



AGENDA REPORT


TO: Jestin D. Johnson
City Administrator

FROM: Joe DeVries
Deputy City Administrator/
Chief Resilience Officer

SUBJECT: Wildfire Prevention Zone Special Tax

DATE: May 16, 2024

City Administrator Approval


Jestin Johnson (May 16, 2024 21:02 PDT)

Date: May 16, 2024

RECOMMENDATION

Staff Recommends The City Council Adopt A:

Resolution On The City Council's Own Motion Submitting To The Voters At The November 5, 2024 General Municipal Election, An Ordinance To Adopt A Special Tax To Support Wildfire Prevention Efforts In The City's Wildfire Prevention Zone Identified Herein; And Directing The City Clerk To Take Any And All Actions Necessary Under Law To Submit This Special Tax To The Voters At The General Municipal Election; And Making Appropriate California Environmental Quality Act Findings

EXECUTIVE SUMMARY

Adoption of this proposed resolution will authorize the placement of a special tax ("Special Tax") on the ballot to provide wildfire prevention and preparedness services to those communities within the boundaries of the City's Wildfire Prevention Zone (WPZ). The WPZ is the same area as the City's former Wildfire Prevention Assessment District (WPAD). It includes all areas of the City that fall in the California Department of Forestry and Fire Services (CAL FIRE) Very High Fire Severity Hazard Zone (VHFHSZ). This Special Tax will create a dedicated funding source to support the City's efforts to address wildfire risk by:

- Implementing a comprehensive vegetation management plan,
- Expanding roadside clearing to protect emergency evacuation routes
- Enhancing fire patrols on high-fire danger days
- Expanding goat grazing fuel reduction efforts
- Performing annual inspections of all parcels in the WPZ
- Providing public education efforts to help residents, businesses, and property owners Protect themselves in their neighborhoods
- Providing community oversight and annual auditing of the funds

Adopting the proposed resolution will place the measure on the November 5th, General Election Ballot and require a two-thirds majority of voters to be adopted.

Rules Committee
May 30, 2024

BACKGROUND / LEGISLATIVE HISTORY

Since 1923, more than a dozen major wildfires have impacted the Oakland hills, resulting in extensive damage, economic harm, and loss of life. Most notably, the 1991 Oakland/Berkeley firestorm burned over 1,500 acres, destroyed more than 3,000 homes, caused the deaths of 25 people, and injured over 150 people.

The series of more recent historic wildfires throughout California and the Western United States demonstrates that the impacts of global climate change will continue to have potentially devastating local effects throughout the region, including habitat destruction, loss of life, economic impacts, infrastructure damage, and public health hazards associated with air quality.

Most of the Oakland Hills fall within the CAL FIRE designated VHFHSZ, where vegetation must be actively managed to reduce the threat and devastating effects of future wildfires. The VHFHSZs in the Oakland hills include areas described as the Wildland Urban Interface (WUI), which are characterized by hot and dry fall seasons, high winds, dense flammable vegetation, steep and varied terrain, hill slope development, and limited accessibility for emergency responders.

After the October 1991 Oakland Hills Fire, a Wildfire Prevention Assessment District (WPAD) was formed in late 1992. The monies collected were used to reduce the fuel load in the Oakland Hills and provided enhanced fire services during peak fire season. The assessment district was for five (5) years and lapsed in 1997. District voters did not move to re-establish it, and from 1997 through 2003, the City only maintained basic brush removal and inspection services.

In 2003, with all available sources of funding exhausted, and with State-wide budgetary deficits promising to divert property taxes away from local governments, a City/Community steering committee drafted a proposal to create a new WPAD for the purpose of supplementing fire prevention programs and local area projects above what was generally provided by the Fire Department, including increased compliance inspections of public properties, public outreach and education, goat grazing, and brush removal. The City Council approved the proposal and a mail-in ballot election of property owners within the proposed WPAD was conducted. Approximately 50% of the ballots were mailed back to the City, with voting solidly in favor of forming a new assessment district. On January 20, 2004, the City Council voted to establish the Wildfire Prevention Assessment District ([Resolution No. 78305](#))

For 10 years, with an assessment of \$65 per single-family dwelling (owners of multiple-family dwellings were assessed based upon the number of units and large property owners, including the City and East Bay Regional Parks) paid assessments based on the development status of the parcel and lot size), approximately \$1.9 million per year was generated. The WPAD also created an oversight committee and called for an auditing firm to be retained annually to ensure the funds were handled responsibly.

As that measure was sunsetting, statewide lawsuits and court findings concerning fire assessment districts in other California jurisdictions, led the City to the conclusion that it would be more effective to replace the expiring WPAD, with a Special Tax to be levied in the CFD pursuant to the Act. The Special Tax would apply only to those properties currently included

within the boundaries of the current WPAD. If approved by the registered voters (2/3 favorable vote of those voting is required), the Special Tax would be annually levied within the specified boundaries. That measure fell short of the two-thirds requirement by just 60 votes.

