



Memorandum

To: City Council
From: Susan Albright
Re: Consideration to reverse Council's Northland zoning decision & set a referendum date
Date: January 3, 2020

Welcome to the 2020/2021 Term!

As you know, the Clerk's office is in the process of certifying signatures on the referendum petition that seeks to repeal the City Council's decision to rezone the Northland property. Once the petition is certified, it will be presented to the Council for reconsideration before a referendum ballot question is referred to the voters. The Clerk's office will complete its review and certification of the petition signatures by close of business Friday, January 3. There will then be an opportunity on Monday, January 6 and Tuesday, January 7 to challenge these signatures. Assuming there are no challenges, the City Clerk will formally present the referendum petition to the City Council on Wednesday next week, beginning the Council's 30-day period to reconsider our rezoning approval.

I have asked our Clerk and the Law Department to provide us information on the Council process, which follows the signature certification process. These memos are in our packet. Based on the information contained in the memos, I am outlining the following schedule that I intend to follow:

- At our Monday, January 6, 2020 meeting, the Council will preliminarily take up and discuss the reconsideration of our rezoning decision. No formal vote or determination on the rezoning decision can take place on Monday, but my intent is for a discussion of any outstanding procedural questions or information needed. Once the referendum petition is formally presented to the City Council on Wednesday, the Council can make a final determination at the Wednesday meeting. Also on Monday, a new docket item requesting the setting of a date for a special election (in the event that it becomes necessary to call an election to refer the referendum question to the voters) will be referred to a Committee of the Whole that will meet on Wednesday, January 8.
- Based on the assumption that the referendum petition will be presented to the City Council on Wednesday, there will be a meeting of the Committee of the Whole that evening to deliberate and make recommendations on both the referendum measure and

- the setting of a date for a special election. The City Council would then have the opportunity to vote on both items at the full Council meeting later the same night.

I am proposing this short time-frame for deliberation and voting because the failure to discuss these decisions in a timely manner will foreclose certain decisions, simply by our inaction. Let me address each decision separately.

1. A vote on repealing our prior zone change approval.

I have asked the Planning Department to provide materials on the Northland special permit project and rezoning decision particularly for the new members of our Council. With these materials I hope that all members will have the needed background to reconsider our prior approval of the Needham Street rezoning. You will note that the decision to reverse our vote requires a supermajority, a 2/3 vote of the Council. As explained above, this vote cannot take place until after the Clerk presents the petition to the Council following the two day challenge period (Wednesday, January 8 at the earliest).

If we vote to reverse our rezoning decision then there is clearly no need to set a date for a referendum election.

2. The date for a referendum election.

If we do not reverse our vote on the Northland rezoning, the next important task for us is to determine the date of an election where the referendum measure is submitted to the voters. Under the City's Charter, the default date will be the next regular City election, which is scheduled for November 2021. The Council also has the option to set a special election date. An important consideration in this decision is the cost of a referendum. As we all know the next election scheduled in Newton is the Presidential Primary on March 3, 2020. I asked David Olson the following questions: is it possible to hold a special municipal election on the same day as the Presidential Primary and how would this cost compare to providing a separate special election on a different day? His detailed answers to these questions are set forth in his memo in today's packet. In short, he confirmed that it is possible to hold a special municipal election on the same day as the Presidential Primary, but that given the time constraints to prepare the ballots, the decision by the Council to set the special election for that date must be made by January 14, 2020 at the latest. He also explained that it would cost the City about \$32,917 to hold the special election in conjunction with the Presidential Primary, or about \$145,902 to hold a stand-alone special election.

Recognizing the number of days needed to organize a special election, failure to begin consideration of this matter during the week of January 6 would essentially, by our inaction, foreclose piggy-backing a municipal election on the same day as the upcoming Presidential Primary. We may choose not to do this piggy-back of the two elections, but this decision should be made because this is what we want – not because we failed to consider the option in a timely fashion. This is why I am asking us to begin deliberations on Monday, and to

continue on Wednesday, January 8 to consider our repeal of the rezoning and set a date to place the referendum question before the voters. This process will not force the Council to set March 3, 2020 as the best date, but it would give us this option. If we fail to begin our deliberation immediately we will foreclose this date from all possible dates.

Ultimately, our choices for a referendum date include the following options:

- a municipal referendum piggy-backed on the Presidential Primary on March 3, 2020;
- a stand-alone special election scheduled for another date within 120 days (sometime between March and May, 2020);
- wait until the next municipal election in November, 2021 (the default option in the Charter).

I know that you will all read the memos from Law Department and our Clerk. Please come prepared to ask for any additional information you need on Monday night and then we will hold a Committee of the Whole on Wednesday, January 8 with the possibility of reporting out to the full council that night. I thank you for your attention to this important matter.