



Agenda Date: 10/16/2007
Agenda Placement: 9A

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Margaret Woodbury for Robert Westmeyer - County Counsel
County Counsel
REPORT BY: Sora O'Doherty, Paralegal, 251-1090
SUBJECT: Discussion and possible action regarding filing Arguments For or Against the "Initiative Measure to Allow Deli and Wine Tasting at the Stanly Lane Marketplace"

RECOMMENDATION

County Counsel requests discussion and possible action regarding the following:

1. Direction to staff to prepare an argument for or against the "Initiative Measure to Allow Deli and Wine Tasting at the Stanly Lane Marketplace" for adoption by the Board of Supervisors on or before November 6, 2007; or
2. Authorization for a member or members of the Board to prepare and file an argument for or against the "Initiative Measure to Allow Deli and Wine Tasting at the Stanly Lane Marketplace".

EXECUTIVE SUMMARY

Elections Code section 9162 specifies that the Board of Supervisors, or any member or members of the Board authorized by the Board, may file a written argument for or against any county measure. Any argument submitted by the Board, or by any member or members of the Board authorized by the Board, may not exceed 300 words in length. Any such argument that may be submitted has priority over any other arguments that may be submitted.

The maximum number of signatures that are permitted to appear following an argument for or against an initiative measure is five. Any additional signatures are ignored.

The deadline, which cannot be extended, to submit arguments for or against the "Initiative Measure to Allow Deli and Wine Tasting at the Stanly Lane Marketplace" is 4:30 p.m. Friday, November 16, 2007. The final Board meeting prior to that date is Tuesday, November 6, 2007; there is no board meeting on October 30 or November 13, 2007. Therefore final action by the Board would have to occur on or before November 6, 2007, relating to this matter for it to be timely, unless the Board called special meeting between November 7th and 15th.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Submittal of an argument for or against an initiative ballot measure is not a project and therefore CEQA is not applicable because it is part of the process of submitting a proposal to a vote of the people that does not involve a public agency sponsored initiative.

BACKGROUND AND DISCUSSION

Elections Code section 9162 specifies that the Board of Supervisors, or any member or members of the Board authorized by the Board, may file a written argument for or against any county measure. Any argument submitted by the Board, or any member or members of the Board authorized by the Board, may not exceed 300 words in length. Any such argument that is submitted has priority over any other arguments that may be submitted.

The maximum number of signatures that are permitted to appear following an argument for or against an initiative measure is five. Any additional signatures are ignored. These first five signatures are included in the Official Ballot Materials. Thus, the Registrar of Voters is not permitted to pick and choose among the signatures submitted if there are more than five. See the second paragraph of Elections Code section 9164 which is attached.

The ballot question for the "Initiative Measure to Allow Deli and Wine Tasting at the Stanly Lane Marketplace" reads as follows:

Shall Napa County Ordinance No. 08-01 be adopted? (Authorizes delicatessens with outdoor barbeques and wine tasting to be operated on lands in the Agricultural Produce Stand Combination Zoning District when accessory to a lawfully existing agricultural produce stand if a conditional use permit is first obtained.)

If the Board wishes to develop an argument for or against the "Initiative Measure to Allow Deli and Wine Tasting at the Stanly Lane Marketplace", it has two choices:

- a. The Board may direct staff to prepare an argument for or against the initiative to be presented to and adopted by the Board at its November 6, 2007, meeting, or
- b. The Board may authorize any member or members of the Board to prepare and file an argument for or against the initiative to be filed by the deadline established by the Registrar of Voters which is 4:30 p.m. on November 16, 2007.

As noted above, any such argument has priority over any other argument that may be submitted.

The deadline, which cannot be extended, to submit arguments for or against the initiative is 4:30 p.m. Friday, November 16, 2007. The final Board meeting prior to that date is Tuesday, November 6, 2007. The Board does not meet on Tuesday, October 30 or Tuesday, November 13, 2007. Therefore final action by the Board would have to occur on or before November 6, 2007, relating to this matter for it to be timely, unless a special meeting were called between November 7th and 15th.

If the Board directs staff to file an argument for or against the Measure the draft argument will be returned to the Board at the October 23, 2007 meeting for action.

Copies of the relevant sections of the Elections Code are attached.

SUPPORTING DOCUMENTS

A . Election Code Sections 9162, 9164 & 9166

CEO Recommendation: Approve

Reviewed By: Maiko Klieman