

MEASURE B

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE B

This proposed ballot measure would amend Chapter 3.16 of the Sunnyvale Municipal Code to increase the City's transient occupancy tax ("TOT") rate from 9.5% to 10.5%. The TOT, otherwise known as the "hotel tax", is imposed for general governmental purposes and is therefore considered a "general tax". Under state law, any increase in a general tax requires a simple majority vote of the electorate (50% plus one) at a general municipal election of the City.

The City's TOT was first adopted by ordinance in 1965 and became operative in 1968. The last time the City's voters approved a TOT rate increase was in 2005, which gradually phased-in the tax increase over a four-year period to the current rate of 9.5%. Sunnyvale currently has thirty-four (34) hotels operating within the City that pay the tax. As defined in the ordinance, "hotels" includes all types of transient lodging establishments. The tax is assessed by the operator on behalf of the City to guests who occupy hotels for thirty (30) days or less. The tax is collected by the hotels and remitted to the City. It is based on the room rate charged by the hotel. For example, if the base room rate is \$100, the total amount charged to the guest under the new rate would be \$110.50, with \$10.50 remitted to the City as tax.

TOT rates vary around the County of Santa Clara from a low of 9% to a high of 12%. If additional special hotel tax districts are included, such as the San Jose Convention Center Facility District, the range is from 9% to 14%.

Sunnyvale's Department of Finance estimates that a 1% increase in TOT from 9.5% to 10.5% would result in approximately \$900,000 in additional annual revenue or approximately \$23 million over a twenty (20) year period based on current inflation-adjusted long-term revenue projections. Revenues from the tax are placed in the City's General Fund to support infrastructure and City services including police and fire, public works, street and sidewalk maintenance, parks and recreation, library services, and economic development efforts.

A "YES" vote is a vote to amend the Sunnyvale Municipal Code to increase the City's TOT rate from 9.5% to 10.5%, effective January 1, 2014.

A "NO" vote is a vote to retain the current TOT rate of 9.5%.

/s/ Joan A. Borger
City Attorney

COMPLETE TEXT OF MEASURE B

PROPOSED AMENDMENT TO THE SUNNYVALE MUNICIPAL CODE

The City Council of the City of Sunnyvale, on its own motion, submits to the Electors the following amendment to the Sunnyvale Municipal Code. The City Council has called a consolidated general election for the purpose of voting on the amendment to be held on November 5, 2013.

The proposed amendment to the Municipal Code follows the statement of the measure. The provisions of the Municipal Code proposed to be deleted are printed as ~~strike-out~~ type, and the new provisions are printed as underlined type.

CITY OF SUNNYVALE MEASURE B

Shall the Sunnyvale Municipal Code be amended to increase the transient occupancy tax rate (commonly called "hotel tax") charged to persons who occupy hotel or motel rooms in the City for 30 days or less from 9.5% to 10.5% in order to help maintain the City's ability to fund basic services such as public safety and streets, trees, and sidewalk maintenance, and to keep parity with neighboring cities' hotel tax rates, effective January 1, 2014?

YES _____

NO _____

If Measure B carries, the Sunnyvale Municipal Code shall be amended by amending Section 3.16.040 to read as follows:

Section 3.16.040 Imposition—Rate—Payment.

(a) For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of eight percent of the rent charged by the operator through June 30, 1995, and eight and one-half percent of the rent charged by the operator on or after July 1, 1995.

(b) Commencing January 1, 2007, and continuing through December 31, 2008, the amount of the tax shall be nine percent of the rent charged by the operator. Effective January 1, 2009, the amount of the tax shall be nine and one-half percent of the rent charged by the operator, provided, however, that the average citywide hotel/motel occupancy rate from January 1 through September 30, 2008, as determined by the director of finance, is at least sixty percent. If the average occupancy rate during this period is less than sixty percent, the increase in the amount of the tax shall be deferred until January 1, 2010. In any event, the amount of the tax on and after January 1, 2010, shall be nine and one-half percent of the rent charged by operator.

(c) Commencing January 1, 2014, and continuing thereafter, the amount of the tax shall be ten and one-half percent of the rent charged by the operator.

COMPLETE TEXT OF MEASURE B - Continued

(de) Said tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient, or any person paying rent on the transient's behalf, shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the tax administrator.

ARGUMENT IN FAVOR OF MEASURE B

Measure B provides funds for important city services at no cost to Sunnyvale residents.

