COUNCIL REPORT

CITY OF MOUNTAIN VIEW

DATE:	June 5, 2018
CATEGORY:	New Business
DEPT.:	City Manager's Office
TITLE:	**Potential Revenue Measures for 2018 General Election**

RECOMMENDATION

1. Provide direction to staff on continuing to develop three possible revenue measures for the November 2018 ballot: (1) taxation of cannabis; (2) an increase in the Transient Occupancy Tax; and (3) an employer tax, conduct public opinion polling accordingly, and return on June 26, 2018 with authorizing ordinances to place any measure(s) before the voters on the November 2018 General Election ballot.

2. Provide direction to staff on the key parameters of restructuring the business license tax, whether the tax would be structured as a general-purpose tax or a special tax designated for a specific purpose, and spending priorities.

BACKGROUND

On December 5, 2017, the City Council directed staff to explore three possible measures for the 2018 ballot: (1) taxation of cannabis; (2) an increase in the Transient Occupancy Tax (TOT); and (3) an employer tax (Business License). On January 23, 2018, the City Council adopted a work plan to explore all three potential measures for the November 2018 ballot. A three-member Ad Hoc Council Subcommittee on Revenue Measures (Subcommittee) comprised of Mayor Siegel, Councilmember Clark, and Councilmember McAlister was appointed to serve in an advisory role to staff in implementing the work plan. In addition, the City Council approved $72,000 from the General Fund Reserve for a preliminary poll, temporary staffing, and contingency costs to manage this project.

The Subcommittee has met six times since its formation. The Subcommittee has primarily focused its discussions on community outreach and its recommendations for restructuring the City's Business License (BL) Tax.

Since February 2018, there have been over 20 meetings with stakeholders and members of the community. In March 2018, the City conducted a public opinion poll to test the community's support for the three revenue measures. Two additional polls were conducted on-line: one by the City and one by the Chamber of Commerce. The City Council received an update on April 17, 2018 on the revenue measures and the results of the public opinion poll and directed staff to continue to explore:

1. 2 percent or 4 percent increase in the Transient Occupancy Tax.

2. Up to 9 percent tax on the retail sales of cannabis.

3. Restructuring of the BL Tax with a revenue target of up to $10 million.

In addition, staff recommended conducting a follow-up survey on the BL Tax, which was less developed than the other two measures. The City Council also appropriated funds for a second public opinion poll to be conducted following the Council's June 5, 2018 meeting to test ballot language for a BL Tax and support for multiple measures on the ballot.

DISCUSSION

Community Outreach

Over the last three months, over 20 meetings have been held with the community at-large, hotel representatives, cannabis stakeholders, the City's largest employers, the Chamber of Commerce (staff/committee/group business meetings), Transportation Management Association, Central Business Association, and the Silicon Valley Leadership Group. Attachment 1 provides an update on the community outreach efforts. In addition to the public opinion poll, surveys were conducted by the City on Open City Hall, and of the business community by the Mountain View Chamber of Commerce. 284 people responded to the City survey, and the results were generally consistent with the professional poll. Approximately 115 employers with a combined total of more than 4,000 employees responded to the Chamber survey. The survey results are included as Attachments 2 and 3, respectively.

In general, members of the business community are not explicitly supporting or opposing the revenue measures but, rather, raised concerns and want to know more and understand the proposals. Most acknowledge that some increase is appropriate, given the BL Tax has not increased in decades. Below are some of the main comments raised related to the employer tax.

1. Most acknowledge the current tax is very low.

2. Keep cost low for small businesses.

3. Rate steps in Subcommittee's 5/23 recommended model are too large.

4. Concern about the dramatic increase to medium and large employers.

5. Lower rate for restaurants and retail who already pay sales tax.

6. Overall taxes and fees are already high.

7. Do not want to discourage businesses from locating/growing here; provide some relative balance to taxes in neighboring cities.

8. City should consider another revenue source to fund transportation.

9. Revenue should be used for projects with direct benefit to businesses.

10. Some are more supportive of a measure on transportation so that businesses can see the direct benefits. Some believe transportation is a regional issue and should be dealt with regionally.

11. Small businesses will not report accurately if tax is too high.

12. Large employers are relatively more supportive if there is a sunset.

The Subcommittee conducted a community meeting on all three measures on May 29, 2018. Approximately 25 people attended and 11 members of the public spoke. Most of the comments focused on BL with considerable support for a large increase in the BL to fund general services. At the community meeting on May 29, several people spoke in favor of exempting medical uses of cannabis from a tax.

