



AGENCY: City Council
MEETING DATE: July 11, 2018
DEPARTMENT: Administration
PRESENTED BY: Tabatha Miller
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AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Adoption by a Two-Thirds Vote of All Members of the City Council, a Resolution Rescinding the Submission to the Voters of the Special Purpose Three-Eighths of a Cent Transactions and Use Tax Measure as Provided for in Resolution No. 4107-2018 for the General Election to be Held on Tuesday, November 6, 2018; and Instead Submitting to the Voters a Local Ballot Measure Adopting a General Purpose Three-Eighths of a Cent Transactions and Use Tax (New Measure) for the General Election to be Held on Tuesday, November 6, 2018, as Called by Resolution No. 4098-2018; the Tax to be Administered by the California Department of Tax and Fee Administration; Directing the City Attorney to Prepare an Impartial Analysis of the New Measure; Authorizing City Council to Submit an Argument in Favor of the New Measure; and Setting Dates for Arguments and Rebuttals on the New Measure

ISSUE:

On June 25, 2018, the City Council unanimously adopted Resolution No. 4107-2018 submitting a special purpose tax measure to the City Voters at the November 6, 2018, General Election. That measure provided for 3/8ths of a cent for the sole purpose of reducing the City's California Public Employees Retirement System (CalPERS) Unfunded Accrued Liability (UAL) over 15 years instead of 30 and saving the City an estimated \$4.1 million. A special purpose tax requires the approval of two-thirds (2/3) of City Voters. A general purpose tax only requires the approval of a simple majority (50% plus 1) of the City voters.

Just before the June 28, 2018 deadline to pull measures from the state ballot, the Tax Fairness, Transparency and Accountability Act of 2018, labeled by the League of California Cities and other opponents as "The Corporate Tax Trick" was rescinded. That statewide ballot measure would have required two-thirds voter approval on all local tax matters and would have retroactively applied to January 1, 2018 thereby retroactively repealing the 25 measures approved in June by local voters statewide and any general tax measures passed by a simple majority but less than two-thirds in November 2018. It was partially because of this measure that the City Council decided to pursue a special purpose tax measure instead of a general tax measure in November.

Pulling the Tax Fairness, Transparency and Accountability Act of 2018 measure from the state ballot was the result of a compromise reached between the American Beverage Association and Service Employees International Union (SEIU). Instead, AB 1838 was signed by the Governor on June 28, 2018 which forbids any tax, fee or assessment on groceries (which by definition includes carbonated and noncarbonated nonalcoholic beverages) until January 1, 2031.

In response to rescinding of the ballot measure, the New Revenue Ad Hoc Committee raised the question whether or not the City Council should withdraw the Fort Bragg Special Purpose 3/8th of a cent special tax measure, which requires two-thirds voter approval and instead submit a general 3/8th cent tax measure which only requires the 50% plus one or simple majority to pass in its place.

At the City Council Meeting on July 9, 2018, City Council provided staff direction to rescind the special purpose sales tax and in its place submit a general purpose sales tax measure.

ANALYSIS:

As a special tax measure, the 3/8th of a cent tax must be approved by two-thirds (66.7%) of the voters and the proceeds of the tax may only be used to pay down the Unfunded Accrued Liability (UAL) on the City's five California Public Employees' Retirement System (CalPERS) pension plans.

In contrast, a general tax measure requires only a simple majority (50% + 1) of the voters' approval and the proceeds can be used for any governmental purpose. A general purpose tax is more flexible and requires a lower threshold to pass. Unlike a special purpose tax, a general tax can only be placed on the ballot at the same time City Councilmembers are elected. Therefore, a general tax cannot be brought forward again until November 2020, but a special revenue tax can be placed on any local ballot.

In the June 5, 2018 statewide local elections, 24 of 28 (86%) city/county/district general tax measures passed by a simple majority and 15 of 29 (52%) city/county/district special tax measures passed by two-thirds. The general tax measures included 7 add-on sales tax measures – 5 which passed, including 3 that passed by more than 70%. Of the special add-on sales tax measures requiring two-thirds approval, one passed by 70.3% and one narrowly failed with 66.2%.¹ The local Mendocino Coast Health Care District special purpose parcel tax narrowly passed by just a handful of votes.

The three-eighths of a cent figure, whether special purpose or general purpose, provides the City funding to pay down the \$9.4 million unfunded accrued liability on the City's five CalPERS plans. By amortizing the unfunded liability over 15 years instead of the planned 30 years, the City is projected to save \$4.1 million. Under the 30-year amortization, pension costs will increase an average of 14% per year and more than double in seven years.

Sales tax revenue generated within the City of Fort Bragg originates from tourists and visitors, City residents and regional residents (those who reside outside of City limits but regularly shop in Fort Bragg). Sales tax dollars from tourists or visitors to Fort Bragg are estimated to generate approximately 40% of the revenue and regional residents, those living outside city boundaries, that regularly shop in Fort Bragg, are estimated to generate an additional 33% of the sales tax. Only 27% of the tax impact would be carried by City of Fort Bragg residents.

RECOMMENDED ACTION:

1. Adopt the Resolution (which includes the proposed Ordinance as Exhibit A) rescinding the 3/8th of a cent or .375% special purpose transactions and use tax measure from the November 6, 2018 ballot and replacing it with a 3/8th of a cent or .375% general purpose transactions and use tax measure.

ALTERNATIVE ACTION(S):

1. No action and affirm Resolution No. 4107-2018 placing the 3/8th of a cent special purpose tax on the November 6, 2018 ballot.

FISCAL IMPACT:

¹ Report by CaliforniaCityFinance.Com *Local Revenue Measure Results June 2018*, June 30, 2018 Final

There will be nominal staff and attorney's fees to prepare the sales tax measure and with the consolidated general statewide election. These costs are estimated at approximately \$10,000. The 3/8th of a cent sales tax is estimated to generate an additional \$623k per year in revenue.

CONSISTENCY:

N/A

IMPLEMENTATION/TIMEFRAMES:

The last day to call the election for measures is no less than 88 days prior to the November 6, 2018 general election. The deadline for transmitting a ballot measure to the County Elections Office is August 10, 2018.

ATTACHMENTS:

1. Resolution
2. General Tax Expenditure Ordinance

NOTIFICATION:

Economic Development Notify Me List