



SANTA CRUZ
COUNTY
GRAND JURY

Santa Cruz Grand Jury <grandjury@scgrandjury.org>

Board of Supervisors' response to 2021-2022 Grand Jury Report "Words Matter..."

Caitlin Smith <Caitlin.Smith@santacruzcounty.us>

Fri, Aug 12, 2022 at 5:16 PM

Good Afternoon,

Please see attached for the Board of Supervisors' response to the 2021-2022 Grand Jury report
"Words Matter - Did Measure G Mislead Voters?"

Best,

Caitlin C. Smith

County Supervisors' Analyst

Santa Cruz County Board of Supervisors

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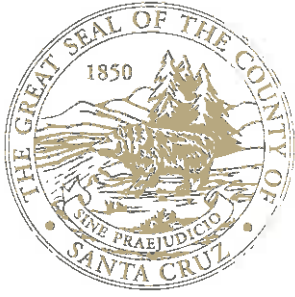
To email all five members of the Board of Supervisors at once,

please use: BoardOfSupervisors@santacruzcounty.us



Words Matter.pdf

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County of Santa Cruz

BOARD OF SUPERVISORS

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MANU KOENIG
FIRST DISTRICT

ZACH FRIEND
SECOND DISTRICT

RYAN COONERTY
THIRD DISTRICT

GREG CAPUT
FOURTH DISTRICT

BRUCE MCPHERSON
FIFTH DISTRICT

August 11, 2022

The Honorable Syda Cogliati
Santa Cruz Courthouse
701 Ocean Street
Santa Cruz, CA 95060

RE: Response to the 2021-2022 Grand Jury Report "Words Matter – Did Measure G Mislead Voters?"

Dear Judge Cogliati:

The purpose of this letter is to formally transmit the response of the Santa Cruz County Board of Supervisors to the 2021-2022 Grand Jury Report titled "Words Matter – Did Measure G Mislead Voters?"

Sincerely,

MANU KOENIG, Chair
Board of Supervisors

MK: cs
Attachment

CC: Clerk of the Board
Santa Cruz County Grand Jury



**The 2021–2022 Santa Cruz County Civil Grand Jury
Requires the
Santa Cruz County Board of Supervisors
to Respond by September 19, 2022
to the Findings and Recommendations listed below
which were assigned to them in the report titled
Words Matter
Did Measure G Mislead Voters?**

Responses are **required** from elected officials, elected agency or department heads, and elected boards, councils, and committees which are investigated by the Grand Jury. You are required to respond by the California Penal Code [\(PC\) §933\(c\)](#).

Your response will be considered **compliant** under [PC §933.05](#) if it contains an appropriate comment on **all** findings and recommendations **which were assigned to you** in this report.

Please follow the instructions below when preparing your response.

Instructions for Respondents

Your assigned [Findings](#) and [Recommendations](#) are listed on the following pages with check boxes and an expandable space for summaries, timeframes, and explanations. Please follow these instructions, which paraphrase [PC §933.05](#):

1. **For the Findings, mark one of the following responses with an “X” and provide the required additional information:**
 - a. **AGREE with the Finding**, or
 - b. **PARTIALLY DISAGREE with the Finding** – specify the portion of the Finding that is disputed and include an explanation of the reasons why, or
 - c. **DISAGREE with the Finding** – provide an explanation of the reasons why.
2. **For the Recommendations, mark one of the following actions with an “X” and provide the required additional information:**
 - a. **HAS BEEN IMPLEMENTED** – provide a summary of the action taken, or
 - b. **HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE** – provide a timeframe or expected date for completion, or
 - c. **REQUIRES FURTHER ANALYSIS** – provide an explanation, scope, and parameters of an analysis to be completed within six months, or
 - d. **WILL NOT BE IMPLEMENTED** – provide an explanation of why it is not warranted or not reasonable.
3. **Please confirm the date on which you approved the responses assigned to you:**

We approved these responses in a regular public meeting as shown
in our minutes dated August 9, 2022.

4. **When your responses are complete, please email your completed Response Packet as a PDF file attachment to both**

The Honorable Judge Syda Cogliati Syda.Cogliati@santacruzcourt.org and
The Santa Cruz County Grand Jury grandjury@scgrandjury.org.

If you have questions about this response form, please contact the Grand Jury by calling 831-454-2099 or by sending an email to grandjury@scgrandjury.org.

Findings

F1. Measure G’s ballot language made the tax appear to be a special tax: the language emphasized multiple services that Measure G could be used for, which overshadowed the final clause, “and other general county services.”

