



STUDY SESSION

Agenda Item # 1

AGENDA REPORT SUMMARY

Meeting Date: March 13, 2018

Subject: Potential Revenue Measures

Prepared by: Chris Jordan, City Manager

Attachment(s):

1. Transient Occupancy Tax Comparisons and Analysis

Initiated by:

City Manager

Previous Council Consideration:

Fiscal Impact:

Not applicable

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

- Does the City Council wish to begin the process of considering various revenue generating proposals at this time?

Summary:

- There are a few revenue generating proposals that the Council could consider: increase to the transient occupancy tax (TOT); a tax on cannabis sales; a business license tax increase
- Each would require approval by a majority of the Los Altos voters in November 2018
- Revenues generated by any of these measures would be deposited into the City's General Fund and would be used for various general governmental activities, such as public safety, traffic safety measures, facility maintenance and improvements; and projects in the downtown

Staff Recommendation:

Staff recommends the Council consider the possible measures and determine a course of action that would lead to further consideration by the Council in early Summer 2018



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Purpose

The City Council is asked to consider possible revenue generating measures and direct staff on appropriate next steps.

Background/Discussion

In recent Council meetings, two possible revenue generating measures were briefly mentioned: an increase in the City's transient occupancy/"hotel" tax (TOT) and a tax on the sale of cannabis.

- 1) Under the State Constitution ("Proposition 218"), a general tax (revenues deposited into the General Fund) must generally be placed on the same ballot as when Council elections are held (November, 2018) and requires approval by a majority of voters.
- 2) If a tax is proposed for specific and limited purposes (a "special tax"), it requires approval by 2/3 of the voters.

We note that this is the current state of the law. However, a draft Statewide proposition was recently cleared for petition signature circulation. We understand that the proponents intend to gather signatures in the coming months in order to qualify this proposition for the November, 2018 Statewide General Election. The proposition has two significant components that may affect Los Altos' efforts to enact a local tax:

- It would eliminate any distinction between "general" and "special" taxes - 2/3 supermajority voter approval would be required for passage of any local tax.
- It includes a "retroactivity" clause providing that any local tax measure passed any time in 2018 which does not meet the proposition's more stringent standards is legally void.

Therefore, if this Statewide proposition qualifies for the ballot and if State voters ultimately approve it, any local tax approved in 2018, whether "general" or "special" that has not secured 2/3 supermajority voter approval could be vulnerable to legal challenge. We wish to emphasize that there are still a great number of "if's" that must occur before this proposition actually becomes law and the proponents have a great deal of work still ahead of them. However, Staff is making the Council aware of this possibility for strategic planning purposes.

Under these circumstances, if the Council wants to consider a general tax measure, staff would suggest that the November 2018 ballot would be the appropriate opportunity for voter consideration.

Analysis

The two concepts staff is suggesting are:

- 1) An increase in the TOT. Currently, the City's TOT is 11% which is approximately average for cities in Santa Clara County. (Attachment 1) Currently, the highest TOT is levied by Palo Alto at 14%. The Los Altos TOT raises approximately \$2.6 million annually, or approximately



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\$236,000 for each 1% of TOT. Therefore, if Los Altos were to increase its TOT to 14%, we would anticipate an increase of approximately \$700,000 in annual revenues in the General Fund.

- 2) A tax on the sale of cannabis. The City has placed a moratorium on issuing permits for any business in the City desiring to sell cannabis. However, the Council could consider terminating that moratorium at some time in the future and allowing businesses that sell cannabis. If that were to happen, it could be in the City's best interest to have a tax on the sale of cannabis already in place. Staff would suggest a gross receipts tax of 10% as that seems to be what other cities are considering. At this time, we do not have an estimate of the possible revenue generated by such a tax.

If the Council has an interest in either of these possible measures, or if the Council has other possible revenue generating measures you would like staff to explore, staff recommends the Council direct staff at this time. Also, if the Council would like staff to survey the community on either, or both, of these possible measures, we would ask the Council to direct staff to do so. Under the California Elections Code, the legal deadline to place a local tax measure on the November 6, 2018 ballot is August 10, 2018. Given the City Council's meeting schedule for the year, an ordinance would need to be introduced by the Council at its second meeting in June and adopted at the July meeting to comply with this schedule. Staff is requesting that Council start the discussion now so that any local tax measure that may result can be prepared well ahead of this deadline.

Recommendation

Staff recommends the Council consider these suggestions for an increase in general revenues to the City and provide direction to staff.

Transient Occupancy Tax Comparisons and Analysis

Analysis of current Transient Occupancy Tax (TOT) rates for Los Altos and 14 neighboring cities reveals that Los Altos' TOT rate (11%) is marginally higher than the average TOT rate (10.75%) of the 12 neighboring cities who have a TOT.*

	TOT Rate
Los Altos	11%
Campbell	12%
Cupertino	12%
Gilroy	9%
Los Altos Hills	--
Los Gatos	12%
Milpitas	10%
Monte Sereno	--
Morgan Hill	10%
Mountain View	10%
Palo Alto	14%
San Jose	10%
Santa Clara	9.5%
Saratoga	10%
Sunnyvale	10.5%
Average	10.75%

Palo Alto raised its TOT rate from 12% to 14% in November 2014 with citizens passing Measure B by a 76% to 24% vote in favor of the increase. Los Gatos citizens voted in favor of raising its TOT from 10% to 12% at its November 2016 election.

Outside of comparison cities, San Francisco will put an initiative on their November 2018 ballot to increase the TOT rate from 14% to 15% within the city limits.

The following charts display Los Altos' budgeted TOT revenue for FY 17/18, the expected increase in revenue at different TOT rates, and the expected percentage increase in revenue for different TOT rates.

	TOT Rate	FY17-18 Budget
Los Altos	11%	\$ 2,626,500
Los Altos	12%	\$ 2,865,272
Expected Change		\$ 238,772
Los Altos	13%	\$ 3,104,044
Expected Change		\$ 477,544
Los Altos	14%	\$ 3,342,816
Expected Change		\$ 716,316

Rate Change	Expected Revenue % Increase
11% to 11.5%	4.55%
11% to 12%	9.09%
11% to 12.5%	13.64%
11% to 13%	18.18%

* Monte Sereno and Los Altos Hills do not charge TOT, so they were omitted rather than adding rates of 0% to the calculation.