

**Council Meeting: May 21, 2013****SUBJECT: Discussion and Possible Action on a Ballot Measure to Increase the Transient Occupancy Tax****BACKGROUND**

At the May 7, 2013 City Council meeting, Council requested staff to provide a follow up to the April 30, 2013 Council Study Session on Transient Occupancy Tax to evaluate the potential for an increase in the rate and a timeline for a possible ballot measure.

The Transient Occupancy Tax (TOT) was adopted by ordinance in 1965 and became operative in 1968. The tax is assessed by hoteliers on behalf of the City on guests who occupy lodging establishments for 30 days or less. Sunnyvale currently has 35 hotels operating within City limits. Although the City's TOT revenue is volatile, it is still a major source of annual General Fund revenue, accounting for approximately 5%, or \$7.8 million in FY 2011/12.

Historically, the TOT rate was increased from 5% to 6% in 1978, to 7% in 1989, to 8% in 1990, to 8.5% in 1995, and was last increased in 2005 to a rate of 9.5%. (RTC No. 05-191). The last increase was approved by voters and was phased in over a four year period.

Sunnyvale's TOT is a "general tax" because it is imposed for general government purposes. As such, it can be increased by a majority vote of the electorate (50%, plus one). If the Council wanted to increase the tax rate to raise revenue for a specific, designated purpose, that portion would be considered a "special tax" and subject to a two-thirds voter approval requirement.

EXISTING POLICY

Council Fiscal Policy 7.1.1 contains several goals and policies that address the City's revenue base, including, but not limited to the following:

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

Sunnyvale is experiencing a high concentration of construction activity throughout the City. In just the last two years, approximately 3.3 million square feet of commercial space has been added. This will significantly increase the number of employees and visitors into the City as these spaces are filled, placing additional demands on both our physical infrastructure, such as our roadways, and services, including increased calls for service to our Department of Public Safety. At the same time, the City has dealt with a reduced revenue base resulting from the global recession, increasing costs and the unforeseen net loss of \$91 million in General Fund loan repayments over 20 years due to the State's dissolution of redevelopment agencies. These financial challenges were met by addressing the expenditure side of the budget including: the elimination of vacant positions, organizational restructure to gain efficiencies, and wage and benefit concessions from all bargaining groups. With the increasing service and infrastructure demands on the City, and the volatility of several of the City's major revenue sources, it is important to review all available strategies, including potential tax increases, to ensure the revenue base does not erode over time, while staying competitive with surrounding communities.

Sunnyvale's TOT rate is the lowest among neighboring cities and below the County average of 10.4%. As Table 1 indicates, most cities in the County have TOT rates of 10% to 12%, while Sunnyvale's rate is 9.5%.

**Table 1
Countywide TOT Rate Comparison**

City	Rate	City	Rate
Campbell	12%	Mountain View	10%
Cupertino	12%	Saratoga	10%
Palo Alto	12%	San Jose	10%
Los Altos	11%	Santa Clara	9.5%
Los Gatos	10%	Sunnyvale	9.5%
Milpitas	10%	Gilroy	9%
Morgan Hill	10%	AVERAGE	10.4%

Additionally, in both the City of San Jose and the City of Santa Clara, special hotel tax districts have been established which effectively increase the tax rate, but is not recorded as TOT. As Table 2 indicates, the effective tax rate average of the four surrounding cities is estimated between 11.9% and 12.25%.

**Table 2
Surrounding Cities Effective TOT Rate Comparison**

City	Rate	City	Rate
Cupertino	12%	San Jose	14% - 15%
Mountain View	10%	Santa Clara	11.5% - 12%
AVERAGE		11.9% - 12.25%	
San Jose <ul style="list-style-type: none"> • 4% Additional Citywide - Convention Center Facility District Tax Assessment (CCFD) • Hotel Business Improvement District (HBID) – Citywide Fee Based on Proximity to the Convention Center (\$.75 - \$2.00 per Night) on Hotels with 80 or More Rooms Santa Clara <ul style="list-style-type: none"> • 2% Additional on 9 Hotels - Vicinity of the 49er Stadium (CFD) • Tourism Improvement District (TID) – Same 9 Hotels (\$1.00 per Night) 			

Table 3 shows the corresponding impact of a TOT rate increase that could raise additional revenue for City services in the first year and the cumulative impact over a 20 year period.

