



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Toni Taber, CMC
City Clerk

SUBJECT: See Below

DATE: January 12, 2018

**SUBJECT: ACTIONS RELATED TO THE PETITION INITIATIVE AMENDING
THE ENVISION SAN JOSE 2040 GENERAL PLAN (EVERGREEN
SENIOR HOMES INITIATIVE)**

RECOMMENDATION

1. Accept the Certificate of Sufficiency issued by the County of Santa Clara Registrar of Voters regarding the Petition Initiative Amending the Envision San Jose 2040 General Plan; and
2. Order a report on the effects of the proposed initiative consistent with California Elections Code Section 9212, on any and all of the following, to be presented to the Council no later than 30 days from this meeting (Thursday, February 22, 2018):
 - (a) Its fiscal impact.
 - (b) Its effect on the internal consistency of the City's General and Specific Plans, including the housing element, the consistency between planning and zoning, and the limitations on City actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.
 - (c) Its effect on the use of land, the impact on the availability and location of housing and the ability of the city to meet its regional housing needs.
 - (d) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.
 - (e) Its impact on the community's ability to attract and retain business and employment.
 - (f) Its impact on the uses of vacant parcels of land.
 - (g) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
 - (h) Its economic impact.
 - (i) Its environmental impact.

OUTCOME

The Santa Clara County Registrar of Voters has certified the initiative petition to amend the Envision San José 2040 General Plan (Evergreen Senior Homes Initiative) (see Attachment A).

The initiative petition was found to be sufficient with a total of 22,364 signatures which is 5.02% of the Registered Voters in the City of San José in the last report filed by the Registrar of Voters with the Secretary of State in effect at the time the notice of intent to circulate the petition was published.

The initiative petition would amend the *Envision San José 2040 General Plan*, San José Municipal Code, and *Evergreen-East Hills Development Policy*, and adopt the *Evergreen Senior Homes Specific Plan*. The text of the initiative is viewable on the City Clerk's website at <http://www.sanjoseca.gov/DocumentCenter/View/73836>.

BACKGROUND

On September 8, 2017, proponents of an initiative filed a notice of intent to circulate a petition to amend the *Envision San José 2040 General Plan*, San José Municipal Code, and *Evergreen-East Hills Development Policy*, and adopt the *Evergreen Senior Homes Specific Plan*. At the time that the notice of intention was published, the voter registration report on file with the California Secretary of State confirmed 445,531 registered voters within San José. City Charter Section 1603 (a)(2) requires that an initiative petition be signed by at least five percent (5%) of the total number of eligible registered voters to qualify the measure for the next General Election; therefore, the initiative requires 22,277 valid signatures of eligible San Jose registered voters in order to qualify.

At the City Council Meeting of October 17, 2017, the City Council directed staff to prepare a report on the effects of the proposed initiative consistent with Elections Code Section 9212 to be presented no later than 30 days after the elections official certifies to the legislative body the sufficiency of the petition in the event the petition is certified.

On November 27, 2017 the proponents of the initiative petition submitted 34,840 signatures, as counted by the Office of the City Clerk during a prima facie review and raw count of the petition. The City Clerk determined there appeared to be a sufficient number of signatures to proceed.

On November 28, 2017, the petition was transferred to the County of Santa Clara Registrar of Voters for signature verification. The Registrar of Voters began the process of verifying a random sample of signatures pursuant to Elections Code Section 9115.

The Registrar reported on January 10, 2018 that they verified 30,184 signatures, and found 22,364 valid signatures, which was equal to or greater than the 22,277 signatures required. Therefore, the Registrar has certified the petition to be sufficient to initiate further Council action as described later in this report.

ANALYSIS

Initiatives are subject to conditions specified in the City Charter and the California Elections Code. Once certified as qualified, the City Council must decide how to proceed within ten (10) days of notice of the certification. Consistent with the City Charter and California Elections Code 9215, the Council has three options to consider: 1) Order a report on the effect of the proposed initiative as defined in California Elections Code Section 9212; 2) Adopt the ordinance, without alteration, within ten (10) days; or 3) Submit the ordinance, without alteration, to the voters.

Due to the length of the initiative and to give staff adequate time for a thorough analysis, the City Council directed staff to prepare a Section 9212 report on October 17, 2017 after the proponents began circulating the petition. Since California Elections Code Section 9215(c) requires the City Council to order a Section 9212 report at the regular meeting at which that certification of the petition is presented, it is recommended that the Council formally order the report at this meeting.

