

**AGENDA ITEM**  
**CITY COUNCIL MEETING DATE - JULY 22, 2014**  
**BUSINESS ITEMS**

**DATE** : July 17, 114

**TO** : City Council

**FROM** : City Manager

**SUBJECT** : **INTRODUCTION OF AN ORDINANCE ADDING CHAPTER 3.22 TO THE BENICIA MUNICIPAL CODE ENACTING A GENERAL PURPOSE, ONE CENT TRANSACTION AND USE ("SALES") TAX TO BE PLACED ON THE NOVEMBER 4, 2014 BALLOT**

**RECOMMENDATION:**

Conduct a public hearing to place a one-cent, locally-dedicated sales tax measure on the November 4, 2014 ballot and introduce the corresponding ordinance.

**EXECUTIVE SUMMARY:**

As part of the City's effort to ensure fiscal solvency, the City has pursued a variety of measures that either reduce expenditures or enhance revenue. One such measure is to implement a local, voter-approved one-cent sale tax, increasing the Benicia sales tax rate from 7.65% to 8.65%. The proposed general purpose local funding measure would improve or maintain essential City services relied on by our public, including public safety, 9-1-1 emergency response times, neighborhood police patrols, crime prevention services, programs for youth, pothole repair and other quality of life services. In addition, this measure is needed to ensure that our 31 local parks are properly maintained as safe spaces for children to play and families to visit. The decision about whether to enact such a funding measure would be considered by Benicia voters at the general election held on Tuesday, November 4, 2014. If a majority of voters (50% plus 1) support the measure, it would go into effect on April 1, 2015. The proposed measure will also require oversight review by the City of Benicia Finance Committee.

**BUDGET INFORMATION:**

The proposed, locally-enacted sales tax measure of one cent is projected to generate approximately \$3.7 million in revenue to support local needs that cannot be taken away by the State.

## **STRATEGIC PLAN:**

Relevant Strategic Plan Goals and Strategies:

- Strategy Issue #3: Strengthening Economic and Fiscal Conditions
  - Strategy #4: Manage City finances prudently

## **BACKGROUND:**

Since 2008 the City of Benicia has been weathering the effects of the Great Recession, taking the necessary measures to preserve, as best as possible, both the quality and quantity of desired City services. The City has been working diligently to structurally reset the City's General Fund and Enterprise Fund operating budgets in order to provide a sustainable future for City operations and ensure continued service delivery to the community.

The efforts to achieve this goal have not been easy or without sacrifice. Over the last six years the City has implemented employee salary and benefit concessions, with employees agreeing to 10% reductions in compensation, including contributing considerably more toward health care and retirement costs. The City has also downsized, including employee lay-offs and freezing positions. Over the last four years, since 2010 the City has decreased employee related expenditures by approximately \$11.2 million and reduced City's full time workforce by 12%.

In addition to reducing employee costs the City has also delayed internal service needs and postponed capital improvement projects, including improvements to streets, parks and the Library Basement Project. Over the same period, the City has maximized revenue potential of City real estate, implementing park user fees and increasing lease income by 275%, generating over \$65,000 per month. Notwithstanding these efforts the City still has significant unfunded needs including over \$100 million in unfunded capital needs, including over \$50 million in streets and transportation, \$20 million in storm drain improvements, over \$30 million in parks and facilities including the library and swimming pool.

To exacerbate matters, the effect of the Great Recession was more than a temporary period of economic contraction, but an event that reshaped Benicia's fiscal landscape. While Benicia's property tax base is returning to pre-recession levels, approximately \$1.0 billion representing 20% of the City's property tax base is at risk due to outstanding appeals. Additionally, Benicia's most prominent source of sales tax, the Benicia Industrial Park, is seeing stagnant growth. Compounding this loss of local revenue is reductions of State funding, in particular funds needed to maintain local streets.

Unfortunately, while the economy has improved significantly over the past two years, Benicia like many other California cities still faces escalation in operating

costs outside of their control and which are outpacing revenue growth. This makes it a challenge to continue existing funding levels for critical services to the community.

