



## Legislation Text

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### Staff Report for Overview of Potential November 2018 Public Safety Parcel Tax Measure

#### **BACKGROUND**

In November 2010, San Leandro voters authorized Measure Z, a local ¼-cent general sales tax revenue measure that was designed to temporarily stabilize the City budget in the midst of the Great Recession. Measure Z provided a reliable, voter-approved funding source for public safety and other essential City services for seven years. As Measure Z approached expiration, San Leandro voters authorized its extension at a half-cent rate for 30 years through passage of Measure HH in November 2014. The stated purpose of Measure HH was to preserve current City service levels for a range of public services, including public safety and anti-gang programs, library programs, services for children and youth, as well as various other general City programs and services. In conjunction with Alameda County Measure BB, Measure HH also provides significant financial support towards the City's ongoing street and road repair efforts.

While Measure HH has enabled the City to maintain existing service levels, the City continues to face a growing backlog of new and emerging needs that may not be sufficiently addressed through existing revenue sources. Such needs include major renovations to aging public safety infrastructure (e.g. police and fire protection facilities), deteriorating playground and park equipment in need of replacement, human services challenges related to the homeless and other at-risk and low-income community members, and community interest in enhanced artistic and cultural amenities.

Although local sales tax receipts in recent years have been robust, sales tax is an inherently volatile source of revenue that will generally rise and fall in direct correlation with broader regional economic cycles. Should the economy slow down or contract in future years, the City's revenue base could similarly face steep declines, thereby causing the need for future budget cuts and associated disruptions in service levels. A diversified revenue base is essential to maintain the sustainability of the City's budget.

As a result of the above factors, and in an effort to further diversify the City's revenue base while supporting new services, in November 2016, San Leandro voters authorized the following three general purpose revenue measures:

- 1) Measure NN: A cannabis business tax of up to 10% of gross receipts (currently set by the City Council at 6% of gross receipts);
- 2) Measure OO: A modified business license tax that reduced fees for small businesses, while charging up to 10% of gross receipts for parking lots, and also charging \$100 per 1,000 square feet of real property that is used for warehouse businesses; and

3) Measure PP: A modified transient occupancy tax of up to 14%.

As outlined at the April 9, 2018 City Council work session, the City continues to face a long-term structural deficit that is largely a function of legacy retirement benefit obligations over which it has minimal direct control. Although the City has launched various initiatives to contain costs, including the Prioritization of Unfunded Liability Liquidation (PULL) program as well as the recent launch of the Cost and Revenue Efficiency (CARE) Team, it is unlikely that the City's longer term financial challenges can be surmounted in the absence of some combination of ongoing expenditure reductions coupled with new sources of revenue.

In addition to the City's long-term operating deficit, the City also faces a number of emerging needs in the realm of public safety services. For example, a number of the City's existing fire stations were constructed many decades ago and are in need of significant capital improvements and structural repairs in order to bring them up to modern standards. The City's public safety building is also in need of significant repairs and upgrades. Although \$9 million has been appropriated in the adopted Capital Improvement Program budget for modernizing this facility, it is conceivable that actual costs could exceed estimates due to the current highly-competitive bidding environment. There also remains over \$650,000 in funding needs for new fire department vehicles and medical equipment that have been deferred from the current year budget that the City will need to purchase within approximately two years. Due to recent changes in the First Responder Advanced Life Support (FRALS) contract that is administered at the County level, the City also faces about \$350,000 in new ongoing costs towards ambulance services. Finally, the City needs to identify approximately \$400,000 towards the cost of new radios for the Police Department to achieve compliance with the requirements of the East Bay Regional Communications System Authority.

In addition to the above existing needs that have been identified to support current service levels, there has been a desire expressed by some members of the City Council and the community to explore increased staffing levels in the Police Department. The local fire fighters' union has also highlighted a desire to explore adding a fourth crew member on some or all of the local fire companies that serve San Leandro. Based on current projections, it is estimated that each additional Police Officer costs the City an average of \$270,000 when accounting for fully-loaded salary, benefits and retirement costs, and adding an additional crew member to *each* fire or engine company could cost approximately \$1 million per year (the City currently maintains 5 fire engines and 2 ladder trucks).

Based on these factors, at the April 2, 2018 City Council meeting, the City Council directed city staff to return with an analysis of the tasks that would be necessary to bring forward for voter consideration a potential public safety parcel tax as part of the upcoming November 2018 ballot.

It is also important to note that given the current budgetary environment, expanded staffing for either the Police or Fire Department is not feasible absent new ongoing funding or significant cuts to other City services. Furthermore, even if a new parcel tax measure were to include an annual cost of living adjustment, it is unlikely that annual increases in revenues from such a tax would keep pace with the currently forecasted annual increases in public safety pension and retirement benefits costs that would be associated with any new staffing. For both police and fire, personnel costs are certain to see substantial increases over the next several years.