Two meetings were held for hotel owners, and a follow-up letter was sent to them. Response was low, but those that attended had concerns with raising the TOT and indicated if it were to increase, some of the money should go toward tourism and promoting the City to visitors. One meeting was held with cannabis stakeholders and interested parties. Five people attended and were generally supportive of authorizing a tax up to 9 percent, but several felt that actual rate should not be that high

Revenue Measures

The survey tested ballot language for a general-purpose tax on TOT and cannabis, support for an employer tax, whether or not revenue from an employer tax should be targeted to transportation or if it should be a general revenue source, spending priorities, and support for multiple measures on the ballot. The findings indicate a general-purpose cannabis tax and TOT tax are both very viable (although support is soft), and an employer tax appears viable, but success on the ballot will be contingent on the final structure of the measure. In addition, having all three measures on the ballot at the same time has the potential to weaken their viability. (Attachment 4 is the April 17 staff report and poll results.)

Based on the survey results, staff recommended both potential TOT and cannabis measures be structured as a general tax requiring simple majority approval from voters, and further evaluating (through input from the business community and a follow-up survey to test ballot language) whether an employer tax should be structured as a general tax or as a special tax with funds earmarked for specific purposes.

At the April 17, 2018 meeting, the City Council supported potentially proceeding with two of the three measures, either the employer tax and cannabis tax, or the employer tax and the TOT. The Subcommittee recommended proceeding with the poll to test support for all three measures on the ballot and which combination of two measures would be most highly supported. However, if the Council elects to narrow its focus and proceed with two of the three measures, the Subcommittee recommends further evaluating and polling on just the BL Tax and the Cannabis Tax.

It is important to note that there is a potential Statewide ballot measure called the "Tax Fairness, Transparency, and Accountability Act of 2018" being circulated for signatures to qualify for the November 2018 ballot. The measure would eliminate local authority to impose a tax for general purposes by a majority vote and instead require all local proposed tax increases be subject to a two-thirds vote. It also requires specific wording be included in the ballot language and the measure would apply retroactively to any local measure approved by local voters on or after January 1, 2018 that does not comply with the act's provisions.

Attachment 5 provides draft ballot language to be tested for a general-purpose revenue measure to increase the TOT and a general-purpose revenue measure to establish a new cannabis tax. Staff is seeking the City Council's direction on whether to proceed with polling and developing authorizing ordinances to potentially place a TOT and cannabis measures on the November 2018 ballot. If Council wishes to proceed with the TOT, should it be 2 percent or 4 percent?

Business License Tax

At the April 17, 2018 meeting, the Council directed staff to continue to explore the BL Tax with a revenue target of up to $10 million. Since that time, staff has continued to refine the data and developed numerous financial models. With recent updates there are over 5,500 active Mountain View business licenses, up from approximately 4,200 active business licenses as of January 31, 2018. It is important to note that the employment data is self-reported, and totals 64,000 employees. Census estimates from 2016 indicate 91,000 employees in Mountain View.

Further research indicates that the BL Tax rate has not changed since 1954. An update in 1985 was for minor changes to the business types, but the fees did not change. The $30 base fee would now be approximately $275 in today's dollars with inflation (using CPI changes from 1954 to 2018).

Since February 2018, the Subcommittee has evaluated approximately two dozen different revenue models for restructuring the City's BL Tax. At its May 23, 2018 meeting, the Subcommittee made initial recommendations to the Council on key parameters for restructuring the BL Tax. Some policy issues required further clarification and discussion with the full Council. Attachment 6 provides four new revenue models for the BL Tax, each with revenue of $5 million and $10 million, and no cap. The attachment compares the models to the rates in nearby cities. The four models are:

1. "Progressive" with one base rate

2. "Progressive" with three base rates ($100, $200, $300)

3. Flat rate—3x Sunnyvale

4. "Progressive" with three base registration fees ($100, $200, $400)—Subcommittee Draft Model

The Subcommittee Draft Model (model 4) assumes:

• Three base business registration fees for up to 50 employees.

• Tax based on average employee count from last four quarters submitted to the State (DE-9 form).

- Out-of-town businesses—Employers pay a prorated base rate based on the average number of days working in the City in a calendar year plus incremental tax based on number of employees (similar to San Jose).

- Authority for a CPI adjustment, subject to the annual fee resolution.

- Tax effective in 2020 for the smaller businesses subject to the flat "registration fee"; larger companies would phase in from 2020 to 2022.

