



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive Report and Provide Direction on next steps regarding Potential Revenue Tax Measures to be placed on the Ballot for the November 3, 2020 General Election
Category:	Leadership and Support Services
Meeting Date:	5/5/2020
Staff Contact:	Ashwini Kantak, 408-586-3053 and Walter C. Rossmann, 408-586-3111
Recommendation:	Receive report and provide direction on next steps regarding potential revenue tax measures to be placed on the ballot for the November 3, 2020 General Election.

Background:

At the April 14, 2020 FY 2020-2025 Capital Improvement Program Study Session, in response to previous Council direction, staff presented various funding options including use of General Fund reserves and potential tax revenue ballot measures for the replacement and/or rehabilitation of infrastructure such as the Police/Public Works building, Fire Stations, or Recreation buildings or a potential Performing Arts Center.

Staff presented funding needs for critical infrastructure assets and discussed the need for a long-term funding strategy. Due to the current economic condition and to preserve generational equity for the utilization and payment of municipal infrastructure, staff presented options for issuing debt backed through new tax revenues. Potential tax measures discussed included a ¼ cent sales tax measure, a general obligation bond measure, and a parcel tax measure. Staff further presented that \$5 million of additional revenue per year would be needed to pay off \$89 million of debt over thirty years assuming a 3.71% interest cost. Staff also recommended, that if the Council were to pursue a ¼ cent sales tax measure that it should be placed on the ballot as a general tax measure. Due to the economic sensitivity of sales tax, only a portion of the additional new revenue should be used for payment of future debt service. Additionally, focusing a tax measure on an infrastructure program requires 2/3 voter approval versus a general tax measure requires 50% + 1 voter approval. Per Government Code section 53724, placing a measure on the ballot requires a minimum of four (4) affirmative votes from the Council for a general tax measure and three (3) affirmative votes from the Council for a special tax measure.

In addition to potential funding options for infrastructure, staff discussed considerations for a successful ballot measure. These considerations included the current economic conditions, community outreach campaign including the scoping of the funds potentially received from a tax measure, grassroots community support, and refinement of polling language through focus groups and two rounds of polling. Typically, such steps require multiple Council deliberations over 9 to 15 months before Election Day.

At the April 21, 2020 City Council meeting, the City Council, by consensus, asked staff to return at the next possible City Council meeting with an analysis and timeline for a potential Sales Tax and/or Cannabis Sales Tax Measure to be placed on the ballot for the November 3, 2020 General Election.

Analysis:

Based on Council direction from the April 21, 2020 Council meeting, this report provides additional information regarding the considerations and steps to be taken to place a potential Sales Tax and/or Cannabis Sales Tax Measure on the ballot for the November 3, 2020 General Election.

General Sales Tax Measure (1/4 cent)

The FY 2020-21 Proposed Budget assumes \$28.4 million in sales tax revenue based on economic conditions related to COVID-19 as understood as of late March. A ¼ cent sales tax measure would generate approximately \$7.1 million in additional revenue. This revenue can be used for several General Fund funded City services and/or for critical public safety and other infrastructure needs. If partially used for infrastructure, staff would recommend issuing debt and the ongoing new revenue stream would be used as source for the annual debt service. Given the economic volatility of the revenue source, staff estimates that approximately \$115 million in infrastructure financing could be paid for as a result of these additional revenues.

Polling was conducted for a ½ cent Sales Tax Measure in June 2016. Although the polling showed more than a majority support for the measure, City Council at that time did not approve placing it on the November 2016 ballot.

If City Council directs staff to proceed with this measure, staff will contract with a firm to poll potential voters for this tax measure. Polling will likely occur in late May/early June with the results presented to the City Council at the June 16 Council meeting. Based on the polling result and Council direction, ballot measure language would be brought forward for Council approval at the August 4, 2020 City Council meeting in order to meet the deadline for submission of the ballot measure to the County Registrar of Voters by August 7, 2020.

After submission of the ballot measure language, with the assistance of a consultant and in close coordination with the City Attorney, staff will conduct limited educational outreach about the ballot measure but will not advocate for the measure.

