

REPORT TO COUNCIL

SUBJECT

Adopt Positions on State and Local Ballot Measures for the November 8, 2016 Election

REPORT IN BRIEF

This report provides an opportunity for the Sunnyvale City Council to take positions on state and local measures on the November 8, 2016 Ballot. The report summarizes each measure, provides the City's adopted policy on the measure (if any), and a staff recommendation, when appropriate.

As required by state law, no public funds have been or will be used to campaign for or against any of these measures.

Staff recommends Alternatives 1, 2, 3 and 4:

1. Adopt the following staff-recommended positions on the ballot measures deemed *City business*, including one item where staff recommends that Council remain neutral (take no position):

State Ballot Measures

- **OPPOSE Proposition 53** Revenue Bonds. Statewide Voter Approval.
- **TAKE NO POSITION Proposition 63** Safety for All Act of 2016.
- **OPPOSE Proposition 64** Marijuana Legalization.
- **OPPOSE Proposition 65** Carryout Bags. Charges.
- **SUPPORT Proposition 67** Ban on Single-Use Plastic Bags.

Local Ballot Measures

- **SUPPORT Measure A**, Santa Clara County Housing Bond.
- **SUPPORT Measure B**, Valley Transportation Authority Tax.
- **SUPPORT Measure N**, Utility Users Tax.

2. Consider taking a position on a ballot measure deemed *City business*, where staff is not recommending a specific position:

Local Ballot Measures

- **Measure M** Public Lands for Public Use Act

3. Consider taking positions on remaining ballot measures which are deemed not *City business*:

State Ballot Measures

- **Proposition 51** School Bonds. Funding For K-12 School and Community College Facilities
- **Proposition 52** Medi-Cal Hospital Fee Program
- **Proposition 54** Legislature. Legislation and Proceedings
- **Proposition 55** Tax Extension to Fund Education and Healthcare
- **Proposition 56** Cigarette Tax to Fund Healthcare, Tobacco Use Prevention, Research, and Law Enforcement
- **Proposition 57** Criminal Sentences. Parole. Juvenile Criminal Proceedings And Sentencing
- **Proposition 58** English Proficiency. Multilingual Education
- **Proposition 59** Corporations. Political Spending. Federal Constitutional Protections
- **Proposition 60** Adult Films. Condoms. Health Requirements
- **Proposition 61** State Prescription Drug Purchases. Pricing Standards
- **Proposition 62** Death Penalty
- **Proposition 66** Death Penalty. Procedures

Local Ballot Measures

- **Measure BB** Sunnyvale School District Parcel Tax

4. Affirm that, as required by State law, no public funds have been or will be used to campaign for or against any of these measures.

BACKGROUND

Council Policy 7.4.16 *Ballot Measure Positions*, states that staff will provide analysis and a position recommendation on only those ballot measures that directly impact *City business*. *City business* is defined as all matters directly related to service delivery, or otherwise contributing to the City's operational success (Per Council Policy 7.4.14 *Legislative Advocacy Positions*).

The *Ballot Measures Positions* policy also states that review of measures prior to the publishing of the Santa Clara County Registrar of Voter's *Voter Information Pamphlet* (Pamphlet), will most likely not include staff analysis. As of the publishing of this Report, the Pamphlet is not yet publicly available. Some of the analysis provided below is based on limited information.

Staff's recommendations are generally based on existing City policies from documents such as the General Plan, Legislative Advocacy Positions, and impact on City services and/or operations.

Staff recommendation options are: Support, Oppose, No Staff Recommendation, or Take No Position. While the meaning of Support and Oppose recommendations are clear, "No Staff Recommendation" and "Take No Position" are clarified as follows:

No Staff Recommendation - Consistent with City policy, staff does not provide analysis or make recommendations on measures that do not impact *City business* as defined in Council Policy 7.4.14, *Legislative Advocacy Positions*.

Take No Position - Despite a measure's ability to impact *City business*, Staff may recommend that Council abstain from taking a position. This recommendation to remain neutral on an

issue may be made for a variety of reasons (e.g., ballot language is not clear; the pros and cons of the business impact cancel each other out; etc.). The reason for recommending this position will be explained as part of the staff analysis.

EXISTING POLICY

Council Policy 7.4.16 *Ballot Measure Positions*: As soon as possible following the release of the Secretary of State's *Official Voter Information Guide* or the Santa Clara County Registrar of Voter's *Voter Information Pamphlet*, staff will present to Council a report reviewing proposed ballot measures.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378 (a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

DISCUSSION

A brief analysis of each measure follows including a measure summary and, for statewide measures only, the California Legislative Analyst's estimate of state and local government fiscal impact; for those measures deemed *City business*, City staff analysis by the appropriate department, existing City policy citation (if any), and, as appropriate, a staff recommendation are also provided.

