



CITY OF SAN PABLO
City of New Directions

REQUEST FOR COUNCIL ACTION

PREPARED BY: City Manager


DATE OF MEETING: 2/21/2012

DATE: February 15, 2012

PHONE: 215-3012

SUBJECT: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO CALLING FOR AND GIVING NOTICE OF A JUNE 5, 2012 ELECTION ON A PROPOSED BALLOT MEASURE SEEKING VOTER APPROVAL OF A ONE-HALF OF ONE PERCENT (0.5%) TRANSACTIONS AND USE (SALES) TAX FOR FIVE YEARS, REDUCING TO ONE-QUARTER OF ONE PERCENT (0.25%) FOR THE NEXT FIVE YEARS, THEN TERMINATING ALTOGETHER, TO FUND GENERAL MUNICIPAL SERVICES, ESTABLISHING THE POLICIES AND PROCEDURES FOR SUCH AN ELECTION AND REQUESTING THAT THE COUNTY OF CONTRA COSTA CONDUCT SUCH AN ELECTION

APPROVED:


DEPARTMENT HEAD

CITY MANAGER


CITY ATTORNEY

RECOMMENDED ACTION

1. Adopt resolution by unanimous vote. By passage of this resolution, the City Council declares the existence of an emergency, necessitating a special election on June 5, 2012, at which time the voters will be asked to approve a temporary sales tax increase of ½ cent, reducing to ¼ cent after 5 years, then terminating altogether, with mandatory auditing, citizens' oversight, and consistent community reporting. This tax is a general tax, funding general municipal services, and requiring a simple majority vote.
2. Designate two Councilmembers to author the ballot argument in favor of the measure. The designation will be inserted into the adopted resolution.
3. Move to receive and file the 2011 Needs Survey Report presented by Strategic Research Institute, Inc, and post on the City's website.

BACKGROUND

In its 2011-13 Council Priority Work Plan the City Council directed staff to investigate the possibilities for a sales tax funding mechanism. Staff retained the firm of Strategic

Departmental Coordination

Comm. Services KOW

Police WJ

Finance BIWALD

Public Works JA

Research Institute to conduct a benchmark survey in August, 2010 and November, 2011, which indicated that the community looked favorably towards such a measure. On July 1, 2011, the sales tax rate in Contra Costa County was reduced from 9.25% to its present 8.25%. This is composed of the basic statewide sales tax rate of 7.25% imposed under the Bradley-Burns Uniform Sales and Use Tax Law, plus the following "district taxes" imposed locally under the Transactions and Use Tax Law: 0.50% to the Contra Costa Transportation Authority (CCTA), and 0.50% to the Bay Area Rapid Transit District (BART).

In California there are approximately 100 cities and counties with local sales tax measures, and many more special districts and counties. In fact, 90% of the State's population resides in at least one district that has a local sales tax (transactions and use tax). Several cities in West Contra Costa County impose additional transactions and use (sales) taxes. This additional tax revenue stays in each city, and cannot be taken by the County or State. Richmond has a ½ cent tax, imposed in 2005. Pinole has a ½ cent tax, imposed in 2007. El Cerrito has two separate ½ cent taxes, imposed in 2008 and 2011. The most recent Contra Costa city to vote approval was Concord, whose electorate approved a ½ cent tax increase in 2010.

As explained in more detail below, sales tax is paid by purchasers of retail taxable goods from businesses located in San Pablo. Thus, the tax is imposed on purchasers of goods, whether San Pablo residents or not. In this way the tax burden is not imposed exclusively on San Pablo residents. Local sales tax measures have enjoyed recent popularity because the cost increment is low, it is not a property-based tax, out-of-town visitors share in the cost, and the sales tax is not applied to groceries or prescription medication.

BALLOT MEASURE LANGUAGE

The attached resolution proposes to place on the June ballot an ordinance that would implement a temporary local sales tax (transactions and use tax), in the amount of ½ cent for five years, reducing to ¼ cent for the next five years, then terminating altogether. Adoption of this increase to the local sales tax rate for general municipal services requires a majority vote of the electorate (50% plus one). In order to place this measure on the June ballot, the City Council must determine by unanimous vote that an emergency situation requires it. The question to be placed before the voters is:

"To provide funding that cannot be seized by the State, but will stay in San Pablo for such things as Public Safety, gang prevention, youth services, job creation and job training programs for local residents (including the disenfranchised) and all other general city services, shall San Pablo enact a temporary half-cent sales tax for 5 years, reduced to one-quarter cent for 5 years, then terminated altogether, with citizens' oversight, mandatory audits, and consistent community reporting?"