The confluence of these elements has greatly stressed the City's General Fund budget, which, if not addressed, will lead to substantial deficits in the years to come. A recent 10-year forecast study of the General Fund indicated an average annual operating loss of approximately \$1.5 million over the 10-year period despite the cost reduction measures and at the current unsustainably low level of capital investment.

In order to address these challenges, following adoption of the 2013-15 budget, the Council directed staff to develop a budget stabilization plan. In the subsequent months, staff has been working on initiating a Sustainable Community Services Strategy, which will help prepare the organization to take the necessary steps to create a more fiscally sustainable City with the necessary resources to provide services most valued by the community.

In June of this year, as part of the SCSS process, the City commissioned a customer satisfaction survey that asked residents what their priorities were. A random sample of 400 respondents gave the City very high job and customer satisfaction ratings for the quality of life services it provides, and more than two-thirds of respondents indicated their strong feelings about protecting Benicia's status as a full-service city, including the small town quality of life services the community expects, such as improving public safety and city streets, maintaining parks, trimming trees, supporting the historic downtown and community events, attracting new businesses, and creating jobs.

Furthermore, constituents expressed concern about the fact that many of our streets have cracked or buckled sidewalks, or no sidewalks at all, potholes and other unsafe driving conditions. Additional funding is needed to fix these hazardous road conditions and maintain 94 miles of city streets and roads so motorists, pedestrians, buses, cyclists and police and fire safety vehicles are safe. Providing funding to maintain the City's 31 local parks was also identified as a priority by 70% of respondents.

Faced with the challenge of declining revenues, rising expenditures and an overwhelming desire by residents to maintain Benicia's high quality of life, which in large part manifests itself in the services and amenities the City's provides, necessitates the City consider a locally controlled revenue measure.

The timing to consider such a measure is based on a variety of factors. First, as noted above, the economy is no longer in recession and unemployment continues to trend downward; the 2014 first quarter unemployment rate for

Benicia is 4.3% and the California rate is 7.8%. Contrary to many other municipal agencies, Benicia did not move to raise taxes during the recession. This was a deliberate choice by City leaders not to raise taxes at a time when many city residents were struggling to find employment and/or pay their home mortgages.

In addition to an improving economy there is a willingness of residents to support a local tax. In the City's recently-conducted Customer Satisfaction survey, respondents were asked directly whether they wanted to cut services or identify additional revenue.

Respondents, by significant percentages, stated that services cuts in the following areas would **not** be acceptable:

- Reducing 9-1-1 emergency response times (84%)
- Reducing neighborhood police patrols (72%)
- Reducing crime prevention services (72%)
- Reducing pothole repair (70%)
- Reducing programs for youth (70%)

Respondents were also asked about their interest in a locally approved, one-cent sales tax. The results of the survey concluded that 65% of respondents would support a simple majority requirement measure. Benicia residents' willingness to support a local sales tax is consistent with state wide trends. Last month during the June primary election, six jurisdictions sought sales tax measures and all six passed.<sup>1</sup>

The final factor in staff's recommendation to consider a locally-dedicated sales tax is the timing of the election calendar. State law requires that such measures coincide with local City Council elections. Therefore the City's opportunity to place such a measure for public vote are this upcoming November or in two years in November of 2016. Alternatively, the City could call a special election to place a sales tax measure on the ballot, but such an action is more costly and must be preceded by a City Council resolution proclaiming a fiscal emergency.

If the City Council deems it appropriate to proceed, staff recommends placing the following measure on the ballot, which has been carefully crafted to address the community's service priorities and was developed in conjunction with the City Attorney and City staff. The ballot question calls out some very key elements. First, the Benicia Quality of Life Measure is a general purpose tax,

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<sup>1</sup> California Cities that passed local sales tax measures at the June 4, 2014 election: Woodland, Hayward, Cathedral City, Davis, Anderson and Cotati. Source: [californiacityfinance.com](http://californiacityfinance.com)

\*Refers to percentage of respondents that indicated they would find budget cuts to these services unacceptable.

meaning the proceeds of the tax stay in Benicia to support the City's General Fund. Secondly, the measure requires Citizen oversight, which, as described in the related City Ordinance, will be conducted by the City of Benicia Finance Committee. No revisions are recommended to the ballot label wording.

