



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: February 6, 2018

TO: Carolyn Lehr, City Manager

FROM: Susan Hsieh, Finance Director

SUBJECT: Direction On Potential Bond Measures For The June 2018 Election

RECOMMENDATION

Staff recommends that the City Council consider options and recommendations from staff to define the potential bond measures to be offered by the City for the June 5, 2018 statewide primary election.

BACKGROUND

At the December 19, 2017 Special Study Session, the City Council directed staff to place a \$50 million housing bond and a \$10 million parks bond on the June 2018 ballot. At the January 16, 2018 Council Meeting, staff provided the City Council an update regarding the June 2018 election timeline and estimated costs associated with legal assistance, development of educational material and conducting public outreach, financial analysis, and fees charged by the County for printed material and to administer the election.

DISCUSSION

Number of Ballot Questions; Timing of Bond Measures

A threshold question is whether a parks bond and a housing bond could be combined into a single ballot measure. Staff recommends that if the City Council wishes to place the two bond measures in the same election, each measure should be a separate ballot question. The California Constitution states a “single subject” rule which provides that an initiative measure “embracing more than one subject may not be submitted to the electors or have any effect” (Cal. Const. art II, section 8(d)). Courts have held that separation of multiple subjects allows for a clear expression of the electorate’s intent. *Senate of the State of Cal. v. Jones*, 21 Cal.4th 1142 (1999). Thus to ensure consistency with state constitutional provisions, staff recommends a parks bond measure and a housing bond measure be presented as two separate ballot questions.

On the other hand, the City's election consultant—TBWB notes that if both measures are placed on the June 2018 ballot, there is a risk of "vote splitting" and the overall support for one or both measures may go below the required two-thirds support.

Staff suggests that Council carefully consider this risk assessment, with an alternative of placing the parks bond on the November 2018 ballot or a schedule to be determined by Council.

Article XXXIV Authority

Staff and consultants continue to discuss ballot measure development and educational materials to ensure transparency and that strategies are consistent with the City's policy directive. The City has a long history of developing affordable housing; the number of affordable units that can be developed by the City is governed in part by Article XXXIV of the state Constitution, as implemented by Health and Safety Code section 37000 et seq. Generally the statutory framework requires voter approval for the development of low income affordable housing projects¹. The last time the City sought Article XXXIV authority from voters was more than three decades ago, which authorized 100 affordable units. Of those 100 units, 87 units were used for the 3706 San Pablo Avenue project, leaving a balance of 13 affordable units available for future projects. Staff believes it is advisable to include Article XXXIV in the housing bond ballot measure to ensure the City can continue to develop affordable units in the long run. Furthermore, staff believes the relationship between a bond measure to provide affordable housing and Article XXXIV authority are reasonable germane to each other to stay within the requirements of the "single subject" rule above, and thus may be presented in the same ballot question. Staff will evaluate and determine the number of units for Council consideration.

Taxpayer Considerations

Accountability: Whichever direction the Council gives regarding bond measure(s), staff believes—and our strategy consultant concurs that it is advisable to include taxpayer accountability protection to provide added assurance to the public that the City is spending the bond proceeds for the purposes specified in the ballot measures and in accordance with community priorities. Therefore, staff recommends that citizen oversight be provided by delegating the responsibility to the City's Budget Advisory Committee.

Estimated Tax Rate: While the tax rate analysis is currently underway, our financial consultant, KNN Public Finance offers preliminary annual property tax estimates assuming a \$60 million debt issuance:

¹ Certain statutory exceptions to the voter approval requirement are found in Health and Safety Code sections 37001, 37001.5.

Term: 20-Year

Average Tax Rate per \$100,000 assessed property valuation	\$ 61.27
Based on example \$400,000 total assessed valuation	\$245.08

Term: 30-Year

Average Tax Rate per \$100,000 assessed property valuation	\$ 45.63
Based on example \$400,000 total assessed valuation	\$182.52

Additional financial models will be available at the February 20, 2018 Council meeting.

ALTERNATIVES AND RECOMMENDATION

Placing bond measures on the ballot is a major undertaking that calls for strategic planning and allocation of budgetary resources to ensure success of potential bond measures. Staff recommends that the Council provide direction to staff on the following questions:

1. Does the City Council wish to place a standalone \$50 million housing bond on the June 2018 ballot, and place a \$10 million parks bond on the November 2018 (or subsequent) ballot?

OR—

2. Does the City Council wish to place a \$50 million housing bond together with a \$10 million parks bond on the June 2018 ballot?

Regardless of the choice above, staff requests the City Council provide additional direction on the following:

3. Does the City Council wish to include authorization for Article XXXIV authority in the housing bond ballot measure?

AND--

4. Does the City Council wish to provide for citizen oversight in the ballot measure language?

On the basis of conservative, professional advice, City staff recommends Options #1, #3 and #4.

FISCAL IMPACT

If the City Council chooses to place both bond measures on the June 2018 ballot, there may be additional costs associated with election fees, additional consultant fees and educational materials.

STAFF COMMUNICATION WITH THE PUBLIC

There has been no staff communication with the public regarding this report.

PREPARED BY: Susan Hsieh, Finance Director
Michael Guina, City Attorney

**APPROVED AND FORWARDED TO THE
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



Carolyn Lehr, City Manager