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Highlights of the Finance Committee Meeting of April 5, 2016

CITY OF SAN LEANDRO

FINANCE COMMITTEE

April 5, 2016
5:00 - 6:30p.m.

San Leandro City Hall
835 East 14th Street
San Leandro, California
(Sister Cities Gallery)

HIGHLIGHTS

1. CALL TO ORDER

Mayor Cutter called the meeting to order at 5:00 p.m.

1.A. Attendance

Committee members present: Mayor Cutter, Councilmember Prola, Councilmember Lee

City staff present: City Manager Zapata, City Attorney Pio Roda, Finance Director Baum, Community Development Director Battenberg, Assistant Finance Director Fuentes, Budget/Compliance Manager Perini, Deputy City Manager Engelbart; Business Development Manager Kay

Public present: Doug Jones, Agustin Ramirez, Pedro Salvador Sanchez, Jim Kelly, Harley Dean, Jenny Divish, Fred Pecker, Lee Thomas

1.B. Announcements

None

2. DISCUSSION ITEMS

2.A. Public Opinion Survey for November Revenue Measures (Godbe Research)

City Manager Zapata stated that the poll will provide staff an idea if there is support from the community as well as provide direction on how to proceed with a direct benefit 2/3 vote or a general benefit which requires a 50%+1 vote. Due to the fact that the Finance Committee meets but once a month, the Finance Director recommends that the Finance Committee provide direction to staff to proceed with the poll and once the poll is completed, go straight to Council for recommendation rather than coming back to the Finance Committee.

Councilmember Prola stated that unless the polls come back with a very high number, he recommends doing the 50%+1 because there are going to be so many revenue measures on this ballot.

City Attorney Pio Roda reminded the Finance Committee that a 50%+1 ballot measure is for General Fund purposes.

Mayor Cutter stated that the current Council can declare their intentions regarding the new tax revenue and future Councils may change funding priorities depending on community needs.

City Attorney Pio Roda stated to be careful that the Council's priorities remain , as a 50%+1 measure will address all of the City's general needs and cannot be dedicated to specific uses for those funds.

Mayor Cutter asked if the poll will be approximately 500 residents and if Godbe will poll different demographic groups.

Deputy City Manager Engelbart said they will poll different demographic groups. The poll will consist of a 15-20 minute survey; no specific questions have been determine yet

Mayor Cutter would like to make certain the campaign is transparent.

City Attorney Pio Roda stated the ballot language will come to full Council for its review and approval.

2.B. Discussion of Proposed Ballot Language for Potential Revenue Measures (Cannabis/Business License, Transient Occupancy Tax)

City Attorney Pio Roda provided a draft of the ballot verbiage and acknowledged that the language will change.

Mayor Cutter stated that the draft language was too confusing and because there are a number of items to go on the ballot, she would like to assure that the verbiage and Council's directions are clear.

Councilmember Lee is interested in final language.

Mayor Cutter asked if we are trying to differentiate between nonprofit cannabis and for-profit cannabis.

City Attorney Pio Roda stated not at this time. State law does allow for “for profit” dispensaries however the City is still analyzing whether to change the current ordinance to eliminate the non-profit designation, or to keep non-profit only and see what the advantages vs. disadvantages are. A lot of other jurisdictions are allowing for “for profit” to comply with new state law.

Deputy City Manager Engelbart stated the proposed ordinance is crafted for a cannabis business in general and therefore it will pertain to medical cannabis and potentially recreational marijuana if it were to be legalized in November and subsequently permitted by the City Council.

Mayor Cutter asked if there is a thought to tax recreational marijuana at a higher rate and would the ballot measure, as written, limit us to this rate and would the City have to go back to voters.

Deputy City Manager Engelbart stated only if the City wanted to charge higher than 10% [the rate currently being considered for the Cannabis Tax]. The draft measure permits a tax up to 10%.

City Attorney Pio Roda stated that currently we have required Harborside to provide a community benefits plan to contribute directly to certain non-profit business as well as back to the City, a percentage of their net income. There is a clause in their agreement with the City if a cannabis tax were passed, those conditions would be eliminated. Harborside would pay the tax and the City would have full discretion on how to use the gross receipts tax revenue. Both aspects are covered so that if the tax did not pass, Harborside would continue to contribute to the community benefits plan.

