



Agenda Report

19-1121

Agenda Date: 10/8/2019

REPORT TO STADIUM AUTHORITY BOARD

SUBJECT

Report on Letter from attorney for Forty-Niners Stadium Management Co. and ratification of Stadium Authority Counsel's issuance of Notice of Termination

BACKGROUND

On September 17, 2019 the Stadium Authority Board (Board Member Mahan absent) met in closed session to consider the initiation of legal proceedings to terminate the Stadium Management Agreement with the Forty-Niners Stadium Management Co. Immediately following the Closed Session, the Stadium Authority Counsel announced that the Board had voted unanimously to authorize the initiation of legal proceedings to terminate the Management Agreement. After the Board's action, Stadium Authority Counsel Brian Doyle made the decision to commence the legal proceedings by issuing a Notice of Termination which was served on the Management Company early on the morning of September 18, 2019.

DISCUSSION

On September 20, 2019, the Forty Niners filed a lawsuit against the City of Santa Clara and the Stadium Authority regarding the termination, marking the **fifth** legal action brought by the Forty Niners. On September 24, 2019, counsel for the Forty Niners sent a letter claiming either Mr. Doyle did not have authority to issue a Notice of Termination on his client's behalf, or the Board had violated the Brown Act in authorizing the Notice of Termination. A copy of the letter is attached.

The Forty Niners' counsel is incorrect. He provides no legal authority for his assertions that there was Brown Act violation. Neither logic nor the Government Code nor any reported case requires the Board to vote on the specific means by which its Counsel accomplishes the direction he has been given.

However, the Board need not limit the transparency of its decision-making to the requirements of the Brown Act. Although the Board's actions were fully compliant with the Brown Act, the meritless contentions in the Forty Niners' recent letter portend further litigation aimed at delay in legal proceedings. In order to avoid further waste of public funds and judicial resources, we are recommending that the Stadium Authority Board vote to ratify the Notice of Termination sent by its Counsel, and in so doing allow for any associated public comment, including from the Forty Niners.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

FISCAL IMPACT

Not currently calculable but expected to save litigation costs.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

Ratify the Stadium Authority Counsel's issuance of the Notice of Termination.

Approved by: Brian Doyle, Stadium Authority Counsel

ATTACHMENTS

1. Notice of Termination
2. Letter from Management Company's Attorney