

**TO:** Mayor and Council Members  
Marlene Best, City Manager  
Shawn Hagerty, City Attorney

**FROM:** Annette Ortiz, CMC, City Clerk

**DATE:** June 8, 2022

**SUBJ:** **Updated Council Meeting Materials – June 8, 2022**

**NEW BUSINESS:**

- (10) Resolution Repealing Resolution No. 006-2021, which Submitted to the Voters at the November 8, 2022 General Municipal Election the Referendum Against Resolution No. 094-2020. (City Clerk – Ortiz)**

The attached correspondence for above mentioned Item was received and is provided for your consideration.



**From:** [Peter Broderick](#)  
**To:** [Clerk Info](#)  
**Cc:** [John Minto](#); [Ronn Hall](#); [Laura Koval](#); [Rob McNelis](#); [Dustin Trotter](#)  
**Subject:** Fanita Ranch Referendum (Agenda Item #10, June 8, 2022 City Council Meeting)  
**Date:** Wednesday, June 8, 2022 9:24:47 AM  
**Attachments:** [2022-06-08 Ltr Re Referendum Fanita Ranch.pdf](#)

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Dear Councilmembers,

Please find attached comments of the Center for Biological Diversity regarding Agenda Item #10 for the June 8, 2022 City Council Meeting. Please consider these comments and include them in the City's file for this matter.

Regards,

**Peter J. Broderick**

Attorney  
Urban Wildlands Program  
Center for Biological Diversity  
(503) 283-5474 x421



June 8, 2022

*Sent via email*

City Council  
City of Santee  
10601 Magnolia Ave.  
Santee, CA 92071  
[clerk@cityofsanteeca.gov](mailto:clerk@cityofsanteeca.gov)

**Re: Fanita Ranch Referendum (Agenda Item #10, June 8, 2022 City Council Meeting)**

Dear Mayor Minto and City Councilmembers:

These comments are submitted on behalf of the Center for Biological Diversity (the “Center”) regarding the City’s proposed repeal of Resolution No. 006-2021 (Agenda Item #10, June 8, 2022 City Council Meeting), which repeal would remove the voter referendum on the Fanita Ranch Project General Plan Amendment from the November 2022 ballot. The City should not deprive the voters of the opportunity to vote on the Fanita Ranch Project General Plan Amendment in November.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 68,000 members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in the City of Santee.

On September 23, 2020, by Resolution 094-2020, the City Council adopted a General Plan Amendment for the Fanita Ranch Project. On October 29, 2020, the voters of the City of Santee filed a referendum petition with the City Clerk’s office seeking a vote to overturn Resolution 094-2020 and thereby rescind the General Plan Amendment. On January 13, 2021, the City Council decided not to repeal the General Plan Amendment, and instead adopted Resolution 006-2021, which submitted the referendum to the voters at the November 8, 2022 General Municipal Election.

On April 26, 2022, after finding that the City violated state law when it approved the Fanita Ranch Project without conducting the requisite environmental review, the San Diego Superior Court ordered the City to rescind all project approvals for the Fanita Ranch Project, including Resolution No. 94-2020, the subject of the referendum. On May 25, 2022, the City Council repealed Resolution 094-2020 in response to the Court’s order.

The City now apparently wishes to avoid holding a vote on the Fanita Ranch Project—a vote it already committed to when it decided in January 13, 2021 to submit the referendum to the voters. The City’s Staff Report justifies this attempt to avoid voter accountability by urging that a

referendum vote would be a “meaningless act,” “legally moot,” and “without purpose” because the City has already repealed the subject General Plan Amendment under court order. The conclusion is wrong in several respects. First, the City lacks the discretionary authority to conclude that a qualifying referendum is moot. (*See Widders v. Furchtenicht* (2008) 167 Cal.App.4th 769, 779 [submitting qualifying measures to the voters is a ministerial act].) Additionally, the referendum vote will, in fact, have a legal effect: if voters disapprove of the General Plan Amendment (as is likely), the City will be prohibited by law from enacting similar legislation for one year from the date of the election. (Elec. Code § 9241.) Finally, allowing the voting public to weigh in on the Fanita Ranch Project through an up-or-down vote is a key aspect of participatory decision-making and serves the underlying democratic purpose of California’s constitutionally authorized voter referendum process. As the City is aware, Santee voters referended a prior City-approved development on the site of the Fanita Ranch Project in the late 1990s.

The City cannot use its failure to comply with the law when it adopted the General Plan Amendment for the Fanita Ranch Project as a justification avoiding voter accountability and the City’s obligations under the Elections Code, which arose after the City decided to place the referendum on the November 2022 ballot. The referendum should remain on the ballot.

Given the possibility that the Center will be required to pursue legal remedies in order to ensure that the County complies with its legal obligations we would like to remind the City of its statutory duty to maintain and preserve all documents and communications that may constitute part of the administrative record of this proceeding. Please include the Center on your notice list for all future City activity relating to the Fanita Ranch Project and do not hesitate to contact the Center with any questions at the number or email listed below .

Sincerely,



Peter J. Broderick,  
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