- AGREE**
- PARTIALLY DISAGREE**
- DISAGREE**

Response explanation (required for a response other than **Agree**):

Measure G’s ballot language did not make the tax appear to be a special tax. A “general tax” is defined as “any tax imposed for general government purposes. (California Constitution, Article XIII C, § 1(a); Government Code § 53721.) A “special tax” is defined as “any tax imposed for specific purposes, which is placed into a general fund.” (California Constitution, Article XIII C, § 1(d); Government Code § 53721.) A special tax may only be spent specifically on the things the voters approved the tax to be spent on. General tax revenues have no such restrictions. The measure listed a variety of items that Measure G funds could be spent on, including “other general county services”. The inclusion of the term “other general county services” clearly communicated to the electorate that Measure G revenues were not restricted to specific uses.

As required by California Elections Code section 13119, the ballot language was a “true and impartial synopsis of the purpose of the measure” and it was written “in language that “is neither argumentative nor likely to create prejudice for or against the measure.” Moreover, the resolution adopted by the Board of Supervisors when placing the measure on the ballot clearly described that the proposed tax would be used for general government purposes.

F2. County staff did not have compelling reasons to include several provisions contained in its consultant’s proposed Measure G ballot language—specifically the annual audit, citizens oversight, and 12-year expiration date—which also made Measure G appear to be a special tax.

- AGREE**
- PARTIALLY DISAGREE**
- DISAGREE**

Response explanation (required for a response other than **Agree**):

County staff had significant and compelling reasons to include the referenced provisions in the ballot measure. First, it was important for the voters to know that General Fund revenues are annually reviewed by the Board of Supervisors and subject to all auditing requirements with which the County is charged with complying. Second, it was important for the public to be aware that it maintains constant oversight of the expenditure of Measure G revenue, through the opportunity to obtain information on how it is being used and provide input to the Board of Supervisors both throughout the year and during budget hearings. Third, under Elections Code section 13119(b), the County was legally required to state the duration of the tax. None of these provisions made Measure G appear to be a special tax.

Per Elections Code sections 9051 and 13247, ballot language is limited to 75 words, which is extremely small given the complexity of the issues and ideas that underlie a tax measure. Voters are always encouraged to supplement their understanding of the measure by read all of the associated materials supporting it, including the arguments for and against the measure, as well as the rebuttals to each, the fiscal analysis, the impartial analysis, the resolution calling for the election, and any other related documents.

F3. The Santa Cruz County Board of Supervisors approved the Measure G ballot language at its August 7, 2018, meeting without seeking clarification as to how the provisions for an “annual audit” and “independent citizens oversight” would operate.

AGREE

PARTIALLY DISAGREE

DISAGREE

Response explanation (required for a response other than **Agree**):

Although this finding requires no response, it is important to note that the language approved by the Board is common for similar measures, and there was no need for the Board to seek clarification.

F7. The Measure G Financial Summary, which is included in the County's Adopted Budget for Fiscal Year 2021–22, can be expanded with detail showing Measure G revenues and expenditures to support the Measure G independent citizens oversight provisions.

AGREE

PARTIALLY DISAGREE

DISAGREE

Response explanation (required for a response other than **Agree**):

Theoretically, it would be possible to provide such expanded detail, but no other General Fund revenues are subject to such treatment and the County questions the utility of providing that level of detail for General Fund monies. Once again, Measure G is not a special tax; it is a general tax, the revenues of which are mixed with all General Fund monies and spent on County services as prioritized by the Board of Supervisors. The Board prioritizes its spending of General Fund monies on an on-going and continually shifting basis as different needs, including emergencies, arise. All of the Board's work in spending money is conducted in public, after receiving public input.

F8. The County Government’s current reliance on over 50 percent of Measure G revenue to support ongoing and recurring expenses for the County’s provision of essential services means the Measure G 12-year expiration date may present a serious risk to the County’s future fiscal health.

AGREE

PARTIALLY DISAGREE

DISAGREE

Response explanation (required for a response other than **Agree**):

This finding is confusing and internally inconsistent, as it appears to assert that the County is actually worsening its financial position by obtaining permission from the voters to adopt a tax measure that will continue to fund essential public services, on the grounds that the measure is time-bound. It seems to assert that unless a tax is implemented with no termination date, the County is placing its future fiscal health in “serious risk” and that the County would be in a better financial position if no tax had been adopted at all. Interpreted as written, this finding indicates a significant lack of understanding about basic principles of government finance, election procedures, and the County’s implied contract with the electorate to be prudent in the amount of money it is asking for and the amount of money it is spending.

It is important to note that the County is structurally underfunded. The majority of its residents live in unincorporated areas requiring city-like services such as parks and planning, while the County is also mandated to provide countywide services such as social services, public health and elections. Additionally, the County receives a much lower per-capita property tax revenue to provide these services compared to its peers as noted in the report. The approval of Measure G has strengthened the County’s fiscal position and allowed the County to invest in projects, programs and services desired by the public including the creation of the Office of Response, Recovery and Resilience, the Housing for Health Division, improved parks maintenance and capital projects, such as LEO’s Haven at Chanticleer Park and Simpkins Family Swim Center renovations, affordable housing development, and homelessness and mental health services, while also providing flexibility to respond to the unprecedented disasters of the COVID-19 pandemic and the CZU wildfires. By providing a small supplement to the County’s General Fund, Measure G has fostered many positive investments in the community.

