

RESOLUTION NO. 6188

A RESOLUTION DIRECTING THE CITY ATTORNEY TO FILE LITIGATION TO DETERMINE THE EFFECTIVENESS OF ALBANY CITY MEASURE 22-117 IN THE EVENT THAT THE MEASURE IS APPROVED BY A SIMPLE MAJORITY OF ALBANY VOTERS RATHER THAN AN ABSOLUTE MAJORITY

WHEREAS, Albany City Measure No. 22-117 is scheduled for a citywide vote on March 12, 2013; and

WHEREAS, the measure is entitled, "ACT TO LIMIT INDEBTEDNESS for CITY OF ALBANY, OREGON" and proposes to amend the Albany Charter to impose a new City debt limit equal to the total City debt as of February 28, 2012; and

WHEREAS, the measure further proposes that new debt or debt extensions shall not be allowed "without approval of a *majority of Albany City electors* in a primary, special, or general election"; and

WHEREAS, the Albany City Council believes that because the proposed measure requires approval of a majority of City *electors* rather than simply a majority of City *voters* to approve new debt or debt extensions and because the law defines an *elector* as an individual *qualified* to vote regardless of whether the individual *actually* votes that the result of the measure will be to require that new debt or debt extensions receive approval by an absolute rather than a simple majority vote; and

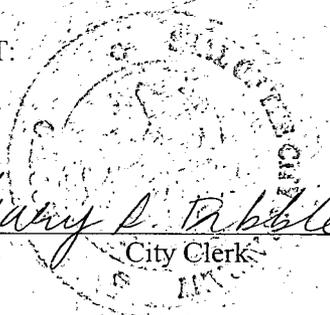
WHEREAS, Oregon Constitution Article II, Section 23, provides that any measure that includes any proposed requirement for more than a majority of votes cast by the electorate to approve any change in law or government action shall become effective only if approved by at least the same percentage of voters specified in the proposed voting requirement and therefore that the Constitution requires that City Measure No. 22-117 be effective only if it receives approval by an absolute majority of City voters; and

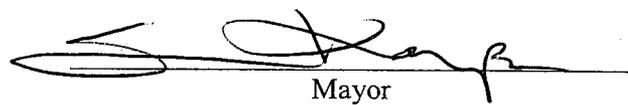
WHEREAS, the Albany City Council recognizes the possibility that the measure may receive approval from a simple majority rather than an absolute majority of Albany voters and may therefore be ineffective even if it receives simple majority approval.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Attorney is directed to prepare for and file appropriate litigation to seek a judicial determination concerning the effectiveness of City Measure No. 22-117 in the event that the measure passes by a simple, but not absolute majority vote.

DATED AND EFFECTIVE THIS 9TH OF JANUARY 2013.

ATTEST:


Mary P. Tibble
City Clerk


Mayor