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VIA E-MAIL NIDE@CI.ORCITY.ORG

David Frasher, City Manager
City of Oregon City
PO Box 3040
625 Center Street
Oregon City, Oregon 97045

Subject: Impartiality of Explanatory Statement for Measure 3-407

Dear Mr. Frasher:

You asked me to review the draft explanatory statement prepared by the city attorney for Measure 3-407 to determine whether it complies with ORS 251.345.

BACKGROUND

Measure 3-407 is a citizen-initiated measure that would amend the City of Oregon City home rule charter to require the City Commission to include a requirement in any current or future urban renewal plan that the City's urban renewal agency must obtain voter approval prior to issuing any bonded indebtedness.¹ As required by state law, the city attorney drafted an explanatory statement with regard to the measure for approval by the City Commission. One of the commissioners has raised questions about the impartiality of some of the language used in the draft statement. You asked me to conduct an independent review. I have reviewed the text of the proposed charter amendment, the approved ballot title, the draft explanatory statement, and the issues raised by City Commissioner Kathy Roth.

THE STANDARD

ORS 251.345 requires the explanatory statement to be "an impartial, simple, and understandable statement explaining the measure and its effect." In other

¹ With certain limited exceptions relating to existing debt.



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words, the statement must even-handedly explain what the measure will do and what its effect will be on existing law.

ANALYSIS

In my opinion, the proposed explanatory statement complies with ORS 251.345, as drafted.

Commissioner Roth raised two issues with regard to the first paragraph. First, she objects to the use of the word "impose" in the following sentence:

"While the City may not, in a charter amendment, directly restrict the Oregon City Urban Renewal Commission, this measure seeks to impose the voter approval requirement by adding that requirement to existing urban renewal plans, and to any future plans and plan amendments that are approved by the City Commission."

Commissioner Roth feels that "impose" has a negative connotation, and suggests "amend" or "correct." The statement correctly points out that a charter amendment can't directly govern the urban renewal agency because the agency is a separate entity created under state statute. The state statute, however, requires the City Commission, which is governed by the charter, to adopt the urban renewal plan. Because the urban renewal agency must comply with the adopted plan, the charter amendment will effectively "impose" the voter approval requirement on the urban renewal agency. In my opinion, "impose" is the correct term read in context and accurately describes the effect of measure on existing law: There is no question that the measure will require the urban renewal agency to submit approval of bonded indebtedness to the voters.²

Commissioner Roth also suggested that "beyond current state law" should be removed from the following sentence:

This measure would amend the Oregon City Charter by adding an additional step, beyond current state law, of voter approval for bonded indebtedness issued by the URC.

² "Amend" or "correct" would not be appropriate in context because the measure is not modifying or correcting an existing voter approval requirement, it is adding a new requirement that does not currently exist.



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This statement accurately points out that voter approval of urban renewal bonds is not required under current state law, and so the measure adds a new step. Other forms of bonded indebtedness do require voter approval under current state law (general obligation bonds, for example). In my opinion, the city attorney's decision to specifically point out that state law does not currently require voter approval of urban renewal bonds helps to explain the effect of the measure and avoid voter confusion with other types of bonds.

When reviewing whether an explanatory statement is impartial, one looks to whether the statement, taken as a whole, would promote or oppose the measure. In my opinion, the draft explanatory statement carefully and accurately describes the effects of the measure and does so in an impartial manner.

If you have any further questions, please do not hesitate to call.

Very truly yours,

Jeffrey G. Condit