

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Neighborhoods
Commission Independent Citizens
Oversight Committee for the
Measure B ¼-cent sales tax

DATE: August 8, 2018

COUNCIL DISTRICT: Citywide

SUBJECT: Neighborhoods Commission Independent Citizens Oversight Committee (ICOC) 2016-2017 Measure B 1/4-Cent Sales Tax ANNUAL Report FOR FISCAL YEAR 2016-2017

1. RECOMMENDATION

Accept this report on the Measure B 1/4-Cent Sales revenues and allocations. Accept the Fiscal Year (FY) 2016-2017 Neighborhoods Commission Independent Citizens Oversight Committee (ICOC) findings and recommendations.

2. OUTCOME

This report to the Mayor and Council provides the ICOC findings and recommendations for the Measure B 1/4-Cent Sales Tax revenues and allocations for FY 2016-2017.

3. OVERVIEW

This report documents the findings of the Neighborhoods Commission (NC) Independent Citizens Oversight Committee (ICOC) for the Measure B ¼-cent sales tax revenues. The report covers the period from 10/1/2016 to 6/30/2017

San José City Manager Budget Addendum #14: Subject: Sales Tax Ballot Measure: 2016-2017 Provisional Budget and Ongoing Spending Priorities Plan (MBA #14) was used as a basis for reviewing those areas of the budget impacted by Measure B, budget allocations, and Measure B sales tax revenue expenditures. The findings are based on ¼-cent sales tax revenue data provided by the San José City Manager.

The ICOC was authorized as a result of the San José City's Measure B Sales Tax ballot measure approved by the voters on June 7, 2016 that required Independent Citizens Oversight with public review of spending, and all revenues controlled locally.

4. FINDINGS

San José City's 2016 Measure B ¼-Cent Sales Tax revenues received for FY 2016 were \$26,519,745. The revenues were allocated and expended for each of the Measure B categories as detailed in table 4-1. This report provides the methodology used to develop the findings and analyses of the findings.

Table 4-1. FY 2016 Measure B ¼-Cent Sales Tax Allocations

| Measure B Category | Measure B Allocation (dollars) | Percent Allocated |
|---|---------------------------------------|--------------------------|
| Improving Police Response to Reduce Violent Crimes and Burglaries | 2,510,427 | 9.46 |
| Improving 911/Emergency Medical/Fire Response Times | 4,988,499 | 18.80 |
| Repairing Potholes and Streets | 17,700,000 | 66.74 |
| Expanding Gang Prevention | 0 | 0 |
| Maintaining the City's Long-Term Financial Stability | 0 | 0 |
| Other | 1,320,819 | 4.980 |
| Total | 26,519,745 | 99.98 |

5. CHARTER

City of San José Council Resolution No. 78016, adopted December 13, 2016 designates the Neighborhoods Commission of the City of San José as the local sales tax independent citizens oversight committee, as outlined in the Measure B ¼-Cent Sales Tax Ballot measure.

The resolution further designates the Neighborhoods Commission as the Oversight Committee, to absorb the oversight function required by Measure B within the existing scope of the Neighborhoods Commission, and requires that the Neighborhoods Commission, in its role as the Oversight Committee, review local sales tax revenues annually and report to the City Council on the local ¼-cent sales tax measure during the annual budget process.

Each year, for the life of the Measure B ¼-Cent Sales Tax, the ICOC will review:

- Revenue resulting from Measure B
- Areas of the San José annual budget impacted by Measure B
- Measure B sales tax revenue and expenditure data provided by the San José City Manager's Office.

The ICOC will review and analyze data provided by the City and produce an annual report with a timeline defined by the City, containing an evaluation of the proposed budget allocations with the actual expenditures and submit that report to the City Council.

6. SCOPE OF WORK.

The San José City's Tax ballot measure and the ICOC charter define the scope of work.

