To: Evanston Electoral Board
   The Honorable Devon Reid, Evanston City Clerk

Date: December 23, 2019

Objection to the “Evanston Voter Initiative” Petition
and Referendum Question

We, the undersigned Evanston residents and registered voters, object to the “Evanston Voter Initiative” petition (the Petition) because, 1) it presents a binding referendum question in violation of State law, and 2) the question presented in the Petition (the Referendum Question) will confuse voters.

We request that Petition be denied and that the Referendum Question not be placed on the ballot for submission to Evanston voters at the next regular election on March 17, 2020, for the following reasons:

1. **State law does not allow a binding referendum on a local question of public policy.**

   The Petition (attached) states, “if approved, the question shall take effect immediately upon referendum approval of the question.” (emphasis added)

   The Petition does not purport to present an advisory referendum. On its face, the Petition requests a binding referendum. The Illinois Constitution permits referenda by petition of electors, but requires compliance with State law:

   Proposals for actions which are authorized by this Article or by law and which require approval by referendum may be initiated and submitted to the electors by resolution of the governing board of a unit of local government or by petition of electors in the manner provided by law.

   Illinois Constitution, Art. VII, Sec. 11(a) (emphasis added).

   State law – the Illinois Election Code – governs the submission of all public questions via referendum. The Election Code does not permit binding referenda on questions of public policy, such as that presented by the Petition:

   Local questions of public policy authorized by this Section and statewide questions of public policy authorized by Section 28-9 shall be advisory public questions, and no legal effects shall result from the adoption or rejection of such propositions.

   10 ILCS 5/28-6(c) (emphasis added).
The consequence of passing the Referendum Question, which “shall take effect immediately,” is a specific legal effect – a referendum vote to bind Evanston voters on alteration in how local law is made in Evanston. This is not a minor defect in the Petition. The Petition and Referendum Question present a binding referendum that is not allowed by law. For this reason alone, the Petition must be denied.

2. The Referendum Question is confusing.

The Petition seeks to place on the ballot this 383-word Referendum Question:

“Shall the people of the City of Evanston provide for a voter petition and referendum process for the consideration and passage of city ordinances as follows:

The people of Evanston provide that the offices of City Clerk, Mayor and aldermen of the City Council have the power and duty to determine the necessary and proper procedural rules regarding the passage of city ordinances and the express duty to assist the people of Evanston in exercising their right to petition and make known their opinions regarding the consideration and passage of city ordinances. At the request of at least 25 Evanston electors, the City Clerk shall promptly cause a proposal to be drafted into ordinance form, including an official summary of the proposed ordinance. The official summary of the proposed ordinance may be introduced by a petition filed with the City Clerk and signed by a number of electors equal to at least eight percent of the total votes cast in Evanston for candidates for Governor in the preceding gubernatorial election. The procedure for filing the petition and determining its validity and sufficiency shall be established by the City Clerk, who shall make the determination of validity and sufficiency within 21 days of a petition filing.

Upon the determination of a valid and sufficient petition, the City Clerk shall within one business day submit the ordinance proposed by the official petition summary on the agenda of the next City Council meeting for its consideration. The City Council shall take a record roll call vote on the proposed ordinance within 70 days of submission by the City Clerk. If the City Council does not pass the proposed ordinance within the 70 day period, the official summary of the proposed ordinance shall be submitted by the City Clerk to the electors for their approval by referendum at the next regularly scheduled election held in all precincts of the city and held at least 70 days after referendum submission by the City Clerk. If the official summary is approved by a majority of those voting on the question, the proposed ordinance shall have the force and effect of passage by the corporate authorities of the City of Evanston unless it is disapproved by a resolution of the City Council not more than 30 days after the election?”
The language of the Referendum Question will confuse voters, with perplexing terminology involving various actors in a "proposal in ordinance form", "official summary of the proposed ordinance", "official petition summary," "proposed ordinance", and "official summary", which are then variously submitted, drafted, considered, approved, or disapproved. The Referendum Question refers to "the next regularly scheduled election held in all precincts of the city" and another unspecified "election". The Referendum Question appears to conclude with a sentence ending with a question mark, further hindering clear understanding of the process and its consequences. The language and structure of the Referendum Question compromise the ability of voters to comprehend the issue presented and is impermissibly confusing.

We object to the Petition and Referendum Question and ask that the Petition be denied and the Referendum Question not be placed on the March 17, 2019 ballot.

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