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Staff Report for Measures HH, OO, PP, and NN Annual Report for 2020-21

SUMMARY AND RECOMMENDATIONS

Reports by oversight committees have annually focused on effects of revenue ballot measures in San Leandro since 2015. Over this time, a total of four measures was approved by city-voters augmenting established tax rates. In addition, Measure VV was approved in November 2020. Measures HH, OO, PP, and NN added sales tax, hotel tax, and business licenses taxes (and Measure VV further adding property tax revenue) were approved to maintain and boost City services including:

- Public safety and emergency services.
- Code enforcement.
- Parks and infrastructure.
- Library programming for children.

The Annual Report for 2020-21 covering Measures HH, OO, PP, and NN follows.

BACKGROUND

In November 2014, the Measure HH half-cent sales tax was approved by more than 60% of city voters. The ballot language assured voters that Measure HH receipts would provide vital General Fund revenues supporting a range of City services, be subject to annual audits, and be reviewed by a citizens' oversight committee. Measure HH superseded Measure Z (the earlier quarter-cent sales tax measure) effective April 1, 2015. Additionally, Measures OO, PP, and NN were passed by voters in November 2016. Each passed by more than 66% approval.

On July 6, 2015, the City Council passed the resolution creating the Measure HH Citizens Oversight Committee. The City Council defined the responsibilities and duties of the Oversight Committee to include developing an annual report covering the following:

- Amounts of revenue.
- Use of the tax revenue and the impact on City operating budgets including statement on impact of revenue in reducing amounts of cuts resulting from addressing the budget shortfall.
- Statement of expenditures funded by the Measure's revenues (Summary, Table 1).
- Impacts of the Measure on local business competitiveness and the collection of other revenues.
- Information for the public and transparency.
- Promotion of public participation in developing a revenue sustainability plan and strategy.

Measures OO, PP, and NN also required independent citizen oversight. The terms of office of the originally appointed Oversight Committee have expired. This report for 2020-21 is being submitted simultaneously with activity appointing or re-appointing current members.

Table 1 (Attachment 1) reflects expenditure cutting proposals (identified related to Measure Z, the original sales tax measure approved in 2010) that were avoided with passage of Measure Z and further relieved by Measures HH, OO, PP and NN revenues. The results shown reflect use of revenues over the life of the measures.

The year ended June 30, 2021, was unlike any other in recent history. Scarcely any aspect of life in San Leandro remained unchanged by the Coronavirus pandemic. Every resident and business owner has been affected by COVID-19. Devasting health impacts, business and school closures, elimination of jobs, essential workers faithfully carry-on, remote work, requirements to wear masks and socially distance, all became a normal part of life and helped define this unprecedented time.

DISCUSSION

Measure HH

Measure HH authorized a 0.50% Transaction and Use Tax increasing the total sales tax rate on retail sales in San Leandro to 9.50%. Of the total rate, 1.50% flows to the General Fund, supporting the full range of municipal services. At the time of approval, the total combined tax rate in the city became 10%. Subsequently, the rate in the city lowered to 9.75% with the expiration of Proposition 30 in 2016, a temporary increase in sales tax preventing cuts in the California education budget. The breakdown of the sales tax rate in San Leandro in 2020-21 is shown in Table 2 (Attachment 2).

Measures OO, PP, and NN

Measures OO, PP, and NN passed and took effect on January 1, 2017 and in summary include:

- Business license taxes reduced for small businesses and charging 10% of gross receipts for parking lots and \$100 per 1,000 square feet for property used for warehouse/storage and wholesale/distribution businesses.
- Transient occupancy tax increased to 14%.
- Cannabis business tax of up to 10% of gross receipts (currently 5%).

These revenue sources align with previously adopted City Council goals and policy priorities

described below. These tax sources minimize direct impact on most San Leandro residents, as a significant portion is paid by a select number of businesses and individuals from outside the city, such as hotel and airport visitors.

