



Council Agenda Report

To: Mayor Grisanti and the Honorable Members of the City Council

Prepared by: Elizabeth Shavelson, Assistant to the City Manager

Reviewed by: Lisa Soghor, Assistant City Manager

Approved by: Steve McClary, Interim City Manager

Date prepared: October 27, 2021

Meeting date: November 8, 2021

Subject: Consideration of Potential Revenue Measures

RECOMMENDED ACTION: 1) Consider recommendations from the Administration and Finance Subcommittee regarding potential revenue-generating measures; and 2) Provide direction to staff.

FISCAL IMPACT: There is no fiscal impact from the recommended action. Depending on what, if any, potential revenue measures the Council directs staff to pursue, additional staff time and outside consultant services may be necessary that were not included as part of the Adopted Budget for Fiscal Year 2021-2022.

WORK PLAN: This item was included as Item No. 6.c. in the Adopted Work Plan for Fiscal Year 2021-2022.

DISCUSSION: On June 28, 2021, Council adopted the Annual Budget for Fiscal Year 2021-2022 and directed staff to bring a discussion of potential revenue generating measures to the Administration and Finance Subcommittee. The Adopted Budget includes the use of \$3.8 million from the \$6.5 million General Fund Designated Reserve for Fiscal Year 2021-2022 operating expenditures since projected General Fund revenues are estimated to be less than General Fund expenditures. The Council was concerned that this revenue shortfall might continue in future fiscal years. Additionally, the Council wanted to address some large, anticipated expenses in future years including the planned Sheriff's station in the Civic Center. Best municipal finance practices dictate that cities should present a balanced budget each fiscal year. A balanced budget is achieved when annual General Fund expenses do not exceed the annual General Fund revenue. To this end, the Council directed staff to develop plans to

address any deficit between General Fund revenues and General Fund annual operating expenditures.

Adopted Budget for Fiscal Year 2021-2022

The Adopted Budget for Fiscal Year 2021-2022 projects General Fund annual revenue of \$35.8 million and General Fund annual expenditures for ongoing City operations of \$39.6 million with a General Fund budget shortfall of \$3.8 million. The City's Designated Reserve for Fiscal Year 2021-2022 will be used to make up this General Fund budget shortfall. In Fiscal Year 2020-2021, in recognition of the continuing economic impacts of the COVID-19 pandemic and the Council's priority to help homeowners rebuild after the Woolsey Fire, the Council established a General Fund Designated Reserve for Fiscal Year 2021-2022 Operating Expenditures in the amount of \$6.5 million. (The remaining unused amount in the Designated Reserve for Fiscal Year 2021-2022 Operating Expenses is available for the following fiscal year, if needed.)

Staff is continuing to monitor the economic effects of the COVID-19 pandemic on City revenues. As of the fourth quarter of Fiscal Year 2020-2021, many revenue sources had recovered more quickly than anticipated, however it is still too early to predict how this will affect revenues in the current fiscal year. (The Fiscal Year 2020-2021 Fourth Quarter Financial Report is provided in Agenda Item No. 3.B.7.).

In Fiscal Year 2020-2021, the City's Transient Occupancy Tax (TOT) revenue from private rentals was \$5.4 million which is \$2.3 million more than in Fiscal Year 2019-2020. This increase is likely a result of a combination of factors including the voter approved TOT rate increase from 12% to 15% that went into effect January 1, 2021, the City's new Short-Term Rental Enforcement Ordinance that went into effect January 15, 2021, and the impacts of COVID-19 on travel patterns. The City's pending "Hosted" Short-term Rental ordinance will reduce these TOT revenues in the future.

Budget Outlook

The City's Budget for Fiscal Year 2022-2023 and subsequent fiscal years will need to address the anticipated reduction in TOT revenue from private rentals and ongoing Woolsey Fire rebuild expenses. In the past few years, in the response to the Woolsey Fire and the COVID-19 pandemic, the City was able to support ongoing General Fund operational expenses by reducing General Fund expenditures wherever possible and relying upon other revenue sources. The City eliminated multiple projects, including the long-planned City Hall Solar Project, and streamlined services to reduce costs. At this time, many of the special revenue funds have been depleted.

