PST). The City Council hereby directs the City Attorney to prepare an impartial analysis of the ballot measure not to exceed five hundred (500) words in accordance with Elections Code Section 9280. The impartial analysis shall include a statement indicating that the proposed ballot measure was placed on the ballot by a petition signed by the requisite number of voters. In the event the entire text of Ordinance No. 641 is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10 point font bold type, the following: "The above statement is an impartial analysis of Measure \_\_\_\_\_. If you desire a copy of Ordinance #641, please call the City Clerk's office at 925-284-1968 and a copy will be mailed at no cost to you."
6. **Arguments in Favor and Opposed.** The City Council authorizes Vice Mayor Burks and Councilmember Anderson to submit a written argument in favor of Ordinance No. 641, not to exceed three hundred (300) words in length, and the proponents filing the referendum petition may prepare and submit an argument

against Ordinance No. 641. Vice Mayor Burks and Councilmember Anderson shall also prepare and file a rebuttal argument. Such written arguments in favor of or opposed to the proposed measure may include up to five (5) signatures in accordance with Elections Code Section 9283.

7. **Arguments For and Against; Rebuttals.** The City Council hereby authorizes arguments for and against the ballot measure and rebuttal arguments to be filed in accordance with Elections Code Section 9282-9287 and establishes March 21, 2018, at 5:00 p.m. (PST) as the deadline to file arguments for and against the ballot measure, and March 26, 2018, at 5:00 p.m. (PST) as the deadline to file rebuttal arguments.
8. **Public Examination Periods.** The City Council hereby establishes March 22, 2018, through March 31, 2018, as the ten (10) calendar day examination period required by Elections Code Section 9295 with respect to arguments for and against the ballot measure and the impartial analysis. Voters may examine the ballot measure, the impartial analysis, the argument for the ballot measure and the argument against the ballot measure in the City Clerk's office at 3675 Mt. Diablo Blvd., #210, Lafayette, CA 94549, between the hours of 8:00 a.m. and 5:00 p.m. (PST), Monday through Friday during such period.  
  
The City Council hereby establishes March 27, 2018, through April 5, 2018, as the ten (10) calendar day examination period required by Elections Code Section 9295 with respect to any rebuttal arguments. Voters may examine the ballot measure, the impartial analysis, the argument for the ballot measure, the argument against the ballot measure, and any rebuttal arguments in the Office of the City Clerk at 3675 Mt. Diablo Blvd., #210, Lafayette, CA 94549, between the hours of 8:00 a.m. and 5:00 p.m. (PST), Monday through Friday during such period.
9. **Placement on the Ballot.** A statement shall be printed in the ballot pursuant to Elections Code sections 9243 and 9223 advising voters that they may obtain a copy of Ordinance No. 641, at no cost, upon request made to the City Clerk.
10. **Delivery of Resolution to County.** The City Clerk is hereby directed to deliver certified copies of this Resolution to the Clerk of the Board of Supervisors of Contra Costa County and the Registrar of Voters of Contra Costa County promptly upon its adoption.
11. **Severability.** If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.
12. **Effective Date.** This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Lafayette at a special meeting of said Council on March 7, 2018 by the following vote:

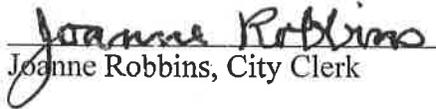
AYES: **Tatzin, Burks, Anderson and Mitchell**

NOES: **Samson**

ABSENT: **None**

ABSTAIN: **None**

ATTEST:

  
Joanne Robbins, City Clerk

APPROVED:

  
Don Tatzin, Mayor