

RESOLUTION NO. 11-16

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND ADOPTING A POLICY FOR THE FILING OF BALLOT ARGUMENTS AND DIRECTING LEGAL AND FINANCIAL IMPARTIAL ANALYSIS BE PREPARED FOR EACH CITY MEASURE TO BE SUBMITTED AT THE JUNE 7, 2016 SPECIAL MUNICIPAL ELECTION

WHEREAS, the Richmond City Council has determined to call a special election and submit to the voters at the June 7, 2016, statewide primary election, certain initiative measures; and

WHEREAS, the Council desires to adopt a policy for the filing of ballot arguments for city measures submitted at the June 7, 2016 special election, in accordance with the California Elections Code; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richmond, as follows:

Section 1. The foregoing recitals are true and correct, and the City Council so finds and determines.

Section 2. The Primary Argument filing period opens at 8:30 a.m. on March 23, 2016 and closes at 5:00 p.m. on March 23, 2016. The Rebuttal Argument filing period opens at 8:30 a.m. on March 28, 2016, and closes at 5:00 p.m. on March 28, 2016.

Section 3. The 10-day public review period for all ballot materials opens at 8:30 a.m. on March 29, 2016 and closes at 5:00 p.m. on April 11, 2016.

Section 4. Primary Arguments for or against ballot measures shall not exceed 300 words in length. Rebuttal Arguments for or against ballot measures shall not exceed 250 words in length (*EC 9282, 9285*).

Section 5. If more than one argument is submitted on a measure, the City Clerk shall select the argument and shall give preference, in the order named, to arguments of the following: (*EC 9287*)

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

If more than one argument from the same level of standing is submitted, the argument to be printed will be determined by the procedure in Attachment A.

Section 6. Each ballot argument must be accompanied by the printed name(s) and signature(s) of the person or persons submitting it or, if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers who is the author of the argument (*EC 9283*).

a. The consent form in Attachment B must be submitted in order to use an organization name for the title of a signor or as an endorser in the argument text. The signed original hardcopy must be filed by the deadline. Scanned, faxed, or copies will not be accepted.

b. If the argument is filed by, 1) the legislative body or authorized members of the legislative body; 2) the proponents of a qualified initiative; or 3) individual voters eligible to vote on the measure, then, pursuant to Elections Code Sections 9282 and 9283, all signors to the argument must be eligible to vote on the measure.

c. If the argument is filed by bona fide association of citizens, it must be accompanied by the name of the organization and the printed name and signature of at least one of its principal officers.

Section 7. No more than five signatures shall appear with any argument. In case any argument is signed by more than five persons, the signatures of the first five shall be printed. (EC 9283) Authors must list the signors names on the argument in the order they are to be printed.

Section 8. The certification of the author(s) and proponent(s) in Attachment C must be submitted at the time the primary argument or rebuttal argument is filed. A separate signature form is required for the rebuttal argument even if the same signor completed a form for the primary argument. (EC 9600) The signed original hardcopy must be filed by the deadline. Scanned, faxed, or copies will not be accepted.

Section 9. For proponents of ballot arguments whose name and title shall appear with the argument in the voter pamphlet, the title of said proponent is limited to 25 words.

Section 10. The names and titles of proponents will be printed exactly as they appear on "Printed Name" line and "Title" line on the consent form in Attachment C.

Section 11. The Consent Form for Use of Organization Name for Ballot Argument/Rebuttal Statements shown in Attachment B is required for any proponent and/or signatory that uses the name of any organization in their title. If using more than one organization name in the full title(s), a separate consent form is required for each organization.

a. Consent forms are required for persons and/or organizations listed as supporters in the text of the argument.

b. Offices held with public agencies (including city boards and commissions) do not require a consent form from the jurisdiction.