**Table 3
TOT Rate Increase Impact Comparison**

Percent	Additional Revenue One Year Impact	Additional Revenue 20 Year Impact
10.0%	\$454,770	\$11,501,522
10.5%	\$909,558	\$23,003,043
11.0%	\$1,364,337	\$34,504,565
11.5%	\$1,819,116	\$46,006,086
12.0%	\$2,273,895	\$57,507,608

Outreach Efforts

To date, the City has partnered with the Sunnyvale Chamber of Commerce in conducting a roundtable meeting with industry members. The roundtable meeting was held as a first step in the outreach process to discuss this potential tax increase proposal. The meeting was meant to not only hear the issues/concerns of industry professionals, but to discuss the City's need to examine all available strategies to help the City's fiscal condition and to ensure the ongoing and long-term integrity of the City's General Fund.

The Sunnyvale Chamber of Commerce Board of Directors met on April 23, 2013 to discuss the proposed increase and its effects on Sunnyvale's hotel occupancy, the hotel industry, and the benefits to the City's General Fund. The consensus of the Board was to keep Sunnyvale hotels competitive in comparison to surrounding communities. The Board voted to support an increase not to exceed 10.5% (Attachment A).

Timeline for Ballot Measure to Increase TOT Rate

If a change in the TOT rate results in revenues for general purposes, it would be a general tax that would require voter approval at a general election of the City. The next general election will occur on November 5, 2013. There are several steps to be completed in order to get a ballot measure on this election date. The process would require Council approval of the ballot measure wording and proposed amendments to the Sunnyvale Municipal Code, and to decide on the preparation of the ballot argument. Council must approve a resolution in June calling for a ballot measure election to allow for adequate time for public comment before submitting the final resolution to the Registrar of Voters by August 9, 2013. The cost of adding the ballot measure to the November 2013 Council election would be approximately \$43,000.

If Council were to consider a tax increase for specific purposes, the cost of the ballot measure and the timeframe to have it in place for the November election would be the same. The only difference would be that as a special tax it would require a two-thirds vote of the electorate. It should be noted that no surrounding cities have passed an earmarked TOT in recent years. Table 4 summarizes the most recent TOT ballot measures and the margin of approval for each.

Table 4
Recent TOT Rate Increase Measures

City	Current Rate	Measure	% Increase	Margin
Menlo Park	12%	Measure K - 2012	2%	73.6%
Cupertino	12%	Measure C - 2011	2%	82.5%
Campbell	12%	Measure N - 2010	2%	73.2%
Palo Alto	12%	Measure M - 2007	2%	80.6%

FISCAL IMPACT

Staff estimates that a 1% increase in TOT, to 10.5%, would result in approximately \$900,000 in additional annual revenue or approximately \$23 million over a 20 year period based on current long term revenue projections.

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. Additionally, staff participated with the Chamber of Commerce in conducting a roundtable meeting with industry members to discuss this potential tax increase proposal. Sunnyvale hotels and the Chamber of Commerce were notified about this agenda item and the public hearing tonight.

ALTERNATIVES

1. Council directs staff to pursue a ballot measure for the November 2013 election to increase the TOT tax at a specified general tax rate.
2. Council directs staff to pursue a ballot measure for the November 2013 election to increase the TOT tax at a specified special tax rate and designate use of the funds to a special purpose.
3. Council takes no action at this time.

RECOMMENDATION

Staff recommends Alternative 1, Council directs staff to pursue a ballot measure for the November 2013 election to increase the TOT general tax rate to 10.5%.

