



City of Pleasant Hill

CITY COUNCIL STAFF REPORT

Meeting Date: July 19, 2010

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

SUBJECT: PROPOSED BALLOT MEASURE TO MODERNIZE, EXPAND AND INCREASE THE CITY'S UTILITY USERS TAX

SYNOPSIS

Continuing declines in City revenues have caused the City Council to reduce the number of City employees and the levels of service and programs previously provided to the community. The most recently adopted budget requires spending reserve funds in order to maintain minimal levels of service. Staff has explored ways to improve the City's fiscal condition and has determined that the best available option is to modernize, expand and increase the rate of the City's current Utility Users Tax ("UUT"). A survey of likely voters found that a 1.5% UUT on the typical range of utilities, applied equally to all users in the community, is supported by a majority of the electorate. This tax could generate an additional \$1,020,252 in annual revenues to the City's general fund, and could not be confiscated by the State. Staff recommends adoption of a proposed resolution that would place the measure on the November 2010 ballot for a decision by the voters.

DISCUSSION

Background

City's Continuing Declines in Revenues/Projected Budget Deficits

The State's multi-billion dollar fiscal crisis and the national economic recession have significantly impacted the City's ability to provide the level of services and programs that our citizens have traditionally enjoyed. To address its own current \$20 billion budget deficit, the State has taken away funding that historically has gone to cities. For example, this year the State took nearly \$2 million of redevelopment funds from the City of Pleasant Hill, and more takeaways are expected next year. In addition to State takeaways, virtually all local revenue sources have declined as a result of the national economic recession.

Pleasant Hill's sales tax revenues have declined in each of the past three years. Other revenue sources have also declined. In fiscal year 2009/10, sales tax revenues were down \$1.1 million, a 16% decrease; vehicle license fees were down \$155,083, a 63% decrease; building permit fees were down \$125,000, a 31% decrease; hotel occupancy tax revenues were down \$265,266, an 18% decrease; business license fees were down \$206,313, a 9% decrease; and property tax revenues were down \$179,317, an 8% decrease.

The City has been responding to the State takeaways and declining local revenues for a number of years. A "Summary of Budget Balancing Measures" taken over the past several years is included as Exhibit A to this staff report. Despite these ongoing efforts, the recently

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adopted Biennial Budget projects deficits of \$351,767 for the 2010/11 fiscal year and \$843,506 for the 2011/12 fiscal year. The City Council's decision to incur these deficits, which will be funded from the City's Reserves, was made in order to avoid making even deeper cuts in the services and programs the City provides.

Utility Users Tax/Revenue Enhancement Option

As part of the City's 2010 - 2012 Biennial Budget preparation process, a review was undertaken to identify local revenue sources that cannot be taken away by the State. The best available option appears to be to modernize, expand and increase the rate of the City's current Utility Users Tax.

The City's current UUT was adopted in 1983. It applies to intrastate telephone calls only, using only landline telephones. The tax rate is 1% of the cost of such calls. The tax is collected by the service provider and remitted to the City. The City currently receives about \$189,000 annually from this UUT. This tax and tax rate have not been changed in the 27 years since adoption.

Analysis

UUTs: A Vital Source of Municipal Revenues

A UUT can legally be imposed on the consumption of any utility service including, but not limited to, electricity, gas, water, sewer, communications and garbage services. Currently, nearly 150 cities in California have UUTs. Typical UUT rates range from 1% to 11%. The most common rate is 5%, applied against a broad range of utilities.

In the Bay Area there are an estimated 30 cities with established UUT ordinances. In Contra Costa County there are currently six cities with UUTs, including Pleasant Hill. The rates for these UUTs range from a low of 1% (Pleasant Hill) to a high of 9.5% (Richmond).

Several other cities in Contra Costa County are currently considering either UUT measures or sales and use tax measures for the 2010 November ballot. Jurisdictions that have proposed UUT measures recently have enjoyed a positive reception at the ballot box, in part because voters feel that a UUT is an equitable tax that is applied equally to all utility users, and voters are concerned about local control of local revenues in order to maintain and protect their quality of life.

Article XIII C of the California Constitution (Proposition 218) requires that any new or increased local general tax, such as a UUT, must be approved by a majority vote of the electorate. (A two-thirds vote is required for the adoption of a special tax imposed for special purposes.) The deadline for submittal of the ballot language and supporting resolution to the County for inclusion on the November 2, 2010 ballot is Friday, August 6.

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Status of UUT Measure Process

Since January 2010, staff has taken numerous steps to research and identify the possibilities for modernizing, expanding and increasing the City's existing UUT. At the January 25, 2010 City Council Budget Committee meeting, staff presented results of the November 2009 elections, including specifically UUT measures in other California cities, and discussed the hiring of a polling consultant to conduct a survey of voters in Pleasant Hill to ascertain the possibility of modernizing and expanding the City's current UUT.