Measures Deemed City Business

State Ballot Measures

Proposition 53: Revenue Bonds. Statewide Voter Approval.

Summary: Requires statewide voter approval before any revenue bonds can be issued or sold by the state for certain projects if the bond amount exceeds \$2 billion.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact: Fiscal impact on state and local governments is unknown and would depend on which projects are affected by the measure, whether they are approved by voters, and whether any alternative projects or activities implemented by government agencies have higher or lower costs than the original project proposal.

City of Sunnyvale Staff Analysis (Department of Finance): The measure will take away local control and add delays to crucial infrastructure projects, by requiring statewide votes for some local projects. Cities, counties and other local Bay Area agencies that want to partner with the State to finance the construction of critical public infrastructure projects (such as bridge safety repairs, water delivery systems, etc.) would have to put their project on a statewide ballot. Voters in other distant regions would have the right to reject local projects in the Bay Area. Additionally, it could impair the ability to rebuild critical infrastructure following emergencies and natural disasters because the measure does not contain any exemptions.

Existing City Policy: *Long-term Advocacy Position 7.0 Fiscal Management (3)* Oppose any

legislation that reduces or erodes local revenues or local control.

Staff Recommendation: **OPPOSE.** The Cities Association of Santa Clara County and the League of California Cities have taken an oppose position on this measure.

Proposition 63: Firearms. Ammunition Sales.

Summary: Requires background check and California Department of Justice authorization to purchase ammunition. Prohibits possession of large-capacity ammunition magazines. Establishes procedures for enforcing laws prohibiting firearm possession by specified persons. Requires California Department of Justice's participation in federal National Instant Criminal Background Check System (NICS).

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increased state and local court and law enforcement costs, potentially in the tens of millions of dollars annually, related to a new court process for removing firearms from prohibited persons after they are convicted.
- Potential increase in state costs, not likely to exceed the millions of dollars annually, related to regulating ammunition sales. These costs would likely be offset by fee revenues.
- Potential net increase in state and local correctional costs, not likely to exceed the low millions of dollars annually, related to changes in firearm and ammunition penalties.

City of Sunnyvale Staff Analysis (Department of Public Safety):

In 2013, Sunnyvale voters passed Measure C, adopting a gun safety ordinance that was the basis for SMC Section 9.44.060. Proposition 63 mirrors some of the requirements of SMC Section 9.44.060, but it also creates new court processes with the potential to increase state and local law enforcement costs. While the intended outcomes of this measure are in line with one City policy, the breadth of the measure and associated costs resulting from new processes conflict with the City's fiscal policy to preserve and protect revenue sources. For this reason, staff recommends "Take No Position" on this measure.

It is likely that Proposition 63 would be found to preempt related provisions in Sunnyvale Measure C. Furthermore, SB1446 was recently signed into law by the Governor. SB1446 makes the possession of large capacity magazines an infraction and an argument can be made that SB1446 would preempt related provisions in Sunnyvale Measure C.

Existing City Policy:

Long-term Advocacy Position 4.1 *Law Enforcement*, (1) Support Legislation that imposes stricter guidelines for the sale and/or purchase of weapons, and limits the availability of high capacity weapons and ammunition and encourage stricter sentences for conviction involving firearms. Support adequate safeguards prior to purchases.

Long-term Advocacy Position 7.0(B) *Fiscal Management*, (5) Ensure local governments' revenue sources are protected and predictable.

Staff Recommendation: **TAKE NO POSITION.** The Cities Association of Santa Clara County has taken a support position on this measure; the League of California Cities has taken no position on this measure.

Proposition 64: Marijuana Legalization.

Summary: Legalizes marijuana under state law, for use by adults 21 or older. Imposes state taxes on sales and cultivation. Provides for industry licensing and establishes standards for marijuana products. Allows local regulation and taxation.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- The size of the measure's fiscal effects could vary significantly depending on:
 - (1) how state and local governments choose to regulate and tax marijuana,
 - (2) whether the federal government enforces federal laws prohibiting marijuana, and
 - (3) how marijuana prices and consumption change under the measure.
- Net additional state and local tax revenues that could eventually range from the high hundreds of millions of dollars to over \$1 billion annually. Most of these funds would be required to be spent for specific purposes such as youth programs, environmental protection, and law enforcement.
- Net reduced costs potentially in the tens of millions of dollars annually to state and local governments primarily related to a decline in the number of marijuana offenders held in state prisons and county jails.