The Section 9212 report must be presented to the City Council no later than 30 days after the elections official certifies the sufficiency of the petition, or February 22, 2018 (February 13, 2018 is the last regularly scheduled Council meeting prior to the 30-day deadline). At the meeting at which the 9212 report is presented, the City Council must take one of the following actions: 1) adopt the proposed ordinance within ten (10) days; or 2) submit the ordinance, without alteration, to the voters at the next General Election, which is June 5, 2018.

EVALUATION AND FOLLOW-UP

Staff will present the Section 9212 report to the City Council no later than February 22, 2018.

POLICY ALTERNATIVES

Alternative # 1: Adopt the proposed ordinance, without alteration, within ten (10) days, by February 2, 2018. The City Council has already directed staff to prepare a Section 9212 report, which will be presented to Council no later than February 22, 2018. Adopting the proposed ordinance by February 2, 2018 will not provide the benefit of reviewing the Section 9212 report. The City Council can still pursue this alternative within ten (10) days after the Section 9212 report is presented.

Alternative # 2: Submit the ordinance, without alteration, to the voters at the June 5, 2018 General Election. The City Council has already directed staff to prepare a Section 9212 report, which will be presented to Council no later than February 22, 2018. Submitting the ordinance to the voters at this meeting will not provide the benefits of reviewing the Section 9212 report. The City Council can submit the ordinance to the voters at the time the Section 9212 report is presented.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the January 23, 2018 Council Meeting.

COORDINATION

This memorandum was coordinated with the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

Commission recommendation or input is not applicable to this item.

COST SUMMARY/IMPLICATIONS

There are no cost summary or implications with the recommended action or Policy Alternative #1.

If Policy Alternative #2 is selected, the estimated total cost of submitting the initiative to voters will be approximately \$393,545. This includes the costs for the City Attorney's Impartial Analysis, arguments for and against the measure, rebuttal arguments, and the full text of the measure. A breakdown of the costs is detailed below:

| Item | Measure |
|---|------------------|
| Base Cost | \$279,530 |
| Impartial Analysis (one page) | \$22,803 |
| Arguments (one page per argument) | \$45,606 |
| Rebuttals (one page per argument)--optional | \$45,606 |
| Total Cost Measure (excluding Full Text) | \$393,545 |

The City Council has appropriated \$1,835,400 of the General Fund for election costs in 2017-2018 (Appropriation 3955 – Elections and Ballot Measures) assuming the Registrar of Voter's estimated City costs for the June 5, 2018 election for the Mayoral and five Council Districts including one ballot measure is \$1,438,888.

Additionally, the City Council's decisions pertaining to the inclusion of rebuttal arguments and/or the full measure text in sample ballots can offer significant cost savings.

IMPARTIAL ANALYSIS:

Under Elections Code Section 9280, the City Attorney "shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure." The Impartial Analysis appears preceding the arguments for and against the measure in the

voter's handbook and is limited to 500 words. The cost for this one page analysis is estimated at \$22,803 per page.

BALLOT ARGUMENTS:

Arguments for and against a ballot measure may be submitted that are 300 words or less (Elections Code Section 9282). Only one argument for and one argument against will be printed in the Sample Ballot. A ballot argument must be accompanied by the printed name and signature or printed names and signatures of the author or authors 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. In addition, no more than five signatures will appear with any argument. In case any argument is signed by more than five authors, the signatures of the first five shall be printed. (Elections Code Section 9283.)

If more than one argument for or against is submitted, the Elections Code establishes a priority order, shown below (Elections Code Sections 9282 and 9287):

1. The legislative body, or member or members of the legislative body authorized by that body.
2. 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.
3. Bona fide associations of citizens.
4. Individual voters who are eligible to vote on the measure.

The ballot arguments are generally one page per side, two pages total, and the estimated cost is \$22,803 per page per measure or a total of \$45,606 for two arguments.

REBUTTAL ARGUMENTS:

In addition, the Council has the discretion to permit rebuttals to arguments to be printed in the Sample Ballot. Rebuttal arguments must be 250 words or less. (Elections Code Section 9285). The Council determined not to allow rebuttal arguments for Measure E—Cardroom Gaming in the November 2012 election, nor did they allow rebuttal arguments for Measure G—Employee Retirement Boards Governance Structure and costs were reduced accordingly. The Council, however, did permit rebuttal arguments for Measure B—tax measure in the June 2016 election, and for Measure C—Marijuana Initiative and in the June 2016 election, and Measure E—Opportunity to Work in the November 2016 election.