The fees and incremental tax rates for the Subcommittee's Draft Model are as follows:

No. of Employees	$5 Million Model	$10 Million Model
1 employee	$100 (flat business registration fee)	$100 (flat business registration fee)
2-25 employees	$200 (flat business registration fee)	$200 (flat business registration fee)
26-50 employees	$400 (flat business registration fee)	$400 (flat business registration fee)
51-500 employees	$50 per employee over 50	$50 per employee over 50
501-1000 employees	$75 per employee over 500	$200 per employee over 500
1,001-5,000 employees	$100 per employee over 1,000	$250 per employee over 1,000
5,000+ employees	$125 per employee over 5,000	$300 per employee over 5,000

In this proposal at the $10 million target, 84 percent of the revenue is generated by the largest seven companies, with 66 percent coming from one company.

At the May 29 Subcommittee Community meeting, the members requested new models to be presented to Council: The original Model 4 (now Model A) as well as one suggested by Mayor Siegel and another suggested by Councilmember Clark. Those are found in Attachment 7, and are the final three recommended by the Subcommittee for Council consideration. The Subcommittee also asked for options related to the amount of income required before being subject to the BL. Currently, it kicks in at $500, a number that hasn't been changed in anyone's memory. Staff recommends the threshold be increased to $5,000 gross revenue.

Should Council continue to pursue restructuring the City's BL Tax, there are several key parameters to consider. The table below summarizes the key policy issues, Subcommittee recommendations from May 23, and areas for further clarification and discussion.

BL Tax—Policy Issues	Subcommittee Recommendation
Overall revenue target	Two preferred $10 million
Cap for maximum tax	No cap
General or special tax	No consensus. Further discussion needed.
Base rates and incremental tax	Progressive with three base registration fees
Employee count reporting requirement	Tax based on average employee count from last four quarters submitted to State (DE-9 form). (San Jose allows an alternate calculation based on FTE.)
Inflation factor	Authority for a CPI adjustment, subject to the annual fee resolution.
Rate for employers not located in Mountain View, but who do work in the City	Employers pay a prorated base rate based on the average number of days working in City in calendar year plus incremental tax based on number of employees based on San Jose model (San Jose tax rates below).
Phasing in tax	Effective in 2020 for the smaller businesses subject to a flat "registration fee"; larger companies would phase in from 2020 to 2022.

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*Nonprofits and medical facilities that meet State law requirements are exempt from the tax, but would still register.

San Jose Business Tax Rate for Out-of-Town Businesses and Business Located in San Jose

	Out-of-Town Business Pay					Businesses in San Jose Pay
	1-5 days	6-29 days (25%)	30-89 days (37.5%)	90-119 days (50%)	120+ days (100%)	
Base Tax	$0	$48.75	$73.13	$97.50	$195	$195
Incremental Tax: 1-2	$0	$0	$0	$0	$0	$0
Incremental Tax: 3-35	$0	$7.50	$11.25	$15	$30	$30
Incremental Tax: 36-100	$0	$10	$15	$20	$40	$40
Incremental Tax: 101-500	$0	$12.50	$18.75	$25	$50	$50
Incremental Tax: 501+	$0	$15	$22.50	$30	$60	$60
Cap	$0	$150,000	$150,000	$150,000	$150,000	$150,000

Spending Priorities

Council's prior discussions have focused on the potential for a tax measure in conjunction with the Comprehensive Modal Plan to fund transportation capital projects or ongoing revenue for transportation needs. Several priority transportation projects have been identified. Total costs on these projects are unknown and some other funding sources may be available, but both capital and operating costs will be substantially more than is available (see Attachment 8). Key projects include:

1. Automated Guideway Transit

2. Two rail/road grade separations (Rengstorff Avenue and Castro Street)

3. Transit Center improvements

4. New Charleston Road undercrossing

5. Connecting the NASA light rail station to North Bayshore

6. Bike/pedestrian improvements

7.   Bernardo Avenue undercrossing

8.   Community shuttle

The poll indicated support for an employer tax that is focused specifically on transportation is essentially the same as support for a general-purpose measure. In addition to transportation, affordable housing, homelessness, and public safety are also important spending priorities for the community. Voters' top concerns are the cost of housing and rent, transportation, and homelessness. The most highly prioritized uses of new revenue include maintaining police, fire, and emergency response services, providing affordable housing for working families, and ensuring safe routes to school for students.

The City also has numerous projects totaling approximately $100 million in unscheduled projects noted in the City's Capital Improvement Plan (CIP). In addition to unfunded CIP projects, some additional areas of investment may include construction of a new Fire Station No. 3, additional affordable housing units, for the range of needs from permanent supportive housing to the "missing middle," and services for the homeless. Support for the spending priorities may be an important factor to the success of the measures, particularly the potential employer tax measure.

