

VOTER'S PAMPHLET

MEASURES, ANALYSES AND ARGUMENTS

(whichever is applicable to your ballot)

Arguments in support of, or in opposition to, the proposed laws are the opinions of the authors.

CITY OF SANTA CRUZ

P

Shall an amendment to the Charter of the City of Santa Cruz "Requiring Voter Approval for Desalination Projects" be adopted?

FULL TEXT OF BALLOT MEASURE P

Section 1. Purpose. The purpose of this Charter Amendment is to enact a comprehensive policy ensuring that the City of Santa Cruz does not approve, permit, or fund a desalination project without voter approval. Accordingly, this Charter Amendment would require an affirmative vote by a simple majority of Santa Cruz voters at a statewide general, statewide primary, or regularly scheduled municipal election before any such desalination project could be implemented.

Section 2. Findings. The citizens of the City of Santa Cruz find:

(a) that the proposal to construct and operate a desalination facility raises serious economic, environmental, and community concerns of such importance that a decision to approve such a project should not be made unless approved by a majority of voters at a statewide general, statewide primary, or regularly scheduled municipal election.

(b) that the City has already spent millions of dollars in pursuit of desalination without a public vote or rate payer approval. According to the City Urban Water Management Plan, "The current estimated cost for design, permitting, property acquisition and construction of a regional desalination plant between 2010 and 2018 is approximately \$116 million." Ratepayers will pay many millions more in debt service, operation, and maintenance.

(c) that there are less costly and less environmentally damaging alternatives to desalination. These include, but are not limited to, effective water-neutral development policies, increased incentives for conservation, operational improvements to the reservoir system, infrastructure upgrades, leak detection, increased water storage capacity, water recycling, plumbing fixture and appliance retrofits, drought-tolerant landscaping, gray water irrigation, rainwater harvesting, water transfers between districts, and watershed restoration.

(d) that implementation of a comprehensive program of alternatives to desalination would provide significant public benefits by supplying water at less cost to rate payers, with less damage to the environment, using far less energy, and would also help to create local jobs and business opportunities.

Section 3. Charter Amendment. The City Charter of the City of Santa Cruz is amended to add a new Section 1431, as follows: Section 1431 – Voter Approval for Desalination Projects

(a) Voter Approval. Notwithstanding any other provision of this Charter, no legislative action by the City that would authorize or permit the construction, operation, and/or acquisition of a desalination project, or that would incur any bonded or other indebtedness for that purpose, shall be valid or effective unless such action is authorized by an affirmative vote of a majority of qualified electors in the City of Santa Cruz voting on the question at a statewide general, statewide primary, or regularly scheduled municipal election. Provided that it has first fully complied with the California Environmental Quality Act, Public Resources Code section 21000, et seq., the City Council may put the question of approval of such action before the voters at a statewide general, statewide primary, or regularly scheduled municipal election according to any procedure authorized by this Charter.

(b) Definitions.

(1) As used in this section, "legislative action" means adoption of or amendments to the City's General Plan, Zoning Map, Zoning Code, Municipal Code, or approval of a development agreement, or any other act by the City Council that is legislative in nature.

(2) As used in this section, "desalination project" means any project intended to provide potable domestic, commercial, and/or industrial water supply through the

removal of salts and other minerals from ocean water, regardless of the physical or chemical process used.

Section 4. Interpretation and Severability. This Charter Amendment shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this Charter Amendment is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Charter Amendment. The voters hereby declare that this Charter Amendment, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this Charter Amendment is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Charter Amendment that can be given effect without the invalid application. This Charter Amendment shall be broadly construed in order to achieve the purposes stated in this Charter Amendment. It is the intent of the voters that the provisions of this Charter Amendment shall be interpreted by the City in a manner that facilitates the purposes set forth in Section 1 of this Charter Amendment.

Section 5. Effect of Alternative Measure on Same Ballot. This Charter Amendment adopts a comprehensive policy for protecting the City of Santa Cruz natural environment, coastal resources, public infrastructure, and municipal finances from being utilized for a desalination project without prior approval by City voters. By voting for this Charter Amendment, the voters expressly declare that any other measure that appears on the same ballot as this Charter Amendment and conflicts with, or purports to amend, any provision of this Charter Amendment, shall be deemed to conflict with the entire set of policies adopted by this Charter Amendment. Because of this conflict, if this Charter Amendment and any such other measure receive a majority of votes by the voters voting thereon at the same election, then the measure receiving the most votes in favor shall prevail in its entirety and no provision of the other measure shall take effect.

Section 6. Retroactive Application. In the event this Charter Amendment is adopted by the voters, its provisions shall apply retroactively as of the date the measure was found to have qualified for placement on the ballot.

