

CITY OF SAN LEANDRO

MEMORANDUM

DATE: March 15, 2016

TO: City Council Finance Committee

FROM: Chris Zapata, City Manager

BY: Eric Engelbart, Deputy City Manager

SUBJECT: Cannabis Tax Discussion

SUMMARY AND RECOMMENDATION

Staff recommends that the Finance Committee direct City staff to proceed forward with the next steps necessary for the City Council to bring before San Leandro voters a cannabis-related business tax on the November 8, 2016 ballot.

BACKGROUND

On September 8, 2015, the City Council awarded the City's first medical cannabis dispensary permit to Harborside San Leandro. At the October 5, 2015 and November 2, 2015 regular City Council meetings, several members of the Council expressed interest in modifying the adopted ordinance to facilitate the approval of a second dispensary. Then on December 21, 2015, the Council unanimously adopted a motion directing staff to bring forward amendments to the adopted Medical Cannabis Dispensary Ordinance to permit the second dispensary. As part of that action, the Council also directed the Rules Committee to develop a process for selecting the business team who would be authorized to operate that second dispensary. On January 13, 2016, the Rules Committee considered the matter and its recommendations were then discussed by the City Council and adopted at its February 16, 2016 meeting.

DISCUSSION

In light of the fact that the City of San Leandro does not presently have in place a gross receipts tax on sales of cannabis (which is commonplace in other California jurisdictions that have allowed dispensaries to operate), the City negotiated a financial commitment from Harborside San Leandro to contribute 4% of its gross receipts to a community benefits fund, 80% of which would be donated to local non-profit organizations. In addition, the dispensary will voluntarily donate another 1% of gross receipts (estimated to generate \$71,800 in 2017) and 10% of net income (estimated to generate \$45,000 in 2017) to the City of San Leandro.

As part of the analysis that was also considered by the City Council at its September 8, 2015 meeting, the City also indicated that it intended to further explore a gross receipts tax in lieu of the above negotiated commitments.

Now that the November 8, 2016 ballot is approaching, City staff requests direction from the Finance Committee regarding the following questions:

- 1) Shall City staff proceed with the steps necessary for the City Council to ask San Leandro voters to authorize a cannabis tax?*
- 2) If the answer to question 1 is yes, at what rate shall that tax be imposed? [staff recommends exploring up to 10% gross receipts, which could be phased-in over time from 5%]*
- 3) Shall City staff explore the retention of a pollster and/or strategist to assist in developing informational materials in advance of such an election?*

In order to assist in resolving these questions, the following attachments are provided:

- A) Summary of Cannabis Gross Receipts Taxes in California
- B) Sample ballot questions
- C) Suggested timeline for Approval of Tax Measures

Attachment A

Summary of Various Cannabis Gross Receipts Taxes in California

Election	Measure	City	Tax Rate	Vote Results	Votes in Favor	Total Votes
11/2/2010	Measure V	Oakland	5% gross receipts (medical); 10% (non-medical)	70.50%	74,413	105,561
11/2/2010	Measure U	San Jose	up to 10% gross receipts*	78.30%	184,305	235,297
11/2/2010	Measure N	La Puente (LA County)	10% gross receipts	68.30%	4,141	6,061
11/2/2010	Measure C	Sacramento	4% (medical); 10% (commercial if legalized by Prop 19)	71.70%	83,906	117,065
11/2/2010	Measure I	Stockton	2.5% (medical); 10%(non-medical if legalized)	66.60%	35,961	53,993
11/2/2010	measure S	Berkeley	2.5% gross receipts	83%	33,260	40,085
11/2/2010	measure Q	Albany	2.5% gross receipts	84.34%	4,983	5,908
11/2/2010	Measure V	Richmond	5% gross receipts	78.40%	23,030	18,050
11/2/2010	Measure H	Rancho Cordova	10% (non-profit); 12%-15% (commercial if legalized)	68.20%	10,865	15,926
11/6/2012	Measure S	Needles	up to 10% gross receipts	81.10%	962	1,186
11/6/2012	Measure BB	Santa Ana	2% gross receipts	65.90%	22,147	33,639
5/21/2013	Measure D	Los Angeles	6% gross receipts	63.00%		
11/4/2014	Measure L	Santa Cruz	up to 10% gross receipts*	82.20%	13,894	16,901
11/4/2014	Measure Z	Blythe (Riverside County)	up to 15% gross receipts	45.30%	835	1,845

* San Jose currently charges 7%

*Santa Cruz currently charges 7%

MEMORANDUM

TO: Members of the San Leandro City Council Finance Committee

FROM: Eric Engelbart, Deputy City Manager

DATE: March 15, 2016

RE: Medical Cannabis Tax

Copied below are samples of ballot questions related to cannabis taxes.

Oakland Measure V – November 2, 2010

Shall the Oakland Municipal Code be amended to increase the business tax rate for “Medical Cannabis Businesses” from \$18 per \$1,000 of gross receipts to \$50 per \$1,000 of gross receipts, and creating a new “Non-Medical Cannabis Business Tax” of \$100 per \$1,000 of gross receipts, with all proceeds placed in the City’s General Fund to be used for any governmental purpose? (50% + 1 votes needed)

San Jose – Measure U – November 2, 2010

In order to provide funding for essential City services such police, fire, emergency response, street maintenance, pothole repair, parks, libraries and youth and senior programs, shall an ordinance be adopted to impose a tax at a rate of up to 10% of gross receipts on marijuana businesses in San Jose, subject to existing independent financial audits, with all revenue controlled by the City?

Possible Ballot Language for Consideration in San Leandro:

Shall the San Leandro Municipal Code be amended to establish a gross receipts tax for “Cannabis-Related Businesses” of up to \$100 per \$1,000 of gross receipts, with all proceeds placed in the City’s General Fund to be used for any governmental purpose? (50% + 1 votes needed)

Office of the City Clerk

Suggested Timeline for City Council Approval of Tax Measures

California Elections Code § 9222 allows members of the City Council to submit an initiative to be voted on at a regular or special election. All material for the ballot must be submitted to the Alameda County ROV no later than the 88th day before the election, or **August 12, 2016**.

The City Attorney must prepare an impartial analysis of the measure showing the effect of the measure on existing law and the operation of the measure. The analysis shall include a statement indicating the measure was placed on ballot by the governing body of the city.

The 88th day deadline for the upcoming November 8, 2016 election is Friday, **August 12, 2016**. As the City Council is in recess during the month of August, below are dates and a suggested timeline for submission of information to the City Council.

Council should adopt resolutions calling for the election and placing measures on the ballot at a City Council meeting prior to the summer recess.

July 18, 2016 is the last regular city council meeting before the summer recess and the last regular city council meeting before the August 12, 2016 deadline. Once the council approves the resolution calling for the election, it should be noted that the City Attorney must have sufficient time to prepare a legal analysis to submit by the August 12th deadline.

Based on approval of ballot measures at the **July 18th** city council meeting, the following suggested dates apply:

August 17, 2016	Suggested last day to submit direct arguments to the City Clerk
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August 24, 2016	Suggested last day to submit rebuttal arguments to the City Clerk
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