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OFFICE OF THE CITY CLERK
OAKLAND
2010 JUL 15 PM 7:06

CITY OF OAKLAND

AGENDA REPORT

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Budget Office
DATE: July 22, 2010
RE: Adopt Legislation Authorizing Placement of the Following on the November 2, 2010 General Election Ballot:

1. **A RESOLUTION SUBMITTING, ON THE COUNCIL'S OWN MOTION, TO THE ELECTORS AT THE NOVEMBER 2, 2010 STATEWIDE GENERAL ELECTION, A PROPOSED ORDINANCE ESTABLISHING A NEW SOLID WASTE REMOVAL USERS TAX AND A NEW WATER USERS TAX EACH EQUAL TO 7.50% OF THE SERVICE CHARGES AND/OR REDUCING THE UTILITY USERS TAX RATE IN OAKLAND MUNICIPAL CODE CHAPTER 4.28, INCLUDING SECTIONS 4.28.030, 4.28.040, 4.28.050, 4.28.060, AND 4.28.070; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE NOVEMBER 2, 2010 STATEWIDE GENERAL ELECTION.**

2. **A RESOLUTION SUBMITTING, ON THE COUNCIL'S OWN MOTION, TO THE ELECTORS AT THE NOVEMBER 2, 2010 STATEWIDE GENERAL ELECTION, A PROPOSED ORDINANCE ESTABLISHING A NEW TELEPHONE ACCESS LINE TAX AT A RATE OF \$1.99 PER MONTH PER ACCESS LINE, AND \$13 PER MONTH PER TRUNK LINE; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE NOVEMBER 2, 2010 STATEWIDE GENERAL ELECTION.**

3. **A RESOLUTION SUBMITTING, ON THE CITY COUNCIL'S OWN MOTION, TO THE ELECTORS AT THE NOVEMBER 2, 2010 STATEWIDE GENERAL ELECTION, A PROPOSED ORDINANCE IMPOSING A TEMPORARY TRANSACTIONS AND USE TAX (SALES TAX) OF ONE-QUARTER OF ONE PERCENT FOR FIVE YEARS WITH ALL PROCEEDS PLACED IN THE CITY'S GENERAL FUND; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE**

Item: # _____
Special City Council Meeting
July 22, 2010

AND PUBLICATION IN ACCORDANCE WITH THE NOVEMBER 2, 2010 STATEWIDE GENERAL ELECTION.

- 4. RESOLUTION SUBMITTING, ON THE CITY COUNCIL'S OWN MOTION, TO THE ELECTORS AT THE NOVEMBER 2, 2010 STATEWIDE GENERAL ELECTION, A PROPOSED ORDINANCE AMENDING MEASURE Y, THE "VIOLENCE PREVENTION AND PUBLIC SAFETY ACT OF 2004", WHICH ESTABLISHED A SPECIAL PARCEL AND PARKING TAX FUNDING POLICE SERVICES, FIRE SERVICES AND VIOLENCE PREVENTION PROGRAMS TO, AMONG OTHER THINGS, THAT THE CITY MAY COLLECT THE TAX WHETHER OR NOT IT APPROPRIATES NON-MEASURE Y FUNDS TO MAINTAIN STAFFING AT FY2003-04 LEVELS; CONSOLIDATING THE ELECTION WITH THE STATEWIDE GENERAL ELECTION; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE NOVEMBER 2, 2010, STATEWIDE GENERAL ELECTION.**
- 5. A RESOLUTION SUBMITTING, ON THE COUNCIL'S OWN MOTION, TO THE VOTERS AT THE NOVEMBER 2, 2010 STATEWIDE GENERAL ELECTION, A PROPOSED ORDINANCE AMENDING CHAPTER 4.28 OF THE OAKLAND MUNICIPAL CODE, TELEPHONE UTILITY USERS TAX TO EXPAND THE DEFINITION OF "TELEPHONE COMMUNICATION SERVICES" TO INCLUDE MORE FORMS OF MODERN COMMUNICATIONS TECHNOLOGY NOT CURRENTLY TAXED WITHOUT INCREASING THE TAX RATE; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE NOVEMBER 2, 2010 STATEWIDE GENERAL ELECTION.**
- 6. RESOLUTION SUBMITTING, ON THE CITY COUNCIL'S OWN MOTION, TO THE ELECTORS AT THE NOVEMBER 2, 2010 GENERAL ELECTION, A PROPOSED ORDINANCE ESTABLISHING A TEMPORARY PARCEL TAX SOLELY TO ASSIST THE CITY IN PRESERVING, PROTECTING AND ENHANCING VITAL PUBLIC SAFETY AND VIOLENCE PREVENTION SERVICES AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE NOVEMBER 2, 2010, STATEWIDE GENERAL ELECTION**

SUMMARY

The following **ballot measures** are presented to the City Council for consideration; Council action on these measures is necessary by July 30, 2010 in order for them to appear on the November 2, 2010 ballot.

