City of Woodland

REPORT TO MAYOR AND CITY COUNCIL

AGENDA ITEM

TO: THE HONORABLE MAYOR
AND CITY COUNCIL

DATE: May 4, 2010

SUBJECT: Resolution Opposing New Two-Thirds Vote Requirement for Public Electricity Providers Initiative (Proposition 16)

Report in Brief

An initiative will appear on the June 8, 2010 ballot that will limit the rights of local citizens to determine their options for providing electrical utilities within their communities. This initiative is known as the "New Two-Thirds Vote Requirement for Local Public Electricity Providers Ballot Initiative." The initiative will be listed in the June 8 ballot as Proposition 16. The City Council has directed staff to prepare a resolution opposing this initiative for the Council's consideration.

Staff recommends that the City Council adopt Resolution No. _____ opposing the New Two-Thirds Vote Requirement for Local Public Electricity Providers Ballot Initiative listed as Proposition 16 on the June 2010 ballot.

Background

The "New Two-Thirds Vote Requirement for Local Public Electricity Providers Ballot Initiative" was proposed by a law firm representing the Pacific Gas & Electric Company (PG&E) in 2009. The original title for the initiative was the "Taxpayer's Right to Vote Act". In response to a complaint filed by the San Francisco Local Agency Formation Commission, the Attorney General renamed the initiative to its current title. Sponsors of the initiative were successful in gathering over 700,000 signatures by December 21, 2009 to qualify the measure for the June 2010 ballot. The initiative will appear on the ballot as Proposition 16.

Under existing law, most cities can annex new areas that include the expansion of electric service by the approval of a simple majority of the voters who reside in the area to be annexed. This ballot initiative would change existing law by requiring approval of a two-thirds majority before any expansion of municipal electric service could occur. The vote must be obtained from both the existing service area and the new area to be annexed. In addition, any city or county pursuing Community Choice Aggregation (CCA) or the formation of a new publicly owned electric utility would need to obtain two-thirds voter approval within the local jurisdiction before proceeding. CCA was authorized by the California legislature in 2007 to enable cities and counties, or groups of cities

and counties, to supply electricity to customers within their jurisdiction. There are exemptions to the two-thirds vote requirement outlined in the proposed initiative. Voter approval would not be required for electricity expansions within the city's local jurisdiction when the local government is the sole source electric delivery service provider within those boundaries. In addition, a two-thirds vote would not apply to the purchase of renewable electricity or service for the city's own use.

In November 2006, Woodland voters considered ballot measures that would have annexed the City into the Sacramento Municipal Utility District (SMUD). Voters within SMUD's jurisdiction also considered the initiative as both areas needed a simple majority to approve the annexation in order for it to proceed. The ballot measures were not successful and the annexation of Woodland into SMUD did not proceed.

Discussion

The new voting requirements would have a major impact on the expansion of existing publicly owned electric utilities. Expansion of public electricity utilities would clearly require a two-thirds vote, significantly raising the bar for expansions to be approved. Should Woodland and SMUD voters desire to consider a future annexation similar to the measures considered four years ago, the successful passage of Proposition 16 would make such an annexation very difficult.

In addition, the Legislative Analyst Office (LAO) concluded that the impact to state and local governments is unknown due to the ambiguous language contained in the measure. For example, it is unclear if the two-thirds vote would be required for development of non-renewable generation facilities or transmission lines located out of a public electrical utility provider's jurisdiction. If a two-thirds vote for placement of such facilities is required, approval of Proposition 16 could limit a public provider's ability to efficiently deliver service to customers *within* its jurisdiction if transmission lines needed to be located out of the jurisdiction in order to efficiently reach customers in remote areas. Finally, the limiting impact associated with voter approval of Proposition 16 could allow PG&E rates to increase which would have a negative fiscal impact on state and local governments.

The staff recommendation also reflects the concern associated with unnecessary and unwelcome state intervention in the affairs of local government. While this objection is usually raised in association with actions proposed by the Governor and Legislature, the initiative process often includes narrowly focused measures that assert the will of institutions or special interests on California citizens. Staff believes this measure is the latest example of potential state intervention in the affairs of Woodland residents and business owners generated by the initiative process.

Fiscal Impact

There is no cost associated with the City Council's approval of the attached Resolution. As stated previously herein, the impact to state and local governments if Proposition 16 is approved is unknown based on the LAO's assessment.

Public Contact

Posting of the City Council agenda. A copy of the resolution and staff report will be sent to the California Public Utilities Commission if the City Council approves the staff recommendation.

Alternative Courses of Action

1. Adopt Resolution No. _____ opposing the New Two-Thirds Vote Requirement for Local Public Electricity Providers Ballot Initiative listed as Proposition 16 on the June 2010 ballot.

2. Cease further consideration of the resolution.

Recommendation for Action

Staff recommends that the City Council approve Alternative No. 1.

_____
Mark G. Deven
City Manager

Attachment: Resolution No. _____

RESOLUTION NO. _____

RESOLUTION OF THE COUNCIL OF THE CITY OF WOODLAND OPPOSING THE "NEW TWO-THIRDS VOTE REQUIREMENT FOR PUBLIC ELECTRICITY PROVIDERS" INITIATIVE (PROPOSITION 16)

WHEREAS, the "New Two-Thirds Vote Requirement for Public Electricity Providers" Initiative (Initiative) has qualified for the June 8, 2010 Statewide Primary Election; and

WHEREAS, the Initiative is a Constitutional Amendment; and

WHEREAS, the Initiative would require a public power provider to obtain a 2/3 voter majority in both existing territory and proposed territory expansions prior to spending funds for a utility system expansion; and

WHEREAS, the Initiative would prevent elected representatives or a simple majority of citizens from determining whether they want to have a public power option in any newly annexed areas; and

WHEREAS, the Initiative would prevent a simple majority of citizens from determining whether they want Community Choice Aggregation, a program authorized by the state legislature in 2007 that allows a city, county or group of government agencies to procure and provide electricity to residents and businesses within its jurisdictions; and

WHEREAS, the Legislative Analyst's Office concluded that the Initiative would create an unknown impact to state and local government costs and revenues, depending on future voter decisions, due to the potential impacts on electricity rates and publicly owned electric utility operations; and

WHEREAS, the Woodland community has previously considered the potential implementation of public electricity through a ballot measure that proposed de-annexation from PG&E; and

WHEREAS, the passage of the Initiative would render future consideration of a similar ballot measure much more difficult.

NOW, THEREFORE, the City Council of the City of Woodland does resolve as follows:

SECTION 1. The Council by adopting this resolution does hereby oppose the Initiative listed as Proposition 16 on the June 2010 ballot.

SECTION 2. The City Council and staff are authorized to provide impartial informational materials on the Initiative as may be lawfully provided by the City's representatives. No public funds shall be used to campaign for or against the initiative.

SECTION 3. The residents of the City of Woodland are encouraged to become well informed on the Initiative and its possible impacts.

SECTION 4. A copy of this Resolution, if approved by the City Council, will be sent to the California Public Utilities Commission.

SECTION 5. The Council finds that adoption of this resolution does not meet the California Environmental Quality Act's definition of a project pursuant to Public Resources Code Section 21065, and therefore, no environmental impact assessment is necessary.

Adopted this 4th day of May, 2010 by the following vote:

AYES:
NOES:
ABSENT:
ABSTENTIONS:

APPROVED:

_____
Marlin H. Davies, Mayor

ATTEST:

_____
Sue Vannucci, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. Morris, City Attorney

_____
Mark G. Deven, City Manager

_____
Gregor Meyer, Director of Public Works