

STAFF REPORT

DATE: December 15, 2015

TO: City Council

FROM: Dirk Brazil, City Manager
Kelly Stachowicz, Assistant City Manager
Kelly Fletcher, Finance Administrator

SUBJECT: Consideration of Revenue Measures for June 2016 Ballot

Recommendation

If the Council wishes to place (a) measure(s) on the June 2016 ballot,

1. Determine which tax measure(s) should be submitted to the voters and direct staff to return to Council to introduce the Ordinance approving the tax measure subject to the approval of the voters and to develop draft ballot measure language.
2. If the Council determines to submit a general tax measure, determine if the council would also like to submit an advisory measure or measures providing nonbinding direction of how the proceeds of the tax should be used.

Fiscal Impact

For over a year, the City Council, City staff and community members have been discussing options for additional revenue to the City to address unmet needs. Specifically, unmet infrastructure needs now and into the future have been the primary focus of attention, however other needs have also been discussed. While one aspect of the city's revenue strategy hinges upon the expansion and enhancement of economic development, it is widely understood that this mechanism will take time before it generates significant new revenue to the city. And while existing revenue can, to some extent, be redirected if there are reductions in current costs and services, this tactic alone will not address all projected needs.

The amount of revenue raised would depend on what type of tax measure is selected.

Attachment A provides various scenarios. In general, however, each percent of a tax on all utilities is estimated to raise approximately \$1,080,000, a one-cent tax on each ounce of a sugar-sweetened beverage could potentially raise approximately \$800,000 to \$1,000,000 annually; a 1% increase in Transient Occupancy Tax could currently generate an additional \$130,000 per year (more if hotel rooms that currently have entitlements are built and overall overnight stays increase), and each dollar of a parcel tax could raise approximately \$28,000.

Background

The Council is continuing its conversation on the need for and type of potential revenue measures, should there be interest in placing something on the June 2016 ballot, a general municipal election. If the desired revenue measure is a general tax, then it must be placed on the same ballot that council members are elected, in the absence of an emergency. Therefore, a general tax such as a utility user tax, a sugar sweetened beverage tax or a transient occupancy tax would need to go on a June 2016 ballot or wait for a future general municipal election (June of even-numbered years). Special taxes, such a parcel tax or any of the above taxes specified for a

particular purpose and therefore requiring a 2/3 vote, may be submitted to the voters at any duly called election.

Since the last Council discussion on a potential utility users tax in July, the Finance and Budget Commission has reviewed the city's needs, primarily in the area of infrastructure, and revenue options; staff has held two separate discussions with a group of community members to hear thoughts, concerns and questions related to a potential measure; Council has provided some additional direction about other revenue generating options; Council has received a study and presentation assessing pavement needs; and staff has further researched and refined options related to revenue generation.

While there is general consensus around the concept that the City has a significant list of unmet needs, there are mixed opinions about what defines a need and whether new revenue should be pursued to address those needs. Most of the discussion has centered around infrastructure needs, specifically the city's transportation infrastructure (streets, bike lanes, bike paths), although additional projects have been identified (pool enhancement and/or replacement, urban forest, city facilities, parks infrastructure, etc.) as long term concerns. Attachment B shows the list of infrastructure related projects and the related one-time or annual funding gaps. Additional information on infrastructure needs can be found in the Pavement Report (<http://documents.cityofdavis.org/Media/Default/Documents/PDF/CityCouncil/CouncilMeetings/Agendas/20151201/08-Pavement-Management-2016-Update.pdf>) shared with Council December 1 and further information on the City's fiscal picture is available in the First Quarter Budget Report (<http://documents.cityofdavis.org/Media/Default/Documents/PDF/CityCouncil/CouncilMeetings/Agendas/20151201/05N-FY15-16-1st-Qtr-Budget.pdf>), also shared on December 1.

