



City of San Leandro

City Hall
835 East 14th Street
San Leandro, California

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4/18/2016	1	City Council	Accepted as Submitted	Pass

Highlights of the Finance Committee Meeting of March 15, 2016

CITY OF SAN LEANDRO

FINANCE COMMITTEE

March 15, 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, Cynthia Battenberg, Community Development Director, Assistant Finance Director Fuentes, Budget/Compliance Manager Perini, Deputy City Manager Engelbart, Business Development Manager Kay, Katie Bowman, Business Development Specialist

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

1.B. Announcements

None

2. DISCUSSION ITEMS

2.A. Minimum Wage Update

Councilmember Lee differentiated between Local and National Businesses and is asking for a recommendation for a policy that will work for all. Local businesses include restaurants, supermarkets and minority owned supermarkets. Local businesses are able to keep costs to a minimum and provide quality goods and services to the community. The employees of these local businesses may earn overtime and benefits however the owners may have a more difficult time in paying higher wages without increasing the cost to the community. National businesses are businesses such as WalMart and McDonalds and have the ability to pay higher wages. Councilmember Lee is recommending to staff to look at a two-tiered approach and have a range that Council will approve.

Councilmember Prola stated that studies have been done that prove that many small businesses are not hurt by increasing the minimum wage. Councilmember Prola stated that the two-tier should be decided on firm size. He would also like to determine what a “small business” is. Councilmember Prola would like to increase a minimum wage to \$12 to begin with in the first year or 20% increase, and in the 2nd year the large businesses can go up to \$15 with the small businesses going up gradually over two years.

Mayor Cutter would like for a survey to be sent out to local businesses within the month regarding minimum wage which should include the question on how increasing the minimum wage could possibly impact their business. The survey will serve as a notification to the businesses as well. Mayor Cutter would also like a report on the various types of business licenses classifications that are within the City, e.g. size of employees and category. Mayor Cutter also made it clear that Council should have direct input.

City Manager Zapata stated that a survey can be done to determine: when the increase would be implemented, if there should be a Consumer Price Index (CPI) adjustment included in Ordinance, sick leave and other benefits to be included and what if any are the exemptions? City Manager Zapata recommends reviewing current Ordinances from cities such as Oakland, Emeryville or Berkeley and using the Ordinance in which Council feels is best, as the basis to construct the survey questions. The other question Mr. Zapata raised was, who will approve the questions and how many languages should the survey be in?

Councilmember Prola stated that other cities implemented a higher minimum wage and were able to adjust with minimal to no impact. They adjust by adjusting prices or other means. Councilmember Prola believes survey is a delay and other cities have not done this. He stated that we cannot answer all questions for all businesses. There are too many people who are suffering in this city and there is a need to increase the minimum wage. Councilmember Prola stated if workers have more to spend they will spend more money in the city.

Councilmember Prola requested that the Finance Committee review the draft Ordinance provided by

City Attorney Pio Roda (based on Berkeley's Ordinance), in which some things were left out and that the Committee plug in the information that meets the needs of San Leandro and come back to the April 5th meeting with the items plugged in.

Councilmember Prola also stated that advising all the citizens should be done at the same time.

Mayor Cutter stated she wants to be thoughtful to all businesses in community and would like to get their involvement and would have a better product. What is the Council's input?

Councilmember Lee firmly believes in two-tier system. Local business hire full-time employees and national businesses do not and therefore can afford to pay more as they are the ones paying minimum wage

Mayor Cutter would like to come back to the next meeting with a sample ordinance and wants to notify businesses so they have an opportunity to speak.

City Manager Zapata confirmed the Committee's request that a minimum wage increase is coming to San Leandro and at this time, there should be public outreach but no survey. Also, staff is to bring a draft ordinance at the April 5, 2016 [meetings have been moved to the 1st Tuesday of the month beginning in April] Finance Committee meeting. At that time something will be recommended to go to Council for their input.