City of Sunnyvale Staff Analysis (Department of Public Safety): The City opposes the legalization/decriminalization of all controlled substances as defined by Title 21 of the United States Code. As recently as August 12, 2016, the Department of Justice Drug Enforcement Administration denied a petition to initiate proceedings to reschedule Marijuana, citing that there is no substantial evidence that Marijuana should be removed from Schedule 1. Although other states have passed laws to decriminalize Marijuana, those laws are still in direct conflict with federal law.

In April, 2016, Council adopted Ordinance No. 3077-16, amending Sunnyvale Municipal Code Chapter 9.86, and expressly prohibiting the cultivation, delivery, distribution and other commercial activity related to medical marijuana in Sunnyvale. The ordinance cites public safety concerns, among them fire hazards created by indoor growing and processing of marijuana, and the negative impact on public health reported in California cities where cultivation, processing and distribution are allowed. These same concerns would apply to cultivation, delivery and distribution of marijuana for recreational use. Proposition 64 prohibits local government from banning indoor cultivation intended for allowed personal use. Based on the prohibition of local controls and the health and safety concerns raised by this proposition, opposition would be consistent with Council policy framework related to medical marijuana.

Staff notes that the California Public Safety Institute has expressed further issues of concern with this measure: it contains insufficient restrictions to prevent convicted felons from becoming licensed to cultivate, process, and sell marijuana; it fails to include any quantitative measures of impairment for individuals driving under the influence of marijuana; it does not

allow local governments to stop delivery of marijuana on public roads; it does not mandate funding for DUI enforcement programs or environmental cleanup resulting from cultivation and processing.

Existing City Policy:

Long-term Advocacy Position 4.1 *Law Enforcement*, (2) Oppose the legalization and or decriminalization of all controlled substances as defined by Title 21 of the US Code.

Staff Recommendation: **OPPOSE.** The Cities Association of Santa Clara County and the League of California Cities have taken no position on this measure.

Proposition 65: Carryout Bags. Charges.

Summary: Redirects money collected by grocery and certain other retail stores through mandated sale of carryout bags. Requires stores to deposit bag sale proceeds into a special fund to support specified environmental projects.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact: Potential state revenue of several tens of millions of dollars annually under certain circumstances. Revenue would be used to support certain environmental programs.

City of Sunnyvale Staff Analysis (Environmental Services Department): Proposition 65 was placed on the ballot by the "American Progressive Bag Alliance," the same coalition of bag manufacturers that qualified Proposition 67 for the ballot.

If both bag propositions pass and Proposition 65 receives more votes than Proposition 67, bag charge proceeds in areas of the state that currently lack a bag ban would be redirected to a state fund administered by the Wildlife Conservation Board. In this outcome, Proposition 65 would allow jurisdictions like Sunnyvale to amend their ordinances to require stores to pay bag charges to the state fund. Absent such an action by the City, passage of either or both propositions would not appear to change how bag charges are handled in Sunnyvale. Revenue from charges (currently ten cents per paper or reusable bag) collected by stores in Sunnyvale would continue to be retained by stores.

Further, if both bag propositions pass and Proposition 65 receives more votes, Proposition 65 might block implementation of SB 270, depending on how courts interpret the wording of the propositions. This is due to wording in Section 6(a) of Proposition 65, which reads, "In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void." Resolving this in court could further delay implementation of the state bag ban, which has already been stalled for 16 months by the Proposition 67 referendum.

If both propositions pass and Proposition 67 receives more votes, then bag charges collected in jurisdictions affected by the state bag law will be retained by stores, as specified by SB 270, the 2015 state bag law that was the subject of the Proposition 67 referendum.

Guidelines for receiving grants from the state fund that would receive the bag charges are to be developed by a Wildlife Conservation Board established if this proposition is approved. It is

unclear whether those future regulations would allow Sunnyvale, whose retailers retain the bag charges and would not pay into the state fund, would be allowed to apply for grants.

Staff recommends an Oppose position on Proposition 65. Certain provisions of Proposition 65, if it passes with more votes than Proposition 67, threaten further delay in statewide implementation of a plastic bag ban that is generally consistent with Sunnyvale's ordinance. The City, its consumers and businesses will be best served by consistency between the local ordinance and state law.

Existing City Policy: *Council Policy 3.2.4 - Zero Waste* - Lobby regional, state and federal legislators to implement laws, policies and regulations that promote Zero Waste.

General Plan Policy EM-10.4 - Support legislation and regulations that will reduce or eliminate pollutants of concern at the source.

Staff Recommendation: **OPPOSE.** The Cities Association of Santa Clara County and the League of California Cities have taken an oppose position on this measure.