## **Overview of Potential Public Safety Parcel Tax & Steps Involved in Placing it on the November 2018 Ballot**

Under the California Constitution, any proposed special parcel tax requires a two-thirds (2/3) affirmative vote of the electorate in order to pass, which is a significant threshold that requires public support across a broad cross-section of the local electorate. Such a parcel tax is not an ad valorem (value-based) property tax, but rather, is an excise tax levied on the availability and use of a particular public service. Therefore, a property's value may not be a factor in determining the amount of the tax that the property will pay. Furthermore, the revenues raised by the tax would be dedicated towards specific purposes, such as police and fire services and capital, tracked in a designated account that is separate and discrete from General Fund revenues.

Parcel taxes may also be structured such that the City has the option to concurrently adopt general administrative guidelines in the measure that would allow for potential discounts for certain at-risk populations such as residential properties owned by lower-income seniors or the disabled. In addition, state law allows for modified rates for certain parcels based on their anticipated use of the particular public services that would be funded by the tax. Therefore, the tax rate could vary based on parcel size, or the specific use of the parcel. For example, different rates could be applied to commercial properties, mixed-use properties, or vacant land. In addition, parcel taxes typically include a sunset date, which would stipulate an end date for the tax that could only be extended through a subsequent vote by the electorate. Therefore, before placing such a measure on the ballot, it would be important for the City to fully evaluate a wide range of potential tax structures, rates, sunset provisions and the associated revenues derived from each option so that the City Council would be able to make an informed decision about how to structure the proposed measure.

### **Potential On-Going Revenue:**

Based on an analysis of readily accessible parcel tax data, staff estimates that a potential parcel tax could be structured to generate between \$3 million to \$6 million annually. This very preliminary estimate is based on the estimates of existing parcel tax data that was derived from 2010 census data. Nevertheless, given the inherent complexity of parcel taxes and the technical expertise necessary to fully evaluate them, it would be crucial for the City to retain the assistance of a financial consultant in advance of placing such a measure on the ballot.

### **Steps involved in Bringing Forward a Successful Revenue Measure**

As outlined above, parcel taxes by nature are significantly more complicated than sales tax measures, and are more challenging to pass due to the two-thirds super-majority threshold. As a matter of best practice under optimal circumstances, the process of fully exploring a new tax measure would commence at least one year prior to the targeted election date, similar to the approach that was executed in advance of Measure HH, the City's ½-cent sales tax that was adopted by voters in November 2014. Such a timeline is recommended so that the viability of the measure may be fully evaluated and explored. A number of important related steps that would typically be completed and in advance of ballot placement include:

- Identifying and hiring a public affairs consultant to guide development of the measure and related procedures and outreach efforts

- Identifying and hiring a financial consultant to analyze various parcel tax structures and the anticipated revenues that could be derived from each
- Hiring a public opinion research company (a.k.a. a pollster) to develop and execute a telephonic and online survey of likely voters in order to gauge potential public support for the tax measure at a range of rates and durations, as well as to identify related funding priorities
- Development and distribution of informational materials and public outreach efforts, e.g. town hall meetings, opportunities for public feedback and identification of concerns, etc.
- Development of a draft spending plan and budget priorities list that would be used to guide the expenditure of any funds that are derived from the measure
- Development of staff report, ballot language, draft resolution and ordinance placing the measure on the ballot, along with the City Attorney's analysis
- Opportunities for input and guidance from the Mayor and City Council or City Council Committees (if time allows) as key milestones are approaching

Furthermore, in order to meet the deadlines established by the Alameda County Registrar of Voters, the City would need to complete all of the above steps and the City Council would need to formally adopt a resolution and ordinance placing such a tax measure by August 2018. As a practical matter since the City Council typically does not meet in August, all of these steps would need to be completed no later than the last City Council meeting in July 2018, i.e. within approximately the next two and one-half months.

Additionally, per State law, City resources and staff time associated with such an endeavor would be limited to providing only factual, non-partisan information about the measure, and could not be used to advocate for public support for the measure.

Furthermore, given that the measure would require a two-thirds super-majority vote of the electorate to secure passage, it would be most likely to pass if a robust campaign infrastructure were in place that would be able to provide resources, volunteers, and significant funding in order to advocate for the measure's passage. The City could not play a role in the advocacy efforts; however, the City Council may wish to consider whether or not there are existing advocates in the community who could improve the likelihood of a potential measure passing.

