



Council Meeting: September 24, 2013

SUBJECT: Discussion and Possible Action to Take Positions on Local Ballot Measures for the November 5, 2013 Election

REPORT IN BRIEF

This report provides an opportunity for the City Council to take positions on local measures on the November 5, 2013 Ballot. **Consistent with other ballot measures, no public funds have been or will be used to campaign for or against these measures.**

Staff has deemed the following measures as *City business* and is recommending the following positions:

- *Local Ballot Measures*
 - Measure A** – NO STAFF RECOMMENDATION
 - Measure B** – SUPPORT
 - Measure C** – NO STAFF RECOMMENDATION

BACKGROUND

Staff provides analysis and a position recommendation of only those ballot measures that directly relate to service delivery, or otherwise contribute to the City's operational success. All measures deemed not *City business* are also presented in this report for potential Council Action, however, do not include staff analysis.

Staff recommendation options are: Support, Oppose, No Staff Recommendation, or Take No Position. While the meaning of Support and Oppose recommendations are clear, "No Staff Recommendation" and "Take No Position" are clarified as follows:

No Staff Recommendation – Consistent with City policy, staff does not provide analysis or make recommendations on measures that do not relate to service delivery or otherwise contribute to the City's operational success.

Take No Position – Despite a measure's ability to impact City business, Staff may recommend that Council abstain from taking a position. This recommendation to remain neutral on an issue may be made for a variety of reasons (e.g., ballot language is not clear; the pros and cons of the business impact cancel each other out; etc.). Should this option be recommended, the reason will be explained in staff's analysis.

EXISTING POLICY

Council Policy 7.3.13 *Support for Councilmembers; Staff-Council Communications*

Council Policy 7.3.2 *Legislative Advocacy Positions*, defines *City business* as all matters directly related to service delivery, or otherwise contributing to the City's operational success.

ENVIRONMENTAL REVIEW

N/A

DISCUSSION

All measures appearing on the November 5, 2013 ballot in Sunnyvale are presented below for Council review and consideration. Pursuant to Elections Code section 9280, whenever any city measure qualifies for a place on the ballot, the governing body may direct the city elections official to transmit a copy of the measure to the city attorney to prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The City Attorney's impartial analysis for Measures A, B, and C are included below.

Measures Deemed City Business

MEASURE A

To help reduce the City's elections costs through consolidation with County and State elections, shall the Sunnyvale City Charter be amended to change the City's general municipal elections from odd-numbered years to even-numbered years, with the next general municipal election scheduled for 2016, and to provide a one time, one year extension to councilmember terms, and create a temporary one year mayoral term to enable the transition to even-numbered year elections?

Impartial Analysis by the Office of the City Attorney:

The Sunnyvale City Charter currently provides that the City's General Municipal Election to elect Councilmembers shall be held in November of each odd-numbered year. This measure would amend Article XIV, Section 1400 of the Charter to change the date of the General Municipal Election from odd to even-numbered years, beginning in November 2016. This measure would also amend Charter Article VI, Section 601 to provide a one-time, one-year extension of Councilmember terms, and Section 605 to create a one-time, one year transitional mayoral term.

The stated purpose of changing to even-numbered year elections is to reduce the City's election costs by consolidating the City's elections with countywide and statewide elections, which are held in even-numbered years. According to the County Registrar of Voters Impact Analysis, election costs vary depending on the number of jurisdictions participating and sharing in an election. Because more jurisdictions participate in even-numbered year elections, the costs for even-numbered year elections are lower than in odd-numbered years.

The Registrar estimated that an election in 2016 would cost approximately \$350,707, while an election in 2015 would cost between \$394,546 and \$526,061, depending on how many other jurisdictions participated in the election. Based on this, the City would likely realize a cost savings of approximately \$43,839 to

\$175,354 per general election. The Registrar has also stated there would be a one-time cost to the City of approximately \$20,000 to process the changes to the County's election information management system.

The purpose of the provisions to extend the terms of City Councilmembers by one year, for a total term of five years rather than four, is to implement the change to even-numbered election years. If this measure passes, Councilmembers currently in seats 4, 5, 6 and 7 whose term would have expired after the 2015 election would have their term extended until their successors are elected and seated after the November 2016 election. Likewise, Councilmembers elected to seats 1, 2 and 3 at the November 2013 election shall serve until the November 2018 election. Councilmembers elected in November 2016 and subsequent elections will resume serving four year terms consistent with existing Charter provisions.

