

**DATE ISSUED:** June 29, 2004

**REPORT NO.** 04-144

**ATTENTION:** Rules, Finance and Intergovernmental Relations Committee  
Agenda of June 30, 2004

**SUBJECT:** Proposed Transient Occupancy Tax Ballot Measures

**REFERENCE:** Public Safety Funding Plan, Manager's Report 04-101 dated May 7, 2004  
Comprehensive Public Safety Needs Assessment, Manager's Report 04-057 dated March 12, 2004

#### SUMMARY

THIS IS AN INFORMATION ITEM ONLY. NO ACTION IS REQUIRED ON THE PART OF THE COMMITTEE OR THE CITY COUNCIL.

#### BACKGROUND

During the past year, the Public Safety and Neighborhood Services (PS&NS) Committee has been especially focused on the City's public safety needs. In addition to reviewing a number of reports on specific departmental needs of Police and Fire-Rescue, the committee received a presentation of the Comprehensive Public Safety Needs Assessment at the March 17, 2004 meeting. The public safety needs identified for Police, Fire-Rescue and the Public Safety Communications Projects were \$478 million of new expenses between Fiscal Year 2005 and Fiscal Year 2009. Ultimately, funding this level of expenses will require new revenue. Following review of that Needs Assessment, PS&NS reviewed a Public Safety Funding Plan on May 12, 2004.

The Public Safety Funding Plan was developed by categorizing the items in the Needs Assessment into three mutually exclusive tiers to provide options for funding the expenses at different levels. On May 12, 2004, the PS&NS Committee discussed the Funding Plan and accepted the City Manager's recommendation to allocate \$8-\$10 million of discretionary funding

from growth in existing General Fund revenues to public safety each year until Fiscal Year 2009, as outlined in Tier I. The mechanics of the allocation will be addressed as part of the annual budget process. The City Manager had also recommended that the City Council consider placing Tier II, which is a comprehensive Public Safety Communications Plan, on the November 2004 or a subsequent ballot for approval with one of three proposed tax increases. The three proposed tax increases included a new Parcel Tax, and increases to the existing Property Transfer Tax and Transient Occupancy Tax (TOT).

The Committee discussion at the May 12, 2004 meeting narrowed the focus for a proposed tax increase to TOT versus the other options. The committee directed the City Manager to return with additional information regarding Tier II and the proposed tax increases at a later date, prior to the deadline for ballot measures to be placed on the November 2004 ballot. In the meantime, two other proposals for increases to TOT were drafted, by Councilmember Frye and Local 145/POA, and presented to the Rules Committee, which referred them to PS&NS for review.

On Wednesday, June 23, 2004, the PS&NS Committee reviewed Councilmember Frye's and Local 145/POA's proposed ballot measures for increasing the TOT by two and one-half cents. Several issues were raised and the committee referred the proposals to the City Manager for preparation of a report to be forwarded to the Rules Committee for further review of the ballot measures. This report has been prepared to provide historical information regarding TOT, and to summarize the proposed TOT ballot measures and the associated issues.

## DISCUSSION

During the discussion of the proposed ballot measures at PS&NS, questions arose regarding the history of TOT and the authority that governs the allocation of the revenue. Before describing the new proposals, historical information is being provided as background.

A Transient Occupancy Tax was first implemented by the City of San Diego in 1964 at a rate of 4 percent. The TOT rate has increased six times in the ensuing 40 years, to the current rate of 10.5 percent, or 10.5 cents on the dollar. TOT is a general purpose revenue and currently the allocation of TOT is at the discretion of the Mayor and City Council, with guidelines provided by Council Policy 100-03 (see Attachment 1). The Council Policy outlines a Mission Statement, as follows:

To advance the City's economic health by promoting the City of San Diego as a visitor destination in the national and international marketplace; support programs that increase hotel occupancy and attract industry resulting in the generation of Transient Occupancy Tax and other revenue; develop, enhance and maintain visitor-related facilities and support the City's cultural amenities and natural attractions.