Although the City anticipates that the impacts of the COVID-19 pandemic on the General Fund revenue sources will subside, the predicted onset of the "Hosted" Short-term

Rental Ordinance in Fiscal Year 2021-2022 will have a significant impact on General Fund revenue in Fiscal Year 2022-2023 and future fiscal years. In addition, since the adoption of the Fiscal Year 2021-2022 Budget, the Council has directed staff to extend the City's fee waiver program deadlines an additional 18 months. Other potential increases to future general fund expenditures include the planned Sheriff's Station at the Santa Monica College Malibu Satellite Campus. The Santa Monica College project is anticipated to be completed in Fall 2022. The most recent estimate from the Sheriff's Department for the City's share of costs for running the Malibu substation was \$3 million annually. Maintaining strong revenues and robust General Fund reserves has been critical to the City's ability to weather not only the aftermath of the Woolsey Fire but also the economic uncertainties of the COVID-19 pandemic. Malibu is prone to natural disasters, and it remains prudent to maintain strong reserves so that the City can continue to serve the community in the future.

Potential Revenue-Generating Measures

It is practical to consider revenue-generating measures to address projected General Fund budget shortfalls. The City's ability to generate revenue is limited and most of the revenue-generating measures require voter approval. Staff researched potential revenue-generating measures and presented them to the Administration and Finance Subcommittee on August 24, 2021. The Committee considered changes to the City's parking tax, sales tax and documentary transfer tax as well as the installation of parking meters on City streets and directed staff to bring information to Council on the parking occupancy tax including increasing the percentage and adding in valet parking, documentary transfer tax, sales tax with various percentage scenarios, vacancy tax, and business licenses with a tax. These measures are summarized below.

Parking Occupancy Tax

In April 2000, Malibu voters passed Measure B to impose a tax on occupying a space in a parking facility at the rate of 10% of the parking fee to be used for general City purposes. Many cities do not have parking tax in place; however, based on preliminary research, this appears to be mostly cities that have their own parking facilities, such as Beverly Hills, West Hollywood and Hermosa Beach. The two neighboring cities that have parking tax ordinances, City of Los Angeles and City of Santa Monica, charge a 10% rate. As a comparison, the cities of San Francisco and Oakland charge 25% and 18.5% respectively.

In Fiscal Year 2021-2022, the City anticipates \$400,000 in revenue from this funding source. The Council could consider introducing a ballot measure to increase the parking occupancy tax rate. If voters were to approve a 5% increase, in line with the 15% transient occupancy tax (TOT) rate approved by voters in November 2020, staff estimates it could generate approximately \$200,000 annually. Currently, the majority of

the City's parking tax revenue is generated from the Los Angeles County beach parking lots. If the City were to pursue this option, the County or the Coastal Commission may voice concerns.

Currently, valet parking operators are exempt from the City's parking tax. This is not the case for other cities. Specifically, neighboring Cities of Santa Monica and Los Angeles do not have valet parking exemptions. Both cities have the following language in their ordinances:

The parking fee shall be deemed to include the total charges required to be paid by an occupant, including, but not limited to, any valet or service labor charge in connection with the use or occupancy of parking space on public or private property.

If the Council is interested in pursuing a change to the City's parking tax valet exemption, staff could prepare some preliminary analysis into how much revenue this would generate. Ultimately, if Council decided to put this measure on the ballot, consultant services would be needed to prepare the fiscal impact for the ballot measure.

Sales Tax

The City has the authority to levy a local transactions and use tax ("sales tax") for general purposes pursuant to Revenue and Taxation Code section 7285.9. Additionally, counties and cities may adopt a transaction tax for special purposes pursuant to special statutory authorizations adopted by the State legislature. The combined rate of all transaction taxes imposed by counties, cities and other special districts are currently subject to a combined cap unless special legislation authorizes an exception.

Currently, the allowable sales tax in Los Angeles County is capped at 10.25%. Given that the current sales tax for Malibu is 9.5% (California at 7.25% plus Los Angeles County at 2.25%), Malibu could implement a district tax of up to .75%, if approved by voters, which is calculated differently from general sales tax. Currently 49 out of the 88 cities in Los Angeles County have a district tax in place. The City's sales tax consultant, HdL Companies, has prepared a memo highlighting the differences between local tax allocation and district tax allocation (Attachment 1).

While sales tax is generally allocated to the jurisdiction where the sale is negotiated or the order is taken, revenues from voter-approved transactions and use tax are allocated to the place of first use. The City of Malibu can expect to receive transactions tax revenue from normal sales tax-generating businesses like retail stores, service stations, and restaurants. Both visitors and residents alike will pay for the transactions tax on goods that are consumed or taken possession of at the place of business within the City of Malibu. In addition, any purchases shipped or delivered into a Malibu address from

outside the City (e.g., business supplies, medication supplies, industrial equipment, construction equipment, furniture, appliances, etc.) will generate additional transactions tax revenue.