San José City's 2016 Measure B Sales Tax ballot measure: *To fund essential City services such as: improving police response to reduce violent crimes and burglaries; improving 911/emergency medical/fire response times; repairing potholes and streets; expanding gang prevention; and maintaining the City's long-term financial stability, shall the City of San José enact a ¼ percent sales tax for 15 years, providing about \$40 million annually, requiring Independent Citizens Oversight with public review of spending, and all revenues controlled locally.*

On August 10, 2016, the City's Rules Committee directed the City Manager to: 1) create a process for appointing citizens to the ICOC, with explicit consideration that the City's NC serve as the Committee by absorbing Measure B's mandated functions within the existing purpose of the NC; 2) establish a schedule for periodic meetings of the ICOC, at least annually; and 3) determine a scope of duties consistent with voter authorization. The use of the NC as the ICOC will conserve City resources and staff time and aligns with past work the NC has done on budget engagement. The City desires to designate the NC as the ICOC, absorb the oversight function required by Measure B within the existing scope of the Neighborhoods Commission, and require that the Neighborhoods Commission, in its role as the ICOC, review local sales tax revenues annually and report to the City Council on the local sales tax measure during the annual budget process.

7. ICOC STANDING COMMITTEE MEMBERSHIP

The ICOC membership is limited to NC commissioners. Members of the public or former commissioners cannot be members. A list of the NC Commissioners serving on the ICOC during 2017/2018 is provided in table 7-1.

Table 7-1. NC ICOC Commissioners Serving During 2017/2018

| Commissioner | District |
|-------------------|----------|
| Carter, Jim | 6 |
| Cunningham*, Gary | 1 |
| Giammona, Richard | 10 |
| Hernandez, Mimi | 5 |

| Commissioner | District |
|---------------|----------|
| Kolstad, Pete | 3 |
| Labosky, Nick | 10 |
| Martin, Terry | 9 |

*Chair

8. ICOC MEETINGS

ICOC meetings were conducted in accordance with SJ City and Brown Act requirements. SJ City Manager staff provided support for meeting venues, agendas, notices, and minutes.

9. OVERSIGHT METHODOLOGY

The ICOC used SJ City Manager Budget Addendum #14: Subject: Sales Tax Ballot Measure: 2016-2017 Provisional Budget and Ongoing Spending Priorities Plan (MBA #14) as a basis for modeling those areas of the budget impacted by Measure B, budget allocations, and Measure B sales tax revenue expenditure data provided by the SJ City Manager.

9.1 Audited Data. Audited sales tax revenue data was provided to the ICOC by the San José City Manager. The data was audited by Grant Thornton as part of the audit of the City's 2016-2017 Comprehensive Annual Financial Report (CAFR). Sales tax allocation data was not cited.

The San José Budget Department provided the ICOC with a 2016-2017 Measure B Local Sales Tax Reconciliation memo. The memo is provided as attachment 1 to this report. The memo provided details of the Measure B revenue allocations with respect to MBA #14 and the City's 2016-2017 Comprehensive Annual Financial Report data audited by the City's independent financial auditor. The memo notes that Measure B proceeds allocated to the various departments and programs were in addition to the respective budgets originally included in the 2016-2017 Proposed Operating Budget document.

A matrix was developed using the MBA #14 budget addendum as a baseline of the budget items and comparing those items with the proposed budget and actual expenditures. The results of the comparisons form the basis of the finding for each of the budget items. The finding includes a description of the expenditures for that budget item. The matrix is provided as attachment 2 to this report. The San José Budget Department provided the ICOC expenditure data and explanatory notes contained within the Matrix.

9.2 Matrix Description. The following is a description of the matrix format and content.

- a. Category. Identifies the budget item associated with each Measure B category
- b. Description. Describes the scope of the budget item
- c. Budgeted Allocation. Identifies the funds proposed for that budget item
- d. Measure B Allocation. Contains the allocated expenditures for that budget item
- e. Findings. Contains the evaluation of the proposed allocation with the actual expenditure, and the resultant outcome.

