

Recommendation to Consider Ballot Measure Options and Advise Staff on Next Steps.
(Finance 2410)

To: Honorable Mayor and Members of the City Council

From: Elizabeth D. Warmerdam, Interim City Manager

Re: Consider Preliminary Ballot Measure Options and Advise Staff on Next Steps

BACKGROUND

During the City's budget workshops held in Spring 2015, the City Council and staff discussed the City's long-term fiscal health and ways to ensure our budget is structurally balanced. In the short term, because of an improved economy and in particular the sale of new homes, the City has seen a significant surplus based on one time events. However, we know that there are more fundamental issues related to the overall increase in the cost of living in the Bay Area, the Public Employees Retirement System (PERS) smoothing effect, and the increase in the cost of Health Care that are impacting our ability to stay ahead of the fiscal curve.

In addition to these challenges, staff identified in the Fiscal Year (FY) 2015-2017 Capital Improvement Program (CIP) Budget areas of concern including deferred maintenance of our aging buildings and infrastructure. This includes a backlog of approximately \$10.5 million for 7,000 sidewalk repairs, between \$10-20 million for deferred maintenance on City-owned buildings and close to \$45 million for storm drain improvements mandated by the San Francisco Bay Area Regional Water Quality Control Board. In addition to this backlog, the City is in the process of building two new highly anticipated park facilities (Jean Sweeney Open Space and Estuary Park) neither of which have a dedicated secured funding stream for on-going maintenance.

In an effort to address these issues, staff suggested exploring potential ballot measures that could assist the City in meeting these demands. This report provides information about several potential options for consideration including a Transactions & Use Tax (Sales Tax), updating the Utility User Tax (UUT), the Transient Occupancy Tax (TOT), and a Parcel Tax or Assessment District.

DISCUSSION

The maintenance, funding and condition of City assets and infrastructure, and our ability to pay for long term obligations, has been a critical concern of the City Council and staff for some time. Staff would like the City Council to consider ballot measures that could potentially address these issues.

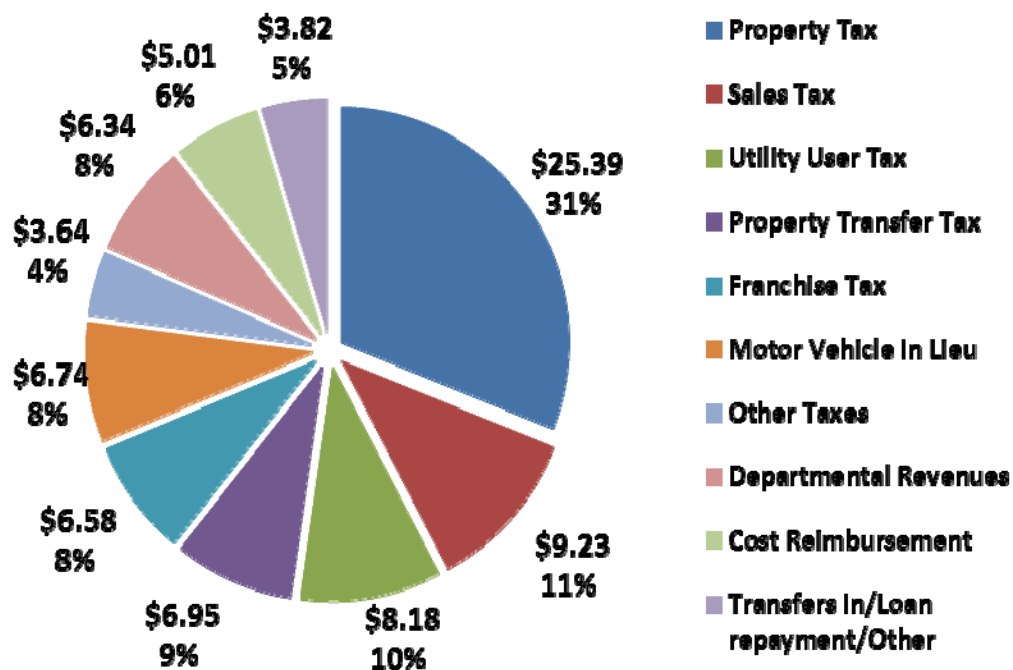
Should the Council determine a ballot measure is in the best interest of the City, it is important to consider whether the purpose of any funds generated by the measure for

general use or for a specific purpose. Though legislative requirements for placing a general or special measure on a ballot are the same, there are different voter approval requirements for each type of measure. The requirements are summarized in the following table.