THE BENICIA SALES TAX MEASURE	
<b>City of Benicia Quality of Life Measure.</b> To maintain Benicia's status as a full-service city, improve/maintain Police patrols, fire/9-1-1 response times; road conditions; pothole repair; clean water; storm drains to protect the Carquinez Strait; business attraction/job creation; park maintenance; other city services, shall the City of Benicia enact a one cent sales tax with authority to incur bonded indebtedness to accelerate infrastructure projects, requiring independent audits, Citizens' Oversight, all revenue for Benicia, none for Sacramento?	YES
	NO

The ballot question, limited to 75 words, succinctly describes what the proceeds would support, listing out those City services so highly valued by our residents. These services are framed in the title of the tax "Benicia Quality of Life Measure." Our very understanding of quality of life is, in many ways, derived from the services provided by the City of Benicia.

Quality of life is one's sense of peace, place and prosperity. In our community, residents feel safe walking alone in the evening, secure in the knowledge that our 9-1-1 dispatch center and police department are a moment away from responding. Benicians are not burdened with the worry of a long wait for medical or fire response. Playgrounds, parks, a community center, library and swimming pool foster recreation and give residents locations outside the confines of one's home to be with his/her family and friends. The lighting of the Christmas Tree on the First Friday in December or a 4<sup>th</sup> of July parade enjoyed on the evening of the 3<sup>rd</sup> are community celebrations that create a kinship between neighbors and a bond that make us all Benicians. Without waiting in long lines or enduring automated phone systems residents have access to City officials when one wants to open a business or improve his/her home. Peace, place, prosperity; City services make those impressions tangible.

Yet, these services, nearly universally appreciated, are not themselves universal. Not all communities have the services enjoyed by Benicia residents. Moreover, these services are not guaranteed; they exist because there is a desire to have them and a means to support them. In years past Benicia has met this desire with residential development and the construction of new industrial buildings. No longer can new buildings provide the means to support those services,

instead the cost must be borne from the place that gives rise to the services, the residents themselves. To that end, staff is recommending the approval of placing the proposed sales tax measure on the ballot.

If approved the local sales tax rate in Benicia would be 8.625%, consistent with the sales tax rates of Fairfield and Vallejo. Moving forward, if the City Council directs staff to proceed with the City of Benicia Quality of Life Measure for the November ballot, then the following must occur to meet the scheduled deadlines of the Solano County Registrar of Voters:

1. July 22, 2014:
  - Introduce Sales Tax Ordinance
2. July 28, 2014:
  - Second Reading and adoption of Sale Tax Ordinance
  - Approval of Resolution to place sales tax measure on the ballot for the November 4, 2014 election.
  - Direct City Attorney to draft impartial legal analysis
  - Appoint City Council Sub-committee to draft ballot arguments
3. By August 8, 2014:
  - City staff submits signed Resolution to Solano County Registrar of Voters
4. August 12, 2014:
  - City Council approves ballot argument
5. August 15, 2014:
  - City staff submits ballot argument to Solano County Registrar of Voters
6. August 25, 2014:
  - City Attorney submits impartial legal analysis to Solano County Registrar of Voters
  - Rebuttal arguments due to Registrar of Voters

To qualify for the ballot, 2/3 of the City Council (4 members) are required to vote affirmatively for the sales tax ordinance. If so approved by the Council and then passed by the voters on November 4, 2014, the tax would become effective on April 1, 2015.

In addition to submitting the requisite paperwork to Solano County, the City would also retain the services of The Lew Edwards Group to conduct informational outreach, much like the City did with the recent water rate

increases. State law forbids the City from campaigning in favor of an initiative. The City may provide voters with information and facts related to the tax measure. The cost of the placing the sales tax measure on the November 4, 2014 ballot assessed by Solano County as well as project management cost is estimated to be \$46,500.