In post-election analysis with the former Wildfire Prevention Assessment District Advisory Board, it was noted that the City did not have a comprehensive Vegetation Management Plan (VMP) nor a strong, established, coordinated interdepartmental effort to prevent wildfires. The Board's final report recommended, among other things, that a VMP be developed, that authority to implement prevention measures should sit in the City Administrator's Office, and that both the OFD inspectors and Public Works Parks and Tree Division be strengthened in their efforts around prevention. Therefore, the City embarked on a multiyear effort to adopt a VMP to create a roadmap of work that needs to be performed to protect these communities from wildfires.

In 2019, Oakland City Council adopted [Resolution No. 87940](#), which prioritized wildfire prevention in Oakland. In response, the City Administrator's Office created the Wildfire Prevention Working Group (WPWG) in 2020, which coordinates city departments and connects with neighboring jurisdictions on prevention efforts.

In 2021, the City Council adopted [Resolution No. 88838](#), encouraging the city to participate in discussions to create a regional Joint Powers Authority (JPA) regarding vegetation management. In the summer of 2022, member agencies agreed to work towards a MOU structure instead of a JPA for coordinated wildfire prevention efforts.

In May 2024, the City adopted the first comprehensive [Vegetation Management Plan](#), which outlines a framework for managing fuel loads and vegetation on City-owned properties and along roadways in the City's Very High Fire Hazard Severity Zone (VHFHSZ). It will be an actionable step to reduce the likelihood of a catastrophic wildfire, such as the 1991 Oakland Hills Fire.

This Special Tax has been written to address the concerns listed above and to create a dedicated funding source to implement the VMP, ensure annual inspections and additional patrols on Red Flag Days occur, and ensure ongoing coordination of all City Departments in wildfire prevention.

ANALYSIS AND POLICY ALTERNATIVES

Assessment District vs Special Tax

As stated above the creation of a Special Tax requires the funds to be expended only on the purposes listed in the measure provides resources to maintain public spaces, including protecting evacuation routes that have an area-wide benefit. This is a departure from the original assessment district in two ways that make this a more effective option: first, an assessment district ties the funding to the parcel. In other words, the City must demonstrate that the fees charged in as assessment district to a specific parcel, have a proportional benefit to that parcel. In the realm of wildfire prevention, acknowledging that wildfires do not respect political boundaries, in order to protect an area, the resources must be deployed to reduce the

greatest risks in the entire area, in this instance, the Wildfire Prevention Zone. Tying the resources to a specific parcel overlooks the need to take an area-wide approach.

Second, an assessment district would require a labor intensive and costly annual engineer's report justifying the expenditure parcel by parcel. This engineer's report is both burdensome and could face legal challenges from individual property owners on an annual basis, further distracting staff from implementing these vital prevention measures.

The alternative of the Special Tax acknowledges that this entire area is in greater need of roadside clearances, public land management, and inspection of private parcels because a fire that starts on any particular parcel can have a profound effect on the entire area. This approach also provides flexibility to direct resources to specific high-risk areas as fire prevention experts identify them without binding them to a generic plan that treats all parcels equally. This also allows the City to use funds to educate property owners, coordinate volunteer efforts, and seek additional grants because the City can demonstrate a matching source of revenue to address the increasing risk the region faces each year.

Tax Rates and Exemptions

The measure establishes the tax rate in the first year at \$99 per parcel for single-family residences and \$65 per unit for multi-family parcels. It proposes a formula for vacant or commercial properties that aligns with the formula used for the existing Measure Z (Safety and Services Tax) and considers the total square footage of the parcel and the size and height of any building on a parcel.

The estimated first year revenue is \$2.67 million and the measure caps annual increases based on either the percentage change in the cost of living in the immediate San Francisco Bay Area, as determined by the twelve-month (12) Annual Percentage Change in the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor Statistics; or the percentage change in California per capita personal income, as determined by the California State Department of Finance and shown in the Price Factor and Population Information Report issued annually.

The measure has exemptions for low-income owners if it is occupied by an owner of a Single-Family Residential Unit who resides in the housing unit and whose combined family income, from all sources for the previous year, is at or below the income level qualifying as sixty percent (60%) of area median income for a family of such size. The measure also has exemptions for low-income senior citizens who reside in such unit, who are sixty-five (65) years of age or older and whose combined family income, from all sources for the previous year, is at or below the income level qualifying as eighty percent (80%) of area median income for a Family of such size.

Oversight and Auditing

The current draft provides for a citizen oversight body to be created by City Council after adoption or for the City Council to assign the oversight duties to an existing board or commission. This is designed to ensure the right oversight body is created once the November election had occurred to see that oversight fits into the broader City landscape. There are other

areas of community safety in which an advisory body is being considered and the most efficient approach may be to combine these functions.

