



Agenda Date: 8/15/2006  
Agenda Placement: 9C

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Robert Westmeyer - County Counsel  
County Counsel  
**REPORT BY:** Robert Westmeyer, County Counsel, 259-8245  
**SUBJECT:** Discussion and possible action regarding the preparation of arguments for or against Measure "I" by members of the Board of Supervisors

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### **RECOMMENDATION**

Discussion and possible action authorizing one or more members of the Board to prepare and file an argument for or against Measure "I" which the Board has placed on the November 2006 ballot to enable the voters to decide whether a Napa County Regional Park and Open Space District should be created and established.

### **EXECUTIVE SUMMARY**

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

The maximum number of signatures that are permitted to appear in the Official Ballot Materials following an argument for or against a county measure is five. The first five signatures following the argument are printed in the Official Ballot Materials. Signatures following the first five are ignored.

This matter cannot be continued to the next regularly scheduled Board meeting because the deadline, which cannot be extended, to submit arguments for or against Measure "I" is 5:00 p.m., Friday, August 18, 2006. It is possible to call a special meeting for August 16-18th to further consider this matter. However, such action by the Board would be highly unusual.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

**ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

**BACKGROUND AND DISCUSSION**

If multiple arguments in favor or against a county measure are submitted, only one argument from each side is permitted to be included in the Official Ballot Materials that are sent to each voter prior to the election. To deal with this situation should it occur, the legislature added section 9166 to the Elections Code. Section 9166 provides that if more than one argument for or more than one argument against any county measure is submitted to the County Registrar of Voters (the "Registrar") within the time prescribed by the Registrar, the Registrar shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters. In selecting the arguments to be included in the Official Ballot Materials the Registrar is required to give preference and priority in the following order:

- (a) The Board of Supervisors, or member or members of the Board authorized by the Board;
- (b) The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure;
- (c) Bona fide associations of citizens;
- (d) Individual voters who are eligible to vote on the measure.

Thus any member or members of the Board authorized by the Board may file a written argument for or against Measure "I" and it will have priority so long as it is filed in a timely manner. As is the case with any argument that may be submitted by an interested party, an argument submitted by a member or members of the Board authorized by the Board cannot exceed 300 words in length. The manner in which words are counted is set forth below.

If the Board does not authorize any member or members of the Board to file an argument for or against Measure "I", and multiple arguments for or against Measure "I" are filed in a timely manner, an argument that is filed by persons or organizations listed in subsection (b) of section 9166 is required to be selected. If no such arguments for or against Measure "I" are filed, then an argument that is filed by the type of organization described in subsection (c) of section 9166 is required to be selected. If no such arguments for or against Measure "I" are filed, then an argument that is filed by any voter described in subsection (d) is required to be selected. If multiple arguments within a single priority class are filed in a timely manner, the past practice of the Registrar is to select the "first in time" argument for inclusion in the Official Ballot Materials. That past practice is expected to continue.

In making its decision, the Board should take into consideration that there is an association of citizens that has registered with the Secretary of State as a campaign committee for the purpose of supporting Measure "I". This committee has indicated its desire to prepare the argument in favor of Measure "I". This association's argument will be included in the Official Ballot Materials if the Board takes no action, no other organization or association having a higher level of priority submits an argument in favor, and no association having equal priority submits to the Registrar an argument prior to the time the campaign committee formed for the purpose of supporting Measure "I" files its argument in favor with the Registrar.

The maximum number of signatures that are permitted to appear in the Official Ballot Materials following an argument for or against a county measure are the first five signatures. Any additional signatures do not invalidate the argument submitted but those additional signatures are ignored when printing the Official Ballot Materials. The Registrar is not permitted to "pick and choose" among the signatures if more than five are included with the

argument. Only the first five will be utilized in preparing the Official Ballot Materials. This fact should be taken into consideration when determining the order of the signatures that will accompany any argument in favor or against Measure "I" that may be filed with the Registrar.

This matter cannot be continued to the next regularly scheduled Board meeting because the deadline, which cannot be extended, to submit arguments for or against Measure "I" is 5:00 p.m., Friday, August 18, 2006. It is possible to call a special meeting for August 16-18th to further consider this matter. However, such action by the Board would be highly unusual and is not recommended.

#### **§ 9. Counting of words**

(a) Counting of words, for purposes of this code, shall be as follows:

- (1) Punctuation is not counted.
  - (2) Each word shall be counted as one word except as specified in this section.
  - (3) All geographical names shall be considered as one word; for example, "City and County of San Francisco" shall be counted as one word.
  - (4) Each abbreviation for a word, phrase, or expression shall be counted as one word.
  - (5) Hyphenated words that appear in any generally available standard reference dictionary, published in the United States at any time within the 10 calendar years immediately preceding the election for which the words are counted, shall be considered as one word. Each part of all other hyphenated words shall be counted as a separate word.
  - (6) Dates consisting of a combination of words and digits shall be counted as two words. Dates consisting only of a combination of digits shall be counted as one word.
  - (7) Any number consisting of a digit or digits shall be considered as one word. Any number which is spelled, such as "one," shall be considered as a separate word or words. "One" shall be counted as one word whereas "one hundred" shall be counted as two words. "100" shall be counted as one word.
  - (8) Telephone numbers shall be counted as one word.
  - (9) Internet web site addresses shall be counted as one word.
- (b) This section shall not apply to counting words for ballot designations under Section 13107.  
(COUNTY COUNSEL NOTE: 13107 relates to candidate elections other than judiciary elections)

#### **SUPPORTING DOCUMENTS**

A . Election Code Sections 9162 & 9166

CEO Recommendation: Approve

Reviewed By: Maiko Klieman