



# Memorandum

**TO:** HONORABLE MAYOR &  
CITY COUNCIL

**FROM:** Debra Figone

**SUBJECT:** Proposed Ballot Measures

**DATE:** July 22, 2008

## RECOMMENDATION

- (a) Council discussion and consideration of various ballot measures for the November 4, 2008 Election and, upon Council consideration of the specific measures listed in section (b), Council action on the requisite resolutions.
- (b) Adoption of resolutions of the City Council calling and giving notice of, on its own motion, Special Municipal Elections to be held on November 4, 2008, to submit to the electors of the City of San José the following measures:
  - (1) A measure entitled the "Reduction of Tax Rate and Modernization of Telecommunications Users Tax" to reduce the tax from 5% to 4.75% and broaden its application.
  - (2) A measure entitled "Reduction and Replacement of 9-1-1 Fee" to impose a reduced tax of \$1.65 per telephone line, with a proportionally reduced amount for trunk lines.
  - (3) A measure entitled "The San José Vital City Services Preservation Measure" to increase the existing business tax on card room revenues from 13% to 18%.
  - (4) A measure entitled "Long Term Agreements in Certain City Parks" to amend the City Charter to permit the Council to enter into long term park use agreements without voter approval.
  - (5) A measure entitled "Council Compensation" to amend the City Charter to set compensation for the Mayor and City Council by basing it on a percentage of the salary established for a California Superior Court Judge.

## BACKGROUND

On June 19, 2008, the City Council convened a Special Meeting to review information regarding potential revenue measures and charter amendments to be submitted to voters on the November 4, 2008. At this meeting, the Council directed staff to return to the August 5, 2008 Council meeting with further analysis, draft ballot language and stakeholder outreach on the following measures:

1. Reduction of Tax Rate and Modernization of the Telephone Users portion of the UUT.
2. Elimination of the Emergency Communication System Support fee, replaced with a reduced tax on telephone lines.
3. Increase to the Card Room Business License Tax without increasing the number of tables.
4. Increase to the duration of leases and other agreements on City Parks.
5. Revision of the method for setting Council salaries based on a percentage of the salary established for a California Superior Court judge.

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**ANALYSIS**

The purpose of this memorandum is to inform Council of the anticipated actions on various ballot measures for the November 4, 2008 Municipal Election. Recognizing that this topic is of significant public interest, this memorandum will provide Council initial information on the various ballot measures to be considered at the August 5, 2008 Council meeting. Because public opinion polling results were not available in time to meet early distribution deadlines, they will be transmitted to Council via a separate staff report on Friday, July 25, 2008.

City staff has conducted further analysis on each of the measures above and coordinated with the Office of the City Attorney to draft ballot language for the purpose of conducting further outreach and public opinion polling. Through the City's contract with Fairbank, Maslin, Maulin & Associates (FMMA), an opinion research and public policy analysis firm, public opinion polling was conducted on July 14 – 20, 2008. Top line polling results and further staff analyses will be distributed to Council via a full staff report on Friday, July 25, which should assist with the discussion at the August 5 Council Meeting of the potential ballot measures. Upon consideration of the specific measures, Council will consider whether to adopt resolutions, on all or some of the measures, to submit to the electorate of the City of San José.

The City Clerk's deadline to submit ballot measures to the County Registrar of Voters is August 8, 2008. If the Council would like to amend any part of the proposed resolution(s), it is important that the Council provide precise changes in language at the August 5 meeting in order to meet filing deadlines. If Council has minor changes, staff will work between August 6- 7 to complete such changes. Major changes to the proposed resolution which would require additional research and analysis would not allow staff adequate time to complete since staff will not have the opportunity to return to a future Council meeting for approval of the changes.

The Council will consider whether to adopt all or some of the resolutions on the measures below:

**1. REDUCTION OF TAX RATE AND MODERNIZATION OF TELECOMMUNICATION USERS TAX**

The City currently charges a 5% utility users tax that covers several utilities, including telephone service. It is applied to some, but not all, out-of-state telephone calls, text messaging, paging services, and other new technologies. This measure would reduce the existing tax rate to 4.75% and enable the City to adapt the telecommunications users tax to new and developing technologies in the future. This measure would continue to be a general tax, the proceeds of which can be used for any services provided by the City, and would require a simple majority vote (50% +1) to pass.

**2. REDUCTION AND REPLACEMENT OF 9-1-1 FEE**

The existing City Emergency Communications Systems Support (ECSS) fee consists of a monthly charge of \$1.75 per phone line and \$13.13 per trunk line in order to help pay for 9-1-1 emergency dispatch services. A recent Appellate Court case found that a similar fee in Union City, California should have gone to the voters as a tax.

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This measure would create a new tax on phone lines to replace the fees customers are currently paying, and would reduce the monthly amount of the tax to \$1.65 per line and a corresponding reduction for trunk lines, with annual inflation adjustments limited to three percent. It would also allow the proceeds of the tax to be used for general City purposes and not specifically for Emergency Communication Services. This measure would require a simple majority vote (50% +1) to pass.

**3. THE SAN JOSE VITAL CITY SERVICES PRESERVATION MEASURE**

The City currently allocates a business tax on card rooms in the amount of 13% of revenues. This measure would increase that tax to 18%. The proceeds of this tax would continue to be a general tax and would require a simple majority vote (50% +1) to pass.

**4. LONG TERM AGREEMENTS IN CERTAIN CITY PARKS**

This proposed charter amendment would give the City Council the right to approve park use agreements for 30 years at a time, without voter approval, in parks larger than five acres, if the agreement would enhance the recreation purpose of the park. Currently, the City Charter only allows the City Council to enter into agreements for three years at a time except for parks where the longer agreements have been approved by the voters. The three-year maximum limits the City's ability to attract private companies to enter into sponsorship and operating agreements in those parks, which in turn provide funding for the improvement of facilities, such as pools, community centers and soccer fields. The proposed revision would encourage private companies to make financial investments in exchange for lease periods long enough to obtain a return on their investment. The charter provision would require that the long-term agreement must enhance the recreational opportunities of the park. This measure would require a simple majority vote (50% +1) to pass.

**5. COUNCIL COMPENSATION**

The current process for setting Council salaries is in the City Charter, and calls for a biennial review by a Salary Setting Commission, based on salaries of other public or private positions having similar full time duties and responsibilities. The Commission then submits its recommendation to the Council, who must adopt a salary ordinance which may be less than the recommendation of the Commission, but cannot be more. This proposed charter amendment would eliminate the Salary Setting Commission and instead would set the Mayor and City Council's salaries equal to 80 percent and 60 percent, respectively, of the salary of a California Superior Court Judge. This measure would require a simple majority vote (50% +1) to pass.

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**PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

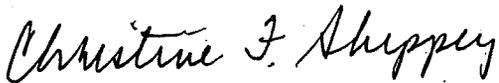
The City Council held a Special Meeting on this subject on June 19, 2008. In addition, the Stakeholder Group appointed by the Mayor and City Council has explained to the City Manager the advantages of and concerns about the above measures. Information about additional stakeholder outreach and telephone public opinion polling will be outlined in the staff report to be distributed on June 25, 2008.

**COORDINATION**

This memorandum has been coordinated with the City Attorney's Office.

**CEQA**

Not a project.

*for*   
Debra Figone  
City Manager