Proposition 67: Ban on Single-Use Plastic Bags.

Summary: A "Yes" vote approves, and a "No" vote rejects, a statute that prohibits grocery and other stores from providing customers single-use plastic or paper carryout bags but permits sale of recycled paper bags and reusable bags.

Summary of Legislative Analyst's Estimate of Net State and Local Government

Fiscal Impact: Relatively small fiscal effects on state and local governments. Minor increase of less than a million dollars annually for state administrative costs, offset by fees. Possible minor savings to local governments from reduced litter and waste management costs.

City of Sunnyvale Staff Analysis (Environmental Services Department): The City adopted a similar local bag ban in 2011 and updated it in 2013. Local surveys indicate that the ordinance has reduced total retail bag use by approximately 80%. Approval of this proposition will leave the City ordinance in place and unchanged. Approval will reduce litter, waste disposal and stormwater impacts caused by plastic carryout bags imported from jurisdictions that currently allow single-use bags. The state law would limit future changes to the City's ordinance. Approval will result in standardized bag rules for retailers throughout the state and consistent expectations regarding bags for their customers. Staff believes that implementation of the state ban will enhance the effectiveness of Sunnyvale's ban and recommends a "Yes" position on Proposition 67.

Existing City Policy: *Council Policy 3.2.4 - Zero Waste* - Lobby regional, state and federal legislators to implement laws, policies and regulations that promote Zero Waste.

General Plan Policy EM-10.4 - Support legislation and regulations that will reduce or eliminate pollutants of concern at the source.

Staff Recommendation: **SUPPORT.** The Cities Association of Santa Clara County and the League of California Cities have taken a support position on this measure (to retain the plastic bag ban).

Local Ballot Measures

Measure A:

To provide affordable local housing for vulnerable populations including veterans, seniors, the disabled, low and moderate income individuals or families, foster youth, victims of abuse, the homeless and individuals suffering from mental health or substance abuse illnesses, which housing may include supportive mental health and substance abuse services, shall the County of Santa Clara issue up to \$950 million in general obligation bonds to acquire or improve real property subject to independent citizen oversight and regular audits?

The full text of Measure A also includes the following language regarding governance and accountability:

Accountability Safeguards

Statement of Purpose: The specific purposes of the bond are to fund the acquisition or improvement of real property in order to provide affordable local housing for vulnerable populations including veterans, seniors, the disabled, low and moderate income individuals or families, victims of abuse, the homeless and individuals suffering from mental health or substance abuse illnesses, which housing may include supportive mental health and substance abuse services. The proceeds of any bonds issued pursuant to this bond measure will be applied only to these specific purposes.

Special Bond Proceeds Account: The proceeds of the bonds issued pursuant to this measure shall be deposited in a special account created by the County.

Annual Report: The County will ensure that an annual report pursuant to Government Code section 53411 describing the amount of funds collected and expended, and the status of any project required or authorized to be funded, shall be filed with its governing body.

Independent Citizens' Oversight Committee: A Citizens' Oversight Committee will be established and will review the annual report each year to ensure fiscal accountability.

Independent and External Audit: An independent, external auditor will review the County's spending of bond proceeds to ensure accountability.

Existing City Policy: *Housing Element Goal A, Policy A.7 1) Support collaborative partnerships with non-profit organizations, affordable housing builders, and for-profit developers to gain greater access to various sources of affordable housing funds.*

Housing Element Goal E, Policy E.6 2) Participate in the County Collaborative on Affordable Housing and Homeless Issues to support its efforts to prevent and end homelessness. Facilitate and sponsor the provision of permanent supportive housing for homeless people.

City of Sunnyvale Staff Analysis (Community Development Department):

This measure requires a two-thirds majority to pass. If approved, the bond would be issued by the County of Santa Clara in three phases, each providing about \$316 million for housing projects, not to exceed an aggregate principal amount of \$950 million. The first bond issuance would be scheduled for September 2017, with the next phases coming in 2021 and 2025.

According to the full text of the measure, the bonds would bear an interest rate not to exceed 12% annually; the total indebtedness shall not exceed 1.25% of the total assessed valuation of the taxable property within the County, as shown by the last equalized assessment roll; and the proceeds of the bond issuance would be deposited into a special account of the County.