Mayor Cutter stated that there are certain issues that should remain separate e.g. sick leave.

Councilmember Prola requested that the current report be modified to show implementation of the minimum wage to reflect the year and not month.

Public Comments:

Doug Jones suggested the tier be between numbers of employees vs Local/National. McDonalds are franchises and therefore should be treated as a local business and not national. He also stated that local businesses typically focus on expenses but not the revenue, which both will increase. The idea that produce at a local supermarket would increase is not correct as produce companies are not in San Leandro and therefore would not be affected by the minimum wage increase.

A resident of San Leandro and employee of Blue Bird Pizzeria stated that the owner pays \$11-\$13/hour and is able to use quality ingredients. He is able to spend more, eat out more in San Leandro with the better wages he is earning. He is a former employee of Walmart, in which he was making the State minimum wage. He believes that paying more than the current State minimum wage does not affect his current employer's business in negative manner.

Another resident of San Leandro questioned why a person must work overtime to make ends meet. Working overtime cuts into quality family time and people should not have to sacrifice time with family.

Jenny Divish asked that Council continue to consider including a CPI factor to the minimum wage ordinance so that in a couple of years, we are not in the same situation.

Jim Kelly, resident, stated it is not just about business, it's also about the workers. The benefits of

raising the minimum wage must be looked at and believes that it is a myth that business will suffer.

Pedro Salvador Sanchez (via translator) also stated he supports the increase to the minimum wage. Mr. Sanchez was forced to work many hours, at the State's minimum wage level. As the cost of living increase, his wage would not.

Augustine Rivera stated the ability to work overtime should not be a requirement to support your family. We work to live and we do not live to work. All of us need an opportunity to live. Mr. Rivera strongly supports an increase to minimum wage. Small businesses need to realize that if the worker has more money to spend, they will.

Guillermo [...] strongly supports for the \$15 minimum wage and asks all elected officials fulfill their promise to increase the minimum wage. He stated that unless business owners are forced to pay more, they won't. Guillermo also strongly denounced the two-tiered system. Oakland has allowed for non-profits such as Goodwill to be exempted. The exemption will allow companies like Goodwill to use the disabilities of people like his son to benefit by not having to pay higher minimum wage.

2.B. Discussion of Potential Local Revenue Measure for the November 2016 Ballot - Medical Cannabis

Eric Engelbart stated that City Council approved the first marijuana dispensary in September 2015 and is now considering a second dispensary. Currently, the City of San Leandro does not have a cannabis tax, which requires voter approval. Mr. Engelbart is asking that the Finance Committee instruct staff to begin the process to add on November ballot. Staff would need to know what rate should be. Mr. Engelbart provided samples of jurisdictions that have the tax. Voters in both San Jose and Santa Cruz passed ballot measures that approved a tax rate of up to 10%. Although both cities have the ability to charge a tax rate of 10%, they chose a lower rate of 7%. As with measure HH, staff will hire a pollster to survey the citizens. A cultivation urgency moratorium was passed. Would Council want to consider other cannabis related business, e.g. cultivation, and bakeries?

Councilmember Prola approves taking a cannabis tax measure to the voters in November.

Councilmember Lee is in favor of tax but has concerns for low income, senior citizens, and those on a fixed income (disability) that have a medical need. Prior to approving cultivation of marijuana, Councilmember Lee is asking for more information as he does not know enough to make a decision. There needs to be further education on the matter.

Mayor Cutter approves tax and agrees with polling the community. Mayor Cutter would like ensure that there is a basis to provide service for low income, fixed income, and senior citizens and wants to know if you those factors can be included in the tax rate. Mayor Cutter instructed staff to come back with a time line and have a survey. Would this require a 2/3 vote or a 50% + 1? Mayor Cutter would like the funds to go to the General Fund and have Council designate where funds should be spent.

