

April 5, 2024

City Council  
City of Grass Valley  
125 East Main Street  
Grass Valley, CA 95945

RE: Measure B

Dear City Council,

The agenda for your April 9, 2024, City Council meeting includes several items centering around the proposed Ordinance No. 826. They include briefly:

1. Declare the results of the March 5, 2024 Election for Measure B.
2. Authorize the City Manager to sign agreements with the California Department of Tax and Fee Administration.
3. Second Reading of the Ordinance.

I had planned on speaking to the City Council but am unable to attend that evening. I offer this letter as an alternative to addressing you in person.

I explained in my February 23, 2024, letter and during my address to the Council on February 27, 2024, that voters considering Measure B had been grossly misled by materials found in the Voter Information Guide and on the official ballot. To date, I have not received comments or questions from the City Council nor from city staff. In case I have not conveyed my concerns adequately, I will take this opportunity to explain again.

Measure B consisted solely of the proposed Ordinance No. 826. Measure B was a general fund tax initiative. It is strictly disallowed to include references to specific tax revenue expenditures in this type of ordinance. Indeed, there were no such references in Ordinance No. 826. However, contrary to these observations the BALLOT QUESTION, which is intended to inform the voter about the Ordinance, contained the following phrase: "...funding additional firefighters, vegetation management, and emergency evacuation planning...". Including these categories of expenditures in the BALLOT QUESTION presented false information regarding the content of Ordinance No. 826 and therefore grossly misled voters.

A truthful and more informative statement to be included in the BALLOT QUESTION should have been; "The Ordinance directs the City Council to adopt a plan to expend the tax proceeds and consider such expenditures in conjunction with the City's annual budget."

Your opportunity to convince constituents of your intended categories of expenditures would have been to act outside of the official election process. Had you chose to pursue a special tax initiative, you could have used the Voter Information Guide and ballot to

educate the voters on specific uses for the tax revenues. However, you chose a general fund tax initiative.

The City Attorney authored the "IMPARTIAL ANALYSIS", also found in the Voter Information Guide. His analysis of the Ordinance was for the benefit of the voters. However, it included the identical erroneous phrase as found in the BALLOT QUESTION. Again, phraseology not found in the Ordinance.

The "IMPARTIAL ANALYSIS" may have been the origin of the language found in the BALLOT QUESTION yet disallowed in the Ordinance. Two months ago, I sent a letter to the City Manager, Mr. Kiser, requesting answers to a few rather simple questions that would be useful in making this determination. I have not yet received a response. I respectfully request the City Council direct Mr. Kiser to respond.

There are additional technicalities to consider. First: The Ordinance, by its own authority, is not yet available for the City Council to adopt. I quote Section 18. EFFECTIVE DATE: "This Ordinance shall take effect 10 days after the date the vote is declared by the City Council." Your April 9 agenda gives you the opportunity to declare the vote; however, Section 18 dictates the City Council declare the vote first, then wait 10 days until the ordinance becomes effective. With the Ordinance not yet effective, it is not available for a motion to adopt.

Second: The City Manager should not be authorized to sign agreements to implement Measure B until Ordinance No. 826 has been adopted by the City Council. This item should be removed from the consent agenda and not reappear until after the Ordinance has been adopted.

Third: Your agenda lists the "Second Reading of Ordinance No. 826 Imposing a 3/8-cent (0.375%) Transaction and Use Tax for Fire Resiliency and Vegetation Management." You cannot possibly approve the reading of an ordinance "for Fire Resiliency and Vegetation Management" when these terms do not appear in either the title or the body of the ordinance you are reading. Now even the City Council is being misled as to exactly what is requested of them.

Fourth: Staff recommendation for the "Second Reading" agenda item discussed above also includes a recommendation to adopt Ordinance No. 826. Calling for a motion to adopt the Ordinance must be a separate agenda item. As presented, one looking through the list of agenda items is not informed of the fact that you also intend to adopt the Ordinance at your April 9 meeting.

Ordinance No. 826 will not become operative until October 1, 2024, at the earliest. The City Council may forestall a motion to adopt the Ordinance as late as June 11. There is little need to rush these proceedings, hopefully giving way to thoughtful deliberation.

Given the manner in which the City presented Measure B to the voters, you created a hybrid between a general fund tax initiative and a special tax initiative. Please consider the goodwill of your constituents and start this process anew. When doing so, take all necessary precautions to work within the confines of the type of tax initiative you place on the ballot.

In closing, my personal ethics would not allow me to consider adopting Ordinance No. 826 knowing voters have been misled. Inadvertently or otherwise, voters were most certainly misled.

Sincerely,



Tim McCall

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Cell: [REDACTED]