

**FOR IMMEDIATE RELEASE:**

Monday, Sept. 9, 2019



## **Council Won't Seek Legal Action Against Ballot Measure**

### **City Council Will Place Citizens' Height, Density Limit Initiative on November 2020 Ballot**

**San Mateo, CA** — After spending a year carefully considering its options and listening to the community, the City Council has decided not to challenge the legality of a citizen group's initiative petition to place an extension of building height and density limits on the ballot.

The council's decision not to challenge the legality of the petition is largely in response to public input it has received on the issue. The citizens' initiative is proposed by a group of residents known as San Mateans for Responsive Government, SMRG. While the city council has received strong support and opposition for the measure, even some who oppose the measure have expressed their desire that it be placed on the ballot so the voters can decide. The council was also concerned about the uncertainty of litigation and potential exposure to attorney fees.

The council unanimously decided to place the SMRG measure on the ballot when it calls the November 2020 election next year.

The City remains committed to focusing its efforts on providing a robust General Plan update process that encourages the public to have thoughtful discussions about policies that will help determine the future of San Mateo.

In 2018, SMRG circulated a petition for a 10-year extension of voter-approved height and density limits that have been in place since 1991. The voter initiative establishing these limits is slated to sunset in 2020. Although the measure sunsets in 2020, the limits do not immediately expire and remain in place until the General Plan is updated or amended.

While SMRG was gathering signatures, lawyers representing local labor and business interests sent a letter to the City asserting the form of SMRG's petition violated legal requirements. After consulting with an elections law expert, the city attorney informed the Council that the SMRG petition likely didn't comply with the state's full text rule. That law requires those who sign ballot initiatives be provided with all of the information about what they are signing so they can make fully-informed decisions. The city attorney also informed the council that it must either place the proposed initiative on the ballot, or file a legal action asking a judge to determine whether the measure violates the full text rule.

The City has notified SMRG that it will not pursue legal action. The City's decision not to file a lawsuit does not prevent those who submitted objections to the petition from filing a lawsuit to prevent placement of the measure on the ballot.

#### **Further Background**

In 1991, San Mateo voters limited building densities and capped building heights to no more than 55 feet in most areas of the City. In 2004, Measure P extended these limits that are specified in the General Plan.

As the City was focused on beginning the multi-year process of updating San Mateo's General Plan, SMRG began collecting signatures to extend Measure P in spring of last year. In June 2018, the City received a letter from a law firm asserting SMRG's petition violated state election laws and shouldn't be placed on a ballot. Shortly after, SMRG submitted its petition and county elections officials determined enough signatures had been gathered to qualify the measure for the ballot.

Faced with legal objections, the city attorney consulted with an elections law expert who concluded the SMRG petition likely violates state law. The elections lawyer advised that because the petition had sufficient signatures, the City must either place the measure on the ballot or file a legal action to keep it off the ballot.

In August 2018, the city attorney advised the council of its options. The city attorney also informed the council that the full text rule only applies to voter initiatives and would not apply to a council proposition. The council directed staff to attempt to negotiate the terms of an alternative measure acceptable to SMRG that the council would propose, and, if agreement was not reached, to seek a court ruling on whether the SMRG measure should be rejected. The parties were unable to reach agreement on the terms of a council sponsored alternative measure.

While the council's initial direction was to seek a judicial determination on whether the petition was valid, it has decided to place the measure on the ballot without a legal challenge. The council's position has evolved over time largely in response to public input as people on both sides of the issue have asked for voters to be able to decide.

While there may be disagreements, many have expressed an interest in the community participating in a thorough General Plan update that will set a range of policies to help guide the future of San Mateo. The City remains committed to engaging the public with a General Plan update that reflects the interests of the community.

For more information or questions regarding the City's response to SMRG's initiative, please contact the City Attorney's Office at [cityattorney@cityofsanmateo.org](mailto:cityattorney@cityofsanmateo.org) or (650) 522-7020.

Visit [www.strivesanmateo.org](http://www.strivesanmateo.org) for more information about the General Plan update and how to get involved.

###