Analysis of Required Information for Annual Report

➤ Amounts of revenue generated by Measures

Measure HH

Transaction & Use Tax revenue totaled \$13,698,000 in 2020-21. This amount is higher than the amended budget by \$1,613,000 and is 14% more than the total received in 2019-20. Transaction & Use Tax revenue has increased annually since 2016-17 (except in COVID-19-impacted 2019-20) after the state began collecting and allocating these tax revenues to the City in 2015.

Measure OO

Measure OO revised the business license tax schedule levying a gross receipts provision (10%) on parking lots and a square footage charge (\$100 per 1,000 square feet) on warehouse and distribution businesses. Business license revenue totaled \$5,899,000 in 2020-21. Of this total, categories including Parking Lots (\$32,000), Warehouse/Storage (\$376,000), and Wholesale/Distribution-General (\$901,000) totaled \$1,309,000.

Measure OO modified the tax rate applied to parking lots (primarily long-term parking for the Oakland International Airport). Previously, parking operators paid a flat fee plus a per-space charge. In comparison with the City's 10% gross receipts rate, the rate in Oakland is set at 18.5%.

The new rate formula enabled San Leandro to capture additional revenue while maintaining a competitive advantage over similar businesses in Oakland. However, airport parking operations were significantly affected by COVID-19 related airline passenger load declines. In addition, future Measure OO revenues remain adversely impacted by the relocation outside San Leandro by the major parking lot operator.

Additionally, Measure OO modified the tax rate applied to warehouse and distribution businesses. They were previously charged a flat fee and a per-employee fee. The ordinance now charges \$100 per 1,000 square feet of building space. This change aligns the business license fee with the impact of such businesses, primarily coming from the physical size of their business rather than number of employees. Warehouse and distribution activity cause heavy truck wear on local streets while creating few jobs and limited business license revenue or sales tax.

Measure PP

Measure PP increased the City's Transient Occupancy Tax (TOT) from 10% to 14%. TOT is collected from travelers occupying a hotel, inn, tourist home or house, or motel for a limited duration. Oakland also has a 14% rate (Alameda and Hayward currently have lower rates at 10% and 8.5%). Future development at the Shoreline Area is expected to create at least one new hotel providing additional TOT revenue.

In July 2019, the City Council adopted an ordinance regulating short-term rentals (STR) and authorized the hiring of a third-party on-line company to monitor STR listings for compliance with the ordinance including paying TOT. TOT revenue because of this regulation amounted to only \$6,000 in 2020-21.

In 2020-21, General Fund Transient Occupancy Tax revenue totaled \$396,000 (totaling \$906,000 in 2019-20), and an additional \$441,000 was recorded in the Shoreline Enterprise Fund. Of the total TOT revenue of \$837,000 recorded in both funds, \$239,000 results from the increased rate approved by Measure PP.

Measure NN

Cannabis Add-on Tax revenue totaled \$1,130,000 (totaling \$522,000 in 2019-20) from Blum San Leandro, Harborside San Leandro, and NUG Wellness Center, the permitted dispensaries in the city (the cannabis tax is added to the standard business license fee for retailers). This amount significantly exceeds the 2020-21 budget of \$356,000-reflecting 12-months operations of all three previously permitted cannabis retailers.

As in other communities with permitted cannabis operations, the tax in San Leandro is based on the cannabis dispensaries' annual gross receipts. Given that the specific rates of such taxes vary by jurisdiction, coupled with the rapidly evolving legal and regulatory landscape surrounding the cannabis industry, the ballot measure was structured to provide the City Council with flexibility in the rate that would be applied, up to a maximum of 10% of gross receipts.

Table 3 (Attachment 3) summarizes the 2020-21 revenues received by the City from the voter-approved measures.

- **Use of the tax revenue and the impact on City operating budget. Include statement on impact of the revenue in reducing the amount of cuts resulting from addressing the budget shortfall**

Measures HH and OO, PP, and NN

Measure HH and OO, PP, and NN revenue may be used for any legal, General Fund expenditure by the City. The total General Fund revenue related to the four Measures is \$16,533,000. The total equals 13% of all General Fund revenue in 2020-21.

The significance of the combined revenues from Measures HH and OO, PP, and NN are seen in the context of departmental expenditures including public safety. The total of \$16,533,000 represents 39% of the total Police Department's 2020-21 budget and 62% of the Fire Department budget.