Section 12. The City Clerk, upon receipt of arguments and after the filing deadline, will immediately transmit copies to any known opposing parties who may then submit rebuttals within the time period shown above. (EC 9285)

Section 13. Primary arguments may be changed or withdrawn up to 5:00 p.m., March 23, 2016. Rebuttal arguments may be changed or withdrawn up to 5:00 p.m., March 28, 2016. Arguments received prior to the deadline are confidential until the deadline. (EC 9286)

Section 14. Only those person(s) whose argument has been selected by the City Clerk in accordance with Election Code 9287 may file a rebuttal argument. (EC 9285)

Section 15. Primary and Rebuttal arguments must be typed or printed from a computer. Hand written arguments will not be accepted. If prepared on a computer, submit the primary/rebuttal argument in electronic format in addition to the required hard copy.

Section 16. The City Council hereby directs the City Clerk to transmit a copy of the initiative measures to the City Attorney. The City Attorney (or City Clerk, if applicable pursuant to California Elections Code section 9280) shall prepare an impartial analysis for each measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit such impartial analysis to the City Clerk no later than March 28, 2016.

Section 17. The Finance Director of the City is hereby authorized and directed to prepare and file with the Registrar of Voters an impartial analysis for each ballot measure covering each measure's financial impact upon the City government in accordance with Section 2.16.070 of the Municipal Code of the City, no later than March 28, 2016.

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held February 16, 2016, by the following vote:

AYES: Councilmembers Bates, Beckles, Myrick, Pimplé, Vice Mayor Martinez, and Mayor Butt.
NOES: None.
ABSTENTIONS: None.
ABSENT: Councilmember McLaughlin.

PAMELA CHRISTIAN
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

TOM BUTT
Mayor

Approved as to form:

BRUCE GOODMILLER
City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Resolution No. 11-16**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on February 16, 2016.



Pamela Christian, Clerk of the City of Richmond

Attachment A

Selection Procedure

Multiple Ballot Measure Arguments

Elections Code Section 9287 establishes a hierarchy for the submission of arguments to determine whose argument has priority.

9287. If more than one argument for or more than one argument against any city measure is submitted to the city elections official within the time prescribed, he or she 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 argument the city elections official shall give preference and priority, in the order named, to the arguments of the following:

- (a) The legislative body, or member or members of the legislative body authorized by that body.
- (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.

The Elections Code does not define “bona fide association of citizens” nor does it state who may be a member, or if any, or all of the members must live in the jurisdiction that is voting on the measure. Similarly, the code does not require that the signors of the argument, when filed by a bona fide association of citizens, must reside or be registered to vote in the jurisdiction that is voting on the measure.

If the argument is being filed by a bona fide association, Election Code Section 9283 requires that “the name of the organization and the printed name and signature of at least one of its principal officers who is the author of the argument” must accompany the argument.

In order to be considered a “bona fide association” for filing an argument for a city measure, the organization or association must submit one of the following: articles of incorporation, letterhead with the name of the organization and its principal officers, or some other written document indicating the same.

The code does not contain any provision for selecting an argument based on which argument was filed first, or earliest in relation to any arguments filed later, but before the deadline. All arguments filed before the deadline are considered equal in priority.

The code clearly states that only one argument for and one argument against may be printed (**EC Sec. 9287**). If two or more parties filing an argument for or against a measure fall under the same classification, then the Elections Official shall select one argument to print. The Elections Official will determine the most appropriate procedure to select the argument to be printed.

The Richmond Municipal Code and the City Charter do not stipulate a method for selecting arguments if multiple arguments of equal standing are filed. Therefore, state law is followed to make the determination.

The procedure to determine the winning candidate in the case of a tie vote is by drawing of lots (**EC Sec. 15651**). The Elections Official may determine that the drawing of lots, as outlined below, is the most appropriate means to select the argument to be printed.

Procedure for Drawing of Lots

The names of the authors of the arguments shall be written on pieces of paper, folded, and placed in a container. The container will be agitated to mix the papers, and then one paper shall be drawn at-a-time. As each piece of paper is removed, it will be opened and the name recorded in the order it was removed.