10. FINDINGS ANALYSES

San José City's 2016 Measure B ¼-Cent Sales Tax revenues received for FY 2016 were \$26,519,745 as stated in attachment 1. The revenues were planned to be allocated and expended in MBA #14 for each of the following Measure B categories:

- Improving police response to reduce violent crimes and burglaries
- Improving 911/emergency medical/fire response times
- Repairing potholes and streets
- Expanding gang prevention
- Maintaining the City's long-term financial stability

Findings are provided for each of the measure categories detailing how the revenues were allocated and expended. The 2016-2017 revenues received were less than the planned \$30 million detailed in MBA #14. As a result, some budget items may have had their planned funding adjusted. The adjustments are noted in the findings. The findings were based on the following:

- a. The SJ 2016-2017 Comprehensive Annual Financial Report (CAFR) cited in attachment 1 did not reference or specifically mention the ¼ Cent Sales Tax measure revenue or allocations.
- b. The SJ 2016-2017 Annual Report cited in attachment 1 specifically mentions the ¼ Cent Sales Tax measure in the paragraph "Local Sales Tax" and states that the revenue was \$26.5 million. The report did not mention Measure B revenue allocations.
- c. The 2016-2017 Measure B Local Sales Tax Reconciliation memo (attachment 1) states that because separate expense accounting codes designated specifically for the Local Sales Tax were not used for several line items, it

is not possible for the City, or a financial auditor, to specifically tie all the General Fund expenditures to the Local Sales Tax.

MBA #14, the Provisional Budget and Ongoing Spending Priorities Plan, outlined the proposed use of the Measure B revenues and budgeted allocations for 2016-2017. Although Measure B requires oversight of the revenue, MBA #14, San José Council Resolution No. 78016, and other related ICOC documents did not establish a method or system for tracking and reporting each item's budgeted allocation, actual Measure B allocation, and the result of the expenditure. The data resulting from tracking and reporting system could have been audited and provided to the ICOC.

As a result, the ICOC relied on the San José Budget Department-provided 2016-2017 Measure B Local Sales Tax Reconciliation memo and the Measure B expenditure data and explanatory notes contained within the MBA #14-based Matrix to develop the finding for each budget item.

10.1 Improving Police Response to Reduce Violent Crimes and Burglaries. The total allocation for this category was \$2,510,427. Revenues were distributed among the following subcategories:

10.1.1 Improve Burglary, Neighborhood Crime. Funding of \$1.53 million was added to the Police Department's Personal Services and Non-Personal/Equipment budget. The amount of \$1.01 million is the assumed portion of Measure B revenues allocated for this purpose.

10.1.2 Expand Police Recruitment. \$1.5 million was funded and expended for recruitment and hiring new and lateral police officers as well as retention efforts of existing sworn staff

10.1.3 Improve Crime Solving. The proposed funding was not expended for 5.0 Crime and Intelligence Analyst positions and equipment costs to support the Field Patrol (4.0 positions at 1.0 per Patrol Division) and Special Operations (1.0 position) programs. 2016-17 costs assumed a January 1, 2017 start date; annualized costs total \$420,000. The positions remained vacant throughout 2016-2017

10.2 Improving 911/Emergency Medical/Fire Response Times. The total allocation for this category was \$4,988,499. Revenues were distributed among the following subcategories:

10.2.1 Improve Fire and Medical Response. \$3,302,987 was funded and expended for this category. One-time funding of \$1,250,000 was allocated to the Emergency Vehicle Preemption Service project. The remaining amount of \$1,952,987 was allocated to the Fire Department's Personal Services budget.

10.2.2 Improve Fire Response – Fire Station 37 Construction. \$960,000 was allocated to and remains in the Fire Station 37 reserve.

10.2.3 Improving Emergency Medical Response (6.0 FTE). \$825,512 was included with the Fire Department's Personal Services and Non-Personal/Equipment budget.

10.3 Repairing Potholes and Streets. The total allocation for this category was \$17,700,000. Revenues were distributed for street repair.

10.3.1 Street Repair. \$17,700,000 was funded and expended to maintain and repair major streets. This funding was allocated to a pavement maintenance appropriation. The entire amount was expended or encumbered.

10.4 Expanding Gang Prevention. No Measure B ¼-Cent Sales Tax revenues were allocated for FY 2016.

10.5 Maintaining the City's Long-Term Financial Stability. No Measure B ¼-Cent Sales Tax revenues were allocated for FY 2016.