As required by State Law, the measure requires an annual independent financial audit to ensure the funds are being spent in accordance with the measure. There is also language acknowledging that the City Auditor may pursue audits, both financial and programmatic at their discretion.

This proposed measure advances these Citywide Priorities: 1) **Holistic Community Safety** by ensuring a comprehensive approach to wildfire prevention that will save lives and reduce the impact of wildfires on the health of all Oaklanders, 2) **Vibrant, Sustainable Infrastructure** by providing the necessary resources to manage critical emergency evacuation routes and maintaining the City's parcels in the Wildfire Prevention Zone, 3) **Responsive, Trustworthy Government**, by implementing a plan that has engaged residents throughout the area in the importance of prevention activities and will continue to offer opportunities for community involvement in the process, and 4) **Housing, Economic, and Cultural Security** by preventing wildfires and protecting tens of thousands of homes in the approximately one-third of Oakland that falls within the Wildfire Prevention Zone.

FISCAL IMPACT

If adopted, this measure is estimated to collect \$2.67 million dollars in its first year. As noted above, it restricts increases, starting in the second fiscal year of collection, based on changes in the Consumer Price Index and increases in per capita income. The cost of including this in the general election is estimated at \$600,000.

PUBLIC OUTREACH / INTEREST

The City Administrator and Fire Department staff meet regularly with the Oakland Fire Safe Council and several Neighborhood Councils and Associations located in the Wildfire Prevention Zone to discuss prevention strategies and policy, including the renewal of a special tax to implement the new VMP upon its adoption. Since the Oakland Hills Fire, neighborhood networks have prioritized wildfire prevention, including organizing community education forums, grassroots outreach, large-scale volunteer efforts to remove hazardous vegetation from Oakland Parks and roadways, and participated in the City's CORE Program (Citizens Organized to Respond to Emergencies) program. Hundreds of CORE Captains have established Emergency Preparedness networks throughout the area with guidance from OFD's Emergency Services Management Division. Due to the Regional significance of this issue, the City also participates in a Regional Wildfire Prevention Coordinating Group via MOU with several other East Bay jurisdictions, with Oakland's seat filled by Council Member Ramachandran.

COORDINATION

The City Administrator's Office convenes the Wildfire Prevention Working Group, which includes the Fire, Public Works, Transportation, Planning and Building, and Police Departments, as well as the City Council offices representing the Wildfire Prevention Zone, and the City Attorney's Office.

SUSTAINABLE OPPORTUNITIES

Economic: Wildfire prevention mitigates the huge financial risk to the city and its residents should another fire occur. The economic loss from the 1991 Oakland Hills fire was estimated at \$1.5 billion (\$2.99 billion in 2023 dollars).

Environmental: Wildfires produce toxic levels of smoke in the short term that increase our carbon footprint, and the aftermath leads to a reduction in the tree canopy, which reduces carbon sequestration over the long term. The runoff from a major wildfire enters the water system, polluting creeks that support critical habitat. The recovery efforts after a wildfire, in constructing new homes and other facilities, require huge consumption of natural resources.

Race & Equity: the effects of natural disasters have historically impacted communities of color disproportionately and, in the instance of a major wildfire in Oakland, would have a direct impact on the already limited housing supply. If significant Oakland Hills communities lost their housing due to a wildfire, the cost of housing in Oakland would increase, and the likelihood of increased gentrification in the neighborhoods that remain after a wildfire would be very high as those residents seek new housing in other parts of the City. Also, the cost of recovery from a wildfire, including restoring roadways, infrastructure, and diverting public safety resources to those areas that are impacted, would reduce service levels and the availability of resources for the rest of the City.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

In accordance with the California Environmental Quality Act ("CEQA"), CEQA Guidelines section 15378(b)(4), adoption of this Resolution to place the parcel tax, a government funding mechanism, on the ballot for voter approval is not a project subject to the requirements of CEQA. Prior to approval of funding of any projects pursuant to the ballot measure, any necessary environmental review required by CEQA shall be completed. With respect to the 2024 VMP, the City certified an Environmental Impact Report ("EIR") for the specific action. In addition, this Resolution is exempt from CEQA pursuant to CEQA Guidelines Section 15061, subd. (b)(3), since the City finds that there is no possibility that the activity authorized herein may have a significant effect on the environment that has not already been studied.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends The City Council Adopt Resolution On The City Council's Own Motion Submitting To The Voters At The November 5, 2024 General Municipal Election, An Ordinance To Adopt A Special Tax To Support Wildfire Prevention Efforts In The City's Wildfire Prevention Zone Identified Herein; And Directing The City Clerk To Take Any And All Actions Necessary Under Law To Submit This Special Tax To The Voters At The General Municipal Election; And Making Appropriate California Environmental Quality Act Findings

For questions regarding this report, please contact Joe DeVries, Deputy City Administrator at (510) 238-3083.

Respectfully submitted,



Joe DeVries
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Officer