Mayor Cutter asked why the Cannabis Tax and Business License tax are combined in the same tax measure and can it be divided.

City Manager Zapata stated the more tax measures may diminish the likelihood of them passing but it can be separated if that is the desire of the Committee.

Councilmember Prola also believes it should be separated and does not feel the City would receive a 2/3 vote but the poll will guide us in making the best decision.

Mayor Cutter asked if certain questions can be added to the poll that would help us determine if we should separate and/or give an idea on what taxes may pass.

Deputy City Manager Engelbart indicated that Godbe will look at each question and will make recommendations on what questions should be asked.

Councilmember Lee agrees with how the draft ballot is worded.

City Manager Zapata stated staff will bring options and if need be, will seek outside expertise to draft the ballot language. The community may question why we are asking for new or increases to existing taxes and the answer is that funds are needed to fund additional services that the Council has prioritized including child care, traffic calming, art and culture, and Code Compliance. The City needs to find additional revenue to provide these services.

Councilmember Lee stated that the sequencing of the questions or statements will have a great

impact on whether residents will vote for the measures.

City Attorney Pio Roda stated just like with Measure HH, all discussions are wide open, however once the resolution is approved for the language of the ballot, all open discussions must stop. The City cannot advocate for approval. All information must be non-biased, factual in nature, and informative. There is an urgency to work through the measures so that it can go before the Council no later than the first meeting in July. The City must have the measures submitted to the registrar in August.

Mayor Cutter would like to go to Council as many times as necessary. If there is no time to come back to Finance Committee, going straight to Council is fine.

Community Development Director Battenberg discussed the 3 other tax measures: eliminate per employee portion of the Business License tax for businesses with 3 or less employees for San Leandro businesses. This would reduce our Business License tax revenue for small businesses, of which there are currently 2,500 and represents ½ of the businesses in the City. The cost of this proposal is approximately \$300k however it aligns with Economic Development goals to support small businesses. Also there is a proposed modification for the collection of taxes for warehouses and wholesale distribution businesses. There is a request to change from a “Per Employee Fee” to a \$100/1,000 square feet which will generate \$450,000 per year. Currently, these types of businesses pay a very low fee, because they do not employ many people, in spite of the fact that they generate substantial truck traffic and negatively impact City infrastructure. Business License Renewals are collected annually in January. Business Development will complete a small audit of the warehouses and distributors. There is an exemption proposed for approximately 20 businesses that generate more than \$50,000 sales tax revenue per year.

Councilmember Lee incrementally asked if how many businesses have 4 to 5 employees.

Director Battenberg stated the proposed changes are not drastic. The 3rd change is to that of the parking lots. Currently parking lots are charged on a per space basis and the proposed change would amend it to 10% of gross receipts. The City of Oakland charges 18%. The City of San Leandro has one business currently, Espresso Parking, and the proposed change would generate an additional \$500,000 per year. The proposed change would also level the playing field because it is anticipated that when the Tech Campus opens they will be charging for BART parkers \$2-\$3 per day, Monday-Friday. Using the current method of calculating the Business License of parking lots pay, the Tech Campus would be paying per space like that of Espresso Parking but making less profit.

Councilmember Lee inquired whether the 3 or fewer employees are only full time employees are or part-time too.

Director Battenberg stated the way the Business License is currently charged it is per employee and does not distinguish whether full or part time.

Director Baum spoke of the proposed change to the Transient Occupancy Tax. At the prior Finance Committee meeting, there was discussion on raising the rate from 10% to 12% however there was also a proposal to increase the rate to 14%. Increasing the rate to 14% would generate an additional \$200,000 per year.

City Manager Zapata stated that those who visit the City of San Leandro park on our streets and use

other services as well. The Transient Occupancy Tax is not a cost to residents. We are on the San Francisco Bay and there are many amenities that people use. Increasing the Transient Occupancy Tax is a way of capturing more revenue for those people that use our services.

Councilmember Lee stated visitors will benefit as the revenue will be used to fix our roads. The biggest users of hotels are businesses that often do not pay attention to the Transient Occupancy Tax rate. The City of San Leandro is changing as we have a great investment in Kaiser, we are building a Tech Campus and we will be building at the Shoreline.

