



# COUNCIL REPORT

**DATE:** December 13, 2022  
**CATEGORY:** Consent  
**DEPT.:** City Attorney's Office  
**TITLE:** Santa Clara County Civil Grand Jury Report Response—Ballot Questions

## **RECOMMENDATION**

Approve the City's response to the 2022 Santa Clara County Civil Grand Jury's final report, "If You Only Read the Ballot, You're Being Duped" (Attachment 1 to the Council report).

## **BACKGROUND**

The City received a copy of the 2022 Santa Clara County Civil Grand Jury's final report, entitled "If You Only Read the Ballot, You're Being Duped," on October 7, 2022 (hereinafter referred to as the "Civil Grand Jury Report" or the "Report").

California Penal Code Section 933(c) requires that the governing body of a public agency which has been the subject of a Civil Grand Jury final report respond within 90 days to the Presiding Judge of the Superior Court on the report's findings and recommendations pertaining to matters under the control of the governing body. The deadline for the City to submit its response to the above-referenced report is January 5, 2023.

The Civil Grand Jury Report focuses on ballot questions, which are the statements of a ballot measure (defined as proposals to enact new laws or repeal existing laws placed on the ballot for approval or rejection by the electorate) that precede "Yes" or "No" on a ballot card. The Report specifically references a Santa Clara Valley Water District ballot measure and other ballot measures by other jurisdictions within and outside of Santa Clara County. The Report concluded that the public relies on the ballot question for purposes of voting and that these ballot questions can sometimes be misleading and may lead to voters being deceived.

The Civil Grand Jury proposes two solutions for entities within Santa Clara County:

1. "Task an appropriate official to review ballot measure questions."

This proposal would require proposed ballot questions be submitted to the Santa Clara County Counsel's office, who would be charged with ensuring that the wording of the ballot

question is not false, misleading, or biased and would have the authority to approve ballot questions that meet the statutory requirements and reject those that do not.

2. “Create an independent oversight commission to review ballot questions.”

This proposal would require Santa Clara County to form a “Good Governance in Ballots Commission” (Good Governance Commission), which would serve as an advisory commission to review and comment on ballot questions but also to reject language that is biased and partial. All governing entities within the County would be required to submit ballot questions to the Good Governance Commission for review. The Report outlines how this solution would require the passage of State legislation due to jurisdictional conflicts.

## **ANALYSIS**

The Civil Grand Jury Report includes one finding: “...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.” This finding includes six associated recommendations. Three of those associated recommendations are directed to every city within Santa Clara County (including Mountain View), Santa Clara Valley Water District, Valley Transportation Authority, El Camino Healthcare, Foothill-DeAnza Community College District, San Jose Unified School District, East Side Union High School District, and Cupertino Union School District.

The City is required to respond to each of these findings indicating whether the City agrees with the finding or disagrees, in whole or in part, with the finding, specifying any disputed portion and providing an explanation. The City must also respond to the recommendations by selecting and reporting one of the following four responses: (i) the recommendation has been implemented, with a summary of the implementation action; (ii) the recommendation will be implemented in the future, with a time frame for implementation; (iii) the recommendation requires further analysis, with an explanation of the scope and time frame; or (iv) the recommendation will not be implemented because it is unwarranted or unreasonable, with an explanation.

**Table 1: Summary of City Responses  
to Civil Grand Jury Findings and Recommendations**

<b>Finding/ Recommendation Summary</b>	<b>City Response</b>	<b>Response Summary</b>
1. Ballot measures are unregulated at the local level, and it is easy to write ballot questions in a way that is confusing or misleading to voters.	Disagree, in whole.	Form and content of ballot questions are governed by State law, reviewed by the City Attorney, approved by the City Council in a duly noticed public meeting, and may be challenged in court prior to an election.
1b. Governing entities within the County should voluntarily submit their ballot questions to County Counsel for review.	Will not be implemented.	Infringes on Charter City authority; City Attorney performs this review.
1c. Governing entities within the County should, by March 31, 2023, take legislative action to require submission of ballot questions to the County Counsel for review.	Will not be implemented.	Same as Recommendation 1b.
1e. Governing entities within the County should submit their ballot questions to the Good Governance Commission for review.	Will not be implemented.	Infringes on Charter City authority; City Attorney performs this review; and oversight unwarranted in the absence of evidence that Mountain View has violated elections law.

Upon approval by Council, the City’s detailed response will be transmitted to the Presiding Judge on or before the January 5, 2023 deadline.

**FISCAL IMPACT**

Council’s approval of the City’s response to the Civil Grand Jury report will have no fiscal impact.

**ALTERNATIVES**

1. Provide other input regarding the City’s response to the Report’s finding and recommendations.
2. Do not approve City’s response to the Report’s finding and recommendations.
3. Provide other direction.

**PUBLIC NOTICING**

The Council’s agenda is advertised on Channel 26, and the agenda and this report appear on the City’s website.

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DF-JL/6/CAM  
013-12-13-22CR-1  
202439

- Attachments:
1. Response to Civil Grand Jury Report
  2. Civil Grand Jury Report
  3. 90-Day Notice to Respond