10.6 Other. The total allocation for this category was \$1,320,819. Revenues were distributed among the following subcategory:

10.6.1 Reduce Homeless. \$1,320,819 of funding was added to the existing Homeless Rapid Rehousing expense appropriation.

11. OBSERVATIONS/COMMENTS

The following Observations/Comments are derived as a result of the operation of the ICOC during the 2017/2018 session:

- The ICOC met nine times during the 2017-2018 session beginning in November 2017.
- Support was provided for the ICOC by CMO staff for meetings
- A charter, plan, schedule, and draft report were developed by the committee early in the process
- No feedback was provided by CMO to the ICOC regarding the charter, plan, schedule, and draft report. Several requests were made to CMO for information needed to complete the ICOC report and not answered. It was not until ICOC took a vote to bring our concerns to the Mayor and the City Rules Committee did actual movement occur in regards to dialogue with CMO and San José Budget Department.
- ICOC was not able until May 2018 to establish a line of communications with the San José Budget Department to determine the type and format of the data that would be provided to the ICOC and when.
- CMO staff were used to perform liaison duties in place of having face-to-face meetings with the San José Budget Department
- The CMO position on Measure B is that it is a general measure and the wording of the ballot designating specific items is “for guidance only” and is not binding.
- The San José Budget Department did not separate Measure B revenues and comingled them with other SJ revenues.
- The San José Budget Department accounting methods did not track Measure B funding
- The ICOC was unable to determine whether Measure B revenue served as an addition to a department’s budget or was used to fill a budget shortfall. The ICOC relied on a certification from the San José Budget Department (attachment 1) stating revenue was additional funding for that department’s budget.
- The ICOC was not able to provide the NC with recommendations for the SJ 2017-2018 budget because the 2016/2017 Measure B revenue data was not received until 22 May 2018, which was after the NC recommendations had been developed.

12. RECOMMENDATIONS

The following recommendations are derived as a result of the operation of the ICOC during the 2017/2018 session:

- Provide a method or system for tracking and reporting each item’s budgeted allocation, actual Measure B allocation, and the result of the expenditure. Provide the data resulting from a tracking and reporting system to the Independent Auditor and in turn can be audited. Provide the audited data to the ICOC to develop the findings.
- Create a Local Sales Tax Spending Plan comparable to SJ City Manager Budget Addendum #28: Subject: Sales Tax Ballot Measure: 2018-2019 for each year the local tax measure is in effect.

- Start the ICOC 2017/2018 effort in September 2018
- Schedule the ICOC, CMO, and SJ Budget Department to meet in November to coordinate the 2017-2018 ICOC plan, schedule, and draft report.
- CMO, and SJ Budget Department to respond to ICOC requests for information in a timely manner.
- ICOC to complete final report in time to provide the NC with recommendations for the 2019 SJ budget
- Measure B revenue oversight is added scope to the SJ City's workplan. Use a portion of Measure B revenue to fund the cost of oversight expenses including: meeting support, San José Budget Department reports specifically generated for Measure B purposes, independent auditor reports, and any other Measure B specific costs. The projected Measure B revenues are approximately \$40 million annually. Using 0.1% of the projected revenues for example, would provide \$40,000 for Measure B expenses.

13. SUMMARY

The ICOC could have been more effective if the information needed complete its findings had been furnished when requested and a line of communications with the San José Budget Department had been established early in the process.

Oversight of the Measure B ¼-cent sales tax revenues is well suited to the Neighborhood Commission as part of its annual workplan. Commissioners who serve on the ICOC represent their neighborhoods and share the concerns of San José residents that tax revenues are appropriately allocated to items for which they are intended.

The Measure B ¼-cent sales tax revenue oversight and reporting performed by the Neighborhood Commission can serve as a positive example for future tax measures.

Memorandum

TO: NEIGHBORHOOD COMMISSION -
INDEPENDENT CITIZENS
OVERSIGHT COMMITTEE

FROM: Margaret McCahan

SUBJECT: 2016-2017 MEASURE B
LOCAL SALES TAX
RECONCILIATION (DRAFT)

DATE: June XX, 2018

Approved

Date

To the extent available, this memorandum provides information requested by the Neighborhood Commission, Independent Citizens Oversight Committee (ICOC) related to Measure B Local Sales Tax data for fiscal year 2016-2017.