Utility User Tax

Utility user taxes are levied as a percentage of the direct cost of the utility service delivered, and may be levied on utilities such as gas, electric, telephone/communications, water, sewer, sanitation and/or cable TV. The tax appears in the monthly billing paid by the customer and the tax is paid to the utility, which in turn remits the taxes to the local government that levied the tax. Many California cities levy a utility user tax and it is often a substantial revenue stream for their general fund. Utility user tax tracks with inflation, it applies to a broad range of the population (e.g. homeowners, renters, businesses) and it is not as sensitive to economic downturns as the other general taxes. The tax may be levied on electricity, gas, garbage, water, communications, sewer and/or cable television.

State and Federal governments are exempt, as well as gas and water used by utility companies to generate electricity. Cities may also choose to include full or partial exemptions for low income residents, which includes seniors.

There are 158 California cities and 4 counties that impose UUT with rates ranging from 1% to 11%. Of the four Yolo County cities, only Winters imposes a utility users tax (at the rate of 9.5%). UUT comprises a significant portion of the general fund revenues of many city budgets. Where a city has a utility user tax, it provides an average 15% of the general-purpose revenue. The average (mean) rate of the tax is 5.4%, with the most common rate being 5%. Gas, electricity and telephone are the most frequently taxed.

It should be noted that one advantage of a UUT is that is a durable tax that is more consistent than the City’s most significant general taxes. UUT inflates with time and it tracks with growth in consumption of the elements that are subject to the tax. It is less susceptible to economic downturns than property tax and sales tax, though it must be acknowledged that effective resource conservation may have some impact upon future consumption patterns.

An important question being addressed in this section is an estimate of revenue that may be derived by a UUT levied in Davis. This is a difficult task insofar as there are several important data points that would need to be known to make an accurate estimate. These include the extent to which there may be exemptions and the array of services upon which that UUT would be levied. Also, it is conceivable that there may be a different tax levy imposed upon different services, i.e. 6% on electric and gas, 2% on sanitation. The exact amount of revenue generated will be determined by the types of utilities taxed and the rates for each of those taxes.

UTILITY	Estimated Calculation Factor	Tax Factor		
		1%	3%	5.5%
Electric	\$38,212,154	\$382,122	\$1,146,365	\$2,101,668
Gas	\$10,389,661	\$103,897	\$311,690	\$571,431
Water (Inside City)	\$13,506,638	\$135,066	\$405,199	\$742,865
Sewer (Inside City)	\$12,510,000	\$125,100	\$375,300	\$688,050
Cable	\$9,495,752	\$94,958	\$284,873	\$522,266
Sanitation	\$12,778,110	\$127,781	\$383,343	\$702,796
Telephone	\$11,029,610	\$110,296	\$330,888	\$606,629
	Annual Total	\$1,079,220	\$3,237,658	\$5,935,705

Electric & Gas based on estimated gross receipts; assumes exemption for Federal, State, Local Government and CARE program.

Water, Sewer and Sanitation based on FY 2015-16 estimated revenue
 Water, Sewer, Cable and Sanitation assume a 10% exemption factor
 Telephone based on data from City of Elk Grove, adjusted for population difference

Finance and Budget Commission

The Finance and Budget Commission discussed a potential Utility User Tax at multiple meetings. While the Commission on the whole was sympathetic to the fact the City has unmet needs, considerable conversation was devoted to defining actual needs (*vs. preferences or wants*) and determining true unfunded costs. The Commission also reviewed funding dedicated to infrastructure projects to date and noted the possibility of the funding landscape at the state level changing to provide more transportation-targeted funding to local communities in the future. The Commission passed a motion at their November 2 meeting, the entirety of which is included as Attachment C.

A synopsis of the FBC recommendation is below:

- Update multi-year projections of revenues and expenditures to include unfunded liabilities.

- Review further potential economies/cost saving measures in city organization.
- Create a complete list for deferred maintenance and capital improvement projects supported all or in part by the General Fund.
- UUT should be fair and broad-based.
- Carefully consider consequences and potential suitability in types of utilities to be taxed.
- Be clear with voters why the extra revenues needed and what they will be used for.
- Assuming a general tax with advisory measures, the City Council should also
 - Require a 4 or 6 year sunset.
 - Develop and approve a written plan to explain how the revenues would be spent.
 - Adopt maintenance of efforts requirements.
 - Review annual expenditures from revenue generated by the measure.