Other related factors that could impact whether the City Council wants to place this tax measure on the ballot could include:

- Whether or not the City Council is unified in its support for the measure
- Whether or not there are any other competing tax measures on the same ballot
- Public perceptions that the City has done all it can to live within its means and address budget shortfalls in advance of seeking additional revenue
- How well the identified funding priorities align with public sentiment
- Whether voters understand the complexities and nuances of the proposed tax structure

It should also be noted that the City previously pursued a similar public safety parcel tax measure as part of the November 2004 ballot, known as Measure DD. The measure ultimately garnered 50.5% support, and therefore failed to surpass the two-thirds threshold that would have been necessary for

success.

The 2004 tax measure was structured as follows, with a 5.5 year sunset provision:

Commercial/Industrial:	\$16.00 per 1,000 square feet of parcel area
Residential-Single family homes/townhomes/condos:	\$78.00 per parcel
Residential-Multi-Family/Mobile home properties:	\$46.80 per unit
Unimproved:	\$4.00 per thousand square feet of parcel area
Non-profit education/Places of worship:	\$13.00 per thousand square feet of parcel area
Exempt:	\$0.00

The 2004 measure also contained a provision offering a 40% discount to low-income seniors aged 65 and over, based upon a codified index, such as PG&E's CARE program to determine eligibility. The measure also would have allowed for annual inflation adjustments based upon the regional Consumer Price Index (CPI). If the measure had been successful, it was forecast to generate approximately \$3.5 million annually. A summary of this unsuccessful measure is attached.

### **Estimated City Costs Associated with Above efforts**

Given the inherent complexity and technical expertise associated with the development of a parcel tax, if the City Council seeks to proceed further, staff would strongly recommend retaining a financial services consultant to assist in developing an analysis of various parcel tax rates and durations in advance of conducting a public opinion survey. Based on initial dialogue with one such consultant, it is estimated that such an analysis could cost \$10,000 to \$15,000.

Hiring a public opinion research company to test potential voter support for such a measure at a range of different rates and sunset provisions would also be required. Based upon costs associated with such a voter survey in advance of Measures HH and OO, PP, & NN, the cost for such a poll could range anywhere between \$35,000-\$45,000, depending on the number of questions asked and the number of languages in which the survey questions would be translated.

In addition, similar to the procedures implemented for Measures HH, OO, PP, and NN over the last two election cycles, staff would also recommend the retention of a public affairs consultant to assist in coordinating all of these efforts, as well as developing factual public outreach materials and other associated work in advance of ballot placement. Such assistance typically costs in the order of up to \$7,000 per month.

Lastly, based on prior elections, it is anticipated that the election costs associated with adding a parcel tax to the ballot could result in at least an additional \$50,000 in charges from the Registrar of Voters. The majority of these charges are associated with printing and translation costs for the various components of the measure, including the measure text, arguments for and against, and rebuttals to the arguments for and against.

### **Summary of Potential One-Time Budget Impacts Associated with Ballot Placement:**

Public Affairs Consultant (based on 7,000/month):	\$28,000
Financial Consulting Assistance (\$300/hour):	\$10,000
Public Opinion Survey:	\$45,000
Election Costs:	\$50,000

Estimated Total:

\$133,000

## **SUMMARY AND RECOMMENDATIONS**

Although it may be technically feasible to complete all of the procedural steps necessary to bring forward a parcel tax measure for consideration by the voters as part of the November 2018 ballot, staff has serious concerns regarding the amount of time that remains available to conduct a sufficient and credible level of analysis and public outreach that would be necessary in advance of ballot placement.

Furthermore, it remains unknown what other competing measures may appear on the same ballot, and it is unclear whether an unsuccessful attempt at the ballot could negatively impact the prospects for future funding requests from the electorate. Nevertheless, staff is prepared to prioritize moving forward with such an endeavor if so directed by the City Council.

Finally, the City Council and the community have not yet had an opportunity to engage in the discussions required to assess needed and desired staffing levels for public safety services relative to available funding. For example, a recent Standards of Coverage Review conducted by Citygate Associates found that current staffing is generally sufficient to meet response time standards. The Council will need to consider the propriety of adding safety staffing given the significant increases in salary and benefit costs anticipated in the near future. It may also wish to consider technology and potential “force multipliers” that may be available to address safety needs at lower costs. Once desired staffing levels were determined, it would be prudent to establish priorities for expenditure of potential revenues between police and fire, staffing and capital, and future service expansion vs. unfunded legacy obligations. Should the Council ultimately move forward with a public safety parcel tax - either now or in the future - all of these factors should be considered in a plan for expenditure of the new revenues.

## **Attachment(s) to Staff Report**

- Summary of San Leandro Measure DD (2004)

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