- **Revenue-Generating Measures:**

1. *Revenue measure to impose "a 99 cents per day" parcel tax to for preserving, protecting, and enhancing vital public safety and violence prevention services. The tax, applied at the rate of \$360 per year for a single-family residential property, would generate \$51 to \$53 million annually. (All parcel taxes require a 2/3 vote.)*
2. *Four revenue measures to choose from to collect an additional \$7-8 million annually beginning FY 2011-12: (a) utility users tax to expand the existing UUT base to water and garbage charges without increasing the 7.5% tax rate; or (b) add a local sales tax (transactions and use tax) of ¼ percent or (c) impose a new telephone access line tax of \$1.99 per telephone line and \$13 per trunk line per month or (d) utility users tax to expand and modernize the definition of telephone communication services to include more forms of modern communication technology not currently being taxed. (These measures require a majority vote – 50% plus one.)*

- **Other Measure:**

3. *"Measure Y Fix": A ballot measure to eliminate the requirement to maintain an appropriation for 739 officers before Measure Y taxes can be collected is proposed. This would enable collection of parking and parcel tax to resume as soon as December 2010 if approved by the voters. Sixty-three problem-solving police officers could be rehired, and violence prevention programs and minimum staffing in Fire could continue. (This measure requires a 2/3 vote).*

Attachment A summarizes the revenue-generating ballot measures and **Attachment B** presents a timeline for placement of these items on the November ballot.

FISCAL IMPACT

Revenue measures could generate up to \$59.6 million in FY 2011-12, depending on which revenue measures are approved for placement on the ballot and approved by the voters. The Measure Y “technical fix” itself does not directly generate revenue, but would instead enable collection of the approximately \$20 million in Measure Y parking and parcel tax revenue.

The following table summarizes the expected revenues from the various measures:

(\$ millions)

	FY10-11	FY11-12	FY12-13
Parcel Tax	\$25 to \$50	\$51.37	\$53.16
Utility Users' Tax	\$0.64	\$7.62	\$8.25
Transactions and Use Tax	\$0.00	\$7.50	\$8.00
Telephone Access Tax Line	\$0.69	\$8.27	\$8.27

DISCUSSION

In its special budget meetings in April and June, the City Council approved balancing measures to bridge the \$42.6 million FY 2010-11 projected General Purpose Fund deficit. Balancing measures included elimination of sworn Police officer positions. Current Measure Y legislation requires that funds for 739 FTE sworn Police officers be appropriated in order to collect Measure Y parcel and parking tax revenue. Because sworn officer reductions were unavoidable, the City can no longer collect these revenues. **Ballot measures** to raise additional revenues could help rollback staff and other program reductions taken to balance the FY 2010-11 projected deficit, and would help balance future years' deficits. **City resolutions placing these new measures on the November 2010 ballot must be adopted no later than July 30, 2010** and filed with the Alameda County Registrar of Voters by August 8, 2010.

I. Financial Measures

a. Public Safety Parcel Tax

A new parcel tax for preserving, protecting, and enhancing vital public safety and violence prevention services is proposed. The tax, applied at the rate of \$360 per year or 99 cents per day for a single-family residential property, would generate \$51.4 million annually beginning FY 2011-12. The proposed term of the measure is 5 years.

As drafted, the measure would provide funds for: police and fire response; police and fire dispatch; community, neighborhood and park policing; police investigations and oversight; and violence prevention services, including outreach workers. **A minimum of 75% of the funds from the measure would be to fund police and fire services**

Due to the timing of the November election and the August deadline for any new parcel item to be recorded by the County for collection in that fiscal year, this revenue could not be placed on the tax roll by the County until FY 2011-12. The City plans to hand-bill the affected property owners soon after the November 2nd election, to ensure that funds from the new parcel tax are available in FY 2010-11 for budget balancing. Should the hand bill method not be available, staff will look at alternative financing vehicles, such as a revenue anticipation note to securitize the FY 2011-12 parcel tax revenue to make it available in FY 2010-11.

All parcel taxes require a 2/3 vote to pass.

b. Utility Users Tax (UUT)

Expansion of the existing utility consumption tax or users' tax (UUT). Estimated annual revenue from expansion of the UUT to water and garbage would generate \$0.64 million in FY 2010-11 and \$7.6 million in FY 2011-12 and future years. UUT is a surcharge on utility consumption such as cable, energy, and telecommunication services. The City of Oakland currently collects the UUT on electricity, natural gas, cable television and telephone; with voter approval, it could be imposed on water usage and garbage collection as well.