The bond would be repaid by a new parcel tax levied by the County on all taxable properties in the County. According to the estimates provided by the County, the bond is expected to require an assessment of \$12.66 per \$100,000 of assessed property value for all taxable properties on the County tax rolls in fiscal year 2017-18, dropping to \$10.76 per \$100,000 of assessed value in fiscal year 2025-26. The bond is expected to be fully paid off by 2055. The total debt service, including principal and interest, to be repaid if all the bonds are issued and sold, is \$1.9 billion. The tax rate statement within this measure also includes the following statement: *“...the foregoing information is based upon the County’s projections and estimates only, which are not binding upon the County.”*

Governance of the Bond Proceeds: As a general obligation bond of the County, proceeds of the bond would be placed in a special fund managed and controlled by the County Board of Supervisors. The County will issue an annual report describing the amount of funds collected and expended, and the status of any project required or authorized to be funded by the bond proceeds. A citizens’ oversight committee will be established by the County and will review the annual report each year to ensure fiscal accountability, and an independent auditor would also be hired by the County to audit the fund. At the time this Report was published, the County Board had yet to finalize its action regarding the composition of the oversight board; therefore staff cannot comment or analyze the governance structure fully at this time. The Board is tentatively scheduled to consider the composition of an oversight board on October 4; if available, staff will provide a verbal update on to the Council on the evening of October 4. The Council may also consider deferring this particular issue and adopt a position at the October 25, 2016 Council meeting.

The need for affordable housing around the county is significant. Any increase in available affordable housing stock around the county would benefit all county residents by providing affordable housing to some of the most vulnerable households such as the homeless and reduce the negative impacts of homelessness and displacement on other local residents, businesses, etc. According to a recent County study, the County currently spends approximately \$500 million annually on services for homeless residents, most of which went to health care services or justice system expenses. (For Study, See <https://www.sccgov.org/sites/opa/nr/Pages/Nation%E2%80%99s-Most-Comprehensive->) The study concludes that it is much more cost effective to subsidize housing for these residents, which in most cases will significantly reduce their needs for expensive health care treatments and/or involvement with the justice system.

The text of the measure states: “The Board of Supervisors intends to distribute the new affordable housing units within the County....” It is expected that most of the affordable housing funded by these bonds would be built or acquired within incorporated cities, as much of the County unincorporated areas are zoned for open space or farmland. Approximately 16% of the funding is proposed for first time home buyer assistance and moderate income housing, while roughly 74% is proposed for housing for homeless and other vulnerable

populations as defined in the text of the measure, above. The remaining 10% will be for very low income households. The measure also allows an unspecified portion of the funds to be used for supportive services to treat mental health and substance abuse conditions of the residents of the affordable housing.

The City supports efforts to increase aggregate housing development in the region. The governance details are still being developed and staff cannot fully analyze the impacts. However, even absent the ability to assess the governance details, staff recommends that the Council support Measure A. Staff is optimistic that the County will be mindful of working collaboratively with cities to ensure that potential housing sites are compatible with the neighborhood and relevant general plan and that the process will include a robust community engagement effort. Staff will continue to monitor the County's progress to develop the governance details and will update the Council as they are available.

Staff Recommendation: **SUPPORT.** The Cities Association of Santa Clara County has taken a support position on this measure.

Measure B

To relieve traffic, repair potholes; shall VTA enact a 30-year half-cent sales tax to:

- *Repair streets, fix potholes in all 15 cities;*
- *Finish BART extension to downtown San Jose, Santa Clara;*
- *Improve bicycle/pedestrian safety, especially near schools;*
- *Increase Caltrain capacity, easing highway congestion, improving safety at crossings;*
- *Relieve traffic on all 9 expressways, key highway interchanges;*
- *Enhance transit for seniors, students, disabled;*

Mandating annual audits by independent citizens watchdog committee to ensure accountability.

Existing City Policy: *General Plan, Chapter 3, Land Use and Transportation Element Policies:*

LT-1.1: Advocate the City's interests to regional agencies that make land use and transportation system decisions that affect Sunnyvale.

LT-1.8: Support statewide, regional and sub-regional efforts that provide for an effective transportation system.

City of Sunnyvale Staff Analysis (Department of Public Works): Measure B will help facilitate construction of many City priority transportation projects including the Mathilda/US101/SR237 interchange project. Staff has presented information to City Council a number of times regarding Measure B and the City Council has previously expressed support.

Staff Recommendation: **SUPPORT.** The Cities Association of Santa Clara County has taken a support position on this measure.

Measure N

Sunnyvale Essential Services Protection Measure. To maintain Sunnyvale's financial stability without increasing the existing 2% tax rate, and fund essential City services including police, fire and 911 emergency response, and pothole, street, sidewalk, and neighborhood park maintenance/repairs, shall Sunnyvale modernize its existing utility users tax to treat telecommunication taxpayers equally

regardless of technology used, providing approximately \$1,500,000 annually on an ongoing basis, until ended by voters, with independent audits, and all funds used locally?