Sunnyvale's Transient Occupancy Tax (TOT), commonly called the "hotel tax," is paid by visitors who stay in Sunnyvale hotels. Sunnyvale's current 9.5% rate is below the county-wide average.

Sunnyvale entered the Great Recession with both expense and revenue problems to solve. We now emerge from the Great Recession with new labor agreements with every employee union. Sunnyvale negotiated for two-tier retirement, two years without raises, and employees paying a greater share of their pension costs.

We've worked hard to control costs and balance the budget. Sunnyvale has been a good steward of your tax dollars.

Now we must look at revenue. And Sunnyvale's revenue has been under attack, reduced by repeated State raids, by the State's default on Sunnyvale's RDA loan repayments, and by increased online sales. We must find other revenue sources to maintain the service levels our residents demand, and our low TOT is one obvious answer.

This mere 1% increase in the TOT will generate \$900,000 each year for city services. Measure B lets Sunnyvale benefit from hotel visitors to Superbowl 50 and other events at Santa Clara's new stadium, just in time for next year's opening. Further, Sunnyvale's Chamber of Commerce believes keeping the TOT at or under 10.5% still keeps our hotels competitive.

This will provide services that our residents need and want. Sunnyvale can use this revenue to hire more public safety officers, to improve parks, and to repair our roads.

Best of all, the State cannot take this revenue from us.

This is a very small change that makes a very big difference to the city services that we need and want.

We respectfully urge you to vote YES on Measure B.

/s/ Anthony Spitaleri
Mayor, City of Sunnyvale

/s/ James R. Griffith
Vice Mayor, City of Sunnyvale

/s/ Tara Martin-Milius
Councilmember, City of Sunnyvale

/s/ Melinda Hamilton
Former Mayor, City of Sunnyvale

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE B

This hotel tax increase is on the ballot only because the council declined to place a Utility Users Tax measure on the ballot two years ago, when the city manager asked us to do so:

<http://sunnyvale.ca.gov/Portals/0/Sunnyvale/CouncilReports/2011/11-055.pdf>

Fixing the UUT would make our revenue sustainable for the indefinite future. But adding 1% to the hotel tax will not. Another tax measure will have to be placed on the ballot in a few years. Rather than implementing a stopgap measure, we should deal with the issue in a permanent way.

The City Manager's 2013 Budget Letter says, "Over the next year, we should discuss the Utility Users Tax (UUT) which makes up 5% of our total General Fund revenue...Because we have full control over this revenue source, it is vitally important that we analyze our rate compared to our neighboring jurisdictions and ensure we are collecting an appropriate amount..."

Many of the hotel rooms booked in Sunnyvale are paid for by local companies, who are bringing their remote employees in for meetings. Ten 49ers games per year will not be the primary source of extra hotel tax revenue. Well-managed businesses control travel costs tightly, and if this Measure passes, local employers will have an incentive to steer their business away from Sunnyvale hotels.

Whether this Measure passes or not, we will have to pass a UUT measure to make City revenues sustainable. Why not just do that, and solve the revenue problem for good?

/s/ Christopher R. Moylan
Councilmember, City of Sunnyvale

ARGUMENT AGAINST MEASURE B

Since the economic crash of 2008, the City of Sunnyvale has balanced its budget completely by reducing expenditures, with no new revenue at all. It is indeed necessary to increase revenues now to maintain city services. That can be done only by asking the voters to approve an increase. When selecting which revenue source to increase, the city's fiscal policy specifies the criteria that should be used. Unfortunately, an increase in the hotel tax conflicts with two of those policies.

The proposed increase from 9.5% to 10.5% takes us out of compliance with our policy of "competitiveness with surrounding communities." The county average is 10.4%, and the proposed increase puts us slightly higher than that, as well as being higher than neighboring cities Mountain View (10%) and Santa Clara (9.5%).

The proposed increase also conflicts with the criterion of "equity/fairness in distribution of the revenue burden on various segments of the community." The hotel tax is charged to a small sector of our business community, with the goal of having nonresidents pay for our city services.

Fortunately, there is a revenue stream that is way overdue for updating, as pointed out by the last several city managers in their budget transmittal letters each year: the utility user's tax, which has not been changed since 1976 and which is currently half the county average. Updating the UUT would bring in ten times as much revenue as this proposed measure, spread evenly across all of us so that the individual cost would be very small.

Hotel taxes are proposed under the assumption that voters want to make other people pay for their city services. Let's show that we are better than that. Let's leave the hotel tax where it is, and ask the council to update the utility user's tax.

/s/ Christopher R. Moylan
Councilmember, City of Sunnyvale