

JOHN SUTTIE, President  
JON COUPAL, Chairman of the Board



## Howard Jarvis Taxpayers Foundation

Howard Jarvis, Founder

August 28, 2020

City of San Rafael  
1400 Fifth Avenue, Room 209  
San Rafael, CA 94901

Attn: Mayor Gary Phillips and Councilmembers

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Re: City Involvement in Sales Tax Campaign

Dear Mayor Phillips and Councilmembers:

Please include this letter in public comments at your next Council meeting for which this letter is timely received. This is simply an advisory letter regarding the upcoming 0.25% sales tax campaign. Materials published using taxpayer dollars must be 100% neutral and taxpayer dollars may not fund any political advocacy. For example, telling voters they will be "Maintaining Essential City Services" is not neutral because opinions as to what services are "essential" and whether they are unavoidably at risk will inevitably vary. The same is true of the expression "quality of life."

We're not sure if you are aware, but just recently the Fair Political Practices Commission (FPPC) approved a \$1.35 million settlement to be paid by the County of Los Angeles in response to findings that the County of Los Angeles spent taxpayer dollars campaigning for Measure H on the March 2017 ballot. This action by the FPPC was directly related to a legal action filed by the Howard Jarvis Taxpayers Association (HJTA).

The use of public funds for political advocacy is prohibited under the Political Reform Act of 1974 and the California Supreme Court's decision in *Stanson v. Mott* (1976) 17 Cal.3d 206. *Stanson* said it is a "fundamental precept" of fair elections that the public treasury cannot "take sides." This creates unfair advantage and violates the First Amendment right against compelled speech. Personal liability is also possible if a public official "fail[s] to exercise due care in authorizing the expenditure of the funds." (17 Cal.3d at p. 210.)

In short, public funds may not be spent on messages designed to influence the electorate. Nor may government resources, such as buildings, websites, and paid employee time, be utilized for campaigning. Thank you for your respect of the San Rafael taxpayers' state and federal constitutional rights.

Best regards,

A handwritten signature in blue ink, appearing to read 'Jon Coupal', is positioned below the 'Best regards,' text.

Jon Coupal  
Chairman

cc: Rob Epstein, City Attorney  
Jim Schutz, City Manager  
Lindsay Lara, City Clerk