At the time of submittal of this staff report, the FBC had not yet held its December 14 meeting, where a discussion of revenue generation is also on the agenda. Should the Commission provide additional recommendations at that meeting, staff will provide updates directly at the City Council meeting on December 15.

Focus Group/Community Feedback.

The Focus Group, which consisted of a broad range of community representatives, including commission members, business representatives, user group representatives, and others, met twice and discussed the need for additional revenue and the details of a new revenue measure, specifically a new utility user tax.

- Much like the Finance and Budget Commission, there were mixed viewpoints about whether a utility user tax was the right mechanism to fund unmet needs. Primary reasons included a concern about the city's ability to continue to rein in costs in the face of additional revenue, the sense that the City had not yet cut expenditures sufficiently and concern that a utility user tax was not the correct taxing mechanism to generate revenue for infrastructure needs. Those in favor of a UUT focused on different sets of projects they felt to be most critical to pay for.
- When faced with the question of which utilities to tax *if* there were to be a utility user tax, the majority of participants concurred that taxing all utilities made the most sense. There were differences of opinion about the levels at which to tax specific utilities (ie the total amount of revenue to raise) but the general feedback was not to exceed 5% for any of the utilities.
- Thoughts about a potential sunset ran the gamut, from as short as possible (4 years) to long enough to bond against the revenue (20-30 years).
- Again, while there were mixed viewpoints about whether to put forward a general tax or a special tax, there was consensus that the city needed to provide as much information and transparency as possible to the public about the need for the tax and the projects which such a tax would fund. Preferences were leaning toward special tax or general tax with advisory measure(s).

Utility User Tax Process

Should Council wish to pursue a utility user tax in June, the following decision points must be addressed:

1. **Which Utilities** - *Which utilities should be taxed?* If a tax is going to be implemented, staff recommends taxing all utilities in order to receive a reasonable revenue stream.

2. **Rate(s)** - *At what rate(s) should the utilities be taxed?* If all utilities are taxed at 5%, which is slightly below the state average, the resultant revenue is \$5.4 million.
3. **Duration** - *For how long should the tax last?* While the long-term cost for bonding is attractive, the reality of the City's ability to address infrastructure needs at one time and the political reality of passing a 20- or 30-year tax in the community leads staff to recommend a more traditional 6-year sunset.
4. **Type** - *Should the tax be a general or a special tax?* Staff recommends a general tax, which has a 50%-plus-one voter threshold.
5. **Advisory Measure(s)** – If the tax is a general tax, staff recommends a companion advisory measure to indicate the proceeds of the tax are intended to fund infrastructure costs related to transportation and other city assets such as city facilities, parks, or trees. (If Council prefers a Special Tax, staff recommends the same purposes as above.)

Sugar Sweetened Beverage (Soda) Tax

At the City Council meeting of December 1, the City Council requested that the revenue discussion include the possibility of a sugar sweetened beverage, or soda, tax, similar to what Berkeley passed with a 75% acceptance rate in November 2014. In Berkeley's case, each ounce of a sugar sweetened beverage is taxed one cent. The tax there is anticipated to generate \$1.2 million in its first year, although there is not yet a full year's worth of data. The first quarter, however, generated \$375,000. A committee is responsible for determining how the revenues should be spent, with the first part of the proceeds going toward youth gardening and health programs. The implementation in Berkeley has not been without challenges, including definitions of what constituted a sugar-sweetened beverage and significant opposition from the beverage industry.

San Francisco also tried to pass a soda tax last spring, but its proposed two-cents per ounce special tax geared toward physical education and children's nutrition programs failed to gain the necessary super-majority with only 55% of the vote.

Staff estimates a tax in Davis similar to the Berkeley model could generate roughly 2/3 the amount of Berkeley's tax, or \$800,000 to \$1,000,000. The City Attorney has looked into whether Davis, a General Law city, is eligible to implement a soda tax and has determined the city is legally able to pursue this type of tax. (Berkeley and San Francisco are both charter cities with different rules and authorities.)