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IMPARTIAL ANALYSIS BY CITY ATTORNEY
MEASURE P

DESALINATION PLANT – VOTER APPROVAL

This initiative, if approved by the voters, would serve to amend the Charter of the City of Santa Cruz. As amended the Charter would prohibit the City Council from taking a legislative action that would authorize or permit the construction, operation and/or acquisition of a desalination project unless that legislative action is authorized by a majority of qualified City voters at a statewide general, statewide primary or regularly scheduled municipal election. Similarly, the Charter as amended would prohibit the City from incurring bonded or other indebtedness in order to pay for the construction, operation and/or acquisition of a desalination project absent City voter authorization at such a statewide or municipal election. Before submitting any such legislative or fiscal measure to the voters for their authorization, the proposed initiative would require the City to analyze the environmental impacts of that measure as required by the California Environmental Quality Act.

Currently the Charter vests the duly elected Santa Cruz City Council with this legislative and fiscal authority. Accordingly, the Charter amendment proposes to divest the City Council of this authority by transferring responsibility for approving such a legislative or fiscal decision from the City Council to City voters.

As used in the initiative, the term "legislative action" means a general plan, zoning map, zoning ordinance or municipal code enactment or amendment, approval of a development agreement, or "any other act by the City Council that is legislative in nature".

As used in the initiative, the term "desalination project" means "any project intended to provide potable domestic, commercial, and/or industrial water supply through the removal of salts and other minerals from ocean water, regardless of the physical or chemical process used."

The language of the initiative does not specify whether it is the intent of the initiative to subject each desalination project to a single voter approval process or whether to require a vote for each legislative action pertaining to that desalination project, such as annual budget appropriations for that desalination project's ongoing maintenance and operation or subsequent financing decisions relative to retiring the debt incurred to construct the desalination plant. However, in a July 20, 2012 letter to the Mayor, the initiative proponents state:

It is the intent of the proponents of the charter amendment ballot initiative that the charter amendment would require only one vote of the City electorate to authorize the approval of a desalination project following completion of the project Environmental Impact Report in compliance with the California Environmental Quality Act (CEQA).

If the initial legislative acts by the City Council to approve the desalination project are also approved by a simple majority of the City electorate at an election specified in the initiative, it is not our intent to require that the City conduct a city-wide vote each time the Council approves a subsequent legislative act pertaining to the desalination project.

s/ John G. Barisone
City Attorney

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ARGUMENT IN FAVOR OF MEASURE P

Measure P, a citizen-sponsored initiative, would guarantee the right of Santa Cruz voters to decide on desalination. If passed, Measure P would amend the City Charter to **require voter approval before the City could authorize a desalination project**. The right to vote on desalination could not be removed from the City Charter without another vote of the people. By itself Measure P neither approves nor rejects desalination.

Thousands of voters signed the petition to qualify Measure P for the ballot. Many believe that the proposed expandable desalination facility in Santa Cruz raises such serious economic, environmental, and community concerns that the decision should be made by the people.

The proposed desalination project would be the most expensive public works project in Santa Cruz history. Anticipating desalination, the City has already doubled water rates since 2005. Further rate increases would be necessary to build, operate, and maintain the plant, as well as to service its long-term debt. An expenditure of such magnitude warrants voter oversight.

Desalination is highly energy intensive. Producing desalinated water consumes over 10 times more electricity per gallon than the current method, making our water supply more dependent on PG&E's fossil-fuel energy sources.

The brine and chemical wastes from the plant would be diluted with outflow from the wastewater treatment plant before discharging into Monterey Bay. Use of treated wastewater to dilute the plant's discharge would eliminate opportunities to use recycled water for purposes such as groundwater recharge.

Before burdening future generations with these financial and environmental liabilities, the City needs to adequately explore alternatives.

Vote YES on Measure P to guarantee that voters in Santa Cruz will have a real say in our water security and in the environmental and economic sustainability of our community.

VOTE YES ON P!

s/ Rick Longinotti, Spokesman*
Right to Vote on Desal Coalition

s/ Celia Scott
former Mayor of Santa Cruz

s/ Michael Guth, Executive Committee Chair*
Sierra Club, Santa Cruz Group

s/ Dustin Macdonald, Chair*
Santa Cruz Chapter Surfrider Foundation

s/ James H. Littlefield, Environmental Projects Director*
Surfers Environmental Alliance

*Signing on behalf of the organization listed below the name.

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE P

Despite the proponents' ballot argument, this is not a vote on desalination. This is a wasteful ballot measure asking you to **vote on whether you want to vote**. The City Council has already passed an ordinance guaranteeing your right to vote; no Council ever elected in this town would reverse that decision. But the desalination opponents felt it was appropriate to waste \$70,000 of your tax dollars (the cost of putting this measure on the ballot) so they could have an early opportunity to spread misleading information.

