

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: TERESA STRICKER, INTERIM CITY ATTORNEY
CITY ATTORNEY'S OFFICE
SUBJECT: JUNE 2017 ELECTION BALLOT AND REBUTTAL ARGUMENTS
FOR RENT STABILIZATION AND OTHER TENANT
PROTECTION MEASURE

AGENDA ACTION: MOTION(S)

RECOMMENDATION

Staff recommends that the Council, by motion, determine whether it wishes to submit a ballot argument and rebuttal argument in favor of the measure for the June 6, 2017 ballot to make effective those portions of Ordinance No. 4072 (Rent Stabilization and Other Tenant Protections Ordinance) suspended by the previous submission of a qualified referendum petition; and determine the process by which Council will draft the ballot arguments, should it choose to submit an argument for the measure.

EXECUTIVE SUMMARY

Under the California Elections Code, the City Council has the first priority to submit ballot arguments in favor of the proposed measure, and if any opposition argument is filed against the measure, to submit a rebuttal argument to that opposition argument.

BACKGROUND

On September 26, 2016, a timely Referendum Petition was filed with the City Clerk challenging portions of Ordinance No. 4072, establishing rent stabilization, eviction control, and other residential tenant protections in Santa Rosa. The Petition challenged all provisions of the Ordinance except the provision of the Ordinance that repealed both the 90-day moratorium on rent increases (which took effect on July 7, 2016) and the Just Cause Eviction Ordinance (which took effect on September 16, 2016). Both of those earlier ordinances have now been repealed.

On September 26, 2016, the City Clerk submitted the Petition to the Sonoma County Registrar of Voters Office (ROV) for a prima facie review, signature verification, and final count. On December 21, 2016, the ROV submitted to the City Clerk its

determination that the Petition contained a sufficient number of signatures of qualified voters.

On December 21, 2016, the City Clerk received the Sonoma County Registrar of Voters' determination that the Referendum Petition challenging portions of Ordinance No. 4072 contained a sufficient number of valid signatures to qualify the referendum for the ballot.

On December 23, 2016, the City Clerk certified that the referendum petition was sufficient to qualify for the ballot should the City Council choose not to repeal the challenged portions of the Ordinance.

On January 10, 2017, the City Council, by motion, accepted the City Clerk's certification of the referendum petition, and directed staff to bring back to Council an appropriate resolution to submit the challenged portions of Ordinance No. 4072 to the voters at a Special Election to be held on June 6, 2017. Under Elections Code section 9241, the challenged ordinance will not become effective unless a majority of those voting on the ballot measure vote in favor. In other words, a "yes" vote on the referendum ballot measure is a vote in favor of the ordinance becoming effective.

On January 10, 2017, the City Council directed staff to bring back to Council an appropriate resolution to submit the challenged portions of Ordinance No. 4072 to the voters at a Special Election to be held on June 6, 2017. Staff intends to bring forward that resolution on March 7, 2017.

PRIOR CITY COUNCIL REVIEW

Not Applicable.

ANALYSIS

California Elections Code sections 9280-9287 govern the process for submitting ballots in favor of, and against, city ballot measures, as well as submitting rebuttal arguments. More specifically, Elections Code sections 9282 and 9287, taken together, grant the City Council the first priority in submitting an argument in favor of referendum measures or measures the Council places on the ballot. Alternatively, under Elections Code section 9287, the Council may authorize one or more of its members to submit the argument.

If the City Council chooses not to submit an argument in favor of the measure, then under Elections Code section 9287, the following priority order would apply to select the author of the argument:

- A bona fide associations of citizens
- Individual voters who are eligible to vote on the measure

If an argument is submitted against the measure, then under Elections Code section 9285, the City Council (or the members it authorizes) could also choose to submit a rebuttal argument to that opposition argument. Alternatively, the Council (or authorized members) could authorize another person to “prepare, submit, or sign the rebuttal argument.”

If the Council chooses to submit the argument in favor of the measure, it needs to determine the process for drafting and approving that argument. Possible approaches would be to delegate to an ad hoc Council committee the authority to draft and submit the argument on behalf of the Council, or to have such a committee draft the argument, and bring the draft back to the Council for approval.

With respect to the referendum measure, because the Council was divided regarding the merits of adopting the Rent Stabilization Ordinance, staff is not in a position to draft an appropriate argument in favor of the measure.

Regardless of which approach the Council chooses, it needs to ensure that its process for approving arguments can be completed in a timely manner that meets the deadlines for submitting ballot arguments. Under California Elections Code section 9286, the City Clerk is responsible for establishing the deadlines for the submission of ballot arguments and rebuttal arguments), taking into consideration the time reasonably necessary to prepare and print the arguments and voter information guides, and to permit the 10-calendar-day public examination of ballot pamphlet materials.

For the June 7, 2017 election, the City Clerk currently anticipates that the deadline for arguments would be on March 20, 2017, and the deadline for rebuttal argument would be on March 30, 2017.

Finally, there are certain requirements that govern the format and submission of ballot arguments:

- The primary argument must be 300 words or fewer. (Cal. Elect. Code § 9282(c)).
- The rebuttal argument must be 250 words or fewer. (Cal. Elect. Code § 9285(a)).
- The printed name and signature or printed names and signatures of the author or authors submitting it must accompany the argument. (Cal. Elect. Code §§ 9283).
- No more than five signatures may accompany the argument. (*Id.*)

This last point means that the Council may choose to have additional persons sign its ballot argument, provided the total number of signers (including the Council) does not exceed five.

FISCAL IMPACT

There is no direct cost to submit a ballot argument and rebuttal argument in favor of the proposed measure. The cost associated with submitting the matter to the voters have been appropriated.

ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guidelines section 15378.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not Applicable.

NOTIFICATION

Not Applicable.

ATTACHMENTS

None.

CONTACT

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