No community outreach or further research has been undertaken at this stage by city staff related to a potential soda tax, although the process to bring this type of tax to the ballot is the same as any general or special tax.

Sugar-Sweetened Beverage Tax

	<i>Estimated Annual Total Tax Per Ounce</i>	<i>Approx No. of 12 oz containers</i>	<i>Approx No. of 12 pack boxes</i>
<i>Ounces</i>	<i>\$0.01</i>		
100,000,000	\$1,000,000	8,333,333	694,444

Transient Occupancy Tax

The Transient Occupancy Tax (TOT) is charged to visitors who stay overnight in a hotel room, based on a percentage of the cost of the room night. Currently, the TOT in Davis is equivalent to 10% the cost of a room night and generated \$1.3 million in Fiscal Year 14-15. (In addition, the city has a Visitor Attraction District, which charges an assessment equivalent to 2% of the cost of a room night, effectively bringing the amount the visitor pays to a total cost of 12% of the cost of a room night.) Each one-percent increase in the TOT currently amounts to approximately \$130,000, and with the addition of new hotel rooms and a conference center in the future could increase in the future.

TOT amounts in the region and across the state vary significantly, with more frequented tourist destinations charging higher transient occupancy taxes. The chart below shows a sampling of existing transient occupancy taxes in northern California.

City	TOT
San Francisco	14%
Berkeley	12%
Sacramento	12%
Woodland	11%
Davis	10%
Dixon	9%
Vacaville	8%

Parcel Tax

Another option available to the City Council is a parcel tax. Currently, both the Open Space and the Parks Maintenance taxes are local parcel taxes, generating a combined 2 million dollars. Parcel taxes require a 2/3 supermajority vote to pass.

A parcel tax could be targeted to address infrastructure needs for streets and roads; recreation amenity needs like repairs and/or enhancements to existing pools; irrigation expenditures in the parks; road and bike path maintenance and rehabilitation; or other potential enhancements to the community.

Parcel Tax Revenue

<i>Tax per Parcel</i>	<i>Estimated Annual Revenue</i>
\$ 1	\$ 28,000
\$ 50	\$ 1,400,000
\$ 100	\$ 2,800,000
\$ 150	\$ 4,200,000
\$ 175	\$ 4,900,000
\$ 200	\$ 5,600,000

General Obligation Bond

The City could also propose a general obligation bond to address capital needs. A general obligation bond requires a two-thirds vote of the electorate. A general obligation bond could be

secured by an ad valorem property tax, a utility user tax or another tax with a proven and multi-year stream of income. However, the types of expenditures allowed with this type of financing are more limited. Road repair and reconstruction would be permitted under a general obligation bond, but maintenance costs would not be fundable via this mechanism. In addition, the tax would have to be imposed for the complete length of the bond repayment period, generally between 20 and 30 years.

\$20,000,000 Bonding Options - for 20 Years		
<i>Annual Debt Payment Estimate \$1,400,000</i>		
<i>Tax Type</i>	<i>Annual Tax Amount</i>	<i>Annual Tax Revenue</i>
Parcel Tax	\$50.00 per parcel	\$ 1,400,000
Utility User Tax	1.3% for all utilities	\$ 1,402,985
Sugar Sweetened Beverage Tax	\$0.02 per ounce	\$ 2,000,000
Transient Occupancy Tax	Additional 11% total 21%	\$ 1,430,000

Advisory Measure(s) Related to a General Tax

Advisory measures may be placed on the ballot that seek the voters’ input on how the general revenue raised by a general tax should be used by the City. Advisory measures are not binding. Under the California Constitution, general taxes raise revenue that goes into the general fund for general governmental purposes and are approved by majority vote. If a tax measure mandates that the revenue be used for a specific or special purpose, the tax becomes a special tax and requires a 2/3rd’s vote of the voters. Therefore, if there is a desire to seek the guidance of the community on how to use a general tax, the guidance must be in the form on a non-binding advisory measure.

