

ACTION CALENDAR June 11, 2013

To: Honorable Mayor and Members of the City Council

From: Disaster and Fire Safety Commission

Submitted by: Neil Goldstein, Chairperson, Disaster and Fire Safety Commission

Subject: Annual Adjustment of Measure GG tax rate

RECOMMENDATION

The Disaster & Fire Safety Commission recommends that there be no increase in the rate of tax imposed under Measure GG in Fiscal Year 2014.

FISCAL IMPACTS OF RECOMMENDATION

The rate at which the special Measure GG tax will be assessed will remain the same in FY 2014 as in FY 2013 and the City will forego additional revenue of as much as 5.12% of the amounts that would be collected if the maximum tax rate increase were to be adopted.

CURRENT SITUATION AND ITS EFFECTS

The City collects a parcel tax based on square footage of improvements under authority of Measure GG (Sec. 7.81.010 of the Municipal Code). The City Council may increase the amount of the per-square-foot assessment annually by an amount up to the greater of the cost of living in the immediate San Francisco Bay Area or per capita personal income growth in the state under Sec. 7.81.020 of the Municipal Code. The increase would be 2.38% under the CPI test and 5.12% under the personal income test according to figures furnished by staff.

The funds collected under the tax may be expended only for the purposes specified in Sec. 7.81.010 of the Municipal Code. At current rates of expenditure on items allowed by Sec. 7.81.010, there is a substantial surplus in the Measure GG account, and with proper treatment of revenues and expenses in that fund, the surplus can be expected to continue. In the circumstances, an increase in the tax rate would increase that surplus well beyond the \$300,000 which Council has allowed as a reserve, without any benefit to the City or its taxpayers.

The Disaster & Fire Safety Commission approved the recommendation that there be no increase in the rate of tax imposed under Measure GG in Fiscal Year 2014 with the following vote: Ayes: Zummo, Flasher, Gage, Sorgen, Grimes, Mitchell; Noes: None; Abstain: Goldstein; Absent: None.

<u>BACKGROUND</u>

The Disaster and Fire Safety Commission (D&FSC) is charged with the responsibility for citizen oversight of expenditures of funds collected with the special tax provided for in Measure GG. Not long after Measure GG was passed, the D&FSC determined that City staff was not spending, and had no plans to spend, substantial amounts of money collected through the Measure GG tax. The recommendation of the D&FSC was that, after having fully funded all other allowable purposes of Measure GG, the balance should be spent on community disaster preparedness. After further discussion over many months, staff agreed to significant additional expenditures of that type, and the City Council capped reserves for unspecified contingencies at \$300,000, to be accumulated over two years.

That would seem to have left plenty of money for community disaster preparedness, but a budget presented to the D&FSC on February 27, 2013 showed that with the proposed community preparedness expenses, Measure GG would be overdrawn by \$527,253 in FY2017. That budget, however, did not take into account any part of the \$1,896,989 in FRALS reimbursements that the City expects to have received from Alameda County by that time. If the FRALS reimbursements were returned to the Measure GG fund, there would be a surplus of more that \$1,360,000 in the FY 2017 budget.

It is the opinion of the Commission that when money to provide FRALS services goes out from Measure GG funds, money that comes back for providing those FRALS services should go back into the Measure GG account or at least be applied only to authorized Measure GG purposes. Staff has advised that approximately \$830,748 in FRALS refunds from Alameda County are currently sitting in "Fund 457" and that there are no plans for the use of Fund 457 monies since they are subject to "meet and confer." The D&FSC has recommended an audit to confirm its position that those funds are part of the money available for the purposes of Measure GG and only for those purposes.

RATIONALE FOR RECOMMENDATION

Since the Measure GG tax already returns more than enough money to cover all of the proposed expenses allowable under Measure GG when FRALS refunds are properly accounted for, it would appear that there is no good reason to impose additional burden on Berkeley's taxpayers at this time.

ALTERNATIVE ACTIONS CONSIDERED

Increase in the tax rate to one or the other of the allowable benchmarks.

CITY MANAGER

See accompanying staff report.

CONTACT PERSON

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