



CITY OF SARATOGA

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Incorporated October 22, 1956



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November 16, 2022

Honorable Beth McGowen
Presiding Judge
Office of the Civil Grand Jury
Superior Court of Santa Clara County
191 North First Street
San Jose, CA 95113

Subject: 2022 Civil Grand Jury of Santa Clara County Report
"If You Only Read the Ballot, You're Being Duped"

Dear Judge McGowen,

Thank you for the opportunity to review and respond to the 2022 Civil Grand Jury of Santa Clara County Report "If You Only Read the Ballot, You're Being Duped." Please find the enclosed responses to the findings and recommendations in the report on ballot measure questions. The responses were approved by the City Council at the November 16, 2022 City Council Meeting.

Sincerely,

Tina Walia
Mayor, City of Saratoga

City of Saratoga Response to Findings & Recommendations 2022 Civil Grand Jury of Santa Clara County Report “If You Only Read the Ballot, You’re Being Duped”

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.

- **Response:** Partially Agree.

While there is some discretion in preparing local ballot measure questions, either submitted by a jurisdiction or through a citizen initiative or referendum, the City disagrees with the portion of the finding that states it is easy to write question in a way that is confusing or misleading to voters because as referenced in the Civil Grand Jury report the California Elections Code clearly sets the expectation that ballot questions should be true and impartial in a manner that does not create prejudice or serve as an argument for or against the proposed measure and sets forth a mechanism to correct arguments that are misleading.

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.

- **Response:**

As noted in the Grand Jury report, California Elections Code does provide an option for recourse if a ballot question falls short of the requirements set forth in State law. The Civil Grand Jury only identified two instances of misleading ballot questions in Santa Clara County but noted a number of concerns within the wider Bay Area region. This indicates that amendments to the California Elections Code may be a better way to address poorly written ballot questions. For this reason, the recommendation will not be implemented because it is not warranted or is not reasonable.

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.

- **Response:**

The California Elections Code sets very clear and specific deadlines for submittal of measures to be considered by voters during an election. While some ballot questions are developed well in advance of these deadlines, current deadlines in

the Elections Code already made it difficult to place a measure on the ballot to address unexpected issues of community concern in a timely manner. Adding the time required for a third-party review of ballot questions exacerbates these timing constraints and essentially eliminates the possibility of putting forth a measure to address emerging issues. For this reason, the recommendation will not be implemented because it is not warranted or is not reasonable.

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.

- **Response:**

All measures placed before voters in Saratoga by the City Council in recent years have been brought forward by interested community members who have identified a need for voters to weigh in on a topic of community interest, thereby saving residents the time and trouble of navigating the onerous initiative process. This practice has helped ensure Saratoga's elected officials can be responsive to the needs and interests of the residents they serve. Furthermore, ballot questions and measure language are decided in a public forum, ensuring that the community can weigh in on problematic wording in a way not contemplated by the California Elections Code or the Civil Grand Jury. Additionally, this historical practice helps ensure ballot questions address community priorities in a manner that is easy for all Saratoga voters to understand. The formation of a Good Governance in Ballots Commission with the authority to review and revise ballot questions would strip local elected officials of a critical tool used to address priorities in a matter that is reflective of and responsive to the community. For this reason, the recommendation will not be implemented because it is not warranted or is not reasonable.