The Subcommittee discussed whether an employer tax should be structured as a general tax or as a special tax with funds earmarked for specific purposes. Subcommittee members had various perspectives on the issue including support for: (1) general tax that would give the City flexibility in the future to fund shifting priorities; (2) special tax designated to transportation; and (3) general tax with 80 percent to 90 percent dedicated to transportation and 10 percent to 20 percent dedicated to housing and other community needs. The Subcommittee's recommendations on spending priorities include transportation, housing, and homelessness.

Although no recommendations were made, the Subcommittee also discussed a companion resolution to the BL tax, if it is a general tax. If Council is interested, and provides clear direction on the spending priorities, staff can return with such a resolution at the June 26 meeting.

On the revenue side, an annual revenue stream of $4 million is needed to generate approximately $50 million in debt proceeds (at today's interest rates), should the City wish to bond to fund major projects.

It is anticipated that each 1 percent increase in the Transient Occupancy Tax (TOT) will generate approximately $700,000 annually (2 percent increase generates $1.4 million

and 4 percent generates $2.8 million annually), based on existing hotels. Additional revenue is expected from planned hotels and if short-term rentals are authorized.

The revenue from a potential cannabis tax is unclear at this time. Assuming five dispensaries, based on County data from Q1 2018, perhaps about $1M. A restructuring of the BL tax could generate up to $10 million annually, depending on the model selected.

Work Plan/Next Steps

The schedule outlined below anticipates Council direction on revenue measures moving forward on June 5, 2018, additional polling in mid-June, staff to develop authorizing ordinances and spending plan in June, and final direction from Council on revenue measures to be placed on the ballot on June 26, 2018. The follow-up survey is anticipated to test ballot measure language for a potential BL Tax and support for multiple measures on the ballot.

Milestone	Date
Council direction on measures moving forward	June 5, 2018
Conduct follow-up survey	June 6 to June 21, 2018
Council direction to place any revenue measures on ballot	June 26, 2018
County deadline for measures to be submitted to file ordinance	August 10, 2018
General Election	November 6, 2018

If any measure is placed on the ballot, the City is then limited to providing factual information and advocacy must be done without any City resources.

FISCAL IMPACT

The latest estimate for placing a ballot measure on the November 2018 ballot is approximately $72,000 for each measure. Staff will request appropriations for the placement of any measures on the ballot with Council action on June 26, 2018.

The revenue to be generated by ballot measures is dependent on the direction Council provides. More information will be provided on June 26.

CONCLUSION

Council directed staff to explore three possible measures for the 2018 ballot: (1) taxation of cannabis; (2) an increase in the (TOT); and (3) an employer tax (business license). A three-member Subcommittee was formed to serve in an advisory role to staff in implementing the work plan. An initial baseline survey was conducted in March 2018 to evaluate the community's support for the three possible measures passing on the November 2018 ballot. Over 20 meetings have been held with stakeholders and the community-at-large to seek input on the measures. The Subcommittee on Revenue Measures has focused on community and stakeholder outreach and developing recommendations for restructuring the City's BL Tax.

Staff is seeking the City Council's direction on whether to continue to pursue and/or poll on the three possible revenue measures for the November 2018 ballot and whether to develop authorizing ordinances to place any such measure(s) before the voters on the November 2018 ballot. In addition, staff is seeking direction on the spending priorities and whether a potential BL Tax should be structured as a general-purpose or special tax. Staff also seeks additional direction on the key parameters of the BL Tax.

COUNCIL QUESTIONS

1. Does the Council wish to continue to pursue all three revenue measures and poll on them? If not, which one(s)?

2. What is the desired structure for the BL Tax, and is an overall revenue target sought?

3. Should the gross income prior to being subject to the BL be increased to $5,000?

4. Should the BL Tax be a general tax or special tax?

5. If general, does Council wish to adopt a resolution stating how the funds will be spent?

6. Is there other direction Council wishes to provide?

ALTERNATIVES

1. Discontinue efforts on any revenue measures.

2. Focus the effort on only one or two revenue measures.

3.   Provide input on more parameters of the employer tax.

4.   Provide other direction.

PUBLIC NOTICING

Agenda posting and a link to the report sent to the Chamber of Commerce, posted on social media, and sent to interested stakeholders who provided an e-mail.

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ST/DHR/4/CAM
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Attachments: 1.   Community Outreach Summary
               2.   Open City Hall Survey Results
               3.   Chamber of Commerce Business Survey Results
               4.   April 17, 2018 Council Report and Poll Results
               5.   Draft Ballot Measure Language
               6.   Financial Models from May 23rd Subcommittee Meeting
               7.   Final Subcommittee Recommended Models
               8.   Major Transportation Project List