Type	Governing Body Approval	Voter Approval
General measure (revenue used for unrestricted purposes)	Two-thirds approval of the governing body if the measure is consolidated with a regularly scheduled election of members of the governing body.	Majority of voters (50% +1)
Special measure (revenue used for specific purposes)	Two-thirds approval of the governing body required to place the measure on the ballot.	Two-thirds of voters

In reviewing potential options, it is beneficial to understand the overall unrestricted revenue sources of the General Fund. Below are the revenues as approved by Council in the FY 2015-16 Budget:

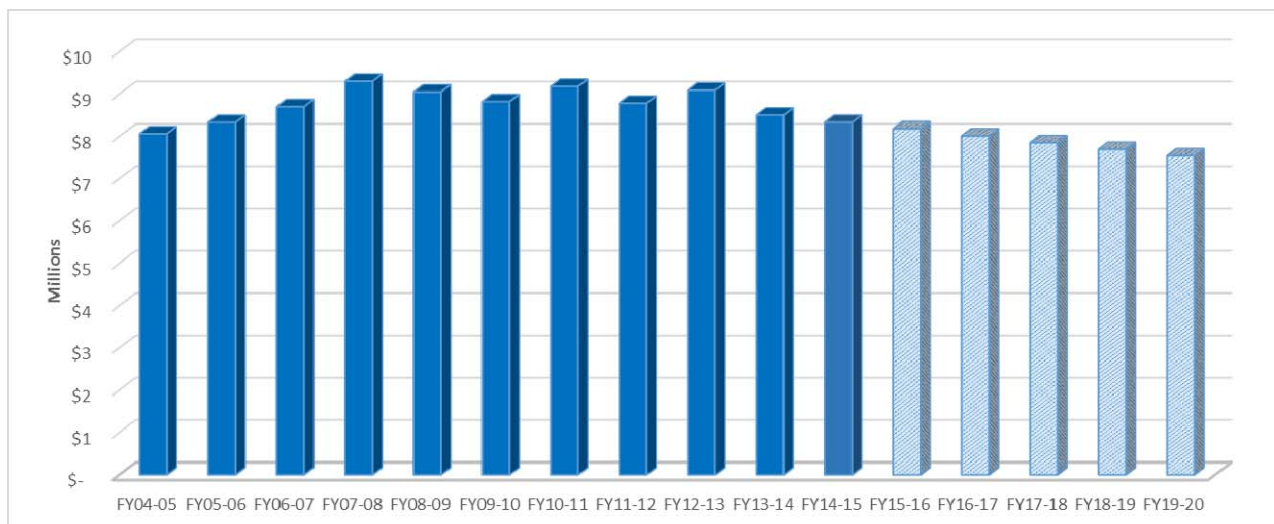
General Fund Revenues



Utility User Tax - (UUT)

In May 1995, the City Council approved an increase in the UUT from 5.5% to 7.5%, which was later ratified by the voters in November 1998. This general tax applies to electricity, gas and telephone services set at 7.5%. The UUT represents 10 percent or \$8.2 million of the City's FY 2015-16 General Fund revenue. The telecommunication portion of total UUT revenue is \$2.8 million or nearly 33% of total UUT revenue collected by the City. As presented in the 5-Year General Fund Forecast, the UUT is the only revenue category that is on the decline if it remains unchanged and as a general tax, it is a vital element in the unrestricted funding of city services.

Utility User Tax Revenue Trend



Telecommunications technology is changing rapidly. In recent years, many cities have modernized their UUT ordinances by voter approval to reflect the migration from traditional landline telephone use to new electronic communication technologies, such as wireless and VOIP. Modernization of the existing UUT on telecommunication will assure our ordinance is in compliance with the California Constitution and the Mobile Telecommunications Sourcing Act of 2000 (See Exhibit 1), as well as assure receipt of an estimated \$1.6 million in annual revenue. The State of California cannot access or take these funds, all of which would continue to be spent locally. In addition, not only does the UUT apply without regard to housing status (i.e. home owner versus renter), it necessitates those that use more advanced technology, than say those who exclusively use a land-line, to share the burden, which currently is not always the case.

In California, approximately 158 cities and 4 counties have UUTs. The tax rates range from 1% to 11%. Alameda's rate is 7.5%, with a 2% exemption for low income residents and seniors (62+). Table below shows tax rates for the cities in Alameda County and how they are applied to various utilities.

