


Office of the City Manager

INFORMATION CALENDAR
November 4, 2003

To: Honorable Mayor and
Members of the City Council
From:  Phil Kamlarz, Acting City Manager
Subject: Argument and Rebuttal Process

INTRODUCTION

The City Council is in the process of considering whether or not it desires to place any measure(s) on the March 2, 2004 ballot. The Council will need to approve the text of any measure(s) and adopt a resolution calling the election no later than its meeting of November 25, 2003. The Council has the option of designating one or more of its own members to submit arguments on any Council sponsored measures.

CURRENT SITUATION AND ITS EFFECTS

The City Clerk has established the filing period for arguments and rebuttals related to Council sponsored measures scheduled to be on the March 2, 2004 Special Municipal Election Ballot as follows:

Argument Period Opens:	8:00 a.m., Wednesday, November 26, 2003
Argument Period Closes:	12:00 p.m., Friday, December 5, 2003
Rebuttal Period Opens:	4:00 p.m., Friday, December 5, 2003
Rebuttal Period Closes:	12:00 p.m., Monday, December 15, 2003

If the City Council wishes to designate a member or members of the Council to file arguments for any proposed measure or initiative, the Council must take a formal action to do so. Any meeting that is held to discuss drafting the wording of arguments must be noticed under the Brown Act.

BACKGROUND

State Elections Code Sections 9280 through 9287 contain regulations that prescribe the Argument and Rebuttal process for local measures. Specifically Section 9282 allows the legislative body or any member or members of the legislative body authorized by that body, the authority to designate themselves to file written arguments for or against any City measure and requires the City Clerk to give preference and priority to arguments submitted by the legislative body.

If Council takes no action to designate one or more of its own members, Section 9287 requires the City Clerk to follow an established order for selection of argument authors as follows: 1) 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, followed by 2) individual voters who are eligible to vote on the measure.

In addition, Section 9286 requires the City Clerk to determine reasonable dates prior to the election for the filing of arguments and rebuttals. The City Clerk has established the argument and rebuttal filing periods to allow sufficient time for Council to place any measure on the ballot by November 25, 2003 the last scheduled Council meeting prior the state deadline of December 5, 2003 for consolidation with Alameda County.

A copy of the forms and instructions for submitting an argument are enclosed and are available from the City Clerk and on the City's website at www.ci.berkeley.ca.us/elections.

POSSIBLE FUTURE ACTION

None.

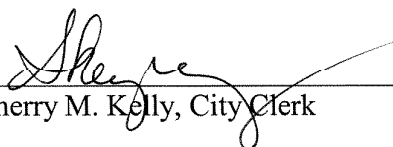
FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The cost of printing arguments and rebuttals is considered in the cost of placing a measure on the ballot. Total cost of placing a measure on the ballot ranges between \$5,000 and \$10,000 depending on the length of the measure.

CONTACT PERSON

Sherry M. Kelly, City Clerk, 981-6900

Approved:



Sherry M. Kelly, City Clerk

Enclosures – Forms and Instructions



City Clerk

Sherry M. Kelly, City Clerk
2180 Milvia Street, Berkeley, CA 94704
Tel: (510) 981-6900 • TDD: (510) 981-6903 • Fax: (510) 981-6901
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FORMS AND INSTRUCTIONS FOR PERSONS WISHING TO SUBMIT BALLOT ARGUMENTS AND/OR REBUTTAL ARGUMENTS FOR MEASURES ON THE MARCH 2, 2004 SPECIAL MUNICIPAL BALLOT

ARGUMENT PERIOD OPENS: 8:00 A.M., Wednesday, November 26, 2003
DEADLINE FOR FILING ARGUMENTS: 12:00 P.M., Friday, December 5, 2003

REBUTTAL PERIOD OPENS: 4:00 P.M., Friday, December 5, 2003
DEADLINE FOR FILING REBUTTALS: 12:00 P.M., Monday, December 15, 2003

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)

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.

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.** (EC 9283)

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, 9287)

The City Clerk, upon receipt of arguments after the filing deadline, will immediately transmit copies to any known opposing parties who may then submit rebuttals within the time period shown above. **At least one of the signatories of the argument must sign the rebuttal.** (EC 9285)

Arguments may be changed or withdrawn up to 12:00 p.m., December 5, 2003. Rebuttal arguments may be changed or withdrawn up to 12:00 p.m., December 15, 2003. **I urge you to submit your argument prior to the deadline to ensure an opportunity for me to review and you to have an opportunity to make any necessary changes.** Arguments received prior to the deadline are **confidential** until the deadline. (EC 9286)

Please note, 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)

Arguments/rebuttals must be typed or printed. If prepared on **computer**, please submit your argument/rebuttal on disk in addition to the forms.

The attached certification of the author(s) must be submitted at the time the argument or rebuttal argument is filed.

Please do not hesitate to contact me at 981-6900 if you have any questions regarding this process.

Sherry M. Kelly
City Clerk

Dated: November 4, 2003

Attachments:

- (1) Signature Page for Proponents Filing Arguments/Rebuttal Statements
- (2) Consent Form for Use of Name or Organization Name in Ballot Argument/Rebuttal Statements
- (3) Word Count Standards

**SIGNATURE PAGE FOR PROPONENTS FILING
ARGUMENTS/REBUTTAL STATEMENTS**

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 _____
(subject or measure number)

at the Special Municipal Election for the City of Berkeley to be held on March 2, 2004, hereby states that such argument is true and correct to the best of his/her/their knowledge and belief:

Signed: _____ Date: _____

Printed Name: _____

Title: _____

My title is being used for identification purposes only

Address: _____

Phone Number: _____

(If title or organizational name is included for purposes other than identification, a consent form must be submitted from a principal officer of the organization)

**CONSENT FORM FOR USE OF ORGANIZATION NAME
FOR BALLOT ARGUMENT/REBUTTAL STATEMENTS**

I hereby consent that:

(check all that apply)

- 1 my title is being used as an individual and on behalf of an organization
- 2 my organization's name may be referred to as an endorser either within the text of the argument/rebuttal or as a signator

(subject or measure number)

at the City of Berkeley Special Municipal Election to be held on March 2, 2004.

To be completed by Signator:

Signature

Printed Name

To be completed by Principal:

Signature of Principal

Title

Organization Name

Date