

# Avoiding the “Checkmark” Legal Considerations for Bond Elections

2024 ACMA Winter Conference

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- **Bond Committees**
  - Useful for gauging public sentiment and gathering input
  - Provide Council with comfort about question(s) to ask voters
  - Dissolved as soon as recommendation is made, and before Call of Election
    - Best to have resolution automatically dissolve committee
  - After dissolution, any advocacy must be on their own; no City/Town funds or resources

- Bond Ballot Question(s)
  - Engage bond counsel early
    - Assist with determination of allowable infrastructure to include
    - Prepare ballot questions according to statute
    - Prepare Call resolution
    - Assist with/prepare voter informational pamphlet
    - Ensure statutory conformity of the conduct of the election

- Informational Materials
  - All materials must be factual
    - No evocative words
    - Be careful with colors
  - Guiding Principal: *Kromko v. City of Tucson* “checkmark test”
    - “We note that earlier versions of the communications at issue contained features that might well have tipped the scale toward an unambiguous urging of a particular vote, including a checked box next to the words ‘Proposition 400’ and ‘Proposition 100.’ But the City voluntarily stopped disseminating information in that manner.”