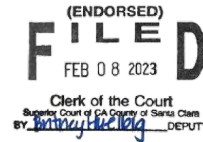




# OFFICE OF THE CITY MANAGER

City of Milpitas

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December 7, 2022

Honorable Beth McGowen  
Presiding Judge  
Santa Clara County Superior Court  
191 North First Street  
San Jose, CA 95113

via U.S. Mail

**SUBJECT: City of Milpitas Response to October 7, 2022 Santa Clara County Civil Grand Jury Final Report “If You Only Read the Ballot, You’re Being Duped”**

Dear Honorable McGowen,

The City of Milpitas’ responds to the October 7, 2022, Grand Jury report titled “If You Only Read the Ballot, You’re Being Duped” (the “Report”). The City is providing this response pursuant to California Penal Code section 933.

## **FINDINGS**

**Finding 1:** The Civil Grand Jury finds that in the current environment, which is unregulated at the local level, it is easy for the author of a ballot measure question to write the question in a way that is confusing or misleading to voters.

**City of Milpitas Response:** The City of Milpitas disagrees with the entirety of the Civil Grand Jury’s finding that the writing of ballot measures is unregulated at the local level or that authors mislead voters within the City of Milpitas. All ballot measure questions are regulated under the California Elections Code and approved by the Milpitas City Council. Such regulation includes a private right of action for those who disagree with the ballot question associated with any particular ballot measure, and to date, neither the courts nor the State legislature have found that remedy to be inadequate. Measure F, which put forth a one quarter percent sales tax increase to the voters of Milpitas in 2020, is discussed in the Report. The language set forth in the Measure F ballot question mentioned local spending, an independent audit, and an oversight committee. Nonetheless, the ballot question was honest and straightforward. All of the funds appropriated under Measure F are in fact spent locally to fund local municipal programs. Measure F appropriations are in fact subject to an independent audit. Measure F appropriations are subject to oversight from the seven-member Measure F Oversight Committee, which meets quarterly to review and discuss Measure F revenues as well as programs and services funded by Measure F.

## **RECOMMENDATIONS**

**Recommendation 1b:** Governing entities within Santa Clara County should voluntarily submit their ballot questions to the County Counsel for review prior to submission to the Registrar of Voters, unless and until Recommendation 1d is implemented.



**City of Milpitas Response:** The City of Milpitas will not implement the recommendation because it is neither reasonable nor warranted. The City of Milpitas is a municipal corporation organized under Article XI of the California Constitution, and it possesses all of the powers inherent thereunder, independent of those powers granted to the County of Santa Clara. The California Elections Code requires that ballot questions to be considered by the electorate of the City of Milpitas are reviewed by the City Attorney. As a result of the nature of the representative system, the voters of the City of Milpitas exercise greater control over the appointment of City Attorney than over appointment of County Counsel.

**Recommendation 1c:** Governing entities within Santa Clara County should, by March 31, 2023, adopt their own resolution or ordinance to require submission of their ballot questions to the County Counsel for review prior to submission to the Registrar of Voters, unless and until Recommendations 1d and 1e are implemented.

**City of Milpitas Response:** The City of Milpitas will not implement the recommendation because it is neither reasonable nor warranted. The City of Milpitas is a municipal corporation organized under Article XI of the California Constitution, and it possesses all of the powers inherent thereunder, independent of those powers granted to the County of Santa Clara. The California Elections Code requires that ballot questions to be considered by the electorate of the City of Milpitas are reviewed by the City Attorney. As a result of the nature of the representative system, the voters of the City of Milpitas exercise greater control over the appointment of City Attorney than over County Counsel.

**Recommendation 1e:** Governing entities within Santa Clara County should submit their ballot questions for review by the Good Governance in Ballots Commission pursuant to Recommendation 1d.

**City of Milpitas Response:** The City of Milpitas will not implement the recommendation because it is neither reasonable nor warranted. The City of Milpitas is a municipal corporation organized under Article XI of the California Constitution, and it possesses all of the powers inherent thereunder, independent of those powers granted to the County of Santa Clara. The California Elections Code requires that ballot questions to be considered by the electorate of the City of Milpitas are reviewed by the City Attorney. As a result of the nature of the representative system, the voters of the City of Milpitas exercise greater control over the appointment of City Attorney than over a Commission of the County Board of Supervisors.

This completes the City of Milpitas' response to the Report per section 933.

Sincerely,



Steven G. McHarris  
City Manager