However, as the transactions tax relates to registered vehicles, boats and motorcycle purchases, the tax will only be paid by Malibu residents and businesses regardless of where the purchase was made. Therefore, if a Malibu resident purchases a vehicle from an auto dealer outside the City of Malibu, the auto dealer will collect and remit the City's transactions tax.

In Fiscal Year 2021-2022 the City anticipates \$3,500,000 in revenue from Sales and Use Tax. The City could implement a district transactions and use tax of up to .75%. If the Council is interested in pursuing such a tax, it may want to consider different tax rate scenarios up to .75%. Below are high-level estimates of the annually revenue the City would receive from the implementation of different tax rate percentages based on the initial information provided by the City's sales tax consultant, HdL Companies:

- A .75% tax is estimated to yield approximately \$3 million annually
- A .50% tax is estimated to yield approximately \$2 million annually
- A .25% tax is estimated to yield approximately \$1 million annually

If the Council is interested in pursuing a district transactions and use tax, staff, with the help of an outside consultant, could prepare some additional analysis into how much revenue this would generate. The consultant could also prepare an estimate of how much of these district tax revenues would come from residents versus non-residents. Ultimately, if Council decided to put this measure on the ballot, additional consultant services may be needed to prepare the fiscal impact for the ballot measure.

Documentary Transfer Tax

A Documentary Transfer Tax is imposed on all documents that convey real property within the cities of Los Angeles County. Documentary Transfer Tax is computed when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale) exceeds one hundred dollars (\$100), at the rate of fifty-five cents (\$.55) for each five hundred dollars (\$500), or fractional part thereof. The Recorder's Office collects the tax on behalf of the cities at the time the document is recorded.

Malibu received \$540,656 in Fiscal Year 2018-2019 and \$596,332 in Fiscal Year 2019-2020. The unaudited numbers for Fiscal Year 2020-2021 are estimated at \$1.6 million. The higher number in the last year most likely reflects sales after the Woolsey Fire. In Fiscal Year 2021-2022, the Adopted Budget anticipates \$750,000 in revenue from this revenue source. The Council could consider introducing a ballot measure to increase the

Documentary Transfer Tax rate above the rate set by Los Angeles County. Currently, five (5) cities in Los Angeles County have special Documentary Transfer Tax rates that exceed the County rate, ranging from \$2.20 to \$6 per \$1,000. These cities include Los Angeles, Culver City, Pomona, Redondo Beach and Santa Monica.

Recently, voters in the City of Santa Monica and Culver City approved an increase of their special Documentary Transfer Tax rates aimed to collect higher taxes from the sale of high-end real estate. The following is the current Documentary Tax Rate for the City of Santa Monica effective March 2021:

- \$3.00 (Per \$1,000) on amounts of \$4,999,999 or less
- \$6.00 (Per \$1,000) on amounts of \$5,000,000 and above

Prior to March 1, 2021, the Santa Monica Documentary Transfer Tax rate was \$3.00 per \$1,000 for all properties.

If the Council is interested in pursuing a voter-approved Documentary Transfer Tax increase, it may want to consider a similar tiered tax structure. It is unclear how much revenue such a tax would generate, and the City will need consultant services to properly analyze the fiscal impact of this initiative for voters.

Vacancy Tax

A vacancy tax is a tax levied on property owners who have vacant properties. In addition to generating revenue, the tax can have the extra benefit of incentivizing property owners to fill their rental property instead of keeping it vacant. Recently a few cities in California have implemented or considered vacancy taxes. In November 2018, Oakland voters approved a measure establishing an annual tax of \$3,000 to \$6,000 on vacant property. A property is considered “vacant” if it is “in use less than fifty (50) days in a calendar year,” and not subject to any of ten (10) exemptions. It is currently in second year. In March 2020, voters in San Francisco approved a vacancy tax on certain commercial property kept vacant for more than 182 days (approximately six months) of a calendar year. The City/County of San Francisco’s Vacancy Tax rate is calculated based on a building’s frontage (the total length of commercial space facing the Public Right of Way) and is tiered so that the rate goes up every year the property is vacant up to \$1,000 per square foot in the 3rd year. In June 2020, the San Francisco Board of Supervisors voted to delay the implementation of the vacancy tax until January 2022 in response to the COVID-19 pandemic.