Councilmember Prola also agrees with increasing the rate to 14% and believes it will pass as residents recognize that the visitors are paying this tax. He anticipates that more hotels will come into the City.

Mayor Cutter believes that 14% is too high. Would like to make sure that it is very clear that the tax is being adjusted and that it is not a new tax

2.C. Update of Statewide Minimum Wage

Deputy City Manager Engelbart provided information on the statewide efforts of minimum wage. The Governor signed a new statewide law that by 2022 there will be a \$15/hour minimum wage, with smaller business of 25 and fewer getting an extra year. Increases would begin in January 2017 as the minimum wage would go from \$10 to \$10.50 and then increase by \$1 each January thereafter. Then in 2022, it will be indexed to National CPI with no sunset. There are off-ramp provisions that authorize the governor to initiate a 1 year pause to any of the increases, if needed, due to a negative job growth or sales receipts.

Councilmember Prola stated that the federal poverty level is \$24,000 per year. Prola stated that the Governor chose to gradually increase the minimum wage as it will cost the state approximately \$3.6 billion. This is due to some state workers who earn minimum wage.

Mayor Cutter asked about the City's responsibility to follow the State's law on minimum wage.

City Attorney Pio Roda stated that the City can exceed the State's rate. There is no State law that required the City to do any outreach although it is highly recommended. Indicated in the draft ordinance, section 4-34; 4-35-400, the City does not have a specific date as to when it begins. We could have an educational period, to allow time for businesses.

Councilmember Prola inquired on how the City advises businesses of the increase to the Living Wage rates.

Director Baum stated that information of the CPI increase is posted annually on the City's website on July 1st.

Budget & Compliance Manager Perini stated that contractors are aware of a possible increase as it is part of the Contractual Services Agreement.

City Manager Zapata stated that a notice can be sent to businesses advising of the increase.

Councilmember Prola stated the City could do the same with the minimum wage and advise

businesses

City Manager Zapata assured the Committee that staff would advise all.

Councilmember Prola stated by 2017, his hope is that the minimum wage will go up to \$12/hour which will bring all up to the federal poverty level. By 2018, for large businesses, using Berkley's firm size rather than establishment size, go up to \$15/hour. Small businesses can gradually increase to \$15/hour by 2019. City of San Leandro still has to define what is a small business. Prola stated that a report in the LA Times indicated a low wage for the state of California is \$13.63/hour. He would like to give people an opportunity to stay in their homes and spend time with their family.

Councilmember Lee supports the increase for minimum wage and will support the consensus of the City Council regarding the definition of national franchises.

Mayor Cutter indicated a \$5 increase over two years is big. What is a large business, businesses over 25 employees?

Councilmember Lee stated that the Council must agree as to what a small business is. He also stated there must be segregation between a national franchise business and a local business and we need to increase gradually.

Mayor Cutter stated that she has spoken to businesses and would like to know why we are not trying to make any of the businesses happy also.

Councilmember Prola stated in metropolitan areas, like ours, the cost of living is much higher with federal poverty level at \$12/hour. How do you explain to our people that they have to work two jobs? We need to try and get our residents to at least that level. Smaller local businesses benefit as more money is spent in the community. If we want to have different levels for small and large businesses, he's willing to separate the two but not his preference.

Councilmember Lee stated what allows local/small businesses to become a successful business is cost control.

Mayor Cutter inquired at what point did the City of Oakland begin to advise the businesses of the minimum wage increase.

Staff stated that because Oakland's increase to the minimum wage was a ballot measure, businesses were noticed once it was qualified on the ballot. It was approximately 6 months notice.

Mayor Cutter acknowledged that if San Leandro does place the measure on the November ballot, businesses will have a 6 month notice. What amount do we want?

Councilmember Prola stated he was hoping for \$12/hour as it is the federal poverty level and for large businesses, increased to \$15/hour by 2018.

Councilmember Lee stated that, for national businesses, he supports that amount.

Mayor Cutter asked if \$12 for July 2017, \$13 for January 2018, \$14 for 2019; \$15 for 2020 would be acceptable.

Councilmember Prola stated he will agree with this schedule, noting that it is not what he was hoping for but he will compromise

Mayor Cutter stated that we are ahead of Oakland, using this schedule.