If the Council chooses to permit rebuttals to arguments, the City Clerk will send a copy of an argument in favor of the measure to the authors of any argument against the measure and a copy of an argument against the measure to the authors of any argument in favor of the measure immediately upon receiving the arguments. The author or a majority of the authors of an argument relating to a measure may prepare and submit a rebuttal argument or may authorize in

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writing any other person or persons to prepare, submit, or sign the rebuttal argument, but no more than five persons may sign the rebuttal. (Elections Code Sections 9285 and 9283.)

Rebuttal arguments are generally one page for each side, two pages, at a cost of \$22,803 per page per measure or a total of \$45,606 for two rebuttals.

FULL MEASURE TEXT IN THE SAMPLE BALLOT:

In order to reduce elections costs, over the past few years, the City Council has decided not to include the full text of ballot measures in the sample ballot. Alternatively, the full text of the measure(s) is available on the City's web page in multiple languages or is provided to any person upon request to the City Clerk. The City Attorney's Impartial Analysis would include the following statement:

"If you would like to read the full text of the measure, see www.sanjoseca.gov/clerk or call (408) 535-1260 and a copy will be sent at no cost to you." The City Clerk will send, without charge, a copy of the full text of any or all City measures to any person requesting a copy.

Because of our past history of not including the full text plus the size of the measure, I have not included the costs in the estimate.

COORDINATION

This memorandum was coordinated with the City Attorney's Office.

CEQA

Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment.



Toni J. Taber, CMC
City Clerk

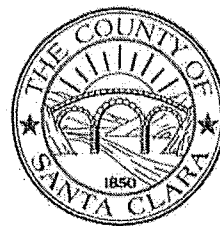
For questions please contact Toni Taber, City Clerk, at (408) 535-1270.

County of Santa Clara

Registrar of Voters

1555 Berger Drive, Bldg. 2
San Jose, CA 95112
Mailing Address: P.O. Box 611360, San Jose, CA 95161-1360
1(408) 299-VOTE (8683) 1(866) 430-VOTE (8683) FAX: 1(408) 998-7314
www.sccvote.org

ATTACHMENT A



January 10, 2018

Toni J. Taber
Office of the City Clerk
200 East Santa Clara Street
San Jose, CA 95113

RE: Petition Initiative Amending the Envision San Jose 2040 General Plan

Dear City Clerk Taber,

The Santa Clara County Registrar of Voters Office received your request for signature verification of a petition, submitted on November 28, 2017, relating to the *Petition Initiative Amending the Envision San Jose 2040 General Plan*. Please see the results of the signature verification attached.

We verified 30,184 of the 35,034 signatures submitted. Of the 30,184 signatures verified, 22,364 were found to be valid signatures. The valid signatures are equal to or greater than the 22,277 required as stated in your correspondence; therefore this petition has been found sufficient.

Our Fiscal Division is in the process of finalizing the invoice for the services you have requested, and the invoice should be sent to your office shortly.

If you have any questions, please contact our office at (408) 299-VOTE (8683).

Best Regards,

Michael Lopez
Voter Registration - Election Division Coordinator
County of Santa Clara | Office of the Registrar of Voters
michael.lopez@rov.sccgov.org



CLERK'S CERTIFICATE TO INITIATIVE PETITION

I, SHANNON BUSHEY, Registrar of Voters of the **County of Santa Clara**, State of California, hereby certify:

That the "**Petition Initiative Amending the Envision San Jose 2040 General Plan**" has been filed with this office on **November 28, 2017**.

That said petition consists of **583** sections;

That each section contains signatures purporting to be the signatures of qualified electors of this county;

That attached to this petition at the time it was filed was an affidavit purporting to be the affidavit of the person who solicited the signatures, and containing the dates between which the purported qualified electors signed this petition;

That the affiant stated his or her own qualification, that he or she had solicited the signatures upon that section, that all of the signatures were made in his or her presence, and that to the best of his or her knowledge and belief each signature to that section was the genuine signature of the person whose name it purports to be;

That after the proponent filed this petition I verified the required number of signatures by examining the records of registration in this county, current and in effect at the respective purportive dates of such of signing, to determine what number of qualified electors signed the petition, and from that examination I have determined the following facts regarding this petition:

| | | |
|----|--|---------------|
| 1. | Number of unverified signatures filed by proponent | <u>35,034</u> |
| 2. | Number of signatures verified | <u>30,184</u> |
| a. | Number of signatures found SUFFICIENT | <u>22,364</u> |
| b. | Number of signatures found NOT SUFFICIENT | <u>7,820</u> |
| 1. | NOT SUFFICIENT because DUPLICATE | <u>158</u> |

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 10th day of January, 2018.

Shannon Bushey
Registrar of Voters

By: _____

Deputy