The Council Policy outlines the five major categories into which programs eligible for TOT funding fall. These are as follows:

Economic Development - *To promote the City as a visitor destination and advance the City's economy by increasing tourism and attracting industry.*

Safety and Maintenance of Visitor-Related Facilities - *To provide supplemental funding for public safety and the maintenance of visitor related facilities.*

Capital Improvements - *To provide funding for the renovation, construction and expansion of visitor-related facilities and projects.*

Arts, Culture and Community Festivals - *To enhance the economy and contribute to San Diego's reputation as a cultural destination by nurturing and maintaining art and culture institutions of national and international reputation; by supporting programs and projects that provide access to excellence in culture and the arts for residents and visitors; and by funding programs and events which enrich the lives of the people of San Diego and build healthy, vital neighborhoods.*

Major Events - *To provide funding for the attraction and production of major events and conventions that generate Transient Occupancy Tax and other revenues.*

Council Policy 100-03 limits any TOT increase to the average TOT rate of 15 designated cities. Currently, that average is 13.16 cents, or 2.64 percent higher than the City of San Diego's current TOT. The Council Policy also stipulates that, of the current 10.5 cent TOT, 4 cents should be applied toward promotion of the City of San Diego as a tourist destination, 5.5 cents should be applied toward general government purposes, with the remaining 1 cent to be allocated for any purpose that the Mayor and City Council may direct. In practice, that remaining 1 cent is also directed toward promotion of the City.

While the funding designations provide some limitations as to the current allocation of TOT, there remains discretionary flexibility within the defined categories. Further, since these allocations are governed by Council Policy rather than by ordinance put in place by the voters, the Mayor and City Council have the authority to modify the existing policy should it become evident that the allocations no longer meet the needs of the City. Depending on the final language of a ballot measure and result of a public vote, Council Policy 100-03 may have to be rescinded if the allocations defined within the policy conflict with a voter-approved measure.

Attachment 2 reflects the allocation of TOT for Fiscal Years 2002 through proposed Fiscal Year 2005. The Capital Improvements category reflects funding allocations for various capital projects. These allocations include a lease payment component on bond financed facilities, as well as other financial obligations toward the projects. As of June 30, 2004, the City has \$533.8 million in principal outstanding on long term lease obligations of which \$435.4 million in outstanding principal is associated with tourism and visitor oriented capital projects. Attachment 3 provides the breakdown of revenue sources that provide funding for the annual lease payments on all outstanding lease obligations. Of the total annual lease payment obligation of \$44.8 million in FY 2005, 62% is funded with TOT appropriations. These responsibilities are ongoing and any new allocation of TOT funding would need to take these obligations into account.

## **Proposed Ballot Measures**

Two ballot measures for increasing the TOT, each with some specified uses, have been proposed and are attached as initially presented. A 2/3 vote would be required to approve an increase to the TOT.

The ballot measure drafted by Councilmember Frye, Attachment 4, proposes a two and one-half cent increase to the current TOT to be split equally between Police and Fire-Rescue until June 30, 2008. During that time period, each public safety department would receive one and one-quarter cent, and the remaining 10.5 cents of the total 13 cents would be deposited into the General Fund for general purposes. Following the sunset of the public safety allocation, all 13 cents would be deposited into the General Fund for general purposes.

The ballot measure submitted for consideration by Local 145/POA, Attachment 5, also proposes a two and one-half cent increase to the TOT to result in a total of 13 cents. This proposed ballot measure allocates one and one-quarter cent each to Police and Fire-Rescue, on an ongoing basis, to address funding needs as outlined within the measure. Additionally, this proposed measure allocates two and one-half cents of the total 13 cents to a Tourism and Economic Development Fund. Review and advisory responsibility for this fund would be handled by a Tourism Promotion Review Board proposed by the measure. The remaining 8 cents would be allocated to the General Fund for general purposes.