If the Council is interested in pursuing a voter-approved Vacancy Tax for commercial properties, Council would need to consider how to structure the tax including whether it should be assessed on a parcel basis or based on linear feet. It is unclear how much revenue such a tax would generate. The City will need consultant services to generate

an initial cost estimate and to properly analyze the fiscal impact of this initiative for voters.

Business License and Tax

The City has adopted the Los Angeles County Code Title 7 regarding business license regulations and the County currently issues business licenses on behalf of the City. A list of businesses that require licenses under the County's Business License Program is provided in Attachment 2. The County Business License fees are developed to recover the actual costs of administering and enforcing the program and are required to be revenue neutral.

The City could implement its own business license program. The Council had previously directed staff to examine the feasibility of implementing a business license program but ultimately put the project on hold to focus on other priorities in response to the Woolsey Fire and the COVID-19 pandemic. To implement a business license program would be staff intensive. As with the County, the City could recoup the cost associated with administering and enforcing the program by charging a license fee as long as it revenue neutral.

While a business license program would not generate additional revenue for the City in and of itself it can provide other benefits to the City. Most notably, the establishment of a business license program lends itself to the implementation a business tax calculated on the gross receipts of a business. As with all taxes, a business tax can only be imposed by a vote of people. Other benefits of a business license program include the establishment of a local business directory and a direct means of communication with local businesses

It is unclear how much revenue such a business tax would generate. If the Council is interested in pursuing a voter-approved Business Tax, the City will need consultant services to generate an initial cost estimate and properly analyze the fiscal impact of this initiative for voters.

Required Voter Approval for Tax Measures

The City's ability to generate revenue is limited and most of the revenue-generating measures require voter approval. The requirements for voter approval depend on the purpose of the tax funds. A general tax to be used for general City purposes requires a simple majority of voters, whereas a special tax in which funds will be dedicated for a specific purpose requires a two-thirds supermajority of voters to pass. Voting on a general tax measure must be held as part of a consolidated general election that includes election of members of the governing body. Malibu's next consolidated general election is scheduled for November 2022. There are no timing restrictions on elections to

approve special taxes. Special taxes may go on the general election ballot, a special election ballot, or an all-mail ballot.

Conclusion

At the direction of the Administration and Finance Subcommittee, staff recommends that the Council consider the above revenue-generating measures and provide direction to staff on which of these measures, if any, merit further staff evaluation and should be brought back to Council with further analysis.

For the purposes of this discussion, it is assumed that any potential tax measures could be incorporated into the November 8, 2022 General Election ballot. There is currently sufficient time to prepare any potential measure(s) for the November 8, 2022 General Election.

ATTACHMENTS:

- 1) HdL Companies memo regarding Local Tax Allocation vs. Transaction (District) Tax Allocation
- 2) List of Business Activities that Require a Los Angeles County Business License



LOCAL TAX ALLOCATION VS. TRANSACTION (DISTRICT) TAX ALLOCATION

Under the Bradley-Burns Uniform Local Sales & Use Tax Law, most retail sales are deemed to occur at the retailer's place of business in this state, if that is where the sale is negotiated. Exceptions may include certain auctioneers, vending machine operators and construction contractors. If the retailer has more than one place of business in this state, the sale is deemed to occur at the location where the principal negotiations take place. Generally, the local one percent tax is allocated to the jurisdiction where the retailer's place of business is located and the local use tax is allocated indirectly through the countywide pools where the property is used.

For the purposes of distributing the district tax, the tax generally follows the merchandise. That is, the tax is generally distributed to the district where the goods are delivered (and presumably used). In order for the retailer to be responsible for collecting district tax, one of the following conditions must be met:

- A. The retailer has a business location in the district, and the sale and/or delivery occur at the location.
- OR**
- B. The retailer is engaged in business in the district as defined by one of the following:
 - a. The retailer has any kind of representative operating in the district for purposes of making sales or taking orders
 - b. The retailer delivers goods to the buyer using their own vehicles or trucks
 - c. The retailer leases or sells vehicles, undocumented vessels or aircraft that will registered within the district.

Local agencies attempt to draw a correlation between local sales and use tax and transactions and use tax collected in their city/county. Since the factors determining whether a transaction is subject to local sales and use tax differ from those that indicate whether the same transaction is subject to transaction and use tax, it is not always possible to establish a direct correlation between the two.