For example, they claim that the City doubled water rates in anticipation of desalination when, in fact, the water system's aging facilities are in serious need of repair and rate increases were primarily needed to provide funds for improvements.

Proponents compare the cost of desalinated water to current water supply costs. Every new source of water would cost more than water flowing downhill from the mountains. A recent Soquel Creek Water District study shows that the financial incentives necessary to get customers to reliably increase conservation would cost more than desalination.

Finally, the proponents argue that the City should "adequately explore alternatives." The City has implemented a highly successful conservation program and continues to aggressively pursue additional alternatives. All the credible evidence, however, makes clear that conservation alone cannot solve our water supply problems.

We encourage you to become more informed. If you want accurate information about the proposed desalination project, go to <http://www.scwd2desal.org/> or call (831) 475-8501 x153. Meanwhile, vote NO on this boondoggle!

s/ Neal Coonerty
County Supervisor

s/ Mike Rotkin
Union Organizer

s/ Gine Johnson
Environmental Activist

s/ Judy Warner
Community Activist

s/ John T. Collins, II
Trustee, Santa Cruz City Schools

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ARGUMENT AGAINST MEASURE P

We all support the right of community members to vote on key issues. However, we don't support the right of partisans on any issue to mislead and confuse voters.

Dozens of people we know had the impression — put forward by signature-gatherers — that their signature would put the issue of desalination on the ballot. Those gathering signatures didn't explain that the measure would simply cause a vote on whether or not there should be a future vote on desalination. This clearly created confusion.

Many of the proponents ignored the fact that the citizens' right to vote on desalination has already been adopted by a unanimous vote of the City Council. The supporters of this duplicate measure were so insistent in their desire to muddy the waters about desalination that they didn't mind wasting at least \$70,000 of local taxpayer dollars to place this measure on the ballot even though it mirrors existing law. (The minimum taxpayer cost for putting this measure on the ballot is estimated at \$70,000 by the County Clerk.)

The proponents tried to justify their waste by claiming this measure is needed because the City Council might repeal the existing ordinance. There are no Councilmembers interested in repealing the ordinance, and there are no candidates for City Council who do not support a community vote on desalination. The prospect of City Council repeal of the requirement for a community vote is an invitation to mistrust the City Council at the time when the Council has kept faith with the community.

A vote for this measure is endorsing a waste of your money...and it will not have any impact on the issue of desalination or on your right to vote on desalination.

Please Vote No on Measure P !

s/ Judy Warner
Community Activist

s/ Mike Rotkin
Union Organizer

s/ Gina Johnson
Environmental Activist

s/ Neal Coonerty
County Supervisor

s/ John T. Collins, II
Trustee, Santa Cruz City Schools

REBUTTAL TO ARGUMENT AGAINST MEASURE P

A YES vote on Measure P will GUARANTEE THE RIGHT TO VOTE ON DESALINATION.

A YES vote will NOT cost the City more money as the costs of this election have already been incurred.

The argument against Measure P fails to discuss the provisions of Measure P itself. Instead it is a personal attack on the intelligence of City voters and on the integrity of over a hundred volunteers who worked hard to gather the thousands of signatures to qualify Measure P for the ballot.

We trust that Santa Cruz voters are smart enough to know what they signed.

The estimated cost of a desalination plant has increased since 2005 to \$116 million today, excluding costs to operate, repair, and finance the plant. There is NO DOUBT that these costs will raise our water bills.

There is also NO DOUBT that cheaper and greener alternatives deserve serious consideration. These include:

**Water transfers between districts

**Purifying wastewater to recharge aquifers

**A water-neutral growth policy, such as used by Soquel Creek Water District since 2003

**Water conservation strategies for large landscapes such as golf courses.

The pros and cons of desalination will be analyzed extensively in 2013. What is important now is to GUARANTEE THE RIGHT TO VOTE on this issue in the future.

ONLY MEASURE P WILL GUARANTEE THE RIGHT TO VOTE ON DESALINATION because it will place a provision in the City Charter that cannot be changed solely by elected officials.

As former Santa Cruz mayors, we urge YES on Measure P.

s/ Celia Scott
former Mayor, City of Santa Cruz

s/ Tim Fitzmaurice
former Mayor, City of Santa Cruz

s/ Christopher Krohn
former Mayor, City of Santa Cruz

s/ Bruce Van Allen
Former Mayor, City of Santa Cruz

s/ Keith A. Sugar
Former Mayor, City of Santa Cruz