On June 7, 2016, San Jose voters approved a one-quarter percent Local Sales tax to fund City services. The 2016-2017 Adopted Budget included a revenue estimate of \$30 million based on an October 1, 2016 implementation date. From October 1, 2016 through June 30, 2017, the City collected Measure B Local Sales Tax revenue in the amount of \$26,519,744.80 as compared to the adopted budget amount of \$30,000,000. This amount was reported in the City's 2016-2017 Annual Report (<http://www.sanjoseca.gov/DocumentCenter/View/72236>, p. II-9) prepared by the City Manager's Office. The City's 2016-2017 Comprehensive Annual Financial Report (CAFR) prepared by the Finance Department also incorporated this figure, and that report was audited by the City's independent financial auditor, Grant Thornton, LLP.

With assumed revenue of \$30.0 million from the Measure B Local Sales Tax being received in the General Fund, the 2016-2017 Adopted Operating Budget allocated these funds to General Fund expenditures in the amount of \$30.0 million in accordance with the attached document labeled "ICOC Annual Measure B ¼-cent Sales Tax Matrix". This Matrix is consistent with Manager's Budget Addendum #14 (*Sales Tax Ballot Measure: 2016-2017 Provisional Budget and Ongoing Spending Priorities Plan*) that was approved as part of the 2016-2017 Adopted Budget. That document can be found at: <http://www.sanjoseca.gov/DocumentCenter/View/57131>.

The Measure B Local Sales Tax revenue is one of many revenue sources in the General Fund, and that Measure B revenue is tracked in a separate revenue accounting code. This separate accounting code enables the identification of the revenue attributed solely to the Local Sales Tax. For the General Fund expenditures funded by the Local Sales Tax in 2016-2017, however, several of the allocations were added to existing General Fund expense appropriations. Because separate expense accounting codes designated specifically for the Local Sales Tax were not used for several line items, it is not possible for the City, or a financial auditor, to specifically tie all the General Fund expenditures to the Local Sales Tax. However, as the expense budget allocations were required through City Council adoption of the 2016-2017 Operating Budget, resources of \$30.0 million were allocated to the identified use. It is important to note that the Local Sales Tax proceeds allocated to the various departments and programs were in addition to the respective budgets originally included in the 2016-2017 Proposed Operating Budget document.

Attachment 1. 2016-2017 Measure B Local Sales Tax Reconciliation memo (1 of 2)

Moving forward, the Administration will be recommending separate expenditure appropriations related to the Local Sales Tax to enable the tracking and reporting of these expenditures. Please see attached Manager's Budget Addendum #28 "Local Sales Tax Budget Adjustments", which has been recommended for City Council adoption in the Mayor's June Budget Message for Fiscal Year 2018-2019. These appropriations tie directly to the revenue estimate for the Local Sales Tax.

MARGARET MCCAHAN
Budget Director

Attachment 1. 2016-2017 Measure B Local Sales Tax Reconciliation memo (2 of 2)

ICOC Annual Measure B 1/4-cent Sales Tax Matrix

The table below displays information related to the allocation and expenditure of Measure B Sales Tax funding in accordance with the actions included in the 2017-2018 Adopted Budget. The Adopted Budget assumed Measure B revenues of \$30.0 million; however, only \$26,519,745 was received. To align allocated expenses with actual Measure B revenues for the purposes of ICOC reporting, the table below makes the following assumptions regarding the column titled "Estimated Measure B Funding Allocation":

- 1) Where possible, the actual amount spent or encumbered is displayed; and
- 2) If the specified allocation was added to an existing expense appropriation, a proportionate reduction was made to the allocation so that the total amount of "Estimated Measure B Allocation" equals the actual Measure B revenue received by the City in the amount of \$26,519,745.

| FY 2016-FY2017 | | | FY 2016-FY2017 | | FY 2016-FY2017 |
|---|---|---------------------|--------------------------------|--|---------------------|
| Category | Description | Budgeted Allocation | Estimated Measure B Allocation | Notes | Commission Findings |
| 1. IMPROVING POLICE RESPONSE TO REDUCE VIOLENT CRIMES & BURGLARIES | | | | | |
| 1.1 Improve Burglary, Neighborhood Crime | Adds on-going funding of \$1.53 million for 14.0 Community Service Officer (CSO) I/II, 4.0 Senior CSO, 1.0 Supervising CSO positions, as well as equipment costs with an academy start date of March 2017 and street-ready date of June 2017. The 2016-17 costs assume a March 1, 2017 start date; annualized costs total \$1.95 million. | \$1,530,000 | \$1,010,427 | Funding of \$1.53 million was added to the Police Department's Personal Services and Non-Personal/Equipment budget. The amount of \$1.01 million is the assumed portion of Measure B revenues allocated for this purpose. | Concur |
| 1.2 Expand Police Recruitment | Adds one-time funding of \$1.5 million for recruitment and hiring new and lateral police officers as well as retention efforts of existing sworn staff. | \$1,500,000 | \$1,500,000 | This funding was reallocated by the City Council on 2/7/2017 for retention pay related to the labor agreement reached with the Police Officers' Association. | Concur |

