



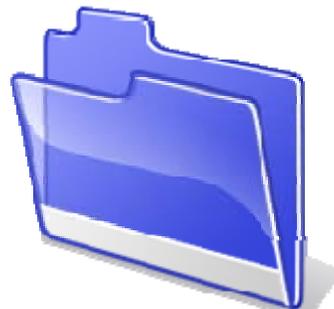
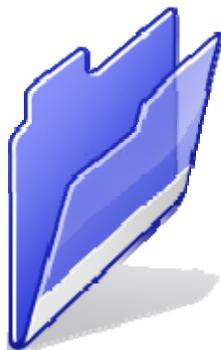
CITY OF MILPITAS

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
GENERAL INFORMATION: 408-586-3000, www.ci.milpitas.ca.gov

01/12/2012



ATTACHMENTS AND/OR ADDITIONAL MATERIALS RELATED TO AGENDA ITEM AFTER AGENDA PACKET DISTRIBUTION



URGENCY

NUMBER: 243.5

TITLE: AN UNCODIFIED URGENCY ORDINANCE OF THE CITY COUNCIL REPEALING ORDINANCE NO. 243.4 AMENDING THE CAMPAIGN FINANCE AND DISCLOSURE REQUIREMENTS FOR CITY ELECTIONS

HISTORY: This Ordinance was introduced by the City Council at its meeting of _____, upon motion by _____ and was adopted immediately as an urgency ordinance pursuant to the provisions of California Government Code Sections 36934 and 36937. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

RECITALS:

WHEREAS, Government Code Sections 36934 and 36937 allow a city to adopt an urgency ordinance relating to an election and/or the immediate preservation of the public peace, health or safety.

WHEREAS, the City of Milpitas adopted Ordinance No. 243.4 on October 18, 2011, and; and

WHEREAS, prior to the effective date of Ordinance No. 243.4, a referendum petition was filed in the City Clerk's Office challenging said Ordinance; and

WHEREAS, the City Clerk certified the validity of the petition at the regular City Council meeting of January 3, 2012, and was informed that pursuant to State law the City Council must either repeal Ordinance 243.4 in its entirety or submit the Ordinance to the voters within 10 days; and

WHEREAS, the City Council desired additional information regarding the decision before it, and consequently agendized a special meeting of the Council for January 12, 2012, for purposes of receiving additional information and making a final decision within the 10-day period; and

WHEREAS, the City Council is desirous of repealing Ordinance 243.4 in its entirety; and

WHEREAS, in light of the need to repeal said Ordinance within the 10-day period required by State law, Council must take such action to be effective immediately and to do so requires an urgency ordinance.

NOW THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD, BASIS FOR ACTION AND FINDINGS

A. The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

B. Pursuant to the requirements of Elections Code Section 9241 and other applicable provisions of the Elections Code, it is essential that the Council act immediately to either submit Ordinance 243.4 to the voters or repeal it in its entirety.

C. The City Council chooses to repeal Ordinance 243.4 and does so by passage of this urgency ordinance.

D. The facts supporting a determination of urgency are that State law requires the City Council to act in accord with Section 9241 within 10 days of certification by the City Clerk of the validity of the referendum petition.

E. The City Clerk certified the referendum petition as valid at the City Council meeting of January 3, 2012, informing the Council that it must take action regarding the referendum on or before January 13, 2012.

F. The next regular Council meeting was scheduled for January 17, 2012, therefore, a special meeting was scheduled for January 12, 2012, in order that the Council could take action within the required time frame in accord with State law.

G. Because of the mandate by State law that action be taken to either repeal Ordinance 243.4 or submit it to the voters by January 13, 2012, it is urgently mandated that the Council take action by this urgency ordinance to take effect immediately in order to comply with State law for the immediate preservation of the public peace, health or safety. Delay of this action to repeal Ordinance 243.4 would subject the City to costly litigation and general censure for failure to comply with law, and would create confusion and uncertainty for the citizens of the City regarding the Council's direction with regard to Ordinance 243.4 and the referendum petition and the issues raised thereby, and such uncertainty and confusion will adversely affect the public peace and health unless the Council takes immediate action.

H. Passage of this urgency ordinance requires a 4/5 vote in its favor.

SECTION 2. REPEAL OF ORDINANCE NO. 243.4

By adoption of this Ordinance 243.5, the City Council hereby repeals Ordinance 243.4 in its entirety, leaving in place the predecessor provisions of Chapter 210 of Title I, Regulation of Campaign Contributions, as they existed prior to enactment of Ordinance 243.4.

SECTION 3. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 4. EFFECTIVE DATE AND POSTING

In accordance with Government Code Sections 36934 and 36937 this Ordinance is effective immediately as an urgency ordinance and shall be in full force and effect upon its adoption on this date. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS CALLING AND GIVING NOTICE OF A SPECIAL MUNICIPAL ELECTION ON TUESDAY, _____, 2012, FOR A REFERENDUM ON ORDINANCE NO. 243.4 REGARDING CAMPAIGN FINANCE

WHEREAS, on November 22, 2011, the City Clerk received a petition for a referendum on the Campaign Finance Ordinance No. 243.4, containing 252 sections with more than 4,000 voter signatures, in order to seek to repeal the City Council adopted Ordinance; and

WHEREAS, pursuant to Elections Code Section 9237, the petition was signed by more than 10% of the total number of registered voters in Milpitas and filed within 30 days of the date the City Clerk attested the Ordinance, with the elections official of the City of Milpitas; and

WHEREAS, the City Clerk has certified that the petition was signed by the requisite number of voters.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. There is called and ordered to be held in the City of Milpitas a special municipal election on Tuesday, _____, 2012, for the purpose of submitting the following question:

Shall Ordinance No. 243.4 “An Ordinance of the City Council of the City of Milpitas Amending the Campaign Finance and Disclosure Requirements for City Elections” be repealed?	YES
	NO

3. 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 the date set by the City Clerk for the filing of primary arguments.
4. The City Council of the City of Milpitas requests the Board of Supervisors of Santa Clara County to consolidate the special election with any other election, as possible, and to provide that the canvass of election returns be made by the Board of Supervisors of Santa Clara County.
5. The City of Milpitas requests the services of the Registrar of Voters to conduct the special election, including arrange election precincts, polling places, voting booths and election officers in Milpitas and the Santa Clara County Registrar of Voters is authorized and instructed to certify the returns of the special municipal election.
6. The City Clerk is hereby directed to deliver certified copies of this Resolution to the Clerk of the Board of Supervisors of Santa Clara County and the Registrar of Voters of Santa Clara County promptly upon its adoption.
7. The polls for the election shall be open at seven o'clock a.m. on the day of the election and shall remain open continuously from that time until eight o'clock p.m. on the same day when the polls shall be closed.

8. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.
9. The 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.

PASSED AND ADOPTED this ___ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney