

February 14, 2024

Dear Sacramento Bee Editorial Board,

The Sacramento Bee has editorialized repeatedly over the past week regarding Measure C, the City's proposed business operations tax modernization that is on the March 5th election ballot.

I am concerned that the inaccuracies in your reporting will mislead the voters. These articles misrepresented the facts and omitted significant information.

As the City Clerk, I serve as the City's Election Official and take great pride in our efforts to ensure a clear and transparent election process. This especially includes assisting interested persons to navigate the argument process.

I am hopeful that my letter clarifies the recent misinformation in your articles, and also prompts a dialogue between the City and the Sacramento Bee on how we can ensure that the constituents of our city receive accurate and balanced information such that they can make their own informed decisions.

These editorials suggest the City compromised the ability of opponents to file a ballot argument against Measure C because the full text of the proposed ordinance was not published within 10 days in the City's official paper of record, the Sacramento Bulletin.

That assertion is untrue because the publishing of the ordinance and notification of arguments periods are separate and distinct functions as I will clarify below.

Ordinance Publishing

In the editorials, The Bee suggested that had the ordinance been published within the 10-day period, the public would have had a greater understanding and would have been more informed about the opportunity to write argument(s). That is pure speculation, as the text of the ordinance itself (the only text that would have been published) makes no reference to the argument periods.

The Bee also suggests (through its reliance on an "expert") that the delayed publication of ordinance could give rise to a lawsuit, as it was past the timeline set forth in the City Charter. However, the law has been settled on this point for decades: failure to publish according to that timeline does not affect the validity of the ordinance. (See *City of Sacramento v. Dillman* (1894) 102 Cal. 107; *Hollander v. Denton* (1945) 69 Cal.App.2d 348.)

The Bee further criticized the City for publishing the ordinance in an "obscure" news publication – the Sacramento Bulletin. Each year, the City chooses its official paper of record through a formal bidding process. For 2023, the lowest bidder was Metropolitan News, which publishes as the

Sacramento Bulletin. The Sacramento Bee did not submit a bid for consideration this year, nor has it done so for at least the past 10 years.

Regardless of any media coverage or noticing the city does – the best way to ensure that a copy of the full text of the ordinance is available to the public is through the Voter Information Guide. There the ordinance is published in full for all voters to read and consider before casting their vote.

Argument Periods

As soon as the Council voted on November 14 to place the measure before the voters, the City's website was updated in real time to provide the public with information about the ordinance, the argument process, and deadlines. The following day the notice of arguments was physically posted at City Hall as required by law.

The city clerk has a long-standing practice of allowing 10 days for initial arguments. This matches the number of days legally required for rebuttal period if one is held. Taking the holiday into consideration, the city clerk set the deadline for the Monday after the Thanksgiving holiday. This gave argument authors a total of 13 days to file initial arguments. During the 13-day argument period, the City's webpage pertaining to measures was visited 99 times.

A rebuttal argument period is permitted only when an initial argument is received both in support and in opposition of the measure, prior to the initial argument deadline. As there was no initial argument in opposition to the measure, there was no rebuttal period.

Notification to the Public

The City took numerous steps to ensure the public was informed about the proposed tax modernization and had a chance to weigh in before the Council vote, and that any opponents had the opportunity to submit an opposing argument within the deadline.

City staff held several outreach meetings in the community to educate interested groups and those potentially affected by the proposed measure. The measure was heard and properly noticed at three public meetings – the Law and Legislation Council Committee, and two City Council meetings. All these meetings were noticed in accordance with the City's Sunshine Ordinance, streamed on the City's website and the two council meetings were also televised on access cable and radio. Members of the public were present and commented on the proposed ordinance during the meeting.

Local media outlets, except the Bee, covered this item both before and during the argument period when interested parties could have submitted an opposing argument.

A timeline of council action, community outreach, and media coverage is attached.

In one article, Mary-Beth Moylan was quoted as your legal expert. I have great respect for Mary-Beth Moylan. She was instrumental in establishing the Sacramento Ethics Commission and served as Chair on our inaugural commission, putting in place foundational policies and procedures. However, I am concerned that she may have stated general practice but was not asked to do a full legal analysis of this specific issue and may not have had all the facts.

I look forward to engaging with you to discuss how the City and the Sacramento Bee can work together to provide accurate and complete information to your readers, and our constituents.

Regards,

A handwritten signature in blue ink, appearing to read "Mindy Cuppy", written over a horizontal line.

Mindy Cuppy, MMC
Sacramento City Clerk

I have reviewed this letter and approve the legal statements made by the City Clerk.

A handwritten signature in blue ink, appearing to read "Susana Alcala Wood", written over a horizontal line.

Susana Alcala Wood
Sacramento City Attorney

City Clerk Review of Business Operations Tax Modernization (Measure C) Timeline

09/28/23	Law and Legislation Committee agenda posted (link)
10/03/23	Law and Legislation Committee passed a motion directing staff to draft a BOT modernization ballot measure for council consideration (link)
10/04/23	Cap Radio Article (link)
10/11/23	Finance staff held information and feedback meetings and invited all PBIDs, Chambers, Metro Chamber and GSEC (2 meetings this day)
10/13/23	Finance staff information and feedback meeting
10/17/23	Finance staff information and feedback meeting
10/27/23	Finance staff information and feedback meeting
10/30/23	Finance staff information and feedback meeting
10/26/23	Council agenda posted (link)
10/31/23	Council reviewed ordinance and passed a motion to bring back amended ordinance on 11/14/23 (link)
10/31/23	CBS Report (link)
11/09/23	Council agenda posted (link)
11/14/23	Council adopted ordinance 2023-0023 as amended and adopted Administrative Approvals regarding the election (link)
11/14/23	Argument deadlines posted on the city’s website primary argument period 13 days (typical 10 days) due to holidays. (During the argument period the City’s webpage pertaining to measures was visited 99 times)
11/15/23	Cap Radio Article (link)
11/15/23	Full ordinance posted on the city’s website and physically at City Hall
11/16/23	Sacramento Biz Journal Article (link)
11/20/23	City Express Article (link)
11/27/23	Primary arguments due (rebuttals, if period held would be due 12/08/23)
01/25/24	Ordinance printed in full on the County of Sacramento’s Voter Registrar’s website and published Voter Information Guide that was mailed to voters (Mailing period 01/25/24 – 02/24/24) (link)
02/07/24	Ordinance published in full in the city’s official newspaper, The Sacramento Bulletin.
3/5/24	Primary election
7/1/24	Date the ordinance takes effect if approved by the voters