Councilmember Prola agrees with 50%+1. Does not believe a survey is necessary. He does not believe that there was a problem with the tax passing in any other City, other than Riverside. He does favor the flexibility of the rate and suggested having a sliding scale. As sales increase and the dispensary is making more revenue, increase the rate.

Rich stated 50%+1 is most common. Jurisdictions have adopted a lower % for medical and should

the State pass the Recreation use of marijuana the City can consider implementing a higher tax rate for recreational use. Oakland has done this as well as Sacramento; 7% for medical and 10% for recreational.

Councilmember Lee supports the 10% maximum rate. What's important is giving dispensary time to adjust. If we oppose a rate, it will have to the following year. If we impose now, it will be difficult.

Mayor Cutter asked Mr. Engelbart, if the City were to impose a tax of 5%, would the dispensary that was approved by Council be allowed to sell both marijuana for both medical and recreational purposes, (question was hypothetical).

City Attorney Pio Roda stated if recreation marijuana would be allowed, there would need to be an amendment to the ordinance.

Mr. Engelbart stated that a cannabis related tax and does not have to specify; the tax difference (5% for medical and 10% for recreational), it will depend on how ordinance is structured. It would be a local controlled issue. San Leandro has approved Harborside to be the dispensary and should they chose to sell marijuana for recreational purposes, Harborside will have to come back to the City and ask for permission.

Mayor Cutter confirmed that the City maintains control of who may or may not open up a dispensary. City Attorney Pio Roda confirmed.

Councilmember Prola stated that Harborside's agreed to designate 4% of gross funds to community benefits fund as well as donate additional 1% gross receipts of 10% net income. Councilmember Prola stated the rate should state up to 10% because he feels if we designate in the ballot measure, it may force some people to vote against it and should the future council wish to change it, they can change it.

Rich wants Harborside to comply with current approval and not with tax. And there is a condition that states if tax is approved the designated contribution amounts would go away.

Mayor Cutter - said her understanding is that Harborside will be opening soon and that would give us 5 months to see how much revenue is coming in and would help in deciding what the tax rate would be imposed at. Which would the City benefit more from? The contributions or the tax rate

Community Development Director Battenberg stated her department just received Harborside's application and the earliest it will open may be September 2016.

City Attorney stated, should the City Council incline, the definition of cannabis related business to include cultivation to keep options open.

City Manager Zapata recommends staff do a poll, which would cost is \$25k; ask to see if the 2/3 makes sense and if to see if Community would like the funds to be designated. Godbe would be the person in charge of constructing the poll

Lee is supportive if it does not delay putting on ballot

Mayor Cutter asked where the funds for the research poll would come from.

City Attorney Pio Roda stated that the money used for the research is not in advance of a ballot because it has not qualified by Council to be on and therefore the City may use general funds.

Mayor Cutter inquired on how much it would cost to put on ballot.

Mr. Engelbart stated it is about \$15k and that is based on the amount spent on Measure HH.

2.C. Discussion of Potential Local Revenue Measure for the November 2016 Ballot - Transient Occupancy Tax (TOT)

Finance Director Baum provided a summary benefits to increasing the Transient Occupancy Tax. The recommendation is to increase from 10% to 12%. The 10% has been in place since 1994. Current the revenue is \$540k, less than 1% of general fund revenue. Due to the lack of available of hotel rooms and the increased of strength of economy, the time is right to increase. There are three other cities in Alameda County have higher than 10% tax rate; Oakland is 14% and both Emeryville and Berkeley are at 12%. Most cities in states of 10% or less but 91 cities have more. Oakland increased in 2009; they 70% yes vote and assigned revenue to arts and culture and education.

City Manager Zapata stated the main factor is location and that we are between airports and recommends the increase.

Councilmember Lee also supports the increase however asked, why only 12% and not 14%, and does this include Air BNB?

Director Baum stated, no this would not include Air BNBs; there are very few in the city, perhaps 50.