Examples:

- ❖ City A has a .5% district tax. A retailer has a place of business within the city. Customers purchase goods on a cash and carry basis. The retailer is responsible for collecting and remitting both the local 1% tax and the .5% district tax, both are allocated to City A.
- ❖ City A has a .5% district tax. A resident in City A purchases an appliance from a retailer located in City B. The retailer has only one location in the state, and agrees to deliver the merchandise to the buyer's home. The local tax is allocated to City B. The retailer is obligated to collect and remit the district tax for City A only if he uses his own vehicle for the delivery, which creates nexus. If the goods are delivered by common carrier, which includes FedEx or UPS, the retailer is not considered to be "engaged in business" in City A and not liable for any district tax.
- ❖ City A has a .5 district tax. A retailer has a brick and mortar store in City A, but ships property to a buyer in City B, which has no district tax. The retailer collects only the state and local tax applicable to City A, but no district tax.
- ❖ City A has a .5% district tax. An out of state retailer has no place of business in this state, but does have home based sales representatives that call on customers within City A. Goods are shipped to California customer from an out of state location. The local 1% is allocated to the countywide pool based on place of use, and the retailer must collect the district tax which is allocated to City A.
- ❖ City A has a .5% district tax. City B has a 1% district tax. A retailer located in City A sells and delivers goods to a customer located in City B. The retailer uses their own truck for the delivery. The seller is required to collect the local tax on behalf of City A and the district tax for City B.

List of Business Activities that Require a Los Angeles County Business License

Acupressure Establishment
Acupressurist
Ambulance Operator
Ambulance Vehicle
Ambulette Attendant
Ambulette Driver
Ambulette Operator
Ambulette Vehicle
Apartment House
Billiard Room
Bingo Manager
Bingo Operator
Bingo Supplier
Boarding House
Body Art Establishment
Body Art/Piercing/Tattoo
Body Art Technician
Bookstore
Bottle Works
Bottlewashing
Bowling Alley
Card and Game Club
Carnival
Carnival Game Booth
Charitable Institution
Circus or Traveling Show
Close Out Sale
Coin-Operated Game
Coin-Operated Phonograph
Cold Storage Warehouse
Dance
Demonstrator

Entertainment
Escort Bureau
Exhibition
Explosives
Fertilizer Plant
Filling Station
Food Establishment
Foundry
Funeral Escort Driver
Funeral Escort Service
Game Arcade
Gas and Oil Tanker
Gun Dealer
Hay, Grain, Feed Dealer
Health Spa
Hog Ranch
Horsemeat, Uncooked
Hotel/Motel
Identification Card
Launderette
Live Poultry Dealer
Livery Stable
Locksmith
Lumberyard
Restaurant/Club Manager
Massage Establishment
Massage Technician
Mechanical Rides
Model Studio
Medical Marijuana Dispensary
Motor Vehicle Body and Fender
Motor Vehicle Licensed Repair

List of Business Activities that Require a Los Angeles County Business License

| | |
|-----------------------------------|-----------------------|
| Motor Vehicle Painting | Swimming Pool, Public |
| Motor Vehicle Rental | Taxi Dance Hall |
| Motor Vehicle Repair | Taxi Dance Instructor |
| Motorcycle Contest | Taxicab Driver |
| Off-Road Vehicles | Taxicab Operator |
| Oil Tool Exchange | Taxicab Vehicle |
| Outdoor Festival | Theater |
| Pawnbroker | Tobacco Shop |
| Peddler, Commercial Motor Vehicle | Tow Truck |
| Peddler, Special Events | Trade-In Dealer |
| Picnic Park | Vacation Certificate |
| Picture Arcade | Valet Parking Service |
| Plant Nursery | Water Taxi Operator |
| Pony Ride | Weed Eradicator |
| Poultry Dealer | |
| Private School | |
| Promoter | |
| Public Eating | |
| Rebound Tumbling | |
| Rendering Plant | |
| Rifle Range | |
| Rodeo | |
| Salvage Collector | |
| Salvage Dealer | |
| Sawmill | |
| Secondhand Dealer Charity | |
| Secondhand Dealer Regular | |
| Sex-Oriented Business | |
| Shooting Gallery | |
| Skating Rink | |
| Solicitor | |
| Sound/Advertising Truck | |