Impartial Analysis by the Office of the City Attorney: This measure is proposed by the Sunnyvale City Council to update the City's existing Utility Users Tax ("UUT") ordinance to be consistent with current practice and modern telecommunications technologies, so every customer is treated the same whether they use the latest telecommunications technology or older telephone services.

The UUT is levied on utility users in the City. Sunnyvale has imposed the UUT on telephone, gas and electric utilities since 1969. The proceeds of the UUT can only be spent on City services and cannot be taken away by the State. Revenue generated by the tax goes to the City's General Fund to provide essential local government services including, but not limited to police, fire and paramedic services; street, sidewalk and tree maintenance; library, and parks and recreation.

Since the UUT was first enacted in 1969, the definitions of telephone services and telephone technology have changed significantly, resulting in inconsistent application of the tax. This measure would update the UUT ordinance by incorporating definitions commonly used in the telecommunications industry and anticipating new telecommunications technologies and services. Wired and wireless, paid and prepaid wireless, private networks for providing such services, and intrastate, interstate and international calls would be treated the same, regardless of the technology used to provide those services.

In recent years, many cities have modernized the telecommunications part of their UUT ordinances to respond to changes in federal law and to reflect the shift from landline telephones to digital communication technologies such as wireless and VOIP. Approximately 90% of the cities in the state that have a UUT use similar voter-approved definitions of telecommunications services that are proposed in this ordinance.

The current 2% rate of the UUT will stay the same, as will the existing categories of utilities subject to the UUT. This measure would not apply to charges for internet access, or internet downloads of music, video and other information unrelated to telecommunications. Voter approval would be required for any future increase in the rate or the scope of services subject to the UUT.

The ordinance will become effective if a majority of those voting on the measure vote for it.

A "yes" vote is a vote in favor of adopting the updated UUT ordinance to modernize the telecommunications provisions and maintain the existing 2% rate. A "no" vote will leave in place the existing UUT ordinance.

Existing City Policy: *Long-term Advocacy Position 7.0 Fiscal Management (5)* Ensure local governments' revenue sources are protected and predictable.

City of Sunnyvale Staff Analysis (Department of Finance): Updating the Utility Users Tax (UUT) is not a tax rate increase nor does it create a new tax. The City has not significantly updated its UUT ordinance in over 40 years, and many provisions are outdated and do not

reflect changes in the telecommunications industry in that time. The changes proposed in the measure would ensure that all taxpayers, regardless of the technology they use, will be treated fairly so that everyone pays their fair share. All funds generated by the UUT will continue to maintain the City of Sunnyvale's financial stability and support services that maintain our quality of life by supporting local services such as public safety, park maintenance and street repair.

Staff Recommendation: **SUPPORT**

Measure deemed City business with staff not recommending a specific position

Measure M

Shall an ordinance be adopted to require the City to conduct a citywide special or general election requesting approval from a majority of voters for any sale, lease, lease extension, lease renewal, land swap, or transfer of any property, facility, or land that the City owns, leases, or uses for government administration, recreation, public park, or similar community purposes?

Impartial Analysis by the Office of the City Attorney: This measure was placed on the ballot by a petition signed by the requisite number of voters. It proposes to adopt an ordinance amending the existing provisions of Sunnyvale Municipal Code ("SMC") sections 2.07.030 and 2.07.040 to require prior approval of voters in a citywide special or general election for some types of City real property transactions.

Current Requirements. Currently, SMC Chapter 2.07 contains the following approval requirements related to purchases, sales or leases of City property:

- The City Council approves purchases, sales, or leases of real property for the City when the purchase price, sales price, lease cost or lease value is greater \$75,000; the City Manager approves such transactions valued at \$75,000 or less.
- The City Manager approves leases that result in revenue to the City and are for periods less than or equal to 55 years.
- The City Council approves leases of City property that have terms in excess of 55 years, subject to additional procedural requirements including a public hearing, adoption of a resolution, and terms providing for periodic review of the lease provisions.

Under state law (Brown Act), all City Council approvals must occur in noticed, open and public meetings. City Manager approval is administrative.

Proposed Changes. The measure would change the provisions of SMC Chapter 2.07 in the following key areas:

- Define two new categories of City property:
 - "Community Service Amenity," defined as types of facilities and land "whose primary purpose is to provide the public a place of city government administration, recreation, education, exercise, or enjoyment."
 - "Public Park," defined as "land set apart for recreation of the public and to maintain open space in the City, including City-owned land shared by agreement with adjacent public schools to augment the public school's outdoor recreation area."