City Manager Zapata we could equalize ourselves with Oakland and raise to 14%

Councilmember Prola supports increase and stated we could start off at 12% and request 14% later.

Mayor Cutter supports the increase but would like to stay with 12%

City Manager Zapata stated we could request a range, 12% up to 14%

Councilmember Lee supports the range as it will benefit the City

Director Baum stated the increase of 12% would add approximately \$100k of revenue and an increase of 14% would be approximately \$200k.

City Manager Zapata will ask staff to begin working on this and bring to Council at a future date.

Mayor Cutter expressed concern that there may be too many taxes on the November ballot. The Cannabis Tax is a necessity and is worth placing on the ballot. She wants to make sure there is a benefit to the City and not anger the voters so they don't vote for anything. Mayor Cutter wants to make sure the citizens know this is not a tax to residents but to a service. Mayor Cutter will support the decision of the Council.

2.D. Business License Tax Adjustment

Community Development Director Battenberg considered challenges with business license and its alignment with economic development goals. Staff recommends decreasing the business license tax of small business and increasing the business license tax of warehouses.

Also, Economic Development worked with Finance to see where business license tax has been over collecting as well as under-collecting. Upon review it appears as though parking lots is an area where we are under-collecting. The City of San Leandro has one airport parking lot, Espresso. Although several years ago, the City increased the parking lot rates to \$37.52/space, and it increased revenue up to \$71k, the City of Oakland charges 18%. Espresso parking has approximately 1900 spaces there is an opportunity increasing fee to a % of gross receipts. If the tax was amended to charge 10% of gross receipts, the revenue can increase around \$500k and if we increase to 15%, the revenue can be \$750k. The Tech Campus will also have parking available for a fee of \$2/space/day to BART riders. It would not be reasonable to charge the Tech Campus \$37.52/space. Therefore amending the tax to a % of gross receipts would be equitable for all parking lots.

Councilmember Lee would like to understand the data from parking lots in Oakland. If we shift the cost closer to Oakland, they will park in Oakland. What is the optimal number?

Councilmember Prola knows people that park at Espresso because it is much cheaper. If we go up to 10% gross receipts, it is still cheaper and it's not any further.

Mayor Cutter agrees parking needs to be equitable. There was a question as to the charge to BART and Director Battenberg stated that BART is not subject to our tax as they are a public entity and they own their own land.

City Manager Zapata stated that Measure HH is to maintain existing services. These other taxes are proposed to look at expanding services. Looking at the future shoreline development without appropriate revenue we will have to look at general fund. City Manager Zapata stated staff is looking for guidance on the tax measures and expressed the need to increase revenue for future projects.

Economic Development Manager Kay stated that increasing the tax rates is revenue positive but it is also aligning policy. He sees an opportunity to give a break to small business. Staff proposes that we remove the per employee charge for businesses with 3 or fewer employees and only charge base fee. Warehouses are huge facility. Staff is proposing to switch to a per square foot like we do with commercial rental business. Charging \$100/1000 square ft. will generate about \$300k and potential add \$200k if we add distribution to the fees. It would be shifting the burden from small businesses and adding accountability to businesses that have trucks on the street.

Mayor Cutter asked if there could be a potential problem by stating some businesses pay less because of the square footage, as is what happened with the school district that was going to charge a house one fee and an apartment another fee.

City Attorney Pio Roda could not comment at this time.

Mr. Kay stated that the City currently charges different rates, e.g. parking lots pay per space

Councilmember Lee also supports the change. Questioned if a small business that had 3 employees that are family members, are they included. Budget & Compliance Manager Perini stated yes they

are included.

Councilmember Prola supports change.

City Manager Zapata stated this call also be part of the poll.

Mayor Cutter again stated she wants to make certain the citizens are aware that this is not a tax to all.

3. PUBLIC COMMENTS

None.

4. COMMITTEE MEMBER COMMENTS

None.

5. ADJOURN

The meeting was adjourned at 6:36 p.m.