In keeping with prudent fiscal policies and strategies, potential tax increases must be considered to ensure that the ongoing and long-term structural integrity of the City's General Fund is secured and maintained. Among the opportunities for revenue generation is the potential to increase the TOT, a major General Fund revenue source. Sunnyvale's TOT rate is 9.5%, and is one of the lowest in the area. Sunnyvale's TOT rate is lower than the 10.4% County average and lower than the estimated effective rate of 11.9% to 12.25% charged by neighboring jurisdictions, suggesting that a proposed ballot measure to increase the TOT rate to 10.5% will remain competitive.

Staff recognizes that ultimately it is in the best long-term interest of the City to work collaboratively with the business community to achieve the mutually beneficial goal of improving the quality of life in Sunnyvale. Such efforts can help ensure continued and shared successes. In developing its recommendation, staff attempted to strike a balance between the City's need for additional revenues to help maintain fiscal stability, the relatively low tax rate currently enjoyed by Sunnyvale hoteliers, and the specific challenges faced by this segment of the City's business community. Staff therefore recommends that the Council move forward with a November 5, 2013 ballot measure to increase the TOT by a total of 1.0%, for general purpose revenue.

Reviewed by:

Grace K. Leung, Director, Finance

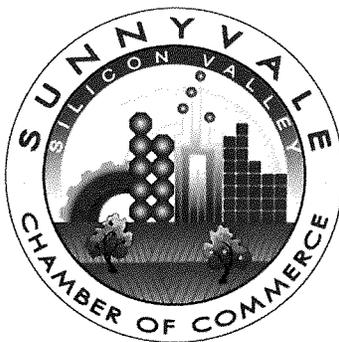
Prepared by: Brice McQueen, Senior Management Analyst

Approved by:

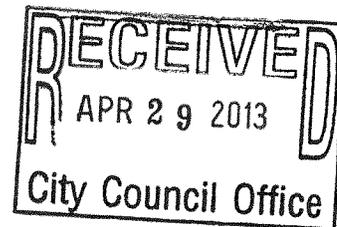
Gary M. Luebbers
City Manager

Attachments

- A. Sunnyvale Chamber of Commerce Letter Dated April 25, 2013



Since 1906



Mayor and City Council
456 W Olive Ave
P.O. Box 3707
Sunnyvale, CA 94088

April 25, 2013

Re: Hotel Tax Study Session

The Sunnyvale Chamber of Commerce Board of Directors met on April 23, 2013 to discuss the proposed hotel tax increase and its effects on Sunnyvale’s hotel occupancy, the hotel industry, and the benefits to the City’s general fund. The consensus of the Board was to recommend we keep Sunnyvale hotels competitive in comparison to surrounding communities, especially Santa Clara and Mountain View where we obtain most of our lodging spill over.

The hotel clientele in Sunnyvale is primarily business travel, but is also significantly supplemented by construction workers. According to local hotel owners, we have recently recruited workers from Santa Clara construction sites because of our more competitive rates. I regularly boast about our affordable hotel rates and our reasonable TOT tax rate when promoting our city.

The TOT rates for the surrounding cities are as follows:

- Mountain View 10%
- Santa Clara 10.5% to 11.5% (Stadium tax)
- Cupertino 12%
- Palo Alto 12%
- San Jose 14%

Based on Santa Clara and Mountain View being our closest competition, the Sunnyvale Silicon Valley Chamber of Commerce has voted to recommend that any new hotel tax does not to exceed 10.5%. This figure will prevent our hotels from being at a business disadvantage as well as supplementing the City of Sunnyvale to offset operating cost, public safety and infrastructure in a growing economy. It is our belief that a TOT tax in excess of 10.5% may result in being counterproductive, lowering our hotel occupancy, and creating an additional burden on our hotels businesses.

Don Eagleston
President and CEO

A handwritten signature in black ink, appearing to read "Don Eagleston".