Measure HH indicated passage would sustain 911-emergency response times, neighborhood police patrols, investigation and gang suppression officers, library hours/programs, street and pothole repairs, youth after-school and senior programs, and other general City services. All of these services have been based on approval of all the tax measures.

Chart 1 (Attachment 4) shows a total of 57% of City expenditures are budgeted for public safety in 2020-21. The remaining 43% will fund libraries, parks, community development, general government, infrastructure improvements, and all repairs and maintenance. The total of \$16,533,000 from the tax measures at least doubles all other individual departments' expenditures. In fact, the total combined expenditures for Engineering & Transportation, Community Development, and Library Services nearly matches the \$16,533,000.

- **Impacts of Measure HH on local business competitiveness and the collection of Sales Tax revenues**

Measure HH

The City's sales tax consultants, Avenu Insights & Analysis, report seeing no data indicating any change in consumer behavior (across many clients) based on sales tax rate differences. Sales tax revenue has increased in San Leandro at a greater rate than has the average increase for all cities in Alameda County since the inception of Measure Z. Five other cities in Alameda County have a 9.75% rate: Alameda, Albany, Hayward, Newark, and Union City. The other 9 cities in the County have 9.25% sales tax rates (Sales tax rates increased by 1% county-wide effective July 2021 with Alameda County Measures C and W). General sales tax revenue in San Leandro increased 11% in 2020-21-after decreasing 3% in 2019-20 resulting from the COVID pandemic. Measure HH has no adverse impact.

➤ **Measure HH public information and transparency efforts**

Measures HH and OO, PP, and NN

Measure HH revenue has been highlighted in the City Council's Adopted Budget. In the City Council's Adopted Fiscal Years 2019-20 and 2020-21 Budget Message, it is stated: *Measure HH is approved for a 30-year period and promises to protect and maintain City services. These include 911 emergency response, neighborhood police patrols, anti-gang enforcement, and library programs for children, adults and families. It also supports after-school programs for youth including homework assistance and reading programs, school police officers, and crossing guards. The funds also help fill potholes and maintain residential streets. Projections indicate the City will receive \$11 to 13 million per year from Measure HH.*

In addition, the Budget Message points out: *This year's budget includes revenues that have been previously passed by voters and are now contributing to the fiscal stability of the organization. Revenue from Measure OO assesses a tax to cannabis businesses, Measure PP increased the City's Transient Occupancy Tax (TOT) to 14% on lodging in the City, and Measure NN increased the business license tax on parking lots and warehouses and reduced the tax for small businesses are all contributing factors to the City's revenue stream.*

➤ **Participation in developing revenue sustainability plan and strategy**

Measures HH and OO, PP, and NN

On July 7, 2014, City Council approved ballot language for the November 4, 2014, ballot replacing the Measure Z ordinance that would have expired in 2018 and extended a half-cent rate for 30 years. The basis of this initiative is the provision of services and infrastructure that would deteriorate without additional funding. A voter survey concluded strong support for these efforts as long as they are directed toward the following services:

- Maintaining 9-1-1 emergency response times;
- Maintaining neighborhood patrol officers;
- Maintaining library programs for children, adults & families;
- Enhancing anti-gang and law enforcement efforts;
- Maintaining fire prevention services;
- Repairing potholes/cracks, maintaining residential streets; and
- Maintaining investigation and gang suppression officers

The services listed above have all been maintained or enhanced with the support of Measure HH, OO, PP, and NN. Measure VV was approved by voters in November 2020. This measure was projected to increase annual Property Transfer Tax revenue by \$4,000,000 and increase budget

sustainability.

Attachments

- Attachment 1-Table 1, *Potential Service Reductions Funded Through Measures HH and OO, PP, and NN*
- Attachment 2-Table 2, *Description of Sales and Use Tax Rate: San Leandro*
- Attachment 3-Table 3, *2020-21 Revenue by Line-Item Account, HH and OO, PP, and NN*
- Attachment 4-Chart 1, *Budgeted Expenditures, 2020-21*

PREPARED BY

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