Because the measure makes clear that the revenue may be used for all general municipal services, and is not restricted to any particular purposes, it is a general tax and will require

the approval of a majority of qualified electors casting votes. Pursuant to Article XIII C, Section 2(b) of the California Constitution, increases in general taxes must be submitted to the voters at a regularly scheduled general election, except in cases of emergency declared by a unanimous vote of the City Council. Therefore, the Resolution, including the submission of the proposed Ordinance (attached as Exhibit A) must be approved by a unanimous vote of the City Council.

OVERSIGHT, AUDITING AND REPORTING

Mandatory Auditing. The ordinance provides that by the end of each fiscal year, the city's independent auditors shall complete a report reviewing the collection, management and expenditure of revenue from the tax.

Citizens' Oversight. Additionally, the ordinance requires the formation of a five-member committee to review and report on the receipt of revenue and expenditure of funds from the tax authorized by this chapter. The committee members shall be either San Pablo residents or representatives of San Pablo businesses. Within 90 days after the election, the City Council will establish the composition of the committee, set the terms of office, and define the scope of the committee's responsibilities, which at a minimum shall include reviewing the annual auditor's report and making recommendations to the City Council for use of the tax revenue. The committee's report and recommendations shall be completed by a date to allow for it to be considered as part of the annual budget process.

Reporting. The committee's report and recommendations shall be a matter of public record and shall be considered by the City Council at a public meeting.

ANALYSIS OF TRANSACTIONS AND USE (SALES) TAX

Although referred to as a "local sales tax" throughout this staff report, this revenue source is formally known as a "transactions and use tax" in State law. A transaction and use tax is imposed on the same goods and merchandise as sales tax; however, a sales tax (formally known in State law as a Bradley Burns sales and use tax) is allocated to the jurisdiction where the sale is negotiated or the order for the sale is taken. A transactions and use tax, on the other hand, is allocated to the City where the goods are delivered or placed into use. Merchandise purchased in a "walk-in" retail store is assumed by the state to be used within the city in which the store is located, unless the retailer is asked to ship the merchandise outside the city as part of the sale or it is a motor vehicle that can be driven away. For sales contracts that require shipment of merchandise, the local sales tax (transactions and use tax) is levied for the city to where the merchandise is shipped. A similar situation exists with vehicles that require registration: the local sales tax (transactions and use tax) of the city in which the vehicle is registered applies, regardless of where it was purchased.

If this local revenue measure passes, San Pablo will enter into two contracts with the State: the first to set up the tax and the second for ongoing administration. The tax will not be

operative until the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance at the election. This means that a tax passed on June 5, 2012, would not be imposed and collected until the beginning of the last quarter of the year on October 1, 2012.

Staff considered three potential types of tax measures to bring in necessary revenue: a temporary sales tax, an increase in the utility user's tax, or a parcel tax. For the following reasons, staff considers a temporary sales tax as the best approach:

Participant Diversity:

Sales tax is paid on a wide variety of goods, excluding (primarily) groceries and medicine. It is therefore a highly diversified source of revenue. A sales tax would be paid by a wide variety of individuals, including residents, local businesses, and workers in the City, and individuals from outside the City who purchase taxable goods in the City. Sales tax on motor vehicle purchases would be paid only by individuals registering the vehicle in San Pablo, regardless of where the vehicle was purchased. The sales tax would be paid by the highest number of payers relative to other revenue options such as a parcel tax or increase in the utility user's tax, and therefore has the most participant diversity of the three options.

Impact on Low/Fixed Income:

A sales tax increase would be paid only by purchasers of taxable goods in San Pablo. Because low income and fixed income individuals spend a large proportion of their incomes on non-taxable goods and services, a sales tax increase would not have a significant impact on these individuals. Further, many purchases subject to sales tax are discretionary purchases, allowing low and fixed income individuals to minimize the impact of the new tax.

Impact on Business Community:

A sales tax increase would have a low impact on the business community, as the tax would be paid by purchasers of taxable goods rather than the business itself. Most office and service businesses would see little impact except for their own purchases of taxable goods in San Pablo. Anecdotal data from other California counties where city sales tax measures have been adopted indicates these measures had virtually no impact on the retail sales volumes in those cities, when comparing periods prior to and after adoption of a sales tax.

Impact on Residential Community:

A sales tax would have a medium to low impact on residents. It would apply only to taxable purchases and not to mortgage, other debt payments, utilities, services, medicine and most grocery purchases, which make up the majority of resident spending. Individuals purchasing a vehicle that is registered in San Pablo would pay the increased tax, regardless of whether the vehicle was purchased in San Pablo or another city.