In April 2010, Godbe Research Associates was hired to conduct a survey of voters to assess potential support for an ordinance that would identify the tax rate at which voters would support an expanded UUT measure and to identify and prioritize desired City services. Approximately 400 voters completed the telephone survey, representing a universe of approximately 12,106 voters who would be likely to vote in the November 2010 election. The results of the survey are contained in the report entitled, "The City of Pleasant Hill 2010 Revenue Measure Feasibility Survey" which is attached as Exhibit B to this staff report.

The results of the survey of voters found that half the respondents would support increasing the UUT to 2% from the current 1%. However, with a survey margin of error of 5%, that level of support could drop to 45%. Suggesting a smaller increase, from 1% up to 1.5% or 1.75%, increased the level of support to 58%. With the same 5% margin of error, voter support for a UUT of 1.5% to 1.75% would be at least 53%.

In May 2010, TBWB Strategies was hired to begin a UUT public information outreach and public opinion program to inform and educate voters in Pleasant Hill on the fiscal challenges facing the City and the impact of declining revenues on our key City services. As part of this process Pleasant Hill voters were asked to provide their opinions and feedback regarding the City's evaluation of options for enhancing local control and securing a stable source of local funding that cannot be taken away by the State. There was an estimated 5% return rate on the direct mail and on-line surveys, which is satisfactory. A summary of the survey results is as follows:

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SURVEY RESULTS SUMMARY							
555 Surveys Tabulated							
	Very Satisfied		Somewhat Satisfied		Not Satisfied		TOTAL
The quality of life in Pleasant Hill?	418	78%	115	21%	5	1%	538
The availability of City services?	334	66%	167	33%	8	2%	509
	Very concerned		Somewhat Concerned		Not Concerned		
Portion of tax dollars staying in PH?	405	76%	115	21%	15	3%	535
Ability to control local funding?	376	72%	134	26%	12	2%	522
Rate Importance of the following:	HIGH		MEDIUM		LOW		
Nghd Police Patrols/response times	477	87%	60	11%	10	2%	547
Youth and Teen crime prevention	266	49%	221	41%	57	10%	544
Fixing Potholes and repairing roads	306	56%	213	39%	30	5%	549
Maintaining library Hours & Services	195	36%	232	42%	119	22%	546
Environmental programs	164	30%	243	45%	137	25%	544
Storm drains, sewers, flood control	346	63%	178	33%	23	4%	547
Keeping City clean, well maintained	366	67%	162	30%	19	3%	547

In July 2010, the City retained Donald Maynor, an attorney specializing in UUTs, to draft the ordinance for Council consideration and to advise on the wording of the ballot language. If the ballot measure is placed on the November ballot and approved by the voters, City staff anticipates participating in a comprehensive UUT compliance program, developed by Mr. Maynor and MuniServices for its fifty plus client cities, to assist with the initial implementation, administration and collection of the UUT.

The July/August 2010 edition of the Outlook Newsletter presented an overview of City services and the potential impacts of State takeaways on those critical services. The article provided information to residents and businesses in an effort to inform and educate them on the importance of maintaining local services and stabilizing local funding to protect the quality of life in Pleasant Hill. Residents and businesses were also encouraged to provide comments and feedback on these important City services issues.

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Estimated Costs to Utility Users

The following tables show estimated average **monthly** UUT costs to a 1 person and a 4 person household for a 1.5% UUT on all telecommunications, electricity, gas, water and sewer charges. The average **annual** costs of a 1.5% UUT would be approximately \$61.32 for a 1 person household and \$114.24 for a 4 person household.

1 Person Household	Average Monthly Utility Bill	UUT @ 1.5%
Telecommunications & Cable	\$155	\$2.33
Electricity & Gas	\$125	\$1.88
Water	\$30	\$0.45
Sewer	\$30	\$0.45
TOTAL	\$340	\$5.11

4 Person Household	Average Monthly Utility Bill	UUT @ 1.5%
Telecommunications & Cable	\$300	\$4.50
Electricity & Gas	\$200	\$3.00
Water	\$67.50	\$1.01
Sewer	\$67.50	\$1.01
TOTAL	\$635	\$9.52

The proposed UUT would apply equally to residential and business utility users in the City. It is difficult to estimate the average monthly cost of utilities for businesses. However, Pleasant Hill does not have a concentration of high energy and/or water users, typical of industrial uses. Instead, the majority of our businesses are retail and office uses and other small business operators. Businesses can estimate what their UUT would be by examining their current utility bills and adding the 1.5% UUT rate to the affected utilities.

Estimated UUT Revenues

The table entitled "Estimates for Utility Users Tax (UUT) Revenue" attached to this staff report as Exhibit C presents the estimated revenues that could be generated by applying a UUT, of various rates, against various utilities. As noted above, the City's current UUT is 1%, applied to Intrastate Telephone charges only. As shown, this generates approximately \$189,000 in annual revenues. If the 1% rate were to be applied against the range of identified utilities, it would generate approximately \$806,000 annually. Similarly, a rate of 1.25% would generate approximately \$1,008,000 annually; a rate of 1.5% would generate approximately \$1,209,000 annually; and a rate of 1.75% would generate approximately \$1,411,000 annually.