- Require prior approval of a majority of voters in a citywide special or general election for the following types of real property transactions:
 - Any “sale, lease, lease extension, lease renewal, land swap, or transfer,” regardless of the amount of the transaction, involving any land “owned, leased, or used” by the City as a Public Park or Community Service Amenity (including land otherwise transferred to the City for such purposes, and the rights to use land for such purposes).
 - Leases in excess of 55 years affecting Public Park or Community Service Amenity land owned, held or controlled by the City.

The Measure includes a priority clause stating that the Measure prevails over all conflicting City ordinances, resolutions and administrative policies.

The City currently acquires, leases, or uses property, and allows others to use City property, through many different types of transactions. How the voter approval requirement applies to these types of transactions may be subject to interpretation.

City of Sunnyvale Analysis: The City of Sunnyvale retained Management Partners in May of 2015 to prepare a report in accordance with the provisions of California Election Code Section 9212(a). (Final Report to Council, See Attachment 1). The report, issued in July 2015, contained Management Partners’ independent analysis and identified resulting impacts that Management Partners believed the City may experience if the initiative was approved by the voters.

The Report’s Executive Summary includes analysis regarding the positive and/or negative impacts the initiative may have on the City. (See Attachment 2)

Staff Recommendation: **No Staff Recommendation.**

Measures Deemed Not City Business

All measures deemed not *City business* are presented for potential Council action; however, do not include staff analysis or recommendation.

State Ballot Measures

Proposition 51: School Bonds. Funding For K-12 School and Community College Facilities.

Summary: Authorizes \$9 billion in general obligation bonds for new construction and modernization of K-12 public school facilities; charter schools and vocational education facilities; and California Community Colleges facilities.

Proposition 52: Medi-Cal Hospital Fee Program.

Summary: Extends indefinitely an existing statute that imposes fees on hospitals to fund Medi-Cal health care services, care for uninsured patients, and children’s health coverage.

Proposition 54: Legislature. Legislation and Proceedings.

Summary: Prohibits Legislature from passing any bill unless published on Internet for 72 hours before vote. Requires Legislature to record its proceedings and post on Internet. Authorizes

use of recordings.

Proposition 55: Tax Extension to Fund Education and Healthcare.

Summary: Extends by twelve years the temporary personal income tax increases enacted in 2012 on earnings over \$250,000, with revenues allocated to K-12 schools, California Community Colleges, and, in certain years, healthcare.

Proposition 56: Cigarette Tax to Fund Healthcare, Tobacco Use Prevention, Research, and Law Enforcement.

Summary: Increases cigarette tax by \$2.00 per pack, with equivalent increase on other tobacco products and electronic cigarettes containing nicotine.

Proposition 57: Criminal Sentences. Parole. Juvenile Criminal Proceedings And Sentencing.

Summary: Allows parole consideration for nonviolent felons. Authorizes sentence credits for rehabilitation, good behavior, and education. Provides juvenile court judge decides whether juvenile will be prosecuted as adult.

Proposition 58: English Proficiency. Multilingual Education.

Summary: Preserves requirement that public schools ensure students obtain English language proficiency. Requires school districts to solicit parent/community input in developing language acquisition programs. Requires instruction to ensure English acquisition as rapidly and effectively as possible. Authorizes school districts to establish dual-language immersion programs for both native and non-native English speakers.

Proposition 59: Corporations. Political Spending. Federal Constitutional Protections.

Summary: Asks whether California's elected officials should use their authority to propose and ratify an amendment to the federal Constitution overturning the United States Supreme Court decision in Citizens United v. Federal Election Commission. Citizens United ruled that laws placing certain limits on political spending by corporations and unions are unconstitutional.

Proposition 60: Adult Films. Condoms. Health Requirements.

Summary: Requires adult film performers to use condoms during filming of sexual intercourse. Requires producers to pay for performer vaccinations, testing, and medical examinations. Requires producers to post condom requirement at film sites.

Proposition 61: State Prescription Drug Purchases. Pricing Standards.

Summary: Prohibits state from buying any prescription drug from a drug manufacturer at price over lowest price paid for the drug by United States Department of Veterans Affairs. Exempts managed care programs funded through Medi-Cal.

Proposition 62: Death Penalty.

Summary: Repeals death penalty and replaces it with life imprisonment without possibility of parole. Applies retroactively to existing death sentences. Increases the portion of life inmates' wages that may be applied to victim restitution.

Proposition 66: Death Penalty. Procedures.

Summary: Changes procedures governing state court challenges to death sentences.

Designates superior court for initial petitions and limits successive petitions. Requires appointed attorneys who take noncapital appeals to accept death penalty appeals. Exempts prison officials from existing regulation process for developing execution methods.