Woodland utilized one of the most detailed set of advisory measures when placing its sales tax on the ballot. Four measures outlined the percentage of revenues that could be dedicated to specific purposes (all non-binding of course). If Davis were to choose a general tax, staff recommends providing a companion advisory measure or measures

Process

If the Council decides to put a measure on the June 2016 election, it must act by February, 16, 2016. This is the deadline imposed by the County and is consistent with State requirements for this election. The actions required to place a tax measure on the ballot are:

- (1) Adoption of the tax measure by the Council by a minimum of 4 affirmative votes;
- (2) Approval of the ballot measure language for the tax measure;
- (3) A decision on advisory measures.
- (4) If desired, appointment of a Council subcommittee to write the pro ballot argument.

Attachments:

- Attachment A: Revenue Options Chart
- Attachment B: Infrastructure Needs List
- Attachment C: Finance and Budget Commission Comments

Attachment A

Revenue Consideration Scenarios

Parcel Tax Revenue

Tax per Parcel	Estimated Annual Revenue
\$ 1	\$ 28,000
\$ 50	\$ 1,400,000
\$ 100	\$ 2,800,000
\$ 150	\$ 4,200,000
\$ 175	\$ 4,900,000
\$ 200	\$ 5,600,000

Utility User Tax

Utility Taxing	Percentage of Tax					
	1.0%	2.0%	3.0%	4.0%	5.0%	5.5%
Electric	\$ 382,122	\$ 764,244	\$ 1,146,365	\$ 1,528,486	\$ 1,910,607	\$ 2,101,668
Gas	\$ 103,897	\$ 207,794	\$ 311,690	\$ 415,586	\$ 519,483	\$ 571,431
Water (Inside City)	\$ 135,066	\$ 270,133	\$ 405,199	\$ 540,266	\$ 675,332	\$ 742,865
Sewer (Inside City)	\$ 125,100	\$ 250,200	\$ 375,300	\$ 500,400	\$ 625,500	\$ 688,050
Cable	\$ 94,958	\$ 189,915	\$ 284,873	\$ 379,830	\$ 474,788	\$ 522,266
Sanitation	\$ 127,781	\$ 255,562	\$ 383,343	\$ 511,124	\$ 638,906	\$ 702,796
Telephone	\$ 110,296	\$ 220,592	\$ 330,888	\$ 441,184	\$ 551,481	\$ 606,629
Estimated Annual Total	\$ 1,079,220	\$ 2,158,440	\$ 3,237,658	\$ 4,316,876	\$ 5,396,097	\$ 5,935,705

Sugar-Sweetened Beverage Tax

Ounces	Estimated Annual Total Tax Per Ounce \$0.01	Approx No. of 12 oz containers	Approx No. of 12 pack boxes
100,000,000	\$1,000,000	8,333,333	694,444

Transient Occupancy Tax

Percentage of Tax	Estimated Annual Total
1%	\$ 130,000
10%	\$ 1,300,000
11%	\$ 1,430,000
12%	\$ 1,560,000

