

Memo

TO: San Diego Voters

FROM: Alliance San Diego Mobilization Fund

DATE: April 1, 2019

SUBJECT: Protecting our 2016 vote on Measure L to limit citizens' initiatives to November

Measure L conforms San Diego city elections with state elections and schedules votes on citizens' initiatives in November general elections, when the most people participate. In 2016, San Diego voters passed Measure L by 66%, with a majority of voters supporting it in every City Council district. The intent of the measure was to give voters, not special interests, the power to make big decisions at the same time we are making decisions on state issues.

Despite the passage of Measure L, special interests have repeatedly attempted to defy the will of voters by asking the San Diego City Council to schedule their initiatives outside of November general elections. So far, Councilmembers have protected the will of voters and said 'No.' But they face enormous pressure from special interests who again are asking them to defy voters. This memo explains what's at stake.

1. By design and by default, primary elections favor special interests.

For the entire history of voting in San Diego, significantly more people have participated in November general elections than they have in primary elections, especially in presidential election years. In 2018, turnout for the general election was 25 points higher than in the primary. In the last three presidential years in 2016, 2012, and 2008, turnout for the general was respectively 30, 40, and 50 points higher than the city primary election.

More voters participate in November because state and federal elections are held in that month and there is significantly more public education and awareness about that election. In contrast, there is little to no public education about primaries. The City of San Diego spends zero dollars (\$0) to educate voters about that election, leaving special interests to pick and choose who they will communicate with about the primary.

Political parties do reach out to voters about elections, but only their members, and the fastest growing segment of the electorate is independent and not affiliated with any party. Independent voters tend to be younger, more diverse, and lower income. These are the voters that are least likely to receive information about primaries, and are left out in early decision-making.

By design and by default, primary elections are low-information elections that favor special interests with the means to communicate with select voters who support their cause. As a result, primary voters are fewer and are demographically different than general-election voters.

2. Measure L conforms city and state elections to make decisions when the most people vote.

In 2016, [Alliance San Diego Mobilization Fund](#) (ASDMF) sought to eliminate voter confusion about differing city and state election practices, and also sought to end the practice of making high-stakes decisions in low-turnout primaries. ASDMF approached City Council and proposed to conform city elections to state elections and limit citizens' initiatives to November general elections to maximize participation in decision-making. Councilmember Marti Emerald, representing District 9 at the time (which is now represented by Georgette Gomez), expressed support for the proposal at the June 15, 2016 Rules Committee, lamenting that primaries are often used by special interests for political gain:

“It has become a political strategy to place very important measures on the June ballot because most political strategists know that the voter turnout is relatively low.”

Recognizing the value of aligning city elections with state elections, the Rules Committee voted the proposal forward to the full City Council, which heard public testimony and decided to draft a charter amendment to achieve the goals of the proposal. City Council President Sherri Lightner championed the measure and made its intent clear at the meeting on August 2, 2016:

“Legislative intent of this proposed ballot measure to amend the city charter is to place citizens’ initiatives and referenda before the most voters on a November general election ballot as is the current practice at the state level per the California Constitution. This will allow the City to receive the widest possible input on major issues that affect all residents. The issue of voter turnout and civic engagement is an important one and all of us as city elected officials want to do everything we can to encourage greater participation in these local issues.”

3. Voters directed City Council to schedule initiatives in November, with limited exceptions.

In the November 2016 election, voters in the City of San Diego were presented with Measure L and two-thirds of voters (66%) answered ‘Yes’ to this question on the ballot:

“Shall the Charter be amended to require qualified citizens’ initiative and referendum measures to be submitted to voters on the next November general election ballot and not at a June primary election, unless the Council chooses to submit the measure to voters prior to that election?”

Measure L required City Council to put initiatives on the November general elections. But the measure also included a good governance provision to allow City Council to place citizens' initiatives on earlier elections when necessary, as is done in state elections. This was part of the proposal brought forward by ASDMF. In her presentation of the proposal at the City Council meeting of July 11, 2016, Andrea Guerrero, executive director of ASDMF and Alliance San Diego, explained:

“The proposed charter amendment is specifying that local ballot measures will only be brought in the November general election and, when needed, in the special election.”

This limited exception for an earlier election was included to conform to the state process, which Council President Lightner detailed at the public meeting on August 2, 2016:

“[The measure] will bring the charter into conformance with state law and the state constitution by requiring the city to place all citizens’ initiatives and referenda on a November ballot unless the council votes to move up the initiative or referendum to the June primary election ballot. This would be consistent with the current state practice in which the only way a citizens’ initiative or referendum can be placed on a ballot other than the November general election ballot is if the governor calls a special statewide election for the measure. In order to call that special election, the governor must issue a proclamation first as to why an election on a particular citizens’ initiative or referendum measure needs to be held earlier than the November general election.”

