



Office of the City Manager

SUPPLEMENTAL AGENDA MATERIAL

Meeting Date: August 1, 2006

Item Number: 1

Item Description: Initiative Petition: Ordinance amending Landmarks Preservation and Demolition Permit Application for Non-Residential Buildings Ordinances

Revised Exhibit B to the Resolution submitted by City Attorney.

Ballot Question

[73 words]

Shall an ordinance be adopted: 1) ~~granting~~ expanding the power of the Landmarks Preservation Commission new authority to prohibit ~~regulate~~ demolition of historic resources; 2) authorizing the Planning Director to suspend any application affecting a historic resource in an emergency; 3) extending the time during which the City may not act ~~is prohibited from acting on~~ applications to demolish non-residential buildings over 40 years old; and 4) making it easier to ~~reducing the requirements for initiate~~ ing the designation of historic districts and structures?

Financial Implications: Possible liability.

CITY ATTORNEY ANALYSIS

[488 words]

The proposed ordinance would have the voters adopt most provisions of the City's existing Landmarks Preservation Ordinance ("LPO"), after which any changes would have to be approved by the voters. The LPO establishes a nine member Landmarks Preservation Commission ("LPC") appointed by the City Council. The LPC designates landmarks, structures of merit and historic districts ("historic resources") and may approve or deny alteration of such historic resources, but may not deny their demolition; such demolition permits are decided by the City's Zoning Adjustment Board under existing law. The LPC also reviews all applications to demolish nonresidential buildings over 40 years old for possible initiation as historic resources. The City has not been implementing some provisions of the existing LPO that delay permit processing timelines, based on because of the City Attorney's advice that these provisions conflict with permit processing deadlines imposed by State law. The Council has been attempting to amend the current LPO to bring it into conformity with State law but has suspended these actions pending resolution of whether this initiative measure will be adopted or rejected by the voters.

The proposed measure would have the following material effects:

1. It would have the voters adopt, and in some cases further lengthen, some City timelines to process permits that even though the City Attorney has advised the Council that the existing timelines can cause the City to violate state processing deadlines. These would initiative's enactment of these provisions of existing law and the longer timelines in the measure will have the legal effect of preventing the Council from amending the ordinance to bring the permit processing timelines into conformity with state law without voter approval.

2. For example, if the measure would authorize the Planning Director to suspend for up to 180 days any application that would result in demolition or substantial alteration of a historic resource under specified circumstances in an emergency and would extend the time during which applications for permits to demolish nonresidential structures over 40 years old could not be approved pending LPC review.

3. It would grant the LPC authority to disapprove permits to demolish historic resources, and significantly limit the City's ability to permit such demolitions, regardless of competing public interests.

4. It would readopt the provisions of a City ordinance, recently repealed, that required referral to the LPC of any proposed demolition of a non-residential structure over 40 years old.

5. It would require the City to prepare environmental impact reports with respect to certain structures that the City has not designated as historic resources, because they are listed on an inventory prepared by third parties.

6. It would require earlier notice to property owners of LPC hearings that affect their property.

Revised Ballot Question and Analysis

7. It would limit to 6 months the length of LPC or City Council hearings on whether or not to designate a structure site or district as a historic resource.

Financial Implications: If the City ~~is forced to follow~~ time lines in conflict with state processing time lines, it may face ~~other~~ uncertain liability. If Proposition 90 passes, the City may face liability for damages if this ordinance is found to result in substantial economic loss to property ~~diminution in property values~~.

