



Council Meeting: March 29, 2011

SUBJECT: Update on Potential for Utility Users Tax Ballot Measure

BACKGROUND

At the January 29, 2010 Study and Budget Issues Workshop, Council requested that staff provide an update on the potential for an increase in the rate and/or base of the City's Utility Users Tax and a timeline for a possible ballot measure. A report (RTC 10-084) was presented to Council at the March 23, 2010 Council meeting. Council took no action at that time and requested to reconsider the issue in one year to see if economic conditions have improved and therefore a greater chance of success for the measure.

The Utility Users Tax (UUT) is a general tax that was first adopted in Sunnyvale in 1969. At time of adoption, the tax rate was 1%, which was increased to 2% in 1975. The UUT is a tax on the users of certain utilities and is collected and remitted by the utility companies as a part of their bill. In Sunnyvale, the UUT is applied to electricity and gas and intrastate telephone services. Sunnyvale's UUT rate of 2% remains well below the average of Santa Clara County cities, which is 3.7%, and significantly below the statewide average of 6%.

UUT may be collected by a city on a wide variety of utility services, including but not limited to electricity, gas, water, sewer, telephone (including long distance), trash collection, and cable television. As Sunnyvale's UUT applies to only electricity, gas, and intrastate telephone the opportunity exists to broaden its base to other areas of coverage allowable under state law. Any change to either the rate or the base would require voter approval. If the revenue is not earmarked for a specific purpose, it would be considered a general tax and require a majority vote in conjunction with a general election of the City Council. If it were earmarked, it would require a 2/3 vote and could be placed on the ballot at any time as a special election. Currently all UUT levies by California cities are for general taxes.

Sunnyvale's receipts from UUT currently total about \$6.6 million annually and account for nearly 6% of the General Fund's revenues. The UUT is used by the City to support basic services.

EXISTING POLICY

The Fiscal Sub-Element of the General Plan contains a number of policies which apply to this issue:

B.1 Revenue Base

B.1.1 The City will maintain a diversified and stable revenue base, not overly dependent on any land use or external funding source.

B.1.2 Taxes levied by the City will be used for the purpose of financing services performed for the common benefit.

B.1.3 Taxes should be held at their lowest possible level, while maintaining Council-approved service levels.

B.1.4 When considering a new tax or revenue source or an increase in an existing tax or revenue source, the following criteria should be considered:

- Community/voter acceptance
- Competitiveness with surrounding communities
- Efficiency of revenue collection and enforcement
- Effectiveness in generating sufficient revenues in the short and long-term to justify its establishment
- Enhancement of revenue diversity to promote stability and provide protection from downturns in business cycles
- Equity/Fairness in distribution of the revenue burden on various segments of the community

B.1.7 Revenue should not be targeted for a specific program, unless a revenue source has been established for the sole purpose of financing a particular expenditure.

DISCUSSION

There are two opportunities available to modify Sunnyvale's existing Utility Users Tax. The first is to increase the rate, and the second is to broaden the base. Sunnyvale's UUT rate is 2% and is applied to electricity and gas and intrastate telephone services. Of the cities that levy a UUT, only one other city, Cupertino, has a rate below 3%, with some as high as 5%. Additionally, in all other cities that levy UUT, the UUT is applied to a base which is broader than ours. Table 1, below, summarizes information on the rates and the base for each of the cities in Santa Clara County.

**Table 1
 Utility User Tax Applications**

City	Rate	Electric	Gas	Cable TV	Water	Telecom		Solid Waste
						Inter- State	Intra- State	
Campbell	none							
Cupertino	2.4%	X	X			X	X	
Gilroy	varies	5%	5%	5%		4.5%	4.5%	
Los Altos	varies	3.5%	3.5%	3.2%	3.5%	3.2%	3.2%	
Los Altos Hills	none							
Los Gatos	none							
Milpitas	none							
Monte Serenio	none							
Morgan Hill	none							
Mountain View	3.0%	X	X			X	X	
Palo Alto	5.0%	X	X		X		X	
San Jose	varies	5%	5%		5%	4.5%	4.5%	
Santa Clara		2.85%*						
Saratoga	none							
Sunnyvale	2.0%	X	X				X	
* Silicon Valley Power (the City of Santa Clara's electric utility) Public Benefits Charge.								
Santa Clara County UUT Average								
Average of cities with UUT					3.7%			
Weighted average of cities with UUT**					4.5%			
Average of all cities					1.7%			
Weighted average of all SCC cities**					3.6%			
**Weighted by population for Santa Clara County cities.								

