

City of Brisbane
Agenda Report

TO: Mayor and City Council

FROM: Michael H. Roush, City Attorney & Ingrid Padilla, Interim City Clerk

DATE: City Council Meeting of April 27, 2017

SUBJECT: REFERENDUM PETITION AGAINST ORDINANCE NO. 614(Revising Dates for Municipal Elections and Extending the Terms of Office of Current Council Members)

RECOMMENDATION

- (1) Accept the Interim City Clerk's Certificate of Sufficiency, based on the determination of the San Mateo County Registrar of Voters, for the Referendum Petition challenging Ordinance No. 614; (2) take one of the following two actions: (a) introduce an ordinance repealing the Ordinance No. 614 challenged by the Petition, or (b) direct staff to bring back to Council an appropriate resolution to submit the challenged Ordinance to the voters at the Municipal Election to be held in November 2017; and (3) if the direction is to repeal Ordinance No. 614, then consider directing staff to bring back to Council another ordinance to extend or reduce the term of office for Council members elected in November 2017 and November 2019 for five or three years, respectively, with terms of office to be four years thereafter.

BACKGROUND

On March 30, 2017, a timely Referendum Petition was filed with the City Clerk challenging Ordinance No. 614 that revised the dates on which municipal elections would be held (in order to comply with recently enacted state law) and, as a consequence, extending the terms of office for current City Council members by six months.

On March 31, 2017, the Interim City Clerk submitted the Petition to the San Mateo County Registrar of Voters Office (ROV) for a prima facie review, signature verification, and final count.

On April 4, 2017, the ROV submitted to the Interim City Clerk its determination that the Petition contained a sufficient number of signatures of qualified voters.

DISCUSSION

Pursuant to California Elections Code section 9240, the Interim City Clerk is required to certify the sufficiency of the Referendum Petition to the City Council at the next regular Council meeting after receiving the Registrar's sufficiency determination. Once the Council receives and accepts the Clerk's certificate of sufficiency, the Council must take one of two actions: repeal Ordinance No. 614 challenged by the Petition; or (2) submit the issue to the voters at the municipal election in November 2017.

If the Ordinance is submitted to the voters, the Ordinance will not take effect unless and until the voters approve it.

If the Council repeals the Ordinance, or the Council submits the Ordinance to the voters and the voters disapprove it, the Ordinance, or a substantially similar Ordinance, may not be enacted by the Council again for one year after the date of its repeal by Council or disapproval by the voters.

If the Council chooses to submit the Ordinance to the voters rather than repeal it, the staff recommends that the Council direct staff to return to the Council with the appropriate resolution to call the election for November 2017 in conjunction with the municipal election.

If Council chooses to repeal the Ordinance, attached is a draft Ordinance to do so. If introduced, the Ordinance would need a second reading and would become effective 30 days thereafter.


Also, if Council chooses to repeal the Ordinance, Council may want to consider whether to direct staff at this time to return to the City Council another Ordinance that, in order to comply with State law that municipal elections be held in even numbered years, would extend the term of office for Council members elected in November 2017 and November 2019 for five years (2022 and 2024, respectively) or would reduce the term of office for Council members elected in November 2017 and November 2019 to three years (2020 and 2022 respectively).

Staff does not believe such an Ordinance is substantially the same as the Ordinance being repealed as the issue giving rise to the referendum focused on extending the term of office for Council members without voter approval. A different Ordinance would be express that Council members elected in November 2017 and 2019 would serve five (or three) year terms.

The City must have a “plan” in place by January 1, 2018 to comply with the State law so this direction could wait until after the Council election in November 2017.

FISCAL IMPACT

The fiscal impact will depend on whether the Council chooses to repeal the Ordinance or submit the matter to voters. There is no direct cost to repealing the Ordinance. The cost associated with submitting the matter to the voters would likely not be significant since it would be in conjunction with the November 2017 municipal election.



Michael H. Roush
City Attorney



Ingrid Padilla
Interim City Clerk



Clay Holstine
City Manager

ATTACHMENTS

- Attachment 1 – Certificate of Sufficiency with Petition Results
- Attachment 2 — Registrar of Voters Office Letter
- Attachment 3—Draft Ordinance repealing Ordinance No. 614

ATTACHMENT 1

**CERTIFICATION OF SUFFICIENCY
REFERENDUM PETITION AGAINST AN ORDINANCE PASSED BY THE CITY
COUNCIL ORDINANCE NO. 614**

I, INGRID PADILLA, Interim City Clerk of the City of Brisbane, hereby certify to the Brisbane City Council that the San Mateo County Registration & Elections Division have verified the signatures submitted with the Referendum Petition against the above reference Ordinance passed by the City council; and further certify that the Referendum Petition is SUFFICIENT and that the attached summary represents a true, correct, and complete summary validation of the Referendum Petition.