Based on all of the previous actions of the City Council to secure a sustainable budget, and the remaining need to continue to take action to ensure balanced budgets in the future, staff recommends moving forward to ask the Benicia voters to approve a local sales tax measure.

Attachments:

- Proposed Ordinance
- Proposed Resolution with Proposed Ordinance (to be approved with second reading of ordinance at a Special Meeting of the City Council on July 28, 2014)

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA, CALIFORNIA, ADDING CHAPTER 3.22 TO THE BENICIA MUNICIPAL CODE TO ENACT A TRANSACTIONS AND USE (“SALES”) TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION**

**WHEREAS**, unlike many cities of similar size in the Bay Area, Benicia is a full service city, equipped with its own City-run police, fire, park and water services; and

**WHEREAS**, without additional revenue, the City will be forced to consider cutting back on locally controlled City services and contracting with the County or other outside entities to provide these services; and

**WHEREAS**, the City wishes to continue to address service priorities that the public has identified such as public safety services, 9-1-1 emergency response times, neighborhood police patrols, crime prevention services, and programs for youth and pothole repair efforts; and

**WHEREAS**, additional funding will improve public safety and city streets, maintain parks and trim trees, and fund programs to support our historic downtown and community events, attract new businesses and create jobs; and

**WHEREAS**, additional funding will help maintain Benicia’s financial viability as a full-service city and protect the small town quality of life; and

**WHEREAS**, many streets in Benicia have cracked or buckled sidewalks, or no sidewalks at all and many roads have potholes and other unsafe driving conditions; and

**WHEREAS**, additional funding is needed to fix hazardous road conditions and maintain 94 miles of city streets and roads so motorists, pedestrians, buses, cyclists and police and fire safety vehicles are safe; and

**WHEREAS**, additional funding is needed to ensure that our 31 local parks are properly maintained as safe spaces for children to play and families to visit; and

**WHEREAS**, Benicia needs local control over local funds, for local needs; and

**WHEREAS**, pursuant to California Revenue and Taxation Code Section 7285.9 the City of Benicia ("City") has the authority to levy a Transactions and Use Tax for general purposes; and

**WHEREAS**, the City would like to levy a one percent (1%) Transactions and Use Tax for general purposes to fund essential City services; and

**WHEREAS**, the City believes only a locally-approved voter funding source

would guarantee that new revenue stays in Benicia to help the City provide essential services to its residents; and

**WHEREAS**, the City's Transactions and Use Tax Ordinance will be added to the Benicia Municipal Code as Chapter 3.22; and

**WHEREAS**, the City plans to submit a ballot measure to the voters for a majority vote to authorize the Transactions and Use Tax at the general election on November 4, 2014.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1. Title.** This ordinance shall be known as the Benicia Transactions and Use Tax Ordinance. This ordinance shall be applicable in the incorporated territory of the City.

**Section 2. Operative Date.** "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

**Section 3. Approval by the Voters.** This ordinance shall be submitted to the voters at an election to be held on November 4, 2014. Upon approval by a majority of the voters of the City voting on this ordinance, a Transactions and Use Tax shall be authorized.

**Section 4. Addition.** Upon approval by the voters, Chapter 3.22 will be added to the Benicia Municipal Code to read in full as set forth in the attached Exhibit "A," which is incorporated into this ordinance.

**Section 5. Severability.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**Section 6. Effective Date.** This ordinance relates to the levying and collecting of the City's Transactions and Use Tax and shall take effect immediately.

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On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the above Ordinance was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 22<sup>nd</sup> day of July 2014, and adopted by the following vote:

Ayes:

Noes:

Absent:

\_\_\_\_\_  
Mayor Patterson, Mayor

Attest:

\_\_\_\_\_  
Lisa Wolfe, City Clerk

\_\_\_\_\_  
Date