

10/10/06

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AGENDA SHEET FOR COUNCIL MEETING OF: October 9, 2006

Submitting Dept.
Office of the City Council

Contact Person/Phone No.
Council President Joe Shogan
625-6255

Council Sponsor
Council President Joe Shogan

CITY CLERK'S OFFICE
SPOKANE, WA

ADMINISTRATIVE SESSION

- Contract
- Report
- Claims

LEGISLATIVE SESSION

- Emergency Ord
- Resolution
- Final Reading Ord
- First Reading Ord
- Special Consideration
- Hearing

CITY PRIORITY

- Communications
- Economic Development
- Growth Management
- Human Services
- Neighborhoods
- Public Safety
- Quality Service Delivery
- Racial Equity/Cultural Diversity
- Rebuild/Maintain Infrastructure

CLERK'S FILE _____

RENEWS _____

CROSS REF _____

ENG _____

BID _____

REQUISITION _____

STANDING COMMITTEES

(Date of Notification)

- Finance _____
- Neighborhoods _____
- Planning/Community & Econ Dev _____
- Public Safety _____
- Public Works _____

Neighborhood/Commission/Committee Notified: _____

Action Taken: _____

AGENDA

WORDING:

(If contract, include the term.)

A resolution opposing Initiative 933, entitled "An Act Relating to Providing Fairness in Government Regulation of Property."

BACKGROUND:

(Attach additional sheet if necessary)

Initiative 933 is entitled "An Act Relating to Providing Fairness in Government Regulation of Property" and will be presented to the voters of the state at the November 7, 2006 general election. I-933 would require compensation when government regulation damages the use or value of private property, would forbid regulations that prohibit existing legal uses of private property, and would provide exceptions or payments. This measure would require government agencies to consider the effects of and alternatives to regulating private property. Compensation would be required when regulations are enforced that damage private property use or value, including regulations prohibiting or restricting property uses that were allowed as of January 1, 1996. This resolution provides that the City Council opposes Initiative 933 and encourages voters to consider rejecting I-933.

RECOMMENDATION:

Fiscal Impact: <input type="checkbox"/> N/A	Budget Account: <input type="checkbox"/> N/A
<input type="checkbox"/> Expenditure: \$	#
<input type="checkbox"/> Revenue: \$	#
<input type="checkbox"/> Budget Neutral	

ATTACHMENTS: Include in Packets: YES
On file for Review in Office of City Clerk:

SIGNATURES:

Joe Shogan
City Councilperson
Nicholas P. Peacob
Legal

Division Director
John R. White
Deputy Mayor for Mayor

Finance
Alexander J. Shogan, Jr.
Council President

DISTRIBUTION:

COUNCIL ACTION:

* ADOPTED BY
SPOKANE CITY COUNCIL:

October 9, 2006

Leri A. Pfeister
CITY CLERK

* See Council Action Memo dated 10/10/06.

RES 2006-0111

RES 2006-0111

RESOLUTION NO. 2006-0111

A resolution opposing Initiative 933, entitled "An Act Relating to Providing Fairness in Government Regulation of Property."

WHEREAS, Initiative 933 (I-933) will be presented to the voters of the State of Washington at the general election on November 7, 2006, with the following official Ballot Title and Description:

Statement of the Subject: Initiative Measure 933 concerns government regulation of private property.

Description: This measure would require compensation when government regulation damages the use or value of private property, would forbid regulations that prohibit existing legal uses of private property, and would provide exceptions or payments. Should this measure be enacted into law?

Yes []
No []

WHEREAS, by its terms, the provisions of I-933 are to be "liberally construed" (Section 6) and its exceptions "shall be construed narrowly" (Section (2)(c));

WHEREAS, I-933 would require agencies such as the City of Spokane to undergo a lengthy and costly pre-enactment process to document potential impacts of new regulations upon the use and value of private property;

WHEREAS, I-933 would require the City (if it "decided" to "enforce or apply" any "ordinance, regulations or rule" to private property which would result in "damaging the use or value of private property") to first "pay compensation," as those phrases are defined and used in I-933;

WHEREAS, I-933's definition of "private property" includes virtually all interests in real as well as personal property;

WHEREAS, because of the breadth of I-933's definition of private property, and because its definition of "damaging the use or value" of private property includes no minimum threshold for the reduction of use or value, I-933 would dramatically lower the threshold for compensation far below constitutional limits because virtually any limitation on the use of any kind of private property could give rise to a claim for compensation for "damages" within the meaning of I-933, regardless of the importance of the public protection achieved by such limitation or the uses or values remaining to the property owner;

As Amended by Council

10-9-06

WHEREAS, the length and complexity of the aforementioned and required pre-enactment process would shift resources and staff time away from reviewing and processing all other permits thus forcing the City to concentrate primarily on I-933 claims, pre-enactment analysis and mitigating the City's liability, to the detriment of the City's existing permitting obligations;

WHEREAS, because the broad definition of "damaging the use or value" includes, but is not limited to, prohibiting or restricting any use or size, scope, or intensity of any use legally existing or permitted as of January 1, 1996, I-933 would dismantle all post-1996 regulations, including but not limited to development regulations and critical area regulations adopted pursuant to the detailed public participation process required by the Growth Management Act;

WHEREAS, I-933 would inhibit the Spokane City Council in its pursuit of its constitutional authority to adopt and enforce reasonable land use development standards to mitigate traffic impacts, assure appropriate building height and lot coverage maxima, provide for the preservation of open spaces and protection of environmentally sensitive areas, and other general development regulations necessary to promote the public health, safety and welfare, thereby supplanting the will of the local community and curtailing the police power authority granted to the City Council by the Washington Constitution (Article XI, Section XI) to adopt and enforce sound land use, zoning, growth management and planning, critical area, water quality and shoreline management and other measures through an open public process;

WHEREAS, the sweeping and detrimental regulatory and fiscal impacts of I-933 would be borne by citizens who reside in each of the state's 39 counties;

WHEREAS, the exceptions listed in Section (2)(c) do not list nuisance uses that typically would be precluded from residential neighborhoods, and thus I-933 would authorize claims for payment or waiver for city regulations that prohibit a wide variety of obnoxious land uses and activities that would seriously degrade property values of such residential neighborhoods;

WHEREAS, the only alternative to payment of compensation provided by I-933 is to issue site-specific waivers from regulations, which may give rise to lawsuits and claims for compensation from adjacent property owners;

WHEREAS, local governments may not have the legal authority to waive certain regulations on a parcel-by-parcel basis in any event;

WHEREAS, I-933 will lead to incompatible growth, which would potentially adversely affecting the value and use of adjacent properties and detrimentally affect the City's ability to provide needed infrastructure, public services and public safety which are necessary to promote healthy and prosperous communities;

WHEREAS, the City supports the benefits of balancing public good and private property rights;


WHEREAS, the waive or pay provision could jeopardize the City's ability to fund public services and public infrastructure;

WHEREAS, the equal application exemption erroneously implies that one size can fit all; and

WHEREAS, agencies seeking a remedy under the equal application exemption provision would need to implement regulations that ignore the unique circumstances warranting different restrictions in different areas.

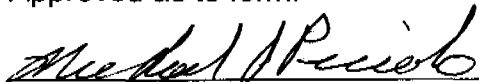
NOW, THEREFORE, BE IT RESOLVED by the City Council of Spokane, Washington, that the City Council of Spokane opposes adoption of Initiative Measure 933, and urges voters to consider rejecting I-933 due to the sweeping and detrimental impacts outlined above.

PASSED the City Council this 9th day of October, 2006.



City Clerk

Approved as to form:



Assistant City Attorney

