



## CITY COUNCIL AGENDA – FEBRUARY 6, 2018

SUBJECT: Consideration of a Potential Tax Measure

SOURCE: City Manager's Office

COMMENT: Over the past year, there have been several City Council discussions involving the potential pursuit of a tax related ballot measure in support of several potential subjects, including enhanced public safety, a multi-use indoor sports facility, local road improvements, and new main library facility. As a follow-up to those discussions, staff herein presents options for Council's information and discussion.

### General Tax Measures

General taxes are imposed for general governmental purposes and are proposed by ordinance or resolution. General taxes passed by the electorate often include advisory measures indicating the intentions of use of the tax funds. The courts have ruled, however, that there is no legal obligation to use the funds as intended.

Specific noticing requirements and public hearings would be either recommended or required depending on how the tax is proposed. The Council must approve the tax by resolution or ordinance by a  $2/3$  majority vote (in other words  $4/5$  vote) of all Council Members prior to it being submitted to the electorate for a vote. Note, that although the statute purports to cover general law and charter cities, it has been found that the  $2/3$  vote requirement does not necessarily apply to charter cities. That stated, because the City has no explicit voting requirement for tax measures, it could be argued that the  $2/3$  Council vote requirement applies regardless.

Once placed on the ballot, it must be approved by a simple majority of the City electorate at an election consolidated with a regularly scheduled general election for members of the governing body of the local government, which in Porterville's case is November of even years. A general tax measure could be placed on a ballot for a different election cycle only in cases of emergency declared by a unanimous vote of the City Council (members present).

In 2005, the City of Tulare successfully passed a half-cent General Sales Tax measure in support of general city services (71% approved). In 2008, the City of Lindsay was unsuccessful in passing a three-quarter cent General Sales Tax measure (71% opposed). In 2016, the City of Visalia successfully passed a half-cent General Sales Tax measure (65% approved). In 2017, both the Cities of Lindsay (68% approved) and Woodlake (64% approved) successfully passed

one cent General Sales Tax measures, and the City of Farmersville successfully passed a half-cent General Sales Tax measure (60% approved).

#### Special Tax Measures

Special taxes are taxes imposed for a specific purpose. The definition of a "special" tax has been further clarified by case law to mean a tax levied to fund a specific governmental project or program, when there is a legal obligation to use the fund for the specified purpose. Special taxes must follow mandatory accountability measures, which include a statement indicating the specific purposes of the tax, a requirement that the proceeds be applied only to the specific purposes identified in the statement, the creation of an account into which the proceeds shall be deposited, and an annual report as required by law.

Specific noticing requirements and a public hearing for a proposed special tax would be either recommended or required depending on how the tax is proposed. As with the general tax, the Council must also approve a special tax by resolution or ordinance by a 2/3 majority vote (in other words 4/5 vote) of all Council Members prior to it being submitted to the electorate for a vote. A special tax measure must be placed on a ballot of a statewide primary election, a statewide general election, or a regularly scheduled local election and requires a 2/3 vote or more to be approved.

In 2004, the City of Visalia successfully passed a one-quarter cent Special Sales Tax measure in support of public safety. In 2005, the City of Dinuba successfully passed a three-quarter cent Special Sales Tax measure in support of public safety (73% approved), and the City of Porterville successfully passed a half-cent Special Sales Tax measure in support of public safety (70% approved).

If there is Council interest in pursuing a tax measure, either general or special, the first recommended step is to engage the services of a consulting firm that conducts public policy-oriented opinion research to poll residents to determine community interests and priorities. In 2005, the City engaged the services of Fairbank, Maslin, Maullin, Metz & Associates to conduct a comprehensive telephone survey of Porterville citizens. Based on those results, the City ultimately pursued and the voters approved the special tax Measure H. In addition to an opinion research firm, it is also recommended that a tax measure consultant be hired. In 2005, the City utilized the services of The Lew Edwards Group to guide the City through the complex process. An abbreviated summary of the Lew Edwards recommended timetable for a November election is attached hereto for Council's reference.

RECOMMENDATION: That the City Council provide direction to staff concerning whether it wishes to proceed with a tax measure; and if so, direct staff to issue a RFQ for public policy-oriented research firms to conduct citizen polling.

ATTACHMENTS: 1. Timeline

Appropriated/Funded:

Review By:

Department Director:  
John Lollis, City Manager

Final Approver: John Lollis, City Manager

Recommended Timetable for Placement of a Tax Ballot Measure  
on a November Election

February	Formalize consultant agreements; identify costs, draft poll and field interviews.
March	Conduct and analyze polling, assess measure feasibility; finalize timetable and outreach plan.
April	Citizens' Task Force activities commence; implement first non-partisan mailer.
May	Continue Citizens' Task Force activities.
June	Continue Citizens' Task Force activities; implement second non-partisan mailer.
July	Finalize ballot question and impartial analysis; expenditure plan; voter handout materials. Follow election calendar for ballot filings.