Attachment B Infrastructure Needs List

Potential Capital Projects supported by New Revenue Measure As of December 2015

➤ Transportation Maintenance, Infrastructure Improvements & Programming		
○ Street/Bike Path Infrastructure Improvements	Ongoing	One-time
▪ 3 rd Street Improvements A to B Streets - Total project \$6M; \$1.3M unfunded		\$ 1,300,000
▪ H Street at Davis Little League & Covell		\$ 500,000
▪ Richards Gateway Project - \$7M total project; City share TBD		\$ 7,000,000
▪ East Covell Corridor Plan		\$ 4,500,000
Downtown Parking Master Plan Implementation		\$ 1,400,000
Traffic Operations Center (Remote Signal control)		\$ 500,000
Walk/Bike Audit Recommendations		\$ 7,000,000
Anderson Road – Multi-modal improvements		\$ 2,100,000
Loyola Drive - Resurface/bicycle/pedestrian improvements		\$ 1,200,000
Neighborhood Traffic Calming Enhancements	\$ 125,000	
I-80/Richards WB Ramp Modification		\$ 9,000,000
○ On-Going Operations & Maintenance	Ongoing	One-time
▪ Traffic Signal Maintenance/Replacement backlog	\$ 1,100,000	
▪ Traffic Signal Maintenance - \$230,000 annual need; \$210,000 unfunded	\$ 210,000	
▪ Road Pavement Maintenance - \$8.4 M annual need - \$4.8 unfunded	\$ 4,800,000	
▪ Bike Path Maintenance - \$1.5M annual need - \$1.1M unfunded	\$ 1,100,000	
▪ Sidewalk/ADA Ramp Maintenance - \$500,000 annual need - \$400,000 unfunded	\$ 400,000	
▪ Striping Maintenance	\$ 200,000	
○ New Transportation Programming	Ongoing	One-time
▪ Active Transportation Outreach/Education (Beyond Platinum Plan)		\$ 100,000
▪ Fare-free Transit	\$ 500,000	
▪ 4 th and G Garage X Parking Permit and enforcement \$35,000-\$50,000	\$ 50,000	
▪ City wide Pedestrian Master plan		\$ 60,000
➤ Parks/Urban Forest/Wildlife Amenities and Infrastructure		
○ Parks Replacements/Renovations	Ongoing	One-Time
▪ General Rehab/renovation of existing Parks - \$400,000 annual need; \$150,000 unfunded	\$ 150,000	
▪ Playfield Park All Weather Turf field replacement - needed by 2019		\$ 400,000
▪ Replacement of Shade Structures & Arbors in Parks and Greenbelts		\$ 250,000
▪ Removal of old underground playground posts and concrete pads		\$ 500,000
▪ ADA upgrades	\$ 100,000	
▪ Central Park Update – Water Feature		\$ 600,000
○ Urban Forest/Wildlife Replacements/Renovations	Ongoing	One-Time
▪ Urban Forestry Maintenance - \$800,000 annual need - \$100,000 unfunded	\$ 100,000	
▪ Wildlife Habitat Maintenance	\$ 250,000	
○ Pool Replacement/Renovations	Ongoing	One-Time
▪ Annual Pool equipment replacement - \$200,000 annual need - \$100,000 unfunded	\$ 100,000	
▪ Community Pool (\$9M-\$10M– 50 meter pool & 6 lane warm-up)		\$ 10,000,000
▪ Civic Pool (\$2M if Community Pool is not renovated)		\$ 2,000,000
○ Parks, Greenbelts & Streetscape Water Conservation	Ongoing	One-Time
▪ Current budget \$500,000 in ongoing annual expenditures		
▪ Controllor & Sprinkler Head Improvements	\$ 200,000	
▪ Irrigated Turf conversion to Non-Irrigated land	\$ 50,000	

Attachment B
Infrastructure Needs List

**Potential Capital Projects supported by New Revenue Measure
As of December 2015**

➤ Parks/Urban Forest/Wildlife Amenities and Infrastructure		
○ Playground Equipment Replacement		
	Ongoing	One-Time
▪ City has a total of 65 of Park Play Structures in Parks & Greenbelts –		
• \$100,000 per year will replace 2 playgrounds	\$ 100,000	
• 23 Play Structures are more than 15 years old (average life span)		
▪ Rainbow City Rehabilitation – Total Project \$600,000; \$300,000 unfunded		\$ 300,000
○ Tennis court resurfacing/reconstruction		
	Ongoing	One-Time
▪ Walnut Park most significant need (6 courts) (Estimated renovation)		\$ 770,000
▪ Pioneer Park (2) – 2 nd highest priority 1 per year	\$ 150,000	
▪ Total of 17 courts – that have exceeded the 7 year resurfacing life		
○ New Park Facilities		
	Ongoing	One-Time
▪ Community Gardens Addition - \$50,000, unless land needs to be purchased		\$ 50,000
▪ Dog Park Addition - \$10,000-\$50,000 depending on size and availability of open space		\$ 50,000
▪ Purchase of Nugget Field or replacement of fields -		TBD
▪ Sports Park – Last estimate \$24M (Council direction 7/7/15 project not to be included in UUT)		
➤ General Facilities, Infrastructure & Programming		
○ City Facility Repair/Renovations		
	Ongoing	One-Time
▪ City Building Maintenance & Replacement - \$4M annual need - \$1.2M unfunded	\$ 1,200,000	
▪ Veteran’s Memorial Building - \$9 to \$10M for full renovation		\$ 10,000,000
▪ Fire Station Renovation (Headquarters) \$5M+		\$ 5,000,000
▪ City Hall Renovation/Replacement - \$10M+		\$ 10,000,000
▪ Air Conditioning added to Civic Gym		\$ 200,000
▪ Public Works Corporation Yard Renovation/Replacement		\$ 12,000,000
○ New Facilities		
	Ongoing	One-Time
▪ Police Firing Range – \$500,000; \$400,000 unfunded		\$ 400,000
▪ Public Safety Training Facility - \$2M unfunded		\$ 2,000,000
○ Infrastructure		
	Ongoing	One-Time
▪ New Software Suite – Accounting System & Other Citywide applications		
• Upgrade of our current software package - \$1M unfunded		\$ 1,000,000
• Replace with new software package - \$3M unfunded		\$ 3,000,000
▪ General Plan Update - \$1 M unfunded		\$ 1,000,000
▪ Citywide Broadband - Staff analysis underway, initial estimate is a range of \$50-\$60 million		TBD
TOTALS	\$ 10,885,000	\$ 94,180,000