Local Ballot Measures

Measure BB: Sunnyvale School District Parcel Tax

Summary: To renew the Sunnyvale School District parcel tax to support classroom programs including math, English, science and technology; to attract and retain quality teachers and keep class size small; shall Sunnyvale School District be authorized to renew its existing \$59 per parcel tax providing \$1 million annually for seven years beginning July 1, 2018, with exemptions for senior citizens and all expenditures audited and reviewed by a citizens' oversight committee with no funds spent on administrators?

FISCAL IMPACT

As required by state law, no public funds have been or will be used to campaign for or against any of these measures and therefore there is no fiscal impact to this report.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

ALTERNATIVES

1. Adopt the following staff-recommended positions on the ballot measures deemed *City business*, including one item where staff recommends that Council remain neutral (take no position):

State Ballot Measures

- **OPPOSE Proposition 53** Revenue Bonds. Statewide Voter Approval.
- **TAKE NO POSITION Proposition 63** Safety for All Act of 2016.
- **OPPOSE Proposition 64** Marijuana Legalization.
- **OPPOSE Proposition 65** Carryout Bags. Charges.
- **SUPPORT Proposition 67** Ban on Single-Use Plastic Bags.

Local Ballot Measures

- **SUPPORT Measure A**, Santa Clara County Housing Bond.
- **SUPPORT Measure B**, Valley Transportation Authority Tax.
- **SUPPORT Measure N**, Utility Users Tax.

2. Consider taking a position on a ballot measure deemed *City business*, where staff is not recommending a specific position:

Local Ballot Measures

- **Measure M** Public Lands for Public Use Act

3. Consider taking positions on remaining ballot measures which are deemed not *City business*:

State Ballot Measures

- **Proposition 51** School Bonds. Funding For K-12 School and Community College Facilities
- **Proposition 52** Medi-Cal Hospital Fee Program
- **Proposition 54** Legislature. Legislation and Proceedings
- **Proposition 55** Tax Extension to Fund Education and Healthcare
- **Proposition 56** Cigarette Tax to Fund Healthcare, Tobacco Use Prevention, Research, and Law Enforcement
- **Proposition 57** Criminal Sentences. Parole. Juvenile Criminal Proceedings And Sentencing
- **Proposition 58** English Proficiency. Multilingual Education
- **Proposition 59** Corporations. Political Spending. Federal Constitutional Protections
- **Proposition 60** Adult Films. Condoms. Health Requirements
- **Proposition 61** State Prescription Drug Purchases. Pricing Standards
- **Proposition 62** Death Penalty
- **Proposition 66** Death Penalty. Procedures

Local Ballot Measures

- **Measure BB** Sunnyvale School District Parcel Tax

4. Affirm that, as required by State law, no public funds have been or will be used to campaign for or against any of these measures.
5. Adopt alternative positions on the ballot measures.
6. Other action as directed by Council.

STAFF RECOMMENDATION

Alternatives 1, 2, 3 and 4:

1. Adopt the following staff-recommended positions on the ballot measures deemed *City business*, including one item where staff recommends that Council remain neutral (take no position):

State Ballot Measures

- **OPPOSE Proposition 53** Revenue Bonds. Statewide Voter Approval.
- **TAKE NO POSITION Proposition 63** Safety for All Act of 2016.
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- **SUPPORT Proposition 67** Ban on Single-Use Plastic Bags.

Local Ballot Measures

- **SUPPORT Measure A**, Santa Clara County Housing Bond.
- **SUPPORT Measure B**, Valley Transportation Authority Tax.
- **SUPPORT Measure N**, Utility Users Tax.

2. Consider taking a position on a ballot measure deemed *City business*, where staff is not recommending a specific position:

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3. Consider taking positions on remaining ballot measures which are deemed not *City business*:

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- **Proposition 61** State Prescription Drug Purchases. Pricing Standards
- **Proposition 62** Death Penalty
- **Proposition 66** Death Penalty. Procedures

Local Ballot Measures

- **Measure BB** Sunnyvale School District Parcel Tax
4. Affirm that, as required by State law, no public funds have been or will be used to campaign for or against any of these measures.

Prepared by: Yvette Blackford, Senior Management Analyst

Reviewed by: Walter C. Rossmann, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. RTC No. 15-0747, *Consider Actions Related to the Initiative Ordinance Petition to Require Voter Approval for Any Sale, Lease, Lease Extension, Lease Renewal, Land Swap, or Transfer of Property Owned, Leased or Used by the City as a Public Park or Community Service Amenity ("Public Lands for Public Use Act")*, August 11, 2015 [hyperlink]
2. Report on Impacts of 'Public Lands for Public Use Act' Initiative Under California Election Code Section 9212