

JOHN SUTTIE, President  
JON COUPAL, Chairman of the Board



## Howard Jarvis Taxpayers Foundation

Howard Jarvis, Founder

October 1, 2020

Mayor, City Council, City Manager, City Attorney  
City of Citrus Heights  
6360 Fountain Square Drive  
Citrus Heights, CA 95621

Re: City Involvement in Measure M Campaign

Dear Mayor, City Council, City Manager and City Attorney,

Please include this letter at your next Council meeting for which this letter is timely received.

\$1,350,000. That is how much Los Angeles County recently paid Howard Jarvis Taxpayers Association after we sued the County for using public funds to campaign for the passage of its own tax measure. The Fair Political Practices Commission participated with us in reaching a settlement of the lawsuit. Will Citrus Heights be next?

The City of Citrus Heights has been spending public funds and using public resources to communicate with voters regarding Measure M, the City's proposed hospital tax on the November ballot. The law requires such communications to be neutral and non-argumentative.

Government Code section 8314 provides, "It is unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to use or permit others to use public resources for a campaign activity." "Campaign activity" includes any use of public resources "[f]or purposes of influencing or attempting to influence the action of the voters for or against the ... passage of any measure" or that "urges a particular result in an election." (Gov. Code § 82025.)

The use of public resources for political advocacy is also prohibited by 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 an unfair advantage and violates the First Amendment right against compelled speech. Personal liability is possible if a public official "fail[s] to exercise due care in authorizing the expenditure of the funds." (17 Cal.3d at 210. See also Gov. Code § 8314(c)(1) (civil penalty of \$1,000 per day plus three times the value of the public resources unlawfully used).)

Examples of biased, argumentative, and outright misleading statements in the City's Measure M communications include the following:

- "If enacted, Measure M *will address* local *core* city services *identified by the community as priorities* through the City's engagement efforts in recent months."
- "If enacted, Measure M *will address* local public safety, emergency preparedness, infrastructure, economic development, and other *core* City services *identified by the community as priorities* through the City's engagement efforts in recent months."
- "Q: Will Measure M help address and prevent homelessness?  
"A: Yes. Especially with the pandemic, Measure M will maintain successful pro-grams reducing homelessness, while *keeping our neighborhoods and public spaces safe*, clean, and secure for all residents."

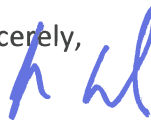
These are false or misleading statements. And as such are advocacy, not information. Measure M proposes a general tax that will be deposited into the City's general fund and *may be used for any and all municipal purposes*. Even if current City Council members have good intentions, nothing in Measure M binds future Councils. In as little as two years, the composition of the City Council could be completely changed. There is no guarantee in Measure M that revenue generated from the tax will go to services identified by a survey as priorities in 2019, or even to "core" public services, or even to public services at all. Under the proposed ordinance, all of the proceeds could go to fund the City's employee pension liability. And how could the City possibly assure voters that passage of this tax *will* prevent homelessness and keep neighborhoods safe?

In short, the City of Citrus Heights is using public resources to disseminate communications that are not neutral, but are instead argumentative and designed to influence the electorate.

Finally, by engaging in advocacy in favor of Measure M, the city is required to publicly disclose its expenditures on campaign reports, comply with the Political Reform Act's advertising disclosure laws, among other provisions. We note that no expenditure reports have been filed by the City and your advertising, thus far, does not include the required disclaimer.

Please respond in writing within ten days to this letter to let us know how the City will correct these violations.

Sincerely,



Jon Coupal  
Chairman