



Date: August 8, 2023

Honorable Mayor and Council Members:

Author and title: Hilary Hobbs, Assistant to the Town Manager

Alfred Knotts, Transportation Program Manager

Title: **Accept Vacancy Tax Options Analysis Report and Direction regarding Sales Tax Polling**

Jen Callaway, Town Manager

Recommended Action:

1. Accept the Vacancy Tax Options Analysis Report
2. Accept an update and provide direction, regarding public opinion polling for sales tax renewal, amend C2313 Budget to increase "Consultant Support for Polling" line item from \$65,000 to \$75,000, and authorize the Town Manager to execute a contract with Team CivX to complete a public opinion poll survey for sales tax renewal and reconvene the Transit Working Group to aid in this process.

Discussion:

Introduction

At the January 2023 Council retreat, Town Council discussed the need to identify a stable funding source for community priorities, including long-term funding for a town-wide TART Connect microtransit program. This was again reiterated as part of the Fiscal Year (FY) 23/24 budget discussion as well as contract approval of the yearlong TART Connect Pilot. This agenda item is intended to provide direction and authorize next steps to accomplish this goal.

I. Vacancy Tax Options Analysis

The draft 2040 General Plan Land Use Element includes an action to explore a vacancy tax ballot measure to encourage owners of vacant housing units to provide the units as long-term rental housing and/or to support Town affordable housing initiatives (2040 General Plan, Land Use Element action 12.E). As a first step toward this action, on March 28, 2023, Town Council authorized the Town Manager to enter into a contract with BAE Urban Economics to complete a Vacancy Tax Options Analysis to better understand the potential revenue, structure, and considerations of a vacancy tax in Truckee (see **Attachment 1**). Additionally, Nevada County partnered with the Town to support expansion of this analysis to include unincorporated areas of Nevada County.

In addition to generating revenue, from a policy perspective, a vacancy tax can incentivize the improved utilization of existing land use resources, potentially including both residential and non-residential property types. This type of policy would align with the Town's housing strategic priority and our existing housing programs, such as Lease to Locals and the Truckee Home Access Program, which provide incentives for residential properties to be used as fulltime housing.

The Vacancy Tax Options Analysis Report, provided as **Attachment 2** (“Report”), summarizes the ways that imposition of a vacancy tax may impact market behavior, reviews different property types for which a vacancy tax could be considered, and provides a high-level estimate of potential revenue that may be generated. BAE Urban Economics will provide a presentation at the Town Council Meeting summarizing these findings. Below is a non-exhaustive list of key policy questions.

Estimated Revenue Generation Potential

For illustrative purposes, the Report provides estimates of the potential revenue that could be generated by a vacancy tax using a wide range of potential tax rates. For residential properties, estimates range from \$5,969,709 at a flat tax rate of \$1,000 per vacant unit to \$59,697,092 at a rate of \$10,000 per unit (Attachment 2, Table 5). The projected revenue for non-residential properties is substantially lower, in part due to the low vacancy rate, with the estimated revenue ranging from \$60,593 at a rate of \$1.00/ square foot to \$605,930 at a rate of \$10.00/ square foot (Attachment 2, Table 7).

While the Report provides a broad range of revenue estimates, it suggests that a vacancy tax could generate sufficient revenue to support Town priorities, such as microtransit, sustainability initiatives or housing programs. Should the Town pursue the development of a vacancy tax revenue measure, additional careful consideration would be needed to craft the tax rate and structure.

Vacancy Tax Considerations

The Report touches on many of the complex policy areas that would need to be considered if the Town were to pursue the development of a vacancy tax revenue measure. Below is a non-exhaustive list of some of these key policy questions that would require significant further consideration:

- *How would the policy define “vacancy” for residential properties?*
The Town would need to determine the number of days of occupancy per year that would exempt a property from a vacancy tax. Additionally, the policy would need to address other potential exemptions—such as exemption during a property renovation or when a property is on the market. As addressed below, these policy decisions could have implications for monitoring and enforcement.
- *Should non-residential properties be included, and how would the policy define “vacancy” for non-residential properties?*
The Town would need to determine a reasonable time period for a non-residential property to be exempt from the vacancy tax when there is a change in tenant. As with residential properties, the policy would need to address other potential exemptions—such as exemption during a property renovation or when a property is on the market.
- *How would the policy be monitored and enforced?*
As discussed in the Report, the impact of a vacancy tax measure is likely contingent upon the details of the measure, including the relative enforceability of the tax, including the ways in which occupancy is determined and enforced. There is no one fail-safe method or tool to identify all vacant properties or to enforce such a measure. For residential properties, homeowner exemption status could be used to identify owner-occupied homes, provided that a vacancy threshold of six months is used. For homes that are utilized as a fulltime rental or vacation home, additional documentation from the property owner would be required to demonstrate that the property is exempt from vacancy tax, creating a significant administrative workload. Applying such a tax to non-residential properties would likely require ongoing staff monitoring. Smaller spaces that are vacant within larger buildings and some persistently vacant spaces that aren't being actively marketed may be particularly difficult to identify. For both residential and non-residential uses, additional research would be needed to determine viable enforcement processes

and to estimate the resources needed to administer this type of program, but the impact on Town operations would likely be significant.