Table 2, below, shows the types of increases and/or modifications in the UUT that could raise additional revenue for City services.

Table 2
Potential Revenue from UUT Modifications

<u>Tax Measure</u>	<u>Voter Approval</u>	<u>Est. Additional Annual Revenue</u>
Increase UUT to 3% with current base	Majority	\$3.3 million
Increase UUT to 3% with expanded base	Majority	\$6.5 million
Increase UUT to County Average of 3.7% with current base	Majority	\$5.6 million
Increase UUT to County Average of 3.7% with expanded base	Majority	\$8.0 million
Broaden base at current 2% rate for:		
- Water	- Majority	- \$500,000
- Wastewater	- Majority	- \$440,000
- Solid Waste	- Majority	- \$690,000
- Cable TV	- Majority	- \$500,000
Broaden base to include interstate telephone service	Majority	*

*Difficult to estimate because of manner in which remittances are received from telephone companies.

Timeline for Ballot Measure to Increase UUT Rate or Broaden Base

If a change in the UUT rate or base results in revenues for general purposes, it would be a general tax that would require voter approval at a general election of the City Council. Voter approval needed would be 50% of those voting, plus one. The next Council election will occur on November 8, 2011. There are several steps to be completed in order to get the ballot measure on this election date. Staff will need to research and prepare a ballot measure for Council approval. Council must approve a resolution calling for a measure election in June to allow for adequate time for public comment before submitting the final resolution to the Registrar of Voters by August 12, 2011. The cost of adding the ballot measure to the November 2011 Council election would be approximately \$43,000.

As mentioned earlier, a change in the UUT could also be earmarked for a specific purpose, which would make it a special tax subject to a 2/3 voter approval threshold. As a special tax, an election can be held at any time. It should be noted that few cities have passed an earmarked UUT in recent years. Voters in the City of Desert Hot Springs approved a UUT dedicated to a specific purpose, while ballot measures in Petaluma, Signal Hill, King City and Holtville were defeated. The majority of UUTs are general taxes.

Results of November 2, 2010 Election for Local UUT Revenue Measures

During the most recent election in November 2010, California voters considered 20 separate measures to either increase or expand Utility Users Taxes. Table 3, below, summarizes information on the election results for the measures:

Table 3
November 2010 Election Results for UUT Measures

<u>Tax Measure</u>	<u>Passed</u>	<u>Failed</u>
Modernize the base language to increase existing UUT to cover new telecommunications technologies while maintaining existing tax rate.	4	1
Modernize the base language to increase existing UUT to cover new telecommunications technologies while reducing existing tax rate.	5	0
Modernize the base language together with a tax rate increase	1	1
Tax rate increase	1	4
Establishing a rate for the first time	1	1
Extending the sunset of UUT for eight more years	0	1

The November 2010 results are similar to recent historical election outcomes. Since 2001 nearly all proposals to update UUTs without increasing the tax rate have passed, while only one in four proposals for new or increased UUTs have received voter approval.

FISCAL IMPACT

The fiscal impacts of potential UUT modifications are included in the report. The cost of adding the ballot measure to the November 2011 Council election would be approximately \$43,000.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

ALTERNATIVES

1. Council directs the City Manager to pursue a ballot measure for the November 2011 election to increase the rate and/or base of the City's Utility Users Tax.
2. Council takes no action at this time.

RECOMMENDATION

Staff recommends Alternative 1, Council directs the City Manager to pursue a ballot measure for the November 2011 election to increase the rate and/or base of the City's Utility Users Tax.

This item is being brought forward for reconsideration at Council's request. In light of the fact that the City's General Fund revenues are not keeping pace with expenditures, it would be prudent to consider increasing our revenue base along with efforts to cut and control expenses. However, Council should take into consideration the political climate of raising taxes and current economic conditions in assessing the chance of success for a measure.

Reviewed by:

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Approved by:

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