Cities in Alameda County - UUT Rates

City	Rate	Telecom	Gas & Electric	Water & Sewer
Alameda County	6.5%	Yes	Yes	No
Alameda	7.5%	Yes	Yes	No
Albany	6.5%/7.0%	Yes	Yes	No
Berkeley	7.5%	Yes	Yes	No
Emeryville	5.5%	Yes	Yes	No
Hayward	5.5%	Yes	Yes	No
Newark	3.5%	Yes	Yes	No
Oakland	7.5%	Yes	Yes	No
Piedmont	7.5%	Intra-State only (Land)	Yes	\$1/Month
San Leandro	5.7%/6.0%	Yes	Yes	No

A recent article by Michael Coleman providing further background on UUT trends is included as Exhibit 1.

Staff recommends pursuing modernization of the City's UUT ordinance in order to protect and ensure ongoing receipt of UUT revenue. Modernization of the ordinance will expand telecommunication services to cover current and anticipated services, as well as ensure conformity with all Federal and State legislation.

Transactions & Use Tax (Sales Tax)

Sales Tax in Alameda represents 11 percent or \$9.2 million of the City's FY 2015-16 General Fund revenue. As presented in the 5-Year General Fund Forecast, the Sales Tax is expected to steadily increase in the future years. Compared to a UUT, sales tax is considerably simpler to administer, since the implementation of all sales taxes in California is strictly controlled by the State Board of Equalization (BOE).

The City of Alameda's current sales tax is 9.5%. The portion of the sales tax for Alameda County is limited by State law to 2.0%. This 2.0% limit is calculated by adding County sales taxes to any city's sales tax. Currently, Alameda County is at its maximum of 2.0% sales tax (1.0% ACTA, 0.5% BART, and 0.5% Health Services). The State portion of sales tax rate is currently limited to 7.5%.

The total limit set by the State is 9.5% (County and City portion plus State portion). Therefore, staff believes that as a result of County Agencies' 2% additional tax, the City does not have the ability to raise additional local sales taxes unless authorization to increase the limit is obtained from the State Legislation. Staff is in the process of confirming this in order to better understand the options available to us at this time.

Transient Occupancy Tax and TBID

The City's current Transient Occupancy Tax (TOT) is 10%. This tax is levied as a percentage of the room price in hotels, motels, and other establishments for stays of less than 30 days. In FY 2014-15, TOT generated \$1.87 million in revenue for the General Fund. A one percent (1%) increase in the TOT would generate an additional \$187,000, based on FY 2014-15 revenue and a two percent (2%) increase would generate an additional \$374,000 based on FY 2014-15 revenue. When considering an increase in the TOT, it is important to consider the TOT rate in surrounding jurisdictions to ensure that the City is not putting its motels and hotels at a competitive disadvantage. Surrounding cities have a range of TOT rates, from a high in Oakland of 14% to San Leandro's 10% rate.

At the September 15, 2015 City Council meeting, the City Council approved a Council referral from Council member Tony Daysog, directing staff to look into programs to promote Alameda as a visitor destination and expand the City's role in developing the tourism industry. If the City were to increase the TOT rate and earmark the increased revenue for visitor-serving uses (special tax), it would require two-thirds voter approval. An increase of the TOT rate without restrictions (general tax) would require a simple majority vote (50% +1). However, a general TOT would not realize the goal of generating funds for building the capacity of the tourism industry. While current City Council could allocate all, or a portion of the increased revenue for visitor-serving activities, future councils could re-direct those funds to other programs.

As part of the Council's deliberations on revenue measures, one must evaluate how revenue can be raised and how many measures should be placed on the ballot. As part of this discussion, the Council may want to consider creating a Tourism Business Improvement District (TBID) in lieu of increasing the TOT which requires a vote of the people and could impact the success of other measures on the ballot. TBIDs can be formed pursuant to the Property and Business Improvement District Law of 1994. TBIDs are assessment districts that are comprised of hotels, motels and other lodgings. The members of the district vote to assess themselves to fund activities benefitting the district member businesses. The assessment amount is typically set as a percentage of TOT, usually 1% or 2%. For example, if a TBID was established in Alameda, the City would continue to receive 10% TOT, and the additional revenue generated by the assessment (1%-2% TOT) would flow through the City to the district. Lodging visitors would pay 11%-12% in this example.