Attachment 2. ICOC Annual Measure B ¼-Cent Sales Tax Matrix (1 of 3)

| | | | | | |
|---|--|-------------|-------------|---|--------|
| 1.3 Improve Crime Solving | Adds ongoing funding of \$210,000 for 5.0 Crime and Intelligence Analyst positions and equipment costs to support the Field Patrol (4.0 positions at 1.0 per Patrol Division) and Special Operations (1.0 position) programs. 2016-17 costs assume a January 1, 2017 start date; annualized costs total \$420,000 | \$210,000 | \$0 | These positions remained vacant throughout 2016-2017. | Concur |
| 2. IMPROVING 911/EMERGENCY MEDICAL/FIRE RESPONSE TIMES | | | | | |
| 2.1 Improve Fire, Medical Response | Restores ongoing overtime funding of \$2.4 million to maintain Fire Dept sworn minimum staffing levels to prevent "brown outs". Adds ongoing funding of \$1.25 million to Fire Dept for 3.0 Fire Fighter/Paramedic and 3.0 Engineer positions to restore one squad unit for Engine 30. Adds one-time funding of \$1.2 million to provide emergency vehicle preemption service at all signalized intersections. | \$4,850,000 | \$3,202,987 | One-time funding of \$1.25 million was allocated to the Emergency Vehicle Preemption Service project. The remaining amount of \$3.6 million was allocated the Fire Department's Personal Services budget. The amount of \$3.2 million is the assumed portion of Measure B revenues allocated for this purpose. | Concur |
| 2.2 Improve Fire Response – Fire Station 37 Construction | Allocates \$960,000 to the Fire Station 37 Reserve to support the future construction of this station. | \$960,000 | \$960,000 | Funding was allocated to and remains in the Fire Station 37 Reserve. | Concur |
| 2.3 Improving Emergency Medical Response (6.0 FTE) | Restoration of additional squad team of 3.0 Paramedic/Firefighters and 3.0 Engineers. | \$1,250,000 | \$825,512 | This funding was included with the Fire Department's Personal Services and Non-Personal/Equipment budget. The amount of \$825,512 is the assumed portion of Measure B revenues allocated for this purpose. | Concur |

Attachment 2. ICOC Annual Measure B ¼-Cent Sales Tax Matrix (2 of 3)

| | | | | | |
|--|---|---------------------|---------------------|---|--------|
| 3. REPAIRING POTHoles & STREETS | | | | | |
| 3.1 Street Repair | Maintain and repair major streets - One-time funding for pavement maintenance funding. Total amount allocated to pavement in 2016-17 would be \$30.6 million, enough to fund annual need to pothole repairs and all major streets at the Council goal of pavement condition index of 70 (good). | \$17,700,000 | \$17,700,000 | This funding was allocated to a specific expense appropriation. The entire amount was expended or encumbered. | Concur |
| 4. EXPANDING GANG PREVENTION | | | | | |
| 5. MAINTAINING THE CITY'S LONG-TERM FINANCIAL STABILITY | | | | | |
| 6. OTHER | | | | | |
| 6.1 Reduce Homeless | Adds ongoing funding of \$2 million to double homeless rapid rehousing services. This proposal will bring total ongoing rapid rehousing funding to \$4 million annually | \$2,000,000 | \$1,320,819 | This funding was added to the existing Homeless Rapid Rehousing expense appropriation. The amount of \$1.32 million is the assumed portion of Measure B revenues allocated for this purpose. | Concur |
| | TOTAL | \$30,000,000 | \$26,519,745 | | |

Attachment 2. ICOC Annual Measure B ¼-Cent Sales Tax Matrix (3 of 3)