IN WITNESS WHEREOF, I hereunto set my hand and affix the seal of the City of Brisbane this 20th day of April, 2017.

Ingrid Padilla



Ingrid Padilla
Interim City Clerk

REFERENDUM PETITION RESULTS:

Official Count:

(A) 268 valid signatures are required*

(B) 486 total signatures for submission as reviewed by the San Mateo County Registration and Elections Division

(C) 399 signatures were verified as valid by the San Mateo County Registration and Elections Division

Determination:

If less than 268 valid signatures, then insufficient

If equal or more than 268 valid signatures, then sufficient.

*Source: According to the CA Secretary of State Report: <http://www.sos.ca.gov/elections/report-registration/>

ATTACHMENT 2



Mark Church
Chief Elections Officer & Assessor-County Clerk-Recorder

40 Tower Road
San Mateo, CA 94402
phone 650.312.5222 **fax** 650.312.5348
email registrar@smcare.org
web www.shapethefuture.org

April 4, 2017

Ms. Ingrid Padilla, Interim City Clerk
City of Brisbane
50 Park Place
Brisbane, CA 94005

Via fax 415-467-4989

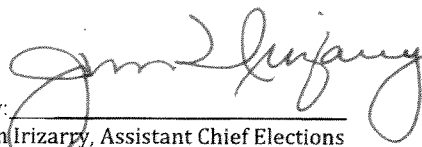
Dear Ms. Padilla:

We have completed the review of signatures on the "REFERENDUM AGAINST AN ORDINANCE PASSED BY THE CITY COUNCIL ORDINANCE NO: 614" requested by you on March 31st, 2017. Of the 486 signatures submitted, 399 signatures were verified as valid.

Billing for our services will be sent separately.

If you have any questions regarding this matter, please feel free to call Sara O'Brien at (650) 312-5269.

MARK CHURCH
Chief Elections Officer &
Assessor-County Clerk-Recorder

By: 
Jim Irizarry, Assistant Chief Elections
Officer & Assessor-County Clerk-Recorder

ATTACHMENT 3

DRAFT ORDINANCE NO. 619

ORDINANCE OF THE CITY OF BRISBANE REPEALING ORDINANCE NO. 614 FOLLOWING A REFERENDUM PETITION FILED ON March 30, 2017 CHALLENGING ORDINANCE NO. 614

THE CITY COUNCIL OF THE CITY OF BRISBANE ORDAINS AS FOLLOWS:

WHEREAS, Ordinance No. 614 was introduced by the Council of the City of Brisbane on _____ and adopted on March 2, 2017; and

WHEREAS, on March 30, 2017, a Petition for Referendum Against an Ordinance Passed by the City Council (Referendum Petition) was filed with the Interim City Clerk challenging Ordinance No. 614 which revised the dates on which municipal elections would be held and extended the terms of office for current Council members by six months; and

WHEREAS, the San Mateo County Registrar of Voters determined the Referendum Petition was to be sufficient on April 4, 2017; and

WHEREAS, the Council accepted the Interim City Clerk’s Certificate of Sufficiency on April 27, 2017; and

WHEREAS, California Elections Code §§ 1410 and 9241 provide that upon certification of the sufficiency of a referendum petition, the Council must repeal the ordinance challenged by the referendum, place the challenged ordinance on the next regular municipal election or call a special election to consider it.

Section 1. The Council of the City of Brisbane does hereby repeal all provisions of Ordinance No. 614.

Section 2. Effective Date. This ordinance shall take effect 30 days following its adoption.

This ordinance was introduced by the Council of the City of Brisbane on April 27, 2017.

APPROVED: _____

Lori Liu, Mayor

IN COUNCIL DULY PASSED AND ADOPTED this _____ day of _____, 2017.

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

APPROVED AS TO FORM: 

 Michael Roush
 City Attorney

ATTEST: _____
 Ingrid Padilla
 Interim City Clerk