- *How would the policy apply to different property types?*

The Report identifies properties used as short-term rentals and accessory dwelling units as two property types that warrant careful consideration. The Town would need to decide how the use of a property as a short-term rental would be considered in determining whether a property meets the vacancy definition, and how this policy decision could affect STR operator behavior and subsequent neighborhood impacts (i.e. would a vacancy tax provide an additional incentive to short-term rent properties more frequently, which could increase the availability of tourist accommodations, but which may also result in additional neighborhood impacts). Additionally, the Town would need to consider how the policy may or may not apply to accessory dwelling units (ADUs) and how this policy decision may affect property owner interest in building ADUs or permitting existing un-permitted units.

Recommendation not to proceed with pursuing a vacancy tax at this time:

As addressed above and in the Report, a vacancy tax could generate significant revenue and would align with Town Council's housing strategic priority. That said, vacancy taxes are a fairly new concept, meaning that there are few examples to draw from. Additionally, San Francisco's vacancy tax, passed by voters in November 2022, continues to face a legal challenge. For these reasons, staff recommend that the Town does not further pursue a vacancy tax ballot initiative at this time. Rather, staff recommend that the Town continues to monitor the San Francisco case and emerging examples of vacancy tax measures in other jurisdictions for at least one year, then revisit this discussion at a future date, if requested by Council.

II. Roads Tax/Measure vs Renewal Polling

The Town's "road tax", initially passed in 1998 as Measure A and renewed in 2008 as Measure V, levies a ½% sales tax on taxable sales transactions within the Town limits to fund road maintenance, and road construction. The "roads tax," referred to in this staff report as "Measure V," was passed with a 20-year authorization. As such, Measure V would be set to expire in 2028 without subsequent voter approval to extend the life of the sales tax. While the Town would not typically start the process to reauthorize a tax measure this far in advance of the expiring authorization, there are several considerations at play as it relates to election timing as well as the advancement of Council Priorities related to "Key Infrastructure and Community Connectivity" and "Climate Action and Sustainability." Some of these considerations are highlighted in more detail below.

With the recent adoption of the 2040 General Plan and associated "Mobility Element" and "Climate Action Plan" and the recent successful implementation of innovative mobility programs, such as TART Connect, E-bike Share, and event specific shuttles, it is timely to evaluate public sentiment as it relates to the current authorization of Measure V. A possible strategy would be to extend the term of the current ½% road maintenance and construction sales tax; set a new tax rate of 1%; and expand the eligible uses of the tax to include transit, micro transit and other transportation services in addition to the current road maintenance and construction uses. Proceeding with public opinion surveys now would allow staff to return to Council in October of 2023 for consideration of moving forward with a ballot measure should polling indicate adequate voter support for such a measure.. This timing would allow the March 2024 Primary Election or the November 2024 General Election to be considered for the potential sales tax renewal.

It should be noted that the TART Connect Yearlong Pilot is only currently funded through June 30, 2024, and does not have a long-term sustainable funding source to continue beyond that date. Not initiating this process in August would eliminate any opportunity to pursue the March 2024 primary election date. Maintaining the March 2024 date as an option for voter consideration would provide an opportunity to maintain the current level of service for TART Connect should a ballot measure pass and should TART Connect services be an eligible use of that funding. Pushing beyond that date would leave a funding gap for continued TART Connect service beyond the June 30, 2024 pilot program. As a reminder, the current Yearlong Pilot program is providing service from July 1, 2023 through June 2024 between 6:30A AM – 12 AM during peak season (July 1 – September 4th and December 14th – April 7th) and 6:30 AM – 10 PM during off-peak season (September 5th – December 13th and April 8th – June 30th) for a total Not to Exceed contract amount of \$2,294,250.