It was appropriate to place a time limit on this tax such that its impacts and burdens may be reanalyzed at a time in the future when the County’s financial outlook may not require the County to continue to collect it. It is unfortunate that this effort to demonstrate fiscal prudence appears to be misunderstood.

F9. Other California cities and counties have demonstrated that Santa Cruz County can honor its promise for citizens oversight of Measure G expenditures.

- AGREE**
- PARTIALLY DISAGREE**
- DISAGREE**

Response explanation (required for a response other than **Agree**):

The premise of this finding is fundamentally flawed, in that argumentatively asserts that the County is not “honoring” a promise for citizen’s oversight of Measure G expenditures. As previously noted, members of the public have regular oversight of General Fund expenditures through their ability to determine how General Fund monies are being spent and their ability to provide public input to the Board of Supervisors when the Board creates and approves budgets and approves expenditures.

Recommendations

R1. The County’s ballot language for a revenue measure should clearly state whether the County Government’s use of the funds will be restricted to certain uses (special revenue), or is available for any legal purpose (general revenue). (F1)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain the scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Required response explanation, summary, and timeframe:

The County’s ballot language adheres to all requirements of State law, including Elections Code 13119(b) and (c), as further informed by California Constitution Article XIII C and Government Code section 53721, which define general and special taxes. When the County proposes a special revenue measure, the ballot language clearly states how those funds will be used and reflects that expenditures are limited to those purposes. When the County proposes a general revenue measure, it outlines a wide variety of matters that the monies can be spent on, including “general government services”, so that the electorate understands that the money is not restricted to any specific use and may be spent on items as prioritized by the Board of Supervisors. It is and will remain appropriate to give the public insight into the County’s general priorities, through language approved by the Board of Supervisors.

R5. If the Santa Cruz County Board of Supervisors has formally established budget priorities for an upcoming revenue measure, the County Counsel’s impartial analysis should state this fact and note that the Board’s budget priorities are subject to change. (F5)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain the scope and timeframe (not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Required response explanation, summary, and timeframe:

The contents of the County Counsel’s impartial analysis are governed by Elections Code section 9160, which require an analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. It is not the County Counsel’s role to go beyond this. The impartial analysis is limited to 500 words in length and is not meant to encapsulate or predict all possibilities and outcomes associated with a tax measure. It is also not meant to put a “thumb on the scale” by going further than necessary to “show the effect of the measure on the existing law” and describe “the operation of the measure.” As previously noted and as routinely explained to the voters in materials describing general tax measures, general tax revenues are unrestricted and may be spent as the Board deems appropriate, with public input, and regardless of whether the Board has or has not previously stated priorities for use of those funds. Information beyond the quoted statutory requirements is better suited for the other documents that accompany a ballot measure, such as the arguments for and against the measure, the resolution calling for the election, and any associated documents establishing priorities (which are, by definition, not requirements and therefore subject to change depending on future circumstances). If there are objections to the contents of any election materials, including the impartial analysis, there is a statutory process set forth in Elections Code section 9190 for challenging those items in court prior to the election, and the court has the ability to order changes to materials that it finds by clear and convincing evidence are false or misleading. This statutory process is the legislatively designated process for controlling the content of ballot materials.

R6. By January 1, 2023, the Santa Cruz County Board of Supervisors should require that the County Administrative Office use its financial and budget tracking tools to provide more detail on the planned and actual use of Measure G funds than is shown in the Measure G Financial Summary of the County's Adopted Budget for Fiscal Year 2021–22. (F7)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain the scope and timeframe (not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Required response explanation, summary, and timeframe:

The County incorporates by reference its response to Finding No. 7. General Fund monies are not designed to be tracked as suggested here and the County does not intend to implement this recommendation given the limited utility in doing so.

R7. By January 1, 2023, the Santa Cruz County Board of Supervisors should appoint a citizens oversight committee to oversee, review, and advise the Board on a more detailed Measure G report, showing Measure G revenues and expenditures as described in Finding 7 on a periodic basis (semiannually or quarterly). (F7, F8, F9)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain the scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Required response explanation, summary, and timeframe:

As previously noted, Measure G is a general tax. The language of the measure does not include any provision to establish an agency, commission or committee. The County does not believe it is appropriate to establish such a committee to oversee the use of General Fund monies – the Board of Supervisors is responsible for this, and it does not make sense to have an advisory commission related to a portion of monies that are mixed with other monies, all of which are subject to the Board’s and the County’s shifting priorities. The Board of Supervisors is elected to prioritize and execute spending of General Fund monies and the public has ample opportunities to express to their duly elected representatives what their desires are for funding County-wide initiatives and services. It would not be useful to invest government time and resources into a new layer of bureaucracy that is duplicative and unnecessary.