Similarly, the purpose of creating a one year mayoral term for January 2016 through January 2017 is to implement the change to even-numbered election years. This measure would amend Charter Section 605 to allow the City Council to select a member to serve a one year transitional mayoral term from the first meeting in January 2016 until the first meeting in January 2017, following the general municipal election held in November 2016. Thereafter the two year mayoral term would resume.

The change to even-year elections would delay by one year the ability to place revenue-raising measures on the ballot because such measures must coincide with regular general municipal elections.

These Charter amendments will become effective if a majority of those voting on the measure vote "yes" for the amendment.

City Policy:

7.3.1 *Legislative Management - Goals and Policies*, Policy 7.3B.5 Conduct elections in accordance with the Charter and state laws.

Measure A was added to the Ballot via Council action on RTC 13-130.

Staff Analysis:

With the exception of the fiscal impact noted in the analysis of the City Attorney, this proposed amendment to the City Charter has no impact on service delivery or operational success. For this reason, staff makes no recommendation on a City position.

Staff Recommendation: No Staff Recommendation

MEASURE B:

Shall the Sunnyvale Municipal Code be amended to increase the transient occupancy tax rate (commonly called "hotel tax") charged to persons who occupy hotel or motel

rooms in the City for 30 days or less from 9.5% to 10.5% in order to help maintain the City's ability to fund basic services such as public safety and streets, trees, and sidewalk maintenance, and to keep parity with neighboring cities' hotel tax rates, effective January, 2014?

Impartial Analysis by the Office of the City Attorney:

This proposed ballot measure would amend Chapter 3.16 of the Sunnyvale Municipal Code to increase the City's transient occupancy tax ("TOT") rate from 9.5% to 10.5%. The TOT, otherwise known as the "hotel tax", is imposed for general governmental purposes and is therefore considered a "general tax". Under state law, any increase in a general tax requires a simple majority vote of the electorate (50% plus one) at a general municipal election of the City.

The City's TOT was first adopted by ordinance in 1965 and became operative in 1968. The last time the City's voters approved a TOT rate increase was in 2005, which gradually phased-in the tax increase over a four-year period to the current rate of 9.5%. Sunnyvale currently has thirty-four (34) hotels operating within the City that pay the tax. As defined in the ordinance, "hotels" includes all types of transient lodging establishments. The tax is assessed by the operator on behalf of the City to guests who occupy hotels for thirty (30) days or less. The tax is collected by the hotels and remitted to the City. It is based on the room rate charged by the hotel. For example, if the base room rate is \$100, the total amount charged to the guest under the new rate would be \$110.50, with \$10.50 remitted to the City as tax.

TOT rates vary around the County of Santa Clara from a low of 9% to a high of 12%. If additional special hotel tax districts are included, such as the San Jose Convention Center Facility District, the range is from 9% to 14%.

Sunnyvale's Department of Finance estimates that a 1% increase in TOT from 9.5% to 10.5% would result in approximately \$900,000 in additional annual revenue or approximately \$23 million over a twenty (20) year period based on current inflation-adjusted long-term revenue projections. Revenues from the tax are placed in the City's General Fund to support infrastructure and City services including police and fire, public works, street and sidewalk maintenance, parks and recreation, library services, and economic development efforts.

A "YES" vote is a vote to amend the Sunnyvale Municipal Code to increase the City's TOT rate from 9.5% to 10.5%, effective January 1, 2014.

A "NO" vote is a vote to retain the current TOT rate of 9.5%.

City Policy:

Council Policy 7.1.1, *Fiscal – Long Range Goals and Financial Policies*, contains several goals and policies that address the City's revenue base.

Measure B was added to the Ballot via Council action on RTC 13-143.

Staff Analysis:

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 City's revenue base does not erode over time, while staying competitive with surrounding communities. Among the opportunities for revenue generation is the potential to increase the Transient Occupancy Tax (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 County average and noticeably lower than the effective rate charged by neighboring jurisdictions, suggesting that a proposed ballot measure to increase the TOT rate to 10.5% would still be competitive.

Staff Recommendation: Support**MEASURE C:**

Shall the City of Sunnyvale adopt a gun safety ordinance to require: 1) reporting to police, within 48 hours, known loss or theft of a firearm; 2) storing firearms in residences in a locked container or disabling them with a trigger lock when not in the owner's immediate possession; 3) prohibiting the possession of ammunition magazines capable of holding more than 10 rounds, with certain exceptions; and 4) logging and tracking of ammunition sales within the City of Sunnyvale?