The order in which the names are removed from the container shall be the order of priority for printing the argument, i.e., the first name chosen shall be the author whose argument shall be printed.

Arguments for a measure and arguments against a measure will each have their own drawing process.

The results will then be posted in the City Clerk Department.

Attachment B

CONSENT FORM FOR USE OF ORGANIZATION NAME

▶ PRIMARY ARGUMENT ◀

I hereby consent that my organization's name may be referred to as an endorser either within the text of the primary argument or in the title of the signatory listed below for city ballot measure _____ at the City of Richmond
(subject or measure letter)

Special Municipal Election to be held on June 7, 2016.

To be completed by

Organization Principal: Signature of Principal

Title

Organization Name

Date:

To be completed by

Signatory: Signature

Printed Name

CONSENT FORM FOR USE OF ORGANIZATION NAME

▶ REBUTTAL ARGUMENT ◀

I hereby consent that my organization's name may be referred to as an endorser either within the text of the rebuttal argument or in the title of the signatory listed below for city ballot measure _____ at the City of Richmond
(subject or measure letter)

Special Municipal Election to be held on June 6, 2016.

To be completed by

Organization Principal: Signature of Principal

Title

Organization Name

Date:

To be completed by

Signatory: Signature

Printed Name

Attachment C

SIGNATURE FORM FOR PROPONENTS

▶ PRIMARY ARGUMENT ◀

EC 9600: "All arguments concerning measures filed pursuant to this division shall be accompanied by the following form statement, to be signed by each proponent and by each author, if different, of the argument:"

The undersigned proponent(s) or author(s) of the ballot argument in favor of or against ballot measure _____ at the _____
(subject of measure)

Special Municipal Election for the City of Richmond to be held on June 6, 2016, hereby states that such argument is true and correct to the best of his/her/their knowledge and belief:

Signed: _____ Date: _____

Printed Name: _____
(Name will be printed exactly as written on this line)

Full Title: _____
(Title will be printed exactly as written on this line – limit 25 words)

Residence Address: _____

Phone Number: _____

- For any argument filed by the City Council, the proponent of an initiative, or an individual voter, all signors must be eligible to vote on the measure (i.e. Richmond resident, at least 18 years old, U.S. Citizen, and not incarcerated or on parole for the conviction of a felony).
- For any signor on a city ballot measure, a consent form is required for the use of any organization name in the signor's title(s). The organization must consent to the use of its name for all signors.
- If using more than one organization name in the full title(s), a separate consent form is required for each organization.
- Offices held with public agencies (including city boards and commissions) do not require a consent form from the jurisdiction.

SIGNATURE FORM FOR PROPONENTS

▶ REBUTTAL ARGUMENT ◀

EC 9600: "All arguments concerning measures filed pursuant to this division shall be accompanied by the following form statement, to be signed by each proponent and by each author, if different, of the argument:"

*The undersigned proponent(s) or author(s) of the ballot argument in favor of or
against ballot measure _____ at the
(subject of measure)*

*Special Municipal Election for the City of Richmond to be held on June 6, 2016,
hereby states that such argument is true and correct to the best of his/her/their
knowledge and belief:*

Signed: _____

Date: _____

Printed Name: _____

(Name will be printed exactly as written on this line)

Full Title: _____

(Title will be printed exactly as written on this line – limit 25 words)

Residence Address: _____

Phone Number: _____

- For any argument filed by the City Council, the proponent of an initiative, or an individual voter, all signors must be eligible to vote on the measure (i.e. Richmond resident, at least 18 years old, U.S. Citizen, and not incarcerated or on parole for the conviction of a felony).*
- For any signor on a city ballot measure, a consent form is required for the use of any organization name in the signor's title(s). The organization must consent to the use of its name for all signors.*
- Offices held with public agencies (including city boards and commissions) do not require a consent form from the jurisdiction.*
- If using more than one organization name in the full title(s), a separate consent form is required for each organization.*