Attachment C
Finance and Budget Commission Comments

November 2, 2015

Summary of Finance and Budget Commission Comments

On a Proposed Utility Users Tax

In response to a city staff request, we submit the following comments on the proposed tax utility users tax measure that would go before voters in June 2016:

1. Before making a final decision on a new tax measure, we recommend that the city update its multi-year projections of underlying city revenues and expenditures. The projection should reflect the best available estimates of unfunded city liabilities, such as the additional adjustments to employer contributions that will be required by CalPERS to reduce pension program volatility or Other Post Employment Benefit (OPEB) costs not already accounted for in city projections. It is possible that underlying city revenues will have further improved, or that expenditures may be below anticipated levels, and therefore that some of the city's capital needs can be met within the existing budget. That update might also show that changes in projected revenues and expenditures require even greater support from a new tax measure for infrastructure needs. In any case, the city should verify before moving forward whether a new tax is really needed, and, if it determines this is the case, that the amount of additional revenue raised is the minimum necessary, given the potential impact of the tax measure on taxpayers.
2. The city should again review whether further economies in city government can be achieved (as just one example, restructuring city government so that some managers supervise a larger number of staff) to help free up city funding resources to address gaps in funding for infrastructure. Likewise, the city should examine what surplus city assets could be leased or sold over time or what fundraising efforts could be organized to help pay for needed infrastructure.
3. In its decision-making process, the city should create a complete list of funding needs for deferred maintenance and capital improvement projects that are supported, at least in part, from the General Fund. While this list should be comprehensive, it should not be a "wish list" but rather consist of what is needed to run the baseline functions of the city without the deterioration of its infrastructure. That list should be the starting point for prioritizing the projects that city government, and the taxpayers, are able to afford.
4. If the city decides a new utility users tax is needed, it should adopt one that is fair and broad-based and that does not unduly burden one segment of individual or business consumers.
5. The city should carefully consider the potential consequences and suitability of the specific utilities that might be taxed. For example, city revenues from taxes imposed on cable television subscriptions could become unstable as viewers "cut the cord" and move to internet services for their home entertainment. Imposition of a utility users tax on

water and sewer charges could unintentionally undermine the stability of city enterprise funds to the extent that they prompted a further reduction in city water consumption. A move toward taxing energy bills should take into account how revenues might be affected, if at all, by the shift the city is considering to a community choice energy (CCE) program. Also, the city should verify whether federal regulations preclude the imposition of taxes on internet-related services, given the growing expenditures by city consumers for them, and clarify what telephone-related services could be subject to taxation.