Councilmember Lee stated that large businesses should be defined by percentage of revenue over state lines.

Mayor Cutter stated that although McDonalds is a large franchise, they can be owned by individuals and therefore should not be considered as a national business.

City Attorney Pio Roda suggested avoiding a vague argument on the description, he would prefer defining a large business by an FTE number and if it requires additional research from staff, we can do that but if we are speaking of defining a franchise, that needs to be reviewed.

Mayor Cutter inquired how many businesses have more than 25 and more than 50.

Business Development Manager Kay stated that more than 2/3 of the businesses in San Leandro are under 20 employees.

Councilmember Prola stated that we should mirror the State and go with 25 FTE.

Mayor Cutter would like to see a list of business that have 25 FTEs.

City Attorney Pio Roda stated that the City does ask this information for a Business License and staff can pull that information and it is by location.

Mayor Cutter asked if there is a legal issue with going per location.

City Attorney Pio Roda stated there was no legal issue and there would be more of an issue by trying to define what a national franchise is.

Councilmember Lee asked what information is used for Obama Care.

Business Development Manager Kay informed that we do not enforce that law and therefore we do not ask.

Councilmember Prola directed staff to provide information on the number of FTEs by next meeting for discussion.

City Attorney Pio Roda stated looking at FTEs staff would be able to crunch numbers and provide better information.

Mayor Cutter stated there may be some industrial business that do not have the number of employees and pay a low wage. Thus increasing the minimum wage would not benefit the employees in that case. We are not helping the people we would like to benefit.

Business Development Manager Kay stated staff can provide a list of businesses that are over 20

employees. What we don't have is local vs. national data without researching individual companies. We also don't have wage information for businesses, although we do have some anecdotal information.

City Attorney Pio Roda stated the City is not asking for a separate tier of minimum wage. This is a uniform number. If we choose 20, those businesses will pay San Leandro minimum wage and those businesses that are under will comply with state law.

Councilmember Prola stated he was hoping that workers, such as baggers at Safeway, would prefer to stay here rather than go to Oakland where the minimum wage is currently \$12.55/hour. Prola stated he wants to help people that are suffering right now and can't pay their rent. He stated that at the next meeting the Committee will have to define the large businesses.

Mayor Cutter stated that she is also trying to make it so that we help clerks at grocery stores however we can't go too low or we are going to hurt our local small business.

Mayor Cutter stated we have to figure out how to determine what a large and small business is. Staff needs to come back with business by employees and industry type.

Business Development Manager Kay stated he will return with that information.

Councilmember Prola again stated he would like to accelerate the raising of the minimum wage

Mayor Cutter asked if we are going to notify businesses and stated we should advise them that we are taking to Council.

Councilmember Prola stated everyone should be made aware. Next meeting staff will bring the information requested and then we should make a recommendation to Council.

City Attorney Pio Roda stated that staff can bring the information requested and we could bring an item with updated language by 1st meeting in June.

3. PUBLIC COMMENTS

A resident spoke of a letter presented to the Committee regarding the issue being discussed including the CPI

An employee of Davis Street Family Resource Center (DSFRC) stated that many clients are leaving San Leandro because they cannot afford to live here. They go to DSFRC for assistance. There is not enough child care that Davis Street can assist with.

Jennifer Divish - appreciates the conversation and encourages a study session for the opportunity for people to come and discuss. A study session gets people involved, workers, owners, and residents. Encourages the conversation on what happens after 2020. Does it go up CPI after that or will San Leandro wait for the State to catch up? She encouraged staff to review San Francisco's policy on the large chain stores. Emeryville is also looking at this issue. She is happy to share what was learned by these two cities.

Simone spoke on behalf of an employee that works at Blue Bird Pizza. He was involved in an

accident and therefore could not attend. He wanted the Committee to know that he can no longer drive his car to work because he can't afford insurance and therefore rides his bike. The night before [the Finance Committee meeting] he was involved in an accident while riding his bike on his way home, around 10:30 pm. Although Blue Bird pays above minimum wage, it is still a second job for most of the employees that currently work there.

4. COMMITTEE MEMBER COMMENTS

None.

5. ADJOURN

The meeting was adjourned at 6:42 p.m.