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It should be noted that garbage has not been included as a proposed utility subject to the UUT. Garbage services are instead subject to an existing franchise fee and recycling surcharge. This is typical of most cities.

UUT Ordinance, Including Exemptions and Incentives for Energy and Water Conservation and Annual Audits

As noted above, the City's current UUT applies only to intrastate telephone calls placed on landline telephones. An expanded UUT would include interstate and long distance telephone calls too, by all devices, including mobile phones, as well as data services such as text messaging, and private communication services (e.g., T-1 lines). The proposed UUT ordinance that would be submitted to the voters for approval is attached to the Resolution offered for City Council consideration. The proposed ordinance imposes a 1.5% tax on communications (including all telephone services and cable services), electricity, gas, water and sewer services. The proposed UUT ordinance includes several exemptions and incentives.

Exemptions

A UUT may not be imposed when it would violate the Constitution or laws of the United States or the State of California, and may not be applied to a service user that is a state or federal agency or subdivision (such as a public school district or community college district). In addition, the enabling ordinance also includes exemptions to ensure that the tax will not result in a disproportionate burden being placed on low-income or disabled households. For example, the ordinance includes an exemption for low-income households participating in PG&E's California's Alternative Energy (CARE) program, or any successor program. The ordinance also includes exemptions for any residential service user from the water users' UUT if the user is qualified and enrolled in the Lifeline Program of the Contra Costa Water District and for any eligible telephone lifeline service user.

Incentives

The ordinance also provides that the City Council may adopt by resolution incentives and rebates to encourage the reduction of gas, electricity and water usage in the City through efficiency and conservation, and to encourage the reduction or mitigation of greenhouse gases. In creating such incentives and rebates, the City may consult with the electric, gas and water service providers and local conservation and environmental organizations to achieve effective programs that are easily administered. The City may adopt, modify, discontinue and/or create new incentives and rebates from time to time, without obtaining voter approval.

Annual independent audits will also be required and the City will annually verify that the taxes owed have been properly applied, collected and remitted and that the taxes have been properly expended according to applicable law. This annual verification shall be performed by a qualified, independent third party, and the review shall employ reasonable, cost-effective steps to assure compliance, including the use of sampling audits.

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If approved by the voters, the new UUT ordinance would become effective immediately and, pursuant to state law, the service providers would be required to begin collecting the tax within 60 days thereafter.

Roles & Limitations During Ballot Measure Campaign Period

If the City Council agrees to place the UUT measure on the ballot, it will be necessary for community leaders to put together a community campaign to support passage of the ballot measure. Council members and staff can work on the campaign on their own time and at their own expense, provided it is made clear that they are doing so on their own time and not with any City resources. The City may also provide information relating to the proposed ballot measure, as well as the possible implications of not passing such a measure, so long as it does not advocate a position on the measure.

FISCAL IMPACT

As shown on Exhibit C, a 1.5% UUT, supported by the survey of voters, would generate approximately \$1,209,000 annually to the City's general fund.

Costs to date for citizen surveys, community outreach and legal services total \$64,891. If the City Council agrees to place the UUT on the ballot, additional costs of approximately \$31,926 could be incurred for final consultant services and payment of the County election fee.

If the measure is adopted, additional costs of approximately \$11,000 could be incurred to retain MuniServices to implement, and audit compliance with, the ordinance.

The \$64,891 in costs incurred to date has been paid from the City Manager's 2009/10 Budget Discretionary Fund. If the Council proceeds with the ballot measure, the additional \$31,926 in pre-election costs will be paid from the City Manager's 2010/11 Budget Discretionary Fund, as would the \$11,000 in post-election costs if the measure is approved by the voters.

PUBLIC CONTACT

Public contact was made through posting of the agenda on the City's official notice bulletin board, posting of the agenda on the City's web page, and availability of the agenda and staff report in the City Clerk's office, at the Central Library, and at the Pleasant Hill Police Department. In addition, 11,158 mailers were sent to registered voters on July 8, 2010 announcing this meeting.

ALTERNATIVES TO RECOMMENDED ACTION

In addition to the options of approving or rejecting the UUT measure as proposed by staff, the Council may also consider modifying which utilities are included in the UUT or the proposed tax rate. The last date for submitting ballot measures to the County is August 6, 2010.

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RECOMMENDED CITY COUNCIL ACTION

Adopt proposed Resolution.

Prepared by: Kelly Calhoun, Economic Development Manager
Robert M. Stewart, Redevelopment Administrator

Reviewed by: June M. Catalano, City Manager
Debra Margolis, City Attorney

Attachments: Exhibit A: Budget Balancing Measures
Exhibit B: 2010 Revenue Measure Feasibility Survey
Exhibit C: UUT Revenue Estimates Table
Resolution, with Proposed UUT Ordinance