## **Issues**

The ballot measures are similar in that they both propose two and one-half cent increases and in recognition of the public safety needs, allocate one and one-quarter cents to each Police and Fire-Rescue. The primary differences are that Councilmember Frye's proposal contains a sunset to that allocation at the end of Fiscal Year 2008 and the Local 145/POA proposal also allocates funding to the tourism industry. Both of these differences were issues discussed among the committee members. Of primary concern was earmarking funds for a particular purpose into the future, in particular setting aside funds for tourism and further, creating a board to advise in regard to the specific funding allocations. While the City Manager also has philosophical concerns with earmarking, new funding to meet the high priority funding needs of the City is an important consideration. One point of view was that including funding for tourism is necessary to get a measure passed and the opposing view was that including the tourism allocation will result in the measure failing. As the discussion continued, an idea to possibly allocate the funding to economic development and tourism via ordinance rather than in the ballot measure was raised.

Another issue was the proposed sunset period of the funding for Police and Fire-Rescue. As described above, the public safety needs are great and a sunset provision as early as Fiscal Year 2008 may not provide adequate funding to address public safety needs. One particular funding need of concern to the City Manager is that of the Public Safety Communications Plan, as described below.

## Public Safety Communications Project (PSCP)

The Public Safety Funding Plan presented to PS&NS included a recommendation by the City Manager to fund Tier II, a Comprehensive Public Safety Communications Plan. Tier II includes the entire Public Safety Communications Project (PSCP) and necessary staffing, which supports both the Police and Fire-Rescue departments. In addition, Police and Fire-Rescue identified other equipment and vehicles that are communications-related and these items combined with the PSCP now comprise the Comprehensive Public Safety Communications Plan. This Public Safety Communications Plan, particularly the PSCP component, is essential to public safety operations.

The PSCP has been identified by Police and Fire-Rescue as the City's highest public safety priority. These communications systems are critical to operations and the existing systems are at the end of their life span. The importance of replacing these obsolete systems and wireless infrastructure cannot be overstated. Without replacement, radio communications and interoperability with other public safety agencies would be nonexistent. Without critical public safety wireless communications systems and equipment, and reliable communications from dispatchers and management to police officers, fire crews and EMS responders the City's ability to provide timely and dependable public safety services to our citizens could be impacted.

The City's existing public safety communications systems were implemented in the late 1980's and early 1990's. These communications systems include: 1) the trunked 800 MHz voice radio system; 2) the 800 MHz mobile data system (MDT's); 3) the digital microwave system; 4) the digital paging system; 5) Police and Fire-Rescue computer aided dispatch (CAD) systems; 6) Police and Fire-Rescue communications centers including dispatch consoles; and 7) upgraded E-911 telephone system.

At the time of their implementation, these systems were anticipated to have a 15-year life cycle. Many of these systems and their key components have reached this 15-year mark and the equipment is now technologically obsolete and no longer supported by the manufacturer. This is the case with the Mobile Data System, the Digital Paging System and Digital Microwave System. Plans for replacement and upgrades are underway for these systems as part of the overall PSCP. While there is not currently enough funding available for the entire project, the MDT conversion cost has been budgeted within the Fiscal Year 2005 budget as a start.

The largest component of the PSCP is the replacement of the existing 800 MHz voice radio system. The City has been notified by the vendor, Motorola, Inc., that parts and equipment for the current system will only be available until December 2006. After that time there is no guarantee that sufficient parts will be available to maintain this critical public safety system. Motorola has advised the City that proactive plans for system replacement should be underway. Staff has been working on this and other wireless communications initiatives as identified in the City's Wireless Communications Long-Term Plan completed December 1, 2002.

Aside from addressing the age and reliability of the existing 800 MHz voice radio system there are improvements in technology that would enhance the City's public safety communications over the next decade or so. Additionally, the City and County have been working together to develop a Regional Communications Plan that will deliver the highest level of interoperability with Federal, State and Local

agencies through open standards, enhanced efficiency, and effective use of public resources through shared systems and coordinated planning. Funding the PSCP would provide the essential public safety communications systems needed for the City to ensure reliable and effective communications for another 15 year period.