Impartial Analysis by the Office of the City Attorney:

This proposed gun-safety measure would add four new sections to Chapter 9.44 of the Sunnyvale Municipal Code related to firearms and ammunition. These four sections relate to: (1) reporting of loss or theft of firearms, (2) safe storage of firearms within residences, (3) prohibition of large-capacity magazines, and (4) recordkeeping requirements for ammunition sales.

If the measure passes, Sunnyvale residents will be required to report the loss or theft of a firearm to the Sunnyvale Department of Public Safety within 48 hours of the time they knew or reasonably should have known of the loss or theft. This requirement will also apply to non-Sunnyvale residents whenever a firearm is lost or stolen in Sunnyvale.

The measure will require that firearms in residences be stored in a locked container or disabled with an approved trigger lock, except when a firearm is being carried by the owner or person in control of the residence, or is otherwise in that person's immediate control and possession. The measure will prohibit the possession of large-capacity ammunition magazines in Sunnyvale, subject to certain exceptions. "Large-capacity ammunition magazines" are defined as any detachable ammunition feeding device with the capacity to accept more than ten rounds. The measure contains several exemptions including persons holding certain state gun licenses, licensed gunsmiths, law enforcement officers and other authorized government officers and employees, armored car businesses, and retired peace officers holding a valid Carry Concealed Weapons permit. In addition, the measure exempts any person who is lawfully in possession of a firearm that the person obtained prior to

January 1, 2000, if no magazine that holds fewer than 10 rounds of ammunition is compatible with the firearm and the person possesses the large capacity magazine solely for use with that firearm.

Finally, the measure will impose certain record-keeping requirements on ammunition vendors in Sunnyvale. An ammunition vendor is defined as any person engaged in the business of selling, leasing, or otherwise transferring firearm ammunition. Ammunition vendors will be required to keep an ammunition sales log recording information related to the identity of the person purchasing the ammunition, including driver's license number or other government-issued identification, the brand, type, and quantity of ammunition purchased, and the purchaser's signature and right thumbprint. These records must be kept for 2 years and must be made available for inspection by Public Safety officers.

There is legislation currently pending in the California State Legislature which, if adopted, could preempt this measure in whole or in part. To the degree a local ordinance is preempted by State law, it is not enforceable.

If the measure is adopted by the voters, it cannot be amended except through another vote of the people.

A "YES" vote is a vote to add the above provisions to the Sunnyvale Municipal Code.

A "NO" vote is a vote not to add the above provisions to the Sunnyvale Municipal Code.

City Policy:

Measure C was added to the Ballot via Council action on RTC 13-171.

Staff Analysis:

Staff has analyzed the 4 provisions of this ballot measure. Provisions 1, 2, and 3 of this measure have no impact on service delivery or operational success.

Provision 4, *Logging and Tracking*, would have a small fiscal impact. Currently, there are 10 licensed firearms dealers in Sunnyvale. At the time of license renewal, additional staff time will be required to verify if the dealer sells ammunition and, if so, verification that the dealer is maintaining the required logs. These additional tasks would require an additional 20 hours per year of a Senior Office Assistant in the Licenses/Permits Unit. The estimated cost is approximately \$1141 per year (\$57.08/hour rate). In addition, the provision states that the required dealer logs be available for inspection by peace officers during normal business hours. This additional task would require an additional 20 hours per year of Public Safety Lieutenant in the Investigations Unit. The estimated cost is approximately \$2500 per year (\$125/hour rate). These additional tasks would be absorbed into existing budgeted resources.

With the exception of the fiscal impact noted above regarding provision 4 of this measure, this proposed amendment to the Municipal Code has no impact on service delivery or operational success.

Staff Recommendation: No Staff Recommendation

Measure Deemed Not City Business

MEASURE G:

To continue critical renovation, modernization and safety needs at the district's schools and to make needed upgrades to classrooms, libraries, science and computer labs, improve student access to computers and instructional technology and continue to improve the energy efficiency of classrooms and buildings, shall the Sunnyvale School District issue \$96,000,000 in bonds at legal interest rates with funds monitored by an Independent Citizens' Oversight Committee and no funds spent on administrators?

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. Take a position on one or more of the Ballot Measures.
2. Take no position on the Ballot Measures.

RECOMMENDATION

Staff recommends Alternative 1. Specifically, staff is urging Council to take a support position on Measure B to increase the transient occupancy tax rate.

Reviewed by:

Robert Walker, Assistant City Manager

Prepared by: Yvette Blackford, Senior Management Analyst

Approved by:

Gary M. Luebbers
City Manager