ELECTION PROCEDURES

Submission of Ballot Arguments

Arguments for or against the measure must be submitted by 5:00 p.m. on March 9, 2012. Arguments may not exceed three hundred (300) words, and cannot be signed by more than five (5) persons. The City Council has determined in the past not to adopt the provisions of Elections Code Section 9285(a) allowing for rebuttal arguments.

Council Preparation of Argument In Support of Measure

Under Elections Code section 9282, a ballot argument on this city council-sponsored measure may be authored by the city council, or any members of the council authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations. The attached resolution proposes that the City Council designate two of its members to author the ballot argument in support of the measure. The argument may not exceed three hundred (300) words. Those two members may solicit up to three additional signatories.

Impartial Analysis

The City Attorney will prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit the impartial analysis to the Elections Division by March 9, 2012.

Roles and Limitations During Ballot Measure Campaign Period

The City can provide educational materials to the public, informing them about the Measure. But the City cannot expend any time, money or effort advocating a position supporting passage of the ballot measure. Council members and staff can work on the campaign on their own time and at their own expense, provided it is made clear that they are doing so on their own time and not with City resources.

EMERGENCY FINDINGS

As stated above, normally a general tax measure would have to go on the November ballot. The City Council, however, can determine by unanimous vote that an emergency exists. Section 14 of the attached resolution sets forth the City Council's emergency findings in detail, and such findings are hereby incorporated into this staff report by reference as though fully set forth herein.

In brief, given the urgency of the City's budget problem, it is clear that achieving a successful result in June will be essential if the City is to avoid devastating cuts to City programs and services in the next year. Staffing levels need to be maintained to continue to bring the crime rate down to a reasonable level. In addition, staffing levels need to remain constant or increased to investigate serious crimes such as homicides and the sophisticated gangs/drug traffickers that are prevalent in San Pablo. The imminent

reductions to the City's general fund place all this at great risk.

San Pablo already suffers more than most due to the national economic recession, high unemployment and poverty rates, and stark declines in housing prices, causing a great number of foreclosures with the resultant detriment to the community. The City's youth services program and police services are losing funds due to the expiration of various grants. The Supreme Court's decision in the *Matosantos* case means that the city's Redevelopment Agency has been dissolved and its assets will be distributed back to the State. This includes the fair market value of approximately \$19 million of the City's signature redevelopment project, the Circle S project on San Pablo Avenue. Transfers of funds from the Agency to the City's capital improvement program and Economic Development Corporation are at risk due to the provisions of AB1x26. The City's ability to fight blight, improve business opportunities and renovate housing stock has been dealt a huge blow.

CONCLUSION

In summary, the City has already taken serious, significant steps to reduce its spending, recently closing a \$3.3 million dollar budget deficit through a combination of departmental cuts, retirements, PERS/healthcare concessions and service cuts. The City has laid off employees and furloughed most of the workforce over the holiday season. This sales tax measure is proposed as the least onerous, of several possibilities, to raise funds for essential city services.

The temporary sales tax is the preferred option for a limited duration, emergency revenue measure. The sales tax would be a highly diversified revenue source and would be paid by many users of City services, both resident and non-resident. It would have the least negative impact on low and fixed-income households, a low impact on businesses, and a low to moderate impact on residents in general. Additionally, all funds from a local sales tax measure are required to stay in San Pablo, providing a relatively stable source of funding to help maintain local services; no funds can be taken by Sacramento. The sales tax ordinance will require stringent fiscal accountability measures, including citizens' oversight, mandatory financial audits, and yearly reports to the community to ensure the funds are spent appropriately.

FISCAL IMPACT

As sales tax is paid only on the purchase of taxable goods from businesses in San Pablo, this revenue would fluctuate in response to changes in the local, state and national economy, as well as the relocation of retailers into and out of the City's boundaries. As the economy continues to fluctuate, the City would see both positive and negative variations in this revenue source. However, the Finance Department currently estimates that a one-half cent sales tax would raise approximately \$789,000 per year to the general fund.

The County has estimated that the cost for placing this measure on the June ballot will be \$2.75 per registered voter. San Pablo has 7,655 registered voters, for a total estimated cost of \$21,051.25. The actual cost per voter is dependent on the number of other jurisdictions on each ballot type within the district. The actual cost may be significantly more or less than this estimate, and will depend on supply and paper costs, fuel costs, labor costs and the number of jurisdictions consolidating with the election. The elections official will bill the city for the actual costs of the election conducted or a pro rata share of the actual costs if the election is consolidated.

s/cclk/cafs/2012Election/CAF 2012SalesTaxReso

**THIS PAGE
INTENTIONALLY
LEFT BLANK**