Voter expectation for November decision-making was set not only in public meetings in the run up to the election on Measure L, but also in the written argument for Measure L in the ballot book that all voters received. The argument, authored by Council President Sherri Lightner, among others, stated in relevant parts:

“Measure L ensures that important decisions regarding city ballot measures are made in November general elections, when the most people vote ...

Measure L uses the same process used for state initiatives in California, placing them on the November general election ballot when the most people vote ...”

4. In conformance with state law, early elections should only be scheduled when necessary.

At the state level, in order for a citizens' initiative to be presented to voters at an early election, the governor must issue a proclamation as to why an election needs to be held earlier than November. In other words, it must be urgent and something that cannot wait as a matter of public interest.

By extension, the San Diego City Council should only schedule an early election for a citizens' initiative if it finds it is necessary, meaning that it is urgent as a matter of public interest. But

Councilmembers should not confuse political expediency for urgency. Nor should they confuse special interest for public interest.

For far too long, special interests have used shortcuts to make policy in San Diego. They have bypassed the public deliberation process at City Council and opted instead to write policies as citizens' initiatives that are brought to voters for yes-or-no decisions without the opportunity to shape them. They have also shopped for the most advantageous election, often choosing low-turnout primary elections where they can spend less money and selectively communicate with supportive voters to turn out. They have manipulated our electoral process and undermined our democracy.

Measure L is an attempt by voters to stop the manipulation and wrest control of our elections and our democracy from special interests. To be successful and strengthen our democracy, we need City Council to respect the will of the voters and conform with state law to limit elections on citizens' initiatives to November general elections when the most people vote.

5. An early vote on the Convention Center is not necessary as a matter of public interest.

Since the passage of Measure L, proponents of a convention center initiative have ignored the will of the voters and repeatedly attempted to deviate from state elections to get on an early election for their issue. Two years ago, on June 12, 2017, proponents asked City Council to call a special election for their initiative. Council declined, citing in part the clear mandate from the voters who supported Measure L and urging proponents to work through the public process at City Council to get input on the measure from the public and build support to put the issue before the voters at the next general election in November 2018.

Proponents chose not to work through the public process and instead wrote their own initiative and sought to qualify it for the ballot by gathering signatures. When they fell short on signatures to qualify for November 2018, they handed the initiative over to the mayor's office who repackaged it as a city-initiated measure and asked City Council to grant them a shortcut and put it on the ballot as a public measure without running it through the committee process to gather public input. City Council rejected this last minute attempt to bypass the public process. Councilmember [Barbara Bry stated](#):

"I support the expansion of the Convention Center. At the same time, the Council has well-established policies and procedures as to how we put measures on the ballot. If we made an exception today, we violate the trust of our residents."

Councilmembers again urged proponents to follow the normal public process to move a measure to the ballot through City Council. In a media interview that followed, one of the proponents of the convention center, [Tom Lemmon](#), who represents the Building & Construction Trades Council, gave his rationale for using the citizen initiative route instead, stating his belief that the initiative "had a

better chance that way rather than having to jump through all the hoops they had to go through at Council.”

The proponents continued to gather signatures to qualify for the following general election in November 2020. But instead of waiting, they seek another shortcut to place their initiative on the March 2020 primary ballot. Their citizens’ initiative asks voters to approve a special tax and issue a bond to pay for the convention center expansion.

They argue that an earlier election, just eight months before the November 2020 election, would allow them to take advantage of a recent court case called *Upland* that is still being litigated and holds that, in certain circumstances, special tax measures presented as citizens’ initiatives only need half of the votes instead of the two-thirds normally required to win. It’s not clear that *Upland* would apply to the convention center initiative, given that it includes a bond and *Upland* would not eliminate the requirement for two-thirds voter support for a bond.

While the proponents may feel an urgency to take advantage of a questionable loophole, that urgency is clearly to win with less support from voters. This is not in the public’s interest and goes directly against the intent of Measure L, which the City Council must protect.

The convention center expansion is no more urgent today than it was two years ago. The land needed for a contiguous expansion is still not available. Fifth Avenue Landing, which currently leases the land, entered into a [deal](#) with the City to hand over their lease contingent on the citizens’ initiative winning in the November 2018 election, but it did not even get to the ballot. The deal was also conditioned on nearly \$33 million in payments, of which the City paid \$5 million last year. The next installment of \$9 million is due today, April 1st, but it’s not clear what the status of the land deal is given the failure of the first condition.

Proponents of other ballot measures scheduled for the November 2020 ballot may also support an early election for the convention center initiative. They want to clear the path so their own initiatives can prevail. This is also motivated by political gain and not any public interest or real urgency.

In short, an early election for the convention center expansion is not justified. It should be brought to voters in the next general election in November 2020. That is when voters will make decisions on all citizens’ initiatives at both the state and local level as was intended by Measure L to ensure maximum participation on issues that affect all of us.

Democracy functions best when the most voters participate and that is in November general elections.