Following discussion of the Public Safety Funding Plan at PS&NS in May, City staff reviewed further the funding need for the Public Safety Communications Plan. While it was originally proposed to use long-term debt financing mechanisms funded by an increase in revenue, it has been determined that the Public Safety Communications Plan could be funded on a pay-as-you-go cash basis with a two and one-half cent increase to TOT. A two and one-half increase to the TOT is estimated to generate \$28.5 million annually, based upon the Fiscal Year 2005 TOT revenue estimates. Attachment 6 is a funding plan reflecting the project on a cash basis. It assumes the new funding generated between Fiscal Year 2005 and Fiscal Year 2011 is utilized to pay for the Public Safety Communications Plan with cash, thus avoiding the use of long-term debt financing mechanisms and placement of additional burden on the City's debt capacity.

One critical component of the PSCP is the \$1.5 million consultant costs, which need to be funded sooner than other components in order for the project to begin. This consultant work, reflected in Attachment 6 under Fiscal Year 2005, is the key to starting the major components such as the radio system, dispatch center, and CAD. Should a measure be placed on the ballot and approved by the voters, if the funding were to be made available to the project as soon as the TOT increase revenue were received by the City this critical consultant work could take place within Fiscal Year 2005.

Funding the Public Safety Communications Plan on a cash basis would be contingent on working out a short term financing mechanism for the largest components of the PSCP, the Radio Network and Dispatch Center. The annual revenue from the TOT increase alone would be insufficient to fund the expense at one time on a pure cash basis. Recognizing this issue, staff has determined through research that negotiation and use of some type of vendor financing plan is fairly commonplace in the industry or that a short-term lease purchase program could be put into place to meet immediate implementation needs for the project. There would be some cost associated with such a financing arrangement. Utilizing the cash option to fund PSCP requirements would eliminate the need for the City to issue additional long-term debt and incur interest costs associated with borrowing capital for 20 years.

Given the importance of communications for public safety operations, the City Manager would recommend that funding the Public Safety Communications Plan be included in any ballot measure for increasing the TOT that moves forward. In addition to addressing a critical City need, history has shown past success of a project such as this with voters. In 1990, the voters approved a public safety communications project measure by 68.37%. As proposed, neither of the two ballot measures discussed at PS&NS specifically address public safety communications. During the June 23 PS&NS meeting, in response to the City Manager's comments about the need for the Public Safety Communications Plan, Councilmember Maienschein suggested modifications to the Local 145/POA ballot measure that would take into account the need to fund the Public Safety Communications Plan. With concurrence from police and fire representatives and Lodging Industry Association representatives, the suggested modifications were referred to the City Manager for incorporation into the ballot measure. The modifications, with a slight

change to reference the police and fire communications project as the Public Safety Communications Plan, have been incorporated into the proposed 145/POA ballot measure and attached in the revised form as Attachment 7.

## **Conclusion**

Two ballot measures proposing a two and one-half cent increase to the Transient Occupancy Tax have been presented. The measures allocate one and one-quarter cent each to Police and Fire-Rescue, though one sunsets after Fiscal Year 2008 and the other also allocates funding to tourism. Several issues were raised during PS&NS on June 23, 2004, particularly related to earmarking funds and dedicating funding to tourism. Recognizing the importance of communications for public safety operations, the City Manager would recommend that an allocation of new revenue for communications be included in any ballot measure so that the project implementation may be completed. A third version of a ballot measure has been prepared to include Councilmember Maienschein's suggested modifications which take into account the high priority of the Public Safety Communications Plan.

Respectfully submitted,

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Bruce A. Herring  
Deputy City Manager

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Attachments: [1. Council Policy 100-03](#)  
[2. FY 2002- FY 2005 TOT Allocations](#)  
[3. Debt Obligations](#)  
[4. Councilmember Frye's Proposed Ballot Measure](#)  
[5. Local 145/POA Ballot Measure](#)  
[6. Cash Funding Plan for Public Safety Communications Plan](#)  
[7. Revised Ballot Measure with Public Safety Communications Plan](#)