Activities funded by TBID revenue often include marketing, sales, special events and communications activities, place-making, way-finding signage and visitor service

enhancements. District governance can include City representatives. Exhibit 2 includes additional information about TBIDs.

TBIDs are a popular tool for generating revenue for visitor-serving activities, with over 100 cities in California approving TBID formation. Because TBIDs are an alternative to a tax increase, the City can accomplish a revenue measure on the ballot as well as create a funding tool for promoting the tourism industry and accomplish complementary goals. Formation of a TBID would generally follow the steps outlined in Exhibit 3.

In addition, staff is working on the Council-approved referral from Council member Daysog to enter into an agreement with Airbnb and Vacation Rental by Owner (VRBO) to ensure payment of TOT on lodging procured through those services. If staff is successful in this effort, additional TOT revenue will be captured and can be allocated so the Council so directs.

Parcel Tax and Assessment District

Both parks maintenance and capital improvements for the storm drain system are currently under funded. With a combined 30 new acres of parkland at Estuary Park and Jean Sweeney Open Space Park slated to be constructed and open in the next few years, there is a need to identify additional park maintenance funding.

Separately, the City's storm drain system is in need of significant capital improvements, with an estimated \$45 million shortfall, which would address deferred maintenance, sea level rise impacts, and rehabilitate aging pump stations. The Master Storm Drain Plan from 2008 is currently being updated, based on new video surveillance and information and will be ready by early spring.

A parcel tax could be a funding measure to address parks maintenance and/or storm drain infrastructure. A parcel tax is based on either a flat per parcel rate or varies based on the size of the parcel. This is considered a special tax and therefore requires two-thirds voter approval. Parcel taxes are generally imposed to support various city services.

Another potential funding mechanism for storm drain infrastructure or parks maintenance, is to create an assessment district. The concept of an assessment district is to place an annual levy on the properties directly benefitting by the special benefits, which in this case is a new park or improved storm drain infrastructure. Benefits could be in the form of both increased property values and access to a new park facility. A benefits assessment district requires a majority vote (50%+1) of the affected property owners.

The total revenue from a parcel tax at \$25 per parcel is approximately \$520,000 annually. The total revenue anticipated from an assessment district has not yet been analyzed and requires further review.

Public Opinion Polling

In order to determine the community's interest in addressing the financial issues facing the City and to understand other quality of life concerns, staff has identified a polling firm that would provide statistically significant information for our use. Topics would include:

- Information that will be used for the City's annual Performance Measures, including the quality of City services for library, parks, and public safety;
- General quality of life issues and resident satisfaction survey; and
- Public preference assessment for strategies to address the City's unmet financial needs.

With results from the public opinion poll, staff will then bring a recommendation to Council on ballot measure options.

Other Considerations

The Alameda Unified School District will be placing a parcel tax ballot measure for the November 2016 election. Because of that, staff is uncertain of the voter reaction to multiple tax measures on the ballot for local funding. The polling will assess residents' willingness to vote for more than one local measure, especially during a presidential election season when several other regional tax measures are anticipated. Staff will provide information regarding the public opinion poll as soon as it becomes available. Once this information is gathered and analyzed, and should the polling results be positive, staff will begin working with an outreach and education consultant to assist the City with a ballot measure effort.

FINANCIAL IMPACT

The cost of retaining a polling consultant is estimated not to exceed \$32,000. If a community outreach and education consultant is required, then that is estimated not to exceed \$48,000. Education and communication materials is estimated to cost up to \$40,000. The FY 2015-2017 budget anticipated appropriations for these services and no further budget authorization is required at this time.

Depending on the type of the tax measure selected, estimated revenue to the City's General Fund could vary from \$187,000 (TOT) to \$1.6 million (UUT).

MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

This action is in conformance with the Alameda Municipal Code and all policy documents.

ENVIRONMENTAL REVIEW

This activity is not a project and is exempt from the California Environmental Quality Act (CEQA) pursuant to section 15378(b)(4) of the CEQA Guidelines, because it involves

governmental fiscal activities (acceptance of the Treasury report), which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

RECOMMENDATION

Consider ballot measure options and advise staff on next steps including working with the hotel industry to assess interest in forming a TBID.

Respectfully submitted by,
Elena Adair, Finance Director
Debbie Potter, Community Development Director

Exhibit:

1. Utility User Tax Facts, by Michael Colman, The California Local Government Finance Almanac
2. TBID Introduction
3. TBID Formation Steps