The Telephone Utility Users Tax could be modernized as well to eliminate the leakage of revenues the City has been experiencing in telecommunication over the past few years as a result of technology changes. In addition, we anticipate new revenues if the service providers are brought into compliance of \$626,000 in FY 2012-13.

These measures require a majority vote (50% plus one).

c. Transactions and Use Tax (TUT)

Sales tax. Transactions and use taxes generally apply to merchandise that is delivered in a jurisdiction which imposes such a tax. The transactions and use tax may be imposed at a rate of 0.25% or a multiple thereof up to a total of 2%. The current total sales and use tax rate in Oakland is 9.75%, which includes the State's temporary 1% increase. Approval of a 0.25% increase would raise the rate in Oakland to 10%.

These measures require a majority vote (50% plus one).

The maximum combined rate of TUT in any location may not exceed 2%. Currently in Alameda, local add-on taxes total 1.5% and are 0.5% for each of the following:

- AC Essential Health Care Services TUT
- Alameda County Transportation Improvement Authority (ACTIA)
- BART District

The most by which the City could propose a local TUT would be 0.5% (TUT can be increased in 0.25% increments).

The estimated revenue to be received in Oakland from the additional 0.25% is \$7.5 million for the FY 2011-12 and \$8.0 million annually thereafter.

The California Local Government Finance Almanac reports that two of five measures to increase local TUT placed by cities on their local November 2, 2009 ballots were approved by voters.

d. Telephone Access Line Tax (TALT)

A new telephone access line tax could also be implemented to support essential City services such as police, fire, emergency responses, parks, and libraries. It would exempt eligible low-income service customers and those that are preempted from federal and state law. A tax at the rate of \$1.99 per telephone line per month and \$13 per trunk line per month, would generate \$8.27 million annually beginning FY 2011-12.

In FY 2010-11, only \$690,000 would be collected due to the timing of the November election and the Public Utilities Code 799 requirement, which mandates that the City provide a ninety (90) day written notice to all service providers.

II. Other Measures

Measure Y "fix". A ballot measure to suspend the Measure Y requirement to maintain an appropriation for 739 officers before Measure Y taxes could be collected is proposed. This would enable resumption of the collection of parking and parcel tax revenues that pay for 63 problem-solving police officers, violence prevention programs and minimum staffing in Fire. If the Measure Y technical correction is approved, then 63 Measure Y positions could be funded as soon as January 2011.

Some community members have suggested that rather than suspending the 739 officer requirement in Measure Y, that the "fix" should substitute a lesser number (e.g., 700 or 675). It is important to note that the resolution no. 82849 C.M.S. approved by Council on June 24 required the lay-off of 80 police officers. It also required that an additional 122 officers be laid off should none of the revenue measures be approved by the voters in November. As such, the non-Measure Y staffing level would be 601. Absent the passage of revenue measures, no number larger than 601 would allow for the implementation of the "fix" measure and even that number might be high if the budget situation were to worsen between now and November. Therefore it is recommended that simply suspending the 739 language is the appropriate action.

The measure could also clarify (1) that the City may use Measure Y funding to recruit and train new officers to fill patrol vacancies caused by transfers of veteran officers to Measure Y positions; and (2) the City's discretion regarding types of Fire services that may be funded with Measure Y taxes.

The measure would also retain \$6 million in violence prevention programming and \$4 million for minimum staffing in Fire. If the measure is not approved by the voters,

the General Purpose Fund would be forced to absorb the \$4 million for Fire minimum staffing.

SUSTAINABLE OPPORTUNITIES

There are no direct sustainable opportunities associated with this report.

DISABILITY AND SENIOR ACCESS

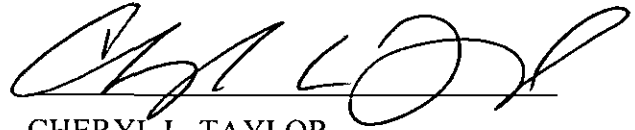
There are no direct disability and senior access opportunities associated with this report.

RECOMMENDATIONS

Staff requests City Council action on the following:

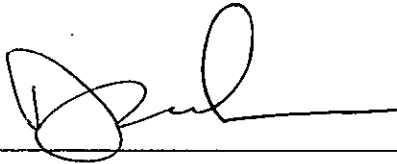
1. Adopt a resolution placing a public safety parcel tax on the November 2, 2010 general election ballot.
2. Adopt a resolution placing one or all of the following three measures on the November 2, 2010 general election ballot:
 - a. Expand the utility users' tax to water and garbage service, and modernize telecommunications.
 - b. Increase the transactions and use tax by a quarter percentage point.
 - c. Add a monthly access line charge of \$1.99 for each telephone line and \$13 for each trunk line.

