

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Richard Doyle  
City Attorney

**SUBJECT:** Actions Related to the  
Evergreen Senior Homes  
Initiative

**DATE:** February 28, 2018

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## REASON FOR SUPPLEMENTAL

This supplemental memorandum proposes changes to the resolution ordering an election to place the initiative on the June 5, 2018 ballot, which the Council will consider on March 6, 2018.

## RECOMMENDATION

The changes to the draft resolution address the ballot question, or ballot label. The ballot question is a 75-word question that appears on the ballot next to two boxes, a "Yes" box and a "No" box, for the voter to select, and it should summarize the chief purpose of the initiative. (Elec. Code §§ 9051, 10403, 13119.)

After further review of the ballot question previously submitted, this Office recommends that the City Council adopt a revised question as follows:

Shall an initiative measure be adopted: (1) changing San José's General Plan to create a Senior Housing Overlay to allow conversion of land designated for employment use to senior housing citywide; and (2) changing the Evergreen-East Hills Development Policy, and Municipal Code, and adding a Specific Plan to allow development of up to 910 residential units on an approximately 200-acre Industrial Site in Evergreen for individuals 55 and over and other qualifying individuals?

## BACKGROUND

Prior to circulation of an initiative, the proponents must first request that the City Attorney draft a "ballot title and summary." (Elec. Code § 9203.) A "ballot title and summary" expresses the purpose of the proposed initiative in 500 words or less, and must be a true and impartial statement of initiative's purpose, meaning it cannot be an argument for or against the proposed initiative. Once complete, the "ballot title and summary" is given to the initiative proponents who must present it to voters when soliciting and collecting signatures to qualify the initiative for the ballot. (Elec. Code §§

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9205 *et seq.*) A copy of the "ballot title and summary" prepared for the initiative last September is attached as Attachment A.

### **ANALYSIS**

The 75-word ballot question must be a condensed version of the "ballot title and summary." (Elec. Code § 9051.) And, like the "ballot title and summary," it must be true and impartial, not misleading, or partial to one side. As reflected in the attached "ballot title and summary," the initiative proposes several changes to the *Envision 2040 San José General Plan*, *Evergreen-East Hills Development Policy*, and San José Municipal Code, and implements a detailed Specific Plan known as the "Evergreen Senior Homes Specific Plan." The proposed initiative is varied, complicated, and, if adopted, will have many effects on existing law and policy, so it is difficult to condense all the initiative's substantive changes into just 75 words. A more detailed recitation of the specific effects and operation of the initiative will be addressed in the City Attorney's impartial analysis. (Elec. Code § 9280.)


We are proposing the revised question as it better condenses the "ballot title and summary" of the proposed initiative, which is to: (1) create a Senior Housing Overlay designation in the General Plan to allow the conversion of employment lands to senior housing citywide, and (2) allow residential development of residential units for qualified individuals on an approximately 200-acre site reserved for industrial use in Evergreen.

### **PUBLIC OUTREACH**

This supplemental memorandum will be posted on the City's Council Agenda website for the March 6, 2018 Council Meeting.

### **CEQA**

Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment. Potential actions under Election Code §9215, in response to voter-sponsored initiative.



RICHARD DOYLE  
City Attorney