Given these circumstances, staff is recommending proceeding with the public opinion survey to gauge current voter values and priorities as well as “test” ballot language. This effort would evaluate ballot language related to a reauthorization of Measure V, to change the tax rate from ½% to 1%, and to expand the eligible uses of Measure V to include transportation services including transit and microtransit. In the current economic climate, the Measure V ½% sales tax generates between approximately \$3 – \$3.5 million. As such, a 1% sales tax would generate between approximately \$6 – 7 million. Proceeding with this survey effort is consistent with the work, tasks described in CIP C2313, as well as the two (2) year Strategic Priority Work Plan. While funding was approved for this work in the FY 23/24 Budget, staff is recommending an increase of \$10,000 from the budgeted \$65,000 to \$75,000 to provide for additional mailings and contingency for modifications to survey questions.

To that end, staff has developed a Scope of Work (SOW) and fee in consultation with Charles Heath of Team CivX (formerly of TBWBH Consulting) which is included as Attachment 3 to this staff report. Staff also proposes to continue to engage and seek input from the Transit Working Group that has convened on numerous occasions over the past 16 months as part planning, launch, and monitoring of the TART Connect Pilot Programs.

Following is a proposed schedule for conducting the polling effort and considering whether or not to proceed with a ballot initiative in 2024. This schedule also contemplates and integrates time and effort for staff to re-engage the Transit Working Group mentioned above. **August/September 2023**

- Team CivX meets with Town to finalize tax rates and funding priorities to be tested in opinion research.
- Team CivX drafts polling questionnaire for review and input by Town and Transit Working Group.
- Team CivX conducts survey and analyzes results.
- Team CivX develops recommendations based on poll results.

September/October 2023

- Hold Transit Working Group meeting to discuss poll results
- Present poll results and recommendations to Town Council and receive direction on next steps related to preparing a measure for either the March 2024 Primary ballot or the November 2024 General Election
- If directed to pursue March 2024 primary election, return to Council with final ballot language to be submitted to Nevada County in advance of deadline.

III. Consideration of future revenue measure timing

Town Council has requested that the Town’s consideration of a potential revenue measure include a broader look at other anticipated revenue measures that are on the horizon, either led by or involving the Town.

To inform this discussion, below is a summary of anticipated measures and existing Town revenue measures that have sunset dates:

Description	Tax Type	Sunset Date of current tax	Anticipated Ballot Date
Trails Tax – ½% to fund construction and maintenance of future and current trail network including paved and dirt trails, bike lanes, and non-Town owned paved trails	Sales Tax (1/2%)	Until Rescinded by Voters	Passed in 2022
Roads and Transportation tax- <i>recommended renewal of Measure V</i>	Sales Tax (1% increase from current ½%)	2028	March or November 2024
Library facility bond measure- <i>led by JPA including Town and Nevada County</i>	Parcel Tax	n/a	June 2025
Measure K- 2% additional TOT approved by voters in 2020 to support community priorities including housing, emergency preparedness and open space	TOT	2040	

Summary: Staff recommends that Town Council accept the Vacancy Tax Options Analysis Report and direct staff not to further pursue a vacancy tax ballot initiative at this time. This may be revisited at a future date once there is more certainty around vacancy tax examples from other jurisdictions.

Staff also recommend that Town Council authorize the Town Manager to execute a contract with Team CivX to complete public opinion polling for sales tax renewal that would fund roads maintenance and transit and reconvene the Transit Working Group, which includes Mayor Romack and Councilmember Zabriskie, to review the survey questions and polling results.

Priority:

<input type="checkbox"/> Enhanced Communication	<input checked="" type="checkbox"/> Climate and Greenhouse Gas Reduction	<input checked="" type="checkbox"/> Housing
<input checked="" type="checkbox"/> Infrastructure Investment	<input type="checkbox"/> Emergency and Wildfire Preparedness	<input checked="" type="checkbox"/> Core Service

Fiscal Impact: The fiscal impact associated with this item is \$75,000 for Team CivX public opinion polling contract. Approval of this action would result in a budget amendment increasing “Consultant Support for Polling” from \$65,000 to \$75,000. Staff is recommending a corresponding reduction in the “FY23/24 Pilot” line item by \$10,000 from \$2,800,000 to \$2,790,000 with no change in the overall project budget.

Public Communication: Agenda posting.

From March-July 2023 the Town received ninety-five public comments submitted by 86 different individuals and organizations regarding the vacancy tax options analysis and the Town’s potential consideration of a vacancy tax. Eight (8.4%) comments indicated the commenter is in favor of a potential vacancy tax and 87 (91.6%) indicated they were opposed. A summary of selected themes that emerged from these comments is provided as **Attachment 4**.

Attachments:

- (1) March 28, 2023 staff report available at:
<https://portal.laserfiche.com/Portal/DocView.aspx?id=59647590&repo=r-6a91ddbc>
- (2) Vacancy Tax Options Analysis Report
- (3) Team CivX scope of work
- (4) Summary of Vacancy Tax public comment themes