3. Adopt a resolution placing on the November 2, 2010 general election ballot amendments to Measure Y that would suspend the minimum sworn Police staffing requirement to collect Measure Y revenues and clarify other provisions of the Measure.



CHERYL L. TAYLOR
Director, Budget Office

APPROVED FOR FORWARDING TO THE
CITY COUNCIL



Office of the City Administrator

ATTACHMENTS

- A: Summary of Proposed Revenue-Generating Ballot Measures
- B: Timeline for Placement of Measures on the November 2010 Ballot

Possible Ballot Measure Alternatives

GPF Revenue	Proposal	Voter Approval	Effective Date			FY10-11	FY11-12	FY12/13	Comments
			of	Implementat	Collection Begins				
<u>I. PARCEL TAX:</u>									
Parcel Tax	99 cents per day per parcel	Special Tax - 2/3 votes	January 1, 2011	FY10-11		\$24.96	\$ 51.37	\$ 53.16	FY10-11: Manual billing for remaining 6 months at prorated rate of \$180 for the first year (\$360 annual rate) & assumes a 60% collection rate. FY11-12: \$360 per parcel (plus 1% CPI increase) for full year, plus the 40% projected uncollected parcel tax in
<u>II. PROPOSAL TO ONE OF THE GENERAL TAX INCREASES:</u>									
A. Utility Users Tax Modernization									
Utility Users Tax Modernization	Expand UUT Charges to Water (7.5%)	General Tax - Majority votes	April 1, 2011	June 15, 2011		0.37	4.40	4.40	Implementation begins April 1, 2011. Due to 45 day lag, remittances may not be realized until June 15, 2011, realizing only one month's (1/12) tax remittance. Estimates are based upon annual revenue data provided by EBMUD for a calendar year.
	Expand UUT Charges to Garbage (7.5%)	General Tax - Majority votes	April 1, 2011	June 15, 2011		0.27	3.23	3.23	Implementation begins April 1, 2011. Due to 45 day lag, remittances may not be realized until June 15, 2011, realizing only one month's (1/12) tax remittance.
	Modernize UUT to Reduce Telecommunications Leakage (7.5%)	General Tax - Majority votes	April 1, 2011	June 15, 2011		-	-	0.63	Administrative Issues may delay collection till FY12/13
	Total Utility Users Tax Modernization					\$0.64	\$7.62	\$8.25	
B. Transactions and Use Tax									
Transaction Use Tax	Increase TUT by 0.25%	General Tax - majority vote	April 1, 2011	July 15, 2011		-	7.50	8.00	Mandatory minimum waiting period of 110 days to collect tax. Implementation begins April 1, 2011.
	Total Transaction Use Tax					-	7.50	8.00	
C. Access Line Tax									
Access Line Tax	New Access Line Tax at \$1.99 per line per month	General Tax - Majority votes	April 1, 2011	June 15, 2011		0.69	8.27	8.27	Implementation begins April 1, 2011. Due to 45 day lag, remittances may not be realized until June 15, 2011, realizing only one month's (1/12) tax remittance.
	Total Access Line Tax					0.69	8.27	8.27	

**Timeline for Placement of Proposed Measures on November 2010 Ballot
DRAFT**

To-Do Items	Due by/Date
City Council outlines ballot measures for placement on the November 2010 ballot.	June 24, 2010
City Attorney prepares legislation for proposed ballot measures (ordinances and resolutions)	July 15, 2010
Present report and draft ordinances for proposed ballot measures to Full City Council	July 22, 2010 (first reading of ordinance) Special Meeting
Seek City Council approval of ordinances and resolutions	July 26 or 27, 2010 (second reading of ordinance) Special Meeting
City Clerk obtains impartial legal analysis of proposed measures from City Attorney	July 30, 2010
City Clerk obtains cost analysis (fiscal impact) of proposed measures from the City Auditor	July 30, 2010
City Clerk obtains ballot titles and summaries of proposed measures from the City Attorney	July 30, 2010
City Clerk fixes date for submission of arguments for and against proposed measures pursuant to Section 6061 of the Government Code of the State of California	August 6, 2010
Forward ballot language from legislation to the Alameda County Registrar of Voters	August 6, 2010
City Clerk solicits and obtains rebuttals to arguments filed for and against proposed measures by deadline stated in the City Council's resolution (see above)	August 15, 2010