Costs for this measure are estimated to be approximately \$90,000 and will include \$40,000 for the polling, \$30,000 for the ballot measure, and \$20,000 for other miscellaneous costs.

Cannabis Tax Measure

On August 7, 2018, a Cannabis Tax Measure was brought forward for Council consideration, and the estimated revenue was based on assumptions about the number and types of cannabis establishments. The revenue range of \$370,000 to \$1.67 million was based on assumptions that cultivation, manufacturing, retail, distribution, and testing lab uses would be allowed in the City. The lower end of the revenue range assumed the issuance of seven permits and the higher end of the revenue range assumed the issuance of 13 permits for cannabis establishments.

The City Council did not approve moving forward with the cannabis tax measure but instead asked staff to work with the Council Cannabis Subcommittee on recommendations related to cannabis establishments and community benefit agreements. Staff worked with the Council Subcommittee and various community groups to develop recommendations for buffer zones and up to ten (10) storefront and non-storefront retail establishments.

These recommendations were brought forward to Council in October 2018; however, based on community input, these recommendations were not approved by Council. On January 15, 2019, Council adopted an ordinance prohibiting all medical and adult-use commercial cannabis activities, including but not limited to, commercial cultivation, delivery, distribution, manufacturing, microbusinesses, retail/dispensaries and testing laboratories in the City.

In order for a tax to be levied on cannabis establishments, the City will need to also allow the use of cannabis establishments, either through Council action or through voter approval. If it is determined that voters should decide whether to allow cannabis establishments in the City and how to tax them, two separate measures will need to be placed on the ballot.

Based on the Subcommittee and staff work in 2018, cultivation, manufacturing, and testing uses did not appear to be viable. Additionally, the use of buffer zones limited the number of retail establishments. Therefore, staff contacted HdL, the consultant the City previously hired to support the cannabis effort from 2018. Based on two to six retail establishments and a tax rate of 4%-6%, HdL estimates a revenue range between \$240,000 and

\$1.26 million. This information is based on the current cannabis retail and tax environment in Santa Clara County.

Staff recommends, that if the Council wishes to poll for a Cannabis Tax Measure, that the measure would be presented to potential voters responding to the poll as a general tax measure. As stated above, a general tax measure requires 50% + 1 voter approval.

Unlike the Sales Tax Measure, a Cannabis Use Measure and a Cannabis Tax Measure would require consulting support for upfront analytical work and outreach prior to conducting polling. This upfront work effort will involve review of the updated regulatory Cannabis framework and current regional retail environment as well as outreach and discussion with the current City Council to validate the buffer zones and type and number of establishments.

Costs for these two measures are estimated to be approximately \$150,000, including \$40,000 for the polling, \$20,000 for a cannabis consultant, \$60,000 for the two ballot measures, and \$30,000 for other miscellaneous costs.

Given the current state of emergency in the City and estimated time to complete the upfront work prior to commencing polling work, staff recommends Council consider deferring discussion of these two measures for a future ballot; placing the measures on the November 2020 does not appear to be feasible, unless it is determined that they should proceed with very limited additional analysis and outreach.

Fiscal Impact:

The cost for consultant services, depending on Council decision which measures will advance for polling, are estimated between \$40,000 and \$100,000 and the cost for each ballot measure is estimated at \$30,000. Including miscellaneous additional costs, the costs range between \$90,000 for the Sales Tax Measure only and \$240,000 for all three measures. For the Cannabis Sales Tax effort, staff has factored in additional resources for updates on the regulatory Cannabis framework and current regional retail environment. Further, depending on Council decision to place one or two Cannabis related measures on the ballot, the educational outreach effort is also anticipated to require additional resources in comparison to a Sales Tax measure.

If Council directs staff to move forward with one or more ballot measures, expenditures for the current fiscal year will be paid from the appropriated contingency reserve. Funding requests for expenditures scheduled to occur in FY 2020-21 will be brought forward, as needed, for Council consideration through an amendment of the FY 2020-21 Budget.

California Environmental Quality Act:

Not applicable.

Recommendation:

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Attachments:

Comments received from residents