6. Our perception is that even a majority-vote utility users tax measure – as opposed to a special tax requiring a two-thirds vote of the public -- may be hard to pass muster with voters unless the city “gets the messaging right.” Accordingly, the city must be absolutely clear to the voters about why the additional revenues are needed and what the additional monies will be used for. For example, even though the City Council has subsequently determined that a sports park would not be a part of a June 2016 utility users tax measure, a July 2015 staff report referencing such a facility for an accompanying advisory tax measure (on page 4) could cause public confusion about the city’s intentions. The city should also clarify whether construction of a new 50-meter city pool in Community Park, or renovation of the existing Civic and Community pools, would be funded with the proceeds of such a tax measure.
7. We recognize that a general tax, such as the proposed utility users tax, unlike a special tax, cannot legally be restricted to particular purposes. However, we believe a number of steps are possible to provide reasonable assurance to the public that the revenues from a utility users tax would be spent as promised. City staff has already proposed one such mechanism--one or more advisory measures that would accompany the tax authorization measure on the ballot. We believe additional steps to provide such assurances to voters are warranted, and, subject to review by the city attorney of their feasibility, could include the following:
 - A. A sunset of four or six years on the duration of the tax measure. This approach would unfortunately preclude use of the monies for bonding for any permanent long-term physical improvements at a time of record low interest rates, but would give voters a chance to terminate the tax if the monies are not being used in keeping with promises to city voters. It could also allow for adjustments to the tax structure if needed to address problems, such as loss of revenue stability. Any renewal of such a tax measure at the four- or six-year mark would coincide with a City Council election as required for a general purpose tax.
 - B. Adoption of a detailed written plan by the City Council, through a resolution that could be adopted separately from the tax measure itself, explaining how the proceeds of the new tax measure would be spent. The plan would (a) detail which projects, or types of projects, would be funded, and which would not be funded from this revenue source; (b) demonstrate how city funds would be used in combination with other federal, state, regional, and private funding sources, and other partners such as UC Davis and the Davis Joint Unified School District, to leverage the use of precious General Fund resources; (c) detail how the use of the funding for deferred

maintenance and capital improvements would affect ongoing city operating costs. This plan, or information on where such a plan could be found online on the city web site, would be provided to every household in Davis in advance of the election.

- C. Adoption of so-called maintenance of effort requirements, through a resolution or ordinance that could be adopted separately from the tax measure itself. These requirements would be intended to ensure that passage of a utility users tax measure increases the overall amount of funding available for deferred maintenance and capital improvements, and is not used instead of allow a redirection of existing funding now in the city budget for these purposes to other purposes. No City Council can legally prohibit a future City Council from changing the use of the proceeds of a general tax measure. However, with the assistance of the city attorney, we believe the council should explore whether it could adopt a resolution or ordinance (a) indicating that it would be city policy to continue the existing levels of funding provided in the 2015-16 budget for road and bike path rehabilitation, and other specific allocations, into future years for the duration of a utility users tax measure; (b) specifying that any decision to reduce funding below the required levels would occur only after 30 days advance notice to the public, only after a public hearing that had been advertised in the Sacramento Bee, the Davis Enterprise, and the Davis Vanguard, and only in a separate City Council agenda item that could appear on the consent agenda. Because these requirements would apply to the city's existing revenues, rather than new revenues from a general tax measure, we believe that they are permissible, but you will need the expert advice of your city attorney to verify that this is the case.

- D. Formal annual review of city government expenditure of the proceeds of the new tax measure. The City Council could adopt a resolution, separately from a tax measure itself, formalizing a process for annual review and comment by relevant city commissions, and eventually the City Council itself, to ensure that expenditures are in keeping with the written plan for the expenditure of these monies discussed above in (B) and the general purposes of the tax measure. It is important that city government have some flexibility in the use of these funds. For example, grants for high-priority infrastructure projects may become available from other public or private entities that require city matching funds that could come from utility users tax revenues. A process of annual commission and City Council review, after the close of each fiscal year, would ensure that necessary changes in city spending plans remain consistent with the original purpose of the tax measure. Besides our commission, we believe the Recreation and Park Commission and the Bicycling, Transportation, and Street Safety Commission be invited to participate in such annual reviews, given their expertise and the large number of infrastructure projects within their areas of review. The information gathered through this annual